



February 9, 2018

Dr. Benjamin S. Carson, Sr., M.D.
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

Re: Concerns with the Moving to Work Demonstration Program

Dear Secretary Carson:

The National Housing Law Project (NHLP) writes to express concerns with the implementation, oversight, and expansion of the Moving to Work (MTW) demonstration program. NHLP is a legal advocacy center focused on increasing, preserving, and improving affordable housing; expanding and enforcing the rights of low-income tenants and homeowners; and increasing housing opportunities for protected classes. Our organization provides technical assistance and policy support on a range of housing issues to legal services attorneys and other advocates nationwide. In addition, NHLP hosts the national Housing Justice Network, a vast field network of over 1,000 community-level housing advocates and tenant leaders, including representatives from MTW-designated jurisdictions.

While we are broadly supportive of MTW's statutory goals -- to expand housing choice, reduce costs and increase program efficiency -- the changes wrought by MTW have harmed far too many low-income residents. MTW PHAs divert money away from the voucher program, leaving tens of thousands of low-income families without access to housing. Participants are often subject to unfair, unproven experiments in rent-setting, time limits, and work requirements. Meanwhile, MTW PHAs are subject to extremely limited oversight, so HUD is unable to curtail financial mismanagement or administrative incompetence.

In fact, MTW PHAs serve significantly less families than their non-MTW counterparts. The five MTW agencies responsible for the largest percentage of funds transferred away from the voucher program provided housing for 3,600 families with the money that could have been used to provide vouchers to 32,000 families.¹ The average voucher utilization rate for a traditional PHA is 96% on average and the average voucher utilization rate for MTW agencies is only 81%.² Some MTW PHAs have utilization rates as low as 71%.³ Low-income families are left on increasingly long voucher waitlists because MTW PHAs fail to use their share of authorized vouchers.

¹ Will Fischer, *HUD Seeks Significant Improvements to "Moving to Work" Demonstration, But Additional Changes Needed*, Center on Budget and Policy Priorities (January 21, 2015).

² Will Fisher, *Senate Expansion of "Moving to Work" Block Grants Would Sharply Cut Number of Families with Housing Vouchers*, Center on Budget and Policy Priorities (July 29, 2015).

³ Center on Budget and Policy Priorities, *Housing Choice Voucher Utilization Data*, <http://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data>

For the MTW program to be effective, PHAs must have clear guidelines from HUD, adequate supports from relevant program offices, and, most importantly, a robust, demonstrable commitment to serving low-income tenants. It is especially important to improve oversight as MTW expands to 100 additional agencies. Below, we detail our major concerns with the MTW program that have had a negative impact on tenants and applicants: (1) lack of financial transparency (2) failure to define “substantially the same requirement” (3) implementation of policies that are harmful to tenants and (4) failure to enforce resident participation requirements. Throughout the letter, we offer HUD simple policy solutions that address our concerns for the existing 39 agencies as well as recommendations for the expansion.

I. There is no financial transparency at MTW PHAs.

HUD should require full financial transparency by de-regulated MTW PHAs. The collection of data is an essential component of the MTW demonstration program. Congress, when it created and recently expanded the program, directed HUD to identify policies that would provide cost-savings to PHAs, assist families in obtaining self-sufficiency, and increase housing choice. The only way to measure the program’s impacts is through robust data analysis. As noted in the 2013 Office of Inspector General report, due to inadequate oversight since the program’s inception, little is known about how MTW agencies design programs to meet these statutory goals or how PHAs have changed their programs over time.⁴

The lack of financial transparency has had disastrous results in some areas where MTW PHAs have secretly diverted funds away from programs that serve low-income families. In Chicago, for example, the PHA used its MTW authority to stockpile unused federal dollars. There, the PHA diverted an average of \$107 million per year from its voucher program from FY 2008-2012 and during that time built up a cash reserve of \$432 million.⁵ There are also examples of huge increases in executive compensation for MTW agency employees.⁶

Form 50900 is the primary source of data that HUD receives to evaluate a PHA’s participation in MTW and its compliance and success in meeting its stated objectives. Substituting for the PHA’s Annual Plan, it is also the only way that stakeholders can provide input into and monitor MTW agency activities. To date, Form 50900 has not provided sufficient information to HUD, residents, or advocates, to properly assess MTW activities. Despite extensive comments submitted by NHLP and our partners on at least three occasions in response to public notice and comment periods, HUD has failed to make meaningful revisions to its form.

