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Part V

Department of Housing and Urban Development

**Notice of Public and Indian Housing:
Access Housing 2000 Initiative; Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4641-N-01]

Notice of Public and Indian Housing: Access Housing 2000 Initiative

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of proposed national initiative—access housing 2000.

SUMMARY: This notice provides information on Access Housing 2000, a proposed national initiative that will assist persons with disabilities to transition from nursing homes into the community by providing improved access to affordable housing and necessary personal assistance and supportive services. HUD is partnering with the U.S. Department of Health and Human Services (HHS) and the Institute on Disability (IOD) at the University of New Hampshire to carry out this initiative.

Using Section 8 housing vouchers in conjunction with supportive services available under the Medicaid program, the proposed initiative presents an opportunity to design and implement innovative housing and supportive service strategies. If successful, these strategies could expand the availability of accessible, affordable housing in the United States, including homeownership opportunities for persons with disabilities, and assure that such individuals receive the assistance and the ongoing supportive services necessary to make a smooth and successful transition to living in the community.

DATES: Comments Due Date: February 20, 2000.

ADDRESSEES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Communications should refer to the above docket number and title.

Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Rod Solomon, Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room 4116,

Washington, DC 20410; telephone (202) 708-0713 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Services at (800) 877-8339.

I. Introduction

On July 26, 2000, the Administration announced several new initiatives designed to promote the delivery of home and community-based services for persons with disabilities of all ages. These initiatives are part of the tenth anniversary of the passage of the Americans with Disabilities Act of 1990 (ADA). One of these initiatives is Access Housing 2000, a unique partnership focusing on providing a national coordinated response to the Supreme Court's decision in *Olmstead v. L.C.* (527 U.S. 581 (1999)). That decision, issued on June 22, 1999, was a result of a lawsuit brought by two mentally disabled women who sought placement in the community rather than being institutionalized at a hospital psychiatric unit. The decision concluded that under the ADA, states are required to provide services to persons with disabilities in community settings rather than institutions when treatment professionals determine that community placement is appropriate, the individual does not object to this determination, and it can be reasonably accommodated.

At the heart of Access Housing 2000 is a proposed five-year national initiative designed to serve as an approach for using existing federal authority and appropriations to facilitate the successful transition from nursing homes to community living for persons with disabilities. This initiative will begin with approximately 400 beneficiaries residing in targeted regions, with a goal, depending upon available resources, of reaching 2000 beneficiaries at its full implementation. Participants will include persons with disabilities who have very low incomes and who currently reside in nursing homes. The initiative is targeted to reach a broad geographic sweep of up to forty states and territories at full implementation, with a goal of approximately fifty beneficiaries per state or territory. The initiative will use HUD Section 8 housing vouchers, HHS Nursing Home Transition Grants, Medicaid funds, and other resources to better help persons with disabilities make the transition from nursing homes to community living.

HUD is promulgating this Notice pursuant to section 470 of the Housing and Urban-Rural Recovery Act of 1983

(Pub. L. 98-181), which states that no HUD demonstration program not expressly authorized in law may begin until a description of the program is published in the **Federal Register**, and that a comment period of 60 calendar days following the date of publication shall be provided, in which the Secretary shall fully consider any public comments submitted with respect to the program.

II. Design of the Initiative

A. HUD's Responsibilities

HUD's responsibilities under the proposed national initiative include the provision of Section 8 vouchers to selected PHAs, which will partner with State Medicaid agencies in order to assist persons with disabilities in transitioning from nursing homes into the community. HUD will make available, through its funding award process, approximately \$2.5 million initially to fund 400 Section 8 vouchers targeted for use by persons with disabilities and families of children with disabilities who currently reside in nursing homes. On August 10, 2000, HUD published a notice in the **Federal Register** (65 FR 49003) which informed the public that it intends to use a portion of the remaining unobligated Fiscal Year 2000 funds from two Section 8 voucher programs—*Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments and Section 202, 221(d) and 236 Developments* (Certain Developments) and *Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans* (Designated Housing)—for this initiative. The vouchers will be administered by the selected PHAs and will be used by persons with disabilities to rent apartments in privately-owned buildings, assisted living facilities, or residential facilities, or to eventually own accessible and affordable homes. Subject to appropriations, HUD also will provide technical assistance to the selected sites.

In the proposed initiative's first year, approximately ten PHAs will receive Section 8 vouchers. It is expected that for at least half of the PHAs chosen for the initiative, vouchers will be used in conjunction with HHS Nursing Home Transition grants, which are administered by State Medicaid agencies, and support states in identifying and assisting current nursing home residents who wish to transition to home and community-based settings. The remaining PHAs will draw upon State and local resources. (See Section

I.C.—PHA, State Medicaid Agency, and Joint Responsibilities—for further requirements applicable to these entities.) Working in consultation with HHS and IOD, HUD will select the sites that will receive the Section 8 vouchers. Although HUD is not undertaking a competition between PHAs for the available vouchers, interested PHAs may submit in writing to HUD, during the comment period, any reasons they have for desiring to become part of the initiative, including their capacity to undertake such a project and the specific steps they have taken or will take to coordinate with State Medicaid agencies, so that these agencies will fulfill the responsibilities described for them in this Notice.

B. HHS's Responsibilities

HHS's responsibilities under the proposed national initiative include the provision of Nursing Home Transition (NHT) Grants to selected State Medicaid agencies. These grants focus on assuring that persons leaving nursing homes will have adequate personal assistance services and support to meet their needs. HHS's intent with its Nursing Home Transition Grant program is to foster the development and sharing of innovative and effective methods to eliminate the barriers that prevent beneficiaries from living independently in their own homes and communities. In Fiscal Year 2000, four State Medicaid agencies each received first-time Nursing Home Transition grants in the amount of \$500,000. It is expected that Congress will provide HHS with increased funding for another round of Nursing Home Transition grants in Fiscal Year 2001 as well. Subject to appropriations, HHS also will provide technical assistance to the selected sites.

