



Focus Strategies Comments on the U.S. Department of Housing and Urban Development's Interim Continuum of Care Program Rule: FR-5476-N-02

Focus Strategies is a California-based consulting firm that assists Continuums of Care to use local data to target resources and improve efforts to end homelessness. Focus was formed after the passage of the HEARTH Act to support communities to implement performance measurement strategies in keeping with the goals of the Act. At Focus we believe that the HEARTH Act in general, and its requirements for system-based performance measurement in particular, are essential to successful efforts to end homelessness. Our comments on the interim regulations are in keeping with our support of the Act. Our understanding of the intent of the Act is to both assist community efforts and establish greater local and national accountability; we are particularly supportive of increasing accountability to homeless people who all deserve to be housed as soon as possible.

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§578.3 -- Definitions

At- risk of homelessness- the definition of at risk of homelessness closely tracks the legislation, and recognizes that people who face housing crises may come from a number of situations prior to actually becoming homeless. In practice, however, people who actually enter shelters or other homeless services do not do so equally from these settings. In local data we have examined, entries to homeless services from doubled-up situations are far more frequent than from rental housing. Entries from institutional settings make up a smaller, but significant, portion of the population as well. Under HPRP, however, many communities directed the bulk of their resources to those in rental housing, failing to target their resources based on greatest likelihood of applicant households actually becoming homeless. The requirement to apply a "but for this assistance" test incorporated in (1)(ii) of this definition was interpreted differently in different communities and, to our knowledge, was rarely used to screen out otherwise eligible applicants. Focus encourages HUD to require communities to examine their local data on system entries and target any services/programs designed to serve at-risk households based on this analysis.

Centralized or coordinated assessment: Focus Strategies strongly supports the requirement for centralized or coordinated assessment and believes that such an approach is critical to ensuring homeless persons are served quickly, resources are used effectively, and the system has clear accountability. However, Focus is very concerned about the inclusion of the term "comprehensive" in the description of the assessment tool in the regulation, and is also concerned with the lack of information available to communities at this time about the design and use of assessment tools.

Most existing assessment tools assign potential clients to programs based on a host of perceived needs and "barriers." They have often been designed with the concept that clients with a greater number of barriers will need different programs than those perceived to have lesser barriers. For example, to our knowledge most communities that conducted any screening for rapid rehousing

denied assistance to households determined to have too many barriers. These barriers often included disabilities even though in studies and in local data we have examined, these have not been found to be significant in affecting the housing outcomes of homeless people. There may be a potential fair housing issue here, and in any case, there are fairness issues. In our experience, communities that targeted their rapid rehousing resources to those with perceived "higher barriers" did no worse than those who did not. In many cases, the issue may be that the programs need to design their interventions to meet the perceived "higher barriers" such as working to recruit more flexible landlords, but households with high "barriers" have the potential to be just as successful. In many cases we believe homeless people are directed to a higher and more invasive and expensive level of service, such as transitional housing, when rapid rehousing could be just as effective. We are concerned that communities will design assessment tools that continue that tendency based on perception of need rather than actual results.

There are currently no common assessment tools, to our knowledge, that have been tested well enough to determine that they accurately assess client needs; in particular, assessment tools typically do not focus on the minimum level of support needed to end the household's homelessness; rather, assessments tend to focus on fitting clients into a range of existing choices in the available system. Assessment tools also tend to reveal challenges in the life of the person being assessed, but do not temper the findings of challenges with strengths or with the high probability that the household will become rehoused, so results are skewed. Establishing an assessment tool without requiring that the tool (and the programs it refers people to) be designed to provide the shortest intervention necessary has the potential to entrench the existing system rather than point to needed changes in the balance of program types. HUD should be very careful that the assessment tools designed by communities are not used primarily to assign homeless persons to programs based on current capacity or misinformed notions of "need."

Progressive engagement is a promising practice that inherently recognizes the limitations of an advance assessment approach and allows programs to change the amount and type of assistance offered based on the actual experience of the household. HUD should ensure that an assessment process is not used to assign a fixed benefit but merely to help the client get quickly to an appropriate service or program that can begin the assistance process.

We suggest that in lieu of requiring a "comprehensive assessment", HUD call this a "preliminary assessment" tool and that HUD recommend collecting only limited information necessary to provide the screening entity with information about the clients' current crisis in order to apply potential diversion assistance or assist the household to get either immediate housing, or shelter tied to rapid rehousing assistance.

We are also concerned about client choice. We believe that if a screening tool indicates appropriateness for a deeper level service, every household should be offered at least two possible program interventions: the deepest service that such a tool determines MAY be needed and also the opportunity to elect any lesser intervention. Based on the evidence we have seen, we believe that the majority of homeless households, and all newly homeless households, should be offered the opportunity to be rapidly rehoused.