The following suggestions will help HUD provide meaningful oversight of MTW programs while making financial information easier to understand at a local level:

⁴ Audit Report on the Moving to Work Demonstration Program, Office of Inspector General, Number 2013-PH-0004, Sept. 27, 2013.

⁵ Center for Tax and Budget Accountability, *A Fiscal Review of the Chicago Housing Authority* (July 2014).

⁶ WABE News, *Atlanta Housing Authority CEO Compensation At Center of HUD New Policy* (June 7, 2012), <http://news.wabe.org/post/atlanta-housing-authority-ceo-compensation-center-hud-new-policy>. The Housing Authority’s Chief office, Renee Glover, was cited as the highest paid housing authority executive in the country at over \$600,000.

Require data to be reported in a format other than the Financial Data Schedule: HUD currently requires MTW PHAs to report the sources and uses of MTW funds in Form 50900 but only requires PHAs to report information in the prescribed Financial Data Schedule (FDS) format. The FDS format is meaningless to tenants, advocates and most other stakeholders. Using the FDS format makes it incredibly difficult for residents to comment on the MTW Plan and evaluate an agency's MTW activities. Financial information reported per the FDS format also cannot be compared to budgets from prior years, making it difficult to understand financial trends.

Revise the MTW report format regarding source and use of funds: Currently, PHAs are only required to report to HUD a narrative about its sources and uses of funds. The narratives submitted to HUD are often vague and uninformative. HUD should require PHAs to explain each use of the demonstration program's single fund flexibility that results in a reallocation of funds from the original federal revenue stream to a different PHA cost center. The use of voucher funds for other purposes has been a core issue for tenant advocates monitoring MTW program activity. A new reporting format would allow HUD and other stakeholders to track the source of funding to a program expense.

Require PHAs to report on reserves: HUD should require more transparency regarding de-regulated agencies use of reserves to avoid situations like in Baltimore and Chicago, where only after close scrutiny of the PHAs' internal financial documents was it discovered that they had used reserves to pay off debt obligations early.⁷

II. HUD has not defined the “substantially the same” requirement.

Since the MTW program began, it has been extremely difficult to determine whether PHAs are meeting the requirement to assist substantially the same total number of eligible low-income families as would have been served without single-fund flexibility. HUD failed to define a metric for “substantially the same” and PHAs' definition varies across programs. There is absolutely no way to track whether this requirement is being fulfilled by participating agencies.

HUD must define “substantially the same” and oversee compliance with the requirement at all agencies. HUD should require PHAs to report on how many families they would be able to assist absent MTW status with the funding they receive for both the voucher and public housing programs, assuming a reasonable public housing occupancy rate and per-voucher subsidy cost. This would provide a baseline for analysis regarding the number of households that would have been served had the funds not been combined. The PHA should then be required to compare the baseline with the number of families actually assisted to determine whether it served substantially the same number of families. HUD should also establish a quantitative standard for

⁷ News coverage on the Housing Authority of Baltimore City: <http://www.citypaper.com/news/features/bcp-112515-housing-money-20151125-story.html> and on the Chicago Housing Authority: <http://progressillinois.com/posts/content/2014/08/04/report-cha-failed-spend-millions-federal-housing-voucher-money-video>

“substantially the same” (for example, a difference of less than 5 percent) so that agencies can make their certifications in a consistent manner.

HUD should also revise Form 50900 to capture data that would help tenants, advocates, and other stakeholders determine not only whether the PHA is serving the same *number* of families, but also the same *types* of families that would otherwise be served by the PHA, absent MTW status. Helpful data would include:

- Historical data (previously required in Form 50900) that shows income levels of participants for previous years.
- The income of families broken down by public housing and the voucher program.
- The income of families broken down by bedroom size.
- Which specific “local, non-traditional” tenant-based, property-based, or homeownership program families are assisted through.
- The actual number of families assisted for all types of assistance rather than estimates.

HUD has the tools to streamline compliance with the “substantially the same” requirement. Doing so would support a robust analysis of the MTW program and encourage program compliance.

