

HUD's Proposed Rule on Mixed Status Families

June 5, 2019



NATIONAL LOW INCOME
HOUSING COALITION

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NATIONAL
HOUSING LAW
PROJECT

Center on
Budget
and Policy
Priorities

#KeepFamiliesTogether

www.keep-families-together.org

Speakers

- Karlo Ng, National Housing Law Project
- Arianna Cook-Thajudeen, National Housing Law Project
- Doug Rice, Center on Budget and Policy Priorities
- Sonya Acosta, National Low Income Housing Coalition

Attacks on Housing Assistance for Immigrants

- Public Charge Proposed Rules (inadmissibility and deportability)
- HUD Proposed Rule
 - Issued on May 10
 - Send individual comments to HUD by **July 9**
- USDA Rural Housing Proposed Rule (coming soon)

Agenda

- Overview of the proposed rule
- Potential impacts
- Advocacy strategy

What is HUD proposing?

Karlo Ng, National Housing Law Project

Arianna Cook-Thajudeen, National Housing Law Project

What Would HUD's Proposed Rule Do?

- Effectively eliminates mixed-status families in HUD programs covered by Section 214
 - Requires everyone in household to be U.S. citizen or eligible immigrant; leaseholder must be U.S.C. or eligible
 - Eliminates “do not contend” option (i.e. noncitizens under 62 years old must be verified through DHS's SAVE system).
 - Eliminates permanent proration of assistance
- Creates new documentation requirements for U.S. citizens and elderly immigrants

What Do HUD Regulations Require?

- Currently, families with at least one U.S. citizen or eligible immigrant are permitted to live together with family members who are ineligible in a subsidized housing unit. These families are known as “mixed-status” families.
 - Mixed-status families receive prorated assistance
 - Leaseholder/Head of household does not need to be eligible
 - Ineligible members have option to “not contend” eligibility
 - **Ineligible does NOT mean undocumented**

Are There Immigration Status Requirements for HUD Housing?

- Yes, eligibility for many HUD subsidized housing programs is restricted by immigration status requirements provided by a federal law called **Section 214 of the Housing and Community Development Act of 1980** (“Section 214”).

What Programs Have Section 214 Immigration Restrictions?

- Public Housing
- Section 8 Housing Choice Vouchers
- Section 8 Project-Based Housing
- Section 235 Home Loan Program
- Section 236 Rental Assistance Program
- The Rent Supplement Program
- Housing Development Grant Programs (low-income units only)

Who is Eligible for These Programs?

Eligible:

- U.S. Citizens and Nationals
- Lawful Permanent Residents
- VAWA Self-Petitioners
- Asylees and Refugees
- Parolees
- Persons Granted Withholding of Removal/Deportation
- Victims of Trafficking
- Individuals residing in the U.S. under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam
- Immigrants admitted for lawful temporary residence under the Immigration Reform and Control Act of 1986

Ineligible:

- All other categories of noncitizens
- Examples: student visa holders, employment visa holders, U-visa holders, DACA recipients, Temporary Protected Status recipients, undocumented immigrants

How Does this Work Now?

The Smiths

- The Smiths are a family of three that has had a Housing Choice Voucher (HCV) since 2015.
- Jane, a domestic violence survivor, is the head of household and is a U-visa holder.
- Her children are Billy (age 5) and Sarah (age 7) who are U.S. citizens.
- The family's Housing Choice Voucher subsidy is decreased so that only Billy and Sarah are assisted.
- Jane is an ineligible immigrant and does not receive HCV assistance. She pays out of pocket to cover the remaining rent owed.

How Would the Proposed Rule Impact the Smiths?

- Jane is the leaseholder and is not eligible.
- Billy and Sarah are minors and cannot be heads of household.
- The Smiths would not be allowed to continue receiving assistance under the proposed rule.
- The proposed rule eliminates continued prorated assistance where any family member is ineligible.