Permanent housing: Focus Strategies is concerned with the definition of permanent housing being simultaneously "without a designated length of stay" and yet requiring a one-year lease. In our experience the requirement of a one-year lease is out of keeping with common practices in many communities, especially in California. To make rapid rehousing work, especially when the assisting agency is only offering short term assistance, it is unreasonable to require a landlord to offer a year lease. We do not believe that landlords typically take tenants with the intention to evict them within a matter of months if a subsidy ceases even if the tenant continues to pay. Landlords typically prefer to avoid turnover, so for a well-designed rapid rehousing program, the lease rule is unnecessary. In addition, it unnecessarily restricts tenants, who may find employment in other locations or simply wish to move.

Transitional Housing -- Focus supports the requirement for a lease or occupancy agreement in transitional housing and supports the definition of transitional housing as facilitating movement to permanent housing.

Other definitions: We note that several terms used in the interim rule are not defined, including "population," and "subpopulation". Below, in the places where they appear, we point out where these terms are used and how the failure to define them may create confusion; we also offer suggestions for definitions.

§578.7 (a)(6) This section states that it is the responsibility of the Continuum to establish performance targets "appropriate for population and program type." The regulation has no definition of "population". Later, in section 578.19 the regulation uses the term "subpopulation" also without definition. We understand that the point-in-time count designates certain population groups and we assume some further definitions may be coming in future guidance or in the HMIS regulations; however, we encourage HUD to define these terms clearly and consistently. We believe that HUD should clarify that populations refer to family households, adult only households, and youth only households. We do not think the communities should be expected to establish further narrow performance targets by other population groupings or by "subpopulation" other than perhaps chronically homeless; in our experience, the data available to further subdivide the population for the purposes of measuring performance is of poor quality. In addition, the interventions that end homelessness for households are not subpopulation specific. Subdividing the homeless population on performance measures may dilute focus on HEARTH's intention that local jurisdictions redesign homeless programs into systems from which homeless people enter and exit efficiently based on the intervention that will most expeditiously house them.

§578.7 (a) (8) As detailed above under definitions, we have serious concerns about the requirement for "comprehensive assessment" and we again urge HUD to clarify that the purpose of the assessment should be help as many households as possible avoid an entry into the homeless system and to get homeless people immediate assistance of the least duration and intensity necessary to end their homelessness.

§578.7 (a)(9) We support the requirements for Continuums to establish written standards for eligibility for different program types, but as with our concerns above about assessment tools being used to fill current program models, we caution that such standards should be based on

providing the appropriate but most limited assistance needed to end a household's homelessness and ensuring that more homeless households are served. We urge HUD to include in this section that Continuums write these standards with the expectation that 1) programs will be designed to serve the range of people in need, not to exclude them and 2) programs will provide the minimum assistance needed to end the household's homelessness with a reasonable expectation that they will remain housed. Especially in communities with large numbers of unsheltered homeless, we believe HUD should strongly assert the desirability of standards that ensure more homeless people are assisted to obtain housing, which includes not providing greater assistance than is needed so that capacity is preserved to efficiently house the next household.

§578.37(a)(1)(ii)(E) – This subparagraph requires reevaluation of eligibility and appropriateness of the service package for a program participant in rapid rehousing on an annual basis. Focus Strategies supports reevaluation every three months, as was required under HPRP, in order to ensure that program participants receive assistance for only as long as needed. Reducing this requirement to annual is likely to mean that more households will receive 12 months of assistance than require it, reducing the total number of households that can be assisted.

§578.37(a)(1)(ii)(F) – Focus Strategies encourages HUD not to maintain from HPRP the requirement for participation in "case management." Focus Strategies supports periodic check-ins (by phone or in person) with a housing specialist or other persons employed by the program who are charged with evaluating and supporting participants' housing stability during their time in the program. We have seen no evidence, however, that the broad set of personal and psychosocial issues generally associated with "case management" are necessary to successful rapid rehousing in all cases. Some households may need or desire this type of service while others may not, or they may be receiving "case management" or similar services already through another program or entity. We encourage HUD to redefine the role currently ascribed to a case manager to a housing specialist and clarify that the purpose of this function is to assess and support housing access and stability.