III. Harmful policy implementation with no oversight or opportunity to for analysis.

Participating MTW agencies have imposed policies on tenants that put them at great risk of hardship. Work requirements, time limits on assistance, policies that result in higher rent burdens for tenants, and restrictions on portability all negatively impact participant families because they lead to termination of assistance, eviction, homelessness and a reduction in housing choice and mobility. They also represent major departures from the fundamental character of HUD’s housing programs: they prioritize the economic well-being of PHAs over the housing stability and support of residents. HUD should carefully track and monitor the policies only as part of a cohort-specific waiver in the MTW expansion.

Work Requirements: To date, there has only been one rigorous empirical study evaluating the effects of a work requirement on public housing residents’ employment outcomes.⁸ The study evaluated outcomes at the Charlotte Housing Authority (CHA), one of eight current MTW agencies that has a work requirement. Even though the authors conclude that the CHA’s work requirement results in a higher employment rate among public housing residents, they “caution against drawing more general conclusions and believe it premature to implement work requirements across the public housing program.”⁹ They argue that a number of factors had confounding effects on the efficacy of the requirement in increasing employment, including (1) the CHA’s intensive case management program (implemented two years prior to the enforcement

⁸ Rohe et al. 2016. “Work Requirements in Public Housing: Impacts on Tenant Employment and Evictions,” *Housing Policy Debate* Vol. 26, No. 6: 909-927.

⁹ Id. at 923.

of the work requirement), (2) the decision to hold off instituting the requirement until the local economy had rebounded from the effects of the Great Recession, and (3) a set of measures to ameliorate the harshness of the requirement (such as reviewing residents' disability status to determine whether they qualified for an exemption). Furthermore, the authors found no actual increase in hours worked among the employed, indicating that residents who could find work often ended up in part-time jobs that didn't further their path to self-sufficiency. As the authors of the study conclude, more research is necessary to determine whether work requirements, in isolation, are an effective tool for helping subsidized residents find work.

Furthermore, previous studies of work requirements in the Temporary Assistance to Needy Families program (TANF) indicate that they fail to support positive outcomes for low-income families. One study found that non-compliance with TANF work requirements was more closely linked to employment barriers such as lack of child care or not having a car, than a desire to avoid finding work or specific resistance to the work requirement policy.¹⁰ TANF recipients who were sanctioned for not complying with a work requirement were found to have significantly lower earnings growth than a matched set of non-sanctioned recipients.¹¹

Evidence suggests that work requirements might harm tenants without helping them move towards self-sufficiency. HUD should only allow waivers for work requirements in the broader MTW PHA pool after the policy has been rigorously evaluated amidst a small cohort of MTW agencies as part of the expansion.

Time Limits: Waivers for establishing time limits must also be withheld until more rigorous research is undertaken to ascertain the effects of time limits on the social and economic well-being of public housing and voucher participants. The only study that has attempted to evaluate the effect of time limits on public housing resident outcomes was stymied by failures in evaluation design and a lack of data from comparison groups and on key outcomes.¹² The authors write, "Unfortunately, a lack of follow-up with those who have timed out of housing assistance, and the absence of comparative data on time-limited and non-time-limited households, means that there is only limited information with which to evaluate outcomes or establish cause-and-effect relationships between agencies' policies and recipients' experiences."¹³ With these limitations in mind, the authors find decidedly mixed results: some residents experience time limits as a spur to work, while others are pushed deeper into poverty.

Findings from evaluations of TANF time limits suggest that uneven outcomes are the norm.¹⁴ While some residents experience positive outcomes in employment and health, others

¹⁰ Hasenfeld et al. 2004. "The Logic of Sanctioning Welfare Recipients: An Empirical Assessment," *Social Services Review*, Vol. 78, No. 2: 304-319.

¹¹ Fording et al. 2013. "Do Welfare Sanctions Help or Hurt the Poor? Estimating the Causal Effect of Sanctioning on Client Earnings," *Social Services Review*, Vol. 87, No. 4: 641-676.

¹² Miller et al. 2007. "The Experiences of Public Housing Agencies that Established Time Limits Policies Under the MTW Demonstration," submission to the Dept. of Housing and Urban Development, Office of Policy and Development Research.

¹³ *Id.* at ix.

¹⁴ Wood, et al. 2008. "Two Steps Forward, One Step Back: The Uneven Economic Progress of TANF Recipients," *Social Service Review* Vol. 82, No. 1: 3-28.

fall quickly back into poverty. In short, time limits alone, absent a host of other job and mobility counseling supports, put tenants' housing stability at risk. HUD should consider rigorously evaluating the impact of time limits via cohort-specific waivers and prohibit MTW agencies from implementing this policy until the results are established.