Proration Pending Final Determinations

- The proposed rule allows for temporary proration to a family if the head of household or spouse has eligible immigration status.
- This assistance will only continue during the time it takes for other household members to have their immigration status verified.



Continued Assistance

- A very small number of mixed status families will be allowed to continue to receive assistance under the proposed rule.
- To qualify, a family must show that:
 1. The family was receiving assistance under a Section 214 covered program on June 19, 1995;
 2. The family's head of household or spouse has eligible immigration status under Section 214; and
 3. Ineligible family members must be the head of household; spouse of the head of household; parents of the spouse or head of household; or children of the spouse or head of household.

Temporary Deferral of Termination

- Families may be able to receive a temporary deferral for an initial period of up to six months, with up to two additional six-month periods, for a total of up to 18 months.
- To get temporary deferral, a family must show that:
 1. The family made reasonable efforts to find new affordable housing but were unsuccessful in their search, or
 2. The vacancy rate for affordable housing is less than five percent in the area that they currently reside, or
 3. The local jurisdiction's consolidated plan reports that the local housing market lacks sufficient affordable housing

Notice and Appeal Rights of Tenants and Applicants

- Notices of immigration status requirements, denial, and termination
- Appeal to DHS
- Informal hearing
- Judicial relief

What Else Would the Proposed Rule Do?

- Impact on HUD homeless assistance programs
- Create new documentation requirements for U.S. citizens and noncitizens 62 years old or older

How will this rule impact families & communities?

Doug Rice, Center on Budget and Policy Priorities

How many are assisted by “covered” programs?

How Many People Are in Programs Affected by the Proposed Rule?

9.5 million people

living in

4.5 million families

How Many Noncitizens Are in Programs Affected by the Proposed Rule?

410,000 people

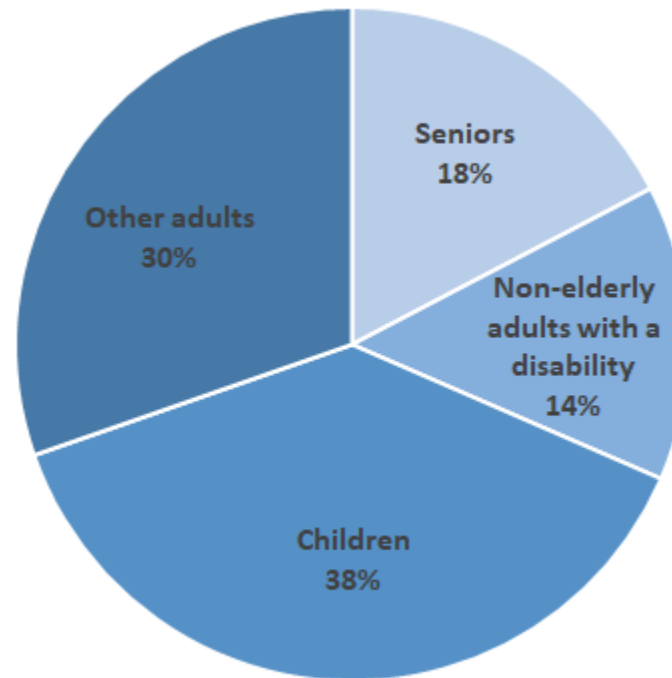
living in

280,000 families

Source: CBPP analysis of HUD administrative data. Data include Section 8, public housing, Rent Supplement, and Rental Assistance (RAP) programs, but do not include the Section 236, Section 235 (without Rent Supp), Section 23 Leasing Housing Assistance, or Housing Development Grant programs.

Who is assisted by “covered” programs?

70% of people in programs affected by the proposed rule are children, elderly, or people with disabilities



Source: CBPP analysis of HUD administrative data. Data include Section 8 and public housing programs, but do not include the Rent Supplement, Rental Assistance (RAP), Section 236, Section 235, Section 23 Leasing Housing Assistance, or Housing Development Grant programs.