C. PHA, State Medicaid Agency, and Joint Responsibilities

PHA Responsibilities. PHAs that are selected for the initiative will be responsible for administering the Section 8 vouchers. The usual voucher program requirements will apply. Those PHAs that receive vouchers to be used in conjunction with Nursing Home Transition grants administered by State Medicaid agencies must demonstrate the commitment and capacity to coordinate and work with these Medicaid agencies, as well as independent living centers and other organizations to facilitate the use of the initiative's Section 8 vouchers by persons with disabilities leaving nursing homes.

PHAs that are located in States whose Medicaid agencies did not receive nursing home transition grants still may

qualify to obtain housing vouchers through this initiative by demonstrating the ability to meet the preceding criteria. It should be noted that PHAs in States taking this course will need to show that they will be able to use available Medicaid, State, and local resources to carry out transition-related activities. HHS will provide additional details on how State Medicaid agencies in both categories—those that receive nursing home transition grants and those that do not have such funding—can express interest in participating with PHAs that receive vouchers under this initiative (either from the 400 vouchers currently available or from any vouchers that may be made available in the future for this purpose) in HHS's upcoming Fiscal Year 2001 Request For Proposals (RFP) regarding this grant program. HHS will also communicate with State Medicaid agencies regarding the Access Housing 2000 initiative.

State Medicaid Agency Responsibilities. A State Medicaid agency will be considered for participation in the Access Housing 2000 initiative if it demonstrates a clear commitment and capacity in the areas of (1) collaborating and coordinating with PHAs and other agencies, (2) assuring that a nursing home resident has a choice about whether to transition from a nursing home into the community and the services and activities that are provided, and (3) strengthening and improving community-based supportive services.

Interagency collaboration and coordination. State Medicaid agencies will be expected to demonstrate the commitment and capacity to:

- Actively foster and engage in collaborative efforts with PHAs, independent living centers, and other organizations in order to identify and implement strategies for obtaining accessible, affordable housing and supportive services for those leaving nursing homes;
- Assure the meaningful participation of persons with disabilities (including current and former nursing home residents) and others in the design and implementation of a comprehensive, effective plan for transitioning individuals from nursing homes, both during and after the grant period, in an attempt to improve access to home- and community-based services to those needing such services.

Nursing home residents' choice. State Medicaid agencies will be expected to demonstrate the commitment and capacity to:

- Identify and educate nursing home residents and their families about the alternatives available to them should the

resident desire to return to the community.

- Assure that each resident (or legal guardian acting on their behalf) has the opportunity, information, and tools to make an informed choice about whether to transition into the community or remain in a nursing home.

- Assure that those residents who choose to transition into the community have maximum possible control over individualized budgeting, planning, and coordination activities.

- Overcome any resistance and barriers which may impede a resident's decision to exercise his or her choice to transition into the community.

Strengthening and improving community-based supportive services. State Medicaid agencies will be expected to demonstrate the commitment and capacity to:

- Ensure that individuals leaving nursing homes for community living arrangements will receive the necessary ongoing supportive services that will allow these individuals to remain in their communities.

- Tap the experience of independent living centers, area agencies on aging, and similar networks in identifying and transitioning persons with disabilities from nursing homes into their communities (through the use of formal agreements, etc.).

- Work with other organizations to develop the necessary community infrastructure and supports to enable former nursing home residents to live safely and with dignity in their communities.

- Work with PHAs and other housing organizations to identify and/or modify housing that is or can be made to be accessible and affordable within a reasonable distance of a person's family or social support network.

Joint Responsibilities. PHAs and State Medicaid agencies also must coordinate and work with one another and with other resources—both public and private—within their communities to facilitate the use of the initiative's vouchers by persons with disabilities leaving nursing homes and to ensure the success of this initiative. It is expected that a Memorandum of Understanding or some other basic agreement between the PHA and the State Medicaid agency, describing specific roles, responsibilities, and activities to be undertaken by the parties, would be prepared at the outset.

In addition, PHAs and State Medicaid agencies that participate in the proposed national initiative will be expected to work with HUD, HHS, and IOD by: (1) Joining local coalitions created to build ground-level support for the initiative

and to assist in its implementation; (2) participating in case studies aimed at understanding the effectiveness of strategies developed during the initiative and disseminating best practices; (3) contributing to research that examines the process for, benefits of, and barriers to the implementation and accomplishment of the objectives of Access Housing 2000; (4) taking part in determining whether the strategies developed during the initiative can be replicated on a large-scale basis; and (5) cooperating with the analysis of Federal and State policy affecting the implementation of this initiative.

D. IOD's Responsibilities

Subject to the availability of resources and to further definition by HUD and HHS, IOD will create a center to: (1) Build broad-based partnerships and collaborations in both the public, private, and advocacy sectors; (2) conduct outreach to create local coalitions consisting of public, private, and advocacy organizations to build ground-level support for the initiative and to assist in its implementation; (3) evaluate the efficacy of the strategies developed during the initiative and the dissemination of best practices; (4) conduct research that examines the process for, benefits of, and barriers to the implementation and

accomplishment of the objectives of Access Housing 2000; (5) examine whether the strategies developed during the initiative can be replicated on a large-scale basis; (6) analyze Federal and State policy affecting the implementation of this initiative; (7) develop a means of ensuring that the experience of the initiative receives broad attention and review, *e.g.* creating a website.

Dated: December 13, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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