§578.49 and §578.51

These sections distinguish leasing assistance from rental assistance. The definition of tenant based rental assistance **§578.51, a, i**, recognizes that rental assistance may be short or medium term, as would be expected in a rapid rehousing program. However, it is elsewhere stated that only government agencies may administer rental assistance. In our experience, time limited rental assistance is typically administered by nonprofit organizations. Currently, under SHP, we are aware of several communities in which nonprofits administer "transition in place" programs that operate on a tenant-based rental assistance model, under which, at the end of the subsidy period, the household retains the unit paying full rent. HUD has never to our knowledge stated that such programs were ineligible. This TBRA model was widely used with HPRP as well. This model is often preferable to the only option that would appear to be available to nonprofits under leasing which would require a master lease. For short to medium term assistance the requirement that rental assistance be administered by a public agency is unreasonable. It is also defeating to the goal of using more proven strategies to house more homeless people. ***We strongly encourage HUD to find a way to allow nonprofits to administer short and medium term rental assistance for rapid rehousing.***

§578.53 (a)(2) We encourage HUD to make clear that services in permanent supportive housing are voluntary and that failure to participate in services in the absence of lease violations is not a reason for eviction.

§578.7(a)(4) Again we encourage HUD to change this requirement for rapid rehousing to a meeting or phone call with housing specialist or housing support worker.

578.7(a)(8) This definition of housing search and counseling services does not include outreach to landlords and landlord recruitment. Mediation with landlords is too limited to define this function, which is an essential component of successful rapid rehousing programs. We encourage HUD to refine the definition to include outreach to landlords and landlord recruitment.

578.7(a)(13) (i) This language clarifies that cell phones and transportation costs are eligible for outreach workers. This should apply to anyone who works in the field, visiting landlords or participants/ tenants.

578.55 HUD should not preclude rental assistance and operating costs from being funded in the same project budget if the rental assistance costs are for short or medium term assistance that can help homeless persons move out of homelessness sooner and are used in structures that are not owned by the project operator. For example, if a transitional housing program is intending to shorten lengths of stay, having a small pot of rental assistance funds with which to move households out would be highly desirable and consistent with the HEARTH goals. We encourage HUD to let programs reallocate their budgets to build in such rapid rehousing resources.

§578.73(a) – The HEARTH Act contemplates that the matching requirement will apply only to the entire Continuum of Care, not to each individual recipient. This is an important part of the move to more system-wide integration, as it allows for some projects to be "overmatched" when feasible, which can allow other needed projects to function even if they are unable to obtain the same level of match. The regulations appear to adopt this Continuum-wide approach to matching only in Continuums where a Unified Funding Agency has been designated. While the UFA simplifies the calculation and enforcement of a Continuum-wide approach to matching, Focus Strategies urges HUD to permit this approach in other communities as well as those with UFAs.

§578.75(h) – Focus Strategies supports the policy that disability-related services not be required in a program that is not a treatment program. We have seen no evidence that programs are more successful at moving people out of homelessness when they require compliance with service plans, disability-related or not. Accordingly, supportive services should not be required to qualify for a program, to obtain housing, or to remain enrolled in services.

§578.91(c) – Focus Strategies strongly supports the policy in this subsection of limiting termination of "hard-to-house" participants to only the most severe cases, though we are uncomfortable with the term "hard to house." We further suggest that the limitation on ending someone's housing or program stay based on only the most serious violations should apply *to all types of HUD funded homeless programs, not just PSH.*

§578.93(b) – Focus Strategies is concerned that HUD strike the right balance between allowing targeting to subpopulations and services designed to meet specific "subpopulation" needs, and the goal that communities have a crisis response system of care that provides adequate support to the people who need it. We understand, for example, that for sober housing to be effective for those who want it, it must prohibit the use of alcohol or substances. However, we are aware of communities where these rules are applied in the majority of housing programs, while there is no evidence that a majority of homeless people would choose to live in these settings if other options existed. Likewise, services can be offered for specific needs, but if homeless people are routinely turned away because they don't fit the target for the available programs then HUD should insist that the community design and operate programs that do fit the needs and desires of the actual homeless population. *Focus encourages HUD to require evidence for the need for such restrictions before permitting them.*

Issues not addressed:

Moving from one permanent housing setting to another – The regulations should clarify that a program participant who was homeless and moved into permanent housing funded through HUD's homeless assistance programs may move into another permanent housing project funded through those programs when appropriate and still meet the eligibility requirements for admittance.

Retaining eligibility for permanent supportive housing while in rapid rehousing - HUD clarified under HPRP that persons assisted in the program retained eligibility for PSH. With the designation of rapid rehousing as permanent housing it is unclear whether this would still hold true. In order to fully implement a progressive engagement model with the promise to rehouse more people more cost-effectively, HUD should leave open the potential for someone to participate in rapid rehousing at first but over time demonstrate a need for permanent supportive housing. If permanent supportive housing is well targeted to persons with the highest needs, not just used as affordable housing then the likely times that this type of move might be necessary and permitted from rapid rehousing would be few, but this potential may allow more chronically homeless persons to be offered rapid rehousing and the chance to succeed there than if this is not permitted.

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Thank you for your consideration of these comments.
Sincerely,

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