Rule's doc requirements create new burdens & risks for nearly all HUD-assisted families

- Requires 9 million citizens & 120,000 elderly noncitizens to document their status
- Studies: low-income people, seniors, African Americans often have trouble producing required docs & could lose their aid/homes
- Affects large numbers of HUD-assisted households in every state (see table at www.Keep-Families-Together.org)

Rule's doc requirements create new burdens & risks for nearly all PHAs & assisted housing owners

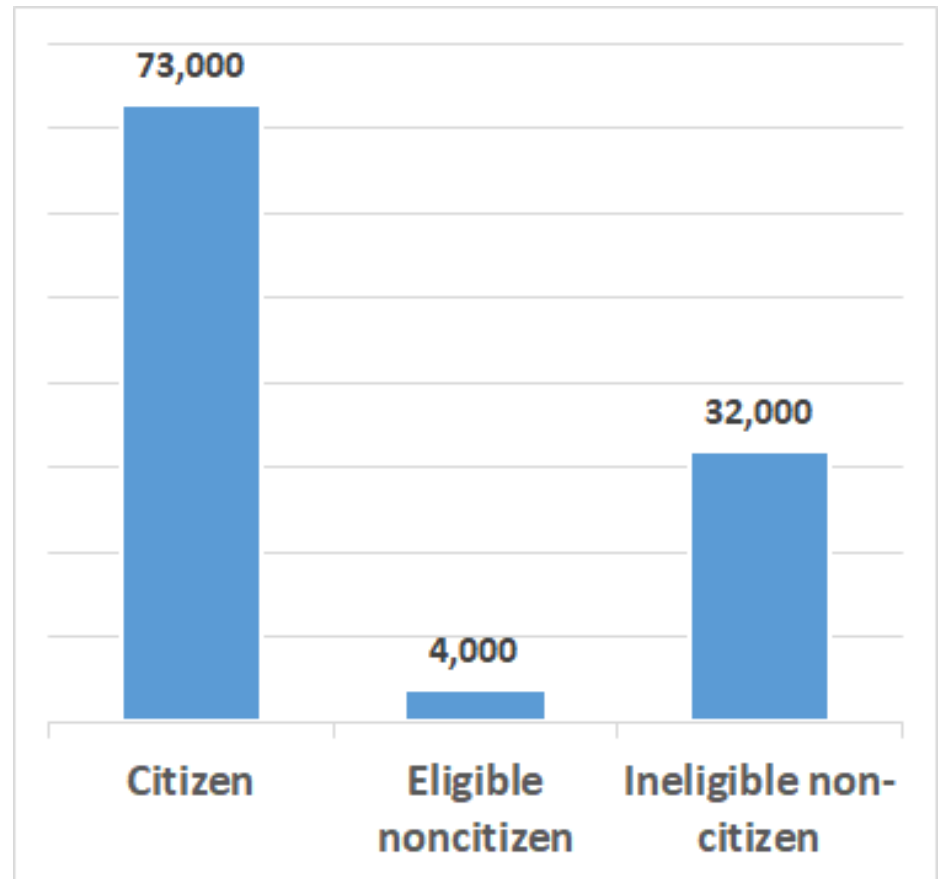
- Must collect documents from 9 million citizens & 120,000 elderly noncitizens
- For those who are unable to produce valid documents within required time, must terminate assistance, evict, re-lease
- Affects nearly every PHA and assisted housing owner in every state

Who are the people in “mixed status” families?

- 109,000 people in 25,000 families in covered programs are “mixed status,” i.e., they include ineligible noncitizen members
- Typical family: 2 adults, 2 children; 3 out of 4 are U.S. citizens, 1 is ineligible for aid
- 72% are in CA, TX, or NY

Who are the people in “mixed status” families?

70% of people in “mixed status” families are eligible for aid & 95% of these are U.S. citizens



Source: CBPP analysis of HUD administrative data.