Rent Reform: HUD is currently undertaking efforts to evaluate rent reforms at four MTW agencies.¹⁵ Furthermore, HUD followed the MTW Research Advisory Committees' recommendation that a rigorous, cohort-specific evaluation be undertaken before the reforms are adopted on a broader scale. After these evaluations are available, residents, advocates, and policymakers will be able to fully assess the viability of these reforms for wide-scale adoption. In the interim, HUD should prohibit rent reform policies that risk significantly burdening subsidized residents without offering any empirically demonstrated benefits.

Portability: One of the stated goals of MTW is to “increase housing choice.” Reports find that MTW PHAs inconsistently define what it means to increase housing choice and how to measure it.¹⁶ Some MTW PHAs implemented programs such as mobility counseling and revisions to the PHA's payment standards. However, several MTW PHAs imposed policies that limit tenants' ability to port their voucher to another jurisdiction, thereby reducing housing choice and mobility among voucher families.¹⁷ HUD should prohibit PHAs from seeking waivers that limit portability as it runs contrary to the statutory goals of the demonstration program.

IV. MTW PHAs are not held accountable to resident engagement requirements.

Resident engagement in MTW activities has been lacking at most participating agencies. Resident participation is required prior to submitting an MTW Annual Plan but HUD has provided little oversight of the process. HUD reserves the right to request additional information to verify that the PHA has complied with the public participation requirements in the MTW Standard Agreement. HUD should take resident participation requirements seriously and invoke this right if a PHA provides insufficient information regarding the process.

HUD could improve the public participation process by requiring agencies to report:

- A description of how the public was notified of the MTW Plan process.
- A summary of public comments.
- A summary of the PHA's response to those comments including but not limited to listing those that were accepted without modification, accepted with modification, and not accepted.

¹⁵ MDRC, July 2014. “FAQs About HUD's Rent Reform Demonstration,” available at: <http://www.mdrc.org/news/announcement/faqs-about-hud-s-rent-reform-demonstration> [accessed May 24, 2017]

¹⁶ Sarah Oppenheimer, Megan Haberle and Philip Tegeler, with research support from Kayla Kitson, *Increasing Housing Choices: How Can the MTW Program Evolve to Achieve its Statutory Mandate*; Poverty & Race Research Action Council (March 2013).

¹⁷ Jill Khadduri, Melissa Vandawalker, Rebecca Cohen, et al. *Innovations in the Moving to Work Demonstration*, Abt Associates (Dec. 2014).

- Any changes that were made to the MTW Plan or MTW Report specifically in response to required comments/revisions by HUD.

HUD must then review MTW agencies' compliance with these requirements. In addition, changes to the local Administrative Plan or ACOP related to MTW activities should be considered a significant amendment to the PHA plan, also triggering the public participation process.

For agencies participating in the expansion, HUD should explicitly define an application to HUD to participate in the MTW program as a significant amendment to the PHA Plan. Doing so would require input from residents about the impact of proposed cohort-specific policy changes that are part of the expansion. HUD should also require at least 2 meetings with public housing and voucher residents prior to a public hearing related to an MTW application. HUD's PIH Notice 2017-1 (requesting PHAs to apply to participate in the MTW expansion) included a requirement that PHAs notify residents of their intention to apply for MTW, host two meetings with residents, and hold a public hearing. HUD should include these requirements in the upcoming RFP related to MTW's expansion.

V. Conclusion

HUD failed to provide meaningful oversight of the 39 MTW agencies and has not tracked compliance with the Standard Agreement. However, HUD can make MTW agencies more accountable by revising Form 50900 and amending parts of the MTW contract. HUD should also learn from its mistakes and provide the staff and resources necessary to properly evaluate the policies targeted in the expansion.

NHLP and our local partners have witnessed ongoing issues with the MTW program related to poor oversight. We strongly urge HUD to take a more proactive approach and more closely monitor MTW agencies' activities moving forward. Such action and evaluation is especially necessary as the MTW program expands to 100 additional PHAs. I can be reached at 415-546-7000 ext. 3124 and dthrope@nhlp.org should you wish to talk further about our concerns.

Sincerely,



Deborah Thrope
Supervising Attorney
National Housing Law Project

CC: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing
Marianne Nazarro, Director, Moving to Work Demonstration Program