Rule's "mixed status" provisions do nothing to address housing crisis

- Mixed-status families' aid is prorated, so shifting it to others yields no net gain in number of eligible people receiving aid
- Will make crisis worse, if anything: HUD says rule will raise costs by \$210 million, "reduce quality and quantity of assisted housing"
- Mixed status families are less <1% of assisted families & tinier share of the 17 million eligible-but-unassisted families

Rule forces mixed-status families to choose between losing homes and separating from loved ones

- At least 70% of mixed status families (75,000 people) would likely lose aid & their homes; remainder must separate
- 7 out of 10 people in affected families are eligible; 2 out of 3 are U.S. citizens
- 1/2 of people losing their homes are children (as many as 58,000, nearly all citizens)
- Thousands are elderly or people with disabilities

Rule's harmful effects fall disproportionately on Hispanic/Latinx & Black people

People in “mixed-status” families that could lose assistance	U.S. citizens subject to proposed rule's new documentation requirements
85% Hispanic/Latinx	48% Black
7% Black	27% White
5% White	19% Hispanic/Latinx
2% Asian or Pacific Islander	3% Asian or Pacific Islander

Source: CBPP analysis of HUD administrative data.

Rule would have harmful radiating impact on people, communities

- Chilling effects on other noncitizen households, including the 250,000 assisted families with eligible noncitizens & no ineligible members
- Combination of terminations/evictions and reduced rental assistance could exacerbate homelessness in some communities

How can we oppose this rule?

Sonya Acosta, National Low Income Housing Coalition

Take Action to Oppose Rule

Advocacy



- Submit comments by July 9
- Educate your network
- Contact your members of Congress

Legislation



- HR 2763 introduced by Rep. Sylvia Garcia (D-TX)
- House THUD appropriations bill

Litigation



- NHLP and partners currently strategizing
- This proposal is illegal!

Resources for Advocacy at Keep-Families-Together.org

Submit a comment by July 9

- Comment template
- Translation from Spanish
- Make comments unique
- Quantity is key

Educate your network

- Fact sheets and talking points
- Social media toolkit
- Follow and share news
- #KeepFamiliesTogether

Contact your members of Congress

- List of members who have signed onto letters or comments
- Urge them to co-sponsor HR 2763 and support appropriations language

Spread the Truth

- Host events: press calls, comment writing parties
- Press Call on July 2
 - Lisa Marlow: lmарlow@nlhс.org
- Partner with local housing authorities
- Utilize local data or capitalize on Father's Day
- NHLP and NLIHC sending out weekly updates

737 Households Statewide

300 Households in Phoenix

WILL BE AT-RISK FOR EVICTION IF NEW PROPOSAL IS ENACTED

Arizona Housing Coalition
Speaking Up for Home and Hope

THE TRUTH ABOUT UNDOCUMENTED OCCUPANTS IN HOUSTON HOUSING AUTHORITY HOUSEHOLDS

LESS THAN 1% of HHA households have undocumented family members living with them. These residents do not receive federal housing subsidies, and they do not take up spots on the housing waitlist. Here are the facts:

100+ K ON HHA WAITLISTS
Thousands of people are on HHA's waitlists, showcasing the need for expanded affordable housing options in Houston.

0 Zero people on HHA waitlists for affordable housing are undocumented. Only U.S. citizens qualify to be on waitlist, according to HUD regulations.

42 HOUSEHOLDS
42 out of 22,500 HHA households are "mixed-status," meaning an undocumented immigrant is a registered occupant. Existing HUD rules allow for mixed-status families to remain in the same household.

FEDERAL HOUSING SUBSIDIES \$0
so in federal housing subsidies are awarded to non-U.S. citizens. Undocumented occupants are excluded from all subsidy proration under current HUD policies.

WE STAND BY OUR MISSION
HHA does not act as an extension of immigration enforcement. Our mission is to improve lives by providing quality, affordable housing options and promoting education and economic self-sufficiency.

HOUSTON HOUSING AUTHORITY

HOUSINGFORHOUSTON.COM

Thank you!

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Questions
