



Emergency Housing Vouchers Update: What Survivor Advocates Need To Know

As noted in the prior newsletter, advocates and service providers for survivors of domestic violence, dating violence, sexual assault, stalking, and human trafficking should take note of an important new housing resource that is specifically designed to help survivors, as well as individuals experiencing or at risk of homelessness, obtain housing.

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The American Rescue Plan of 2021 set aside \$ 5 billion for a new voucher program called the Emergency Housing Voucher (EHV) program. According to the U.S. Department of Housing and Urban Development (HUD), this program will provide approximately 70,000 vouchers nationwide. EHV's are designed to pose fewer barriers for survivors and people at risk of or experiencing homelessness to obtain a portable housing subsidy. EHV's function similarly to Section 8 Housing Choice Vouchers in that an EHV recipient needs to find a rental on the open housing market. However, there are program features and flexibilities that make the program more accessible and a low-barrier option for survivors in need.

As a reminder, families are eligible for an EHV if they are:

- a. Homeless;
- b. At Risk of Homelessness;
- c. Fleeing or attempting to flee or transferring on an emergency basis due to domestic violence, dating violence, sexual assault, stalking, or human trafficking;
- d. Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

Families are referred to the PHA by the Continuums of Care or other partner agencies. The CoC or other partner agencies must determine if a referred family meets one of the four eligibility categories and must provide supporting documentation verifying the family's eligibility. Additionally, HUD's current guidance requires the family to include at least one member who is 18 years or older.

VAWA Emergency Transfers. In addition to new applicants who fall within one of the EHV eligibility categories, PHAs can use EHV's for Violence Against Women Act (VAWA) emergency transfers for existing PHA program participants who are survivors of domestic violence, dating violence, sexual assault, and stalking. Advocates who are working with survivors who are current PHA program participants with a need to move due to domestic violence, dating violence, sexual assault, or stalking should consult their PHA's emergency transfer plan to request an emergency transfer. Because PHAs are not required to use EHV's for emergency transfers, advocates representing survivors may need to urge PHAs to do so.

HUD's EHV notice regarding emergency transfers for current PHA program participants does not reference eligibility for survivors of other housing programs covered by VAWA 2013 housing protections (e.g., Low-Income Housing Tax Credits, project-based Section 8, etc.). However, survivors in these other covered housing programs can still contact their local CoC or victim services provider to see if they can establish eligibility for an EHV under the "fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking" category.

Immigrant and VAWA Self-Petitioner Eligibility for EHV's. HUD also states that the regular HCV immigrant eligibility limitations apply, which would include the "mixed-status" rule, which states that so long as one person in the home, even a minor child, has eligible immigration status or is a U.S. citizen, the family may be eligible for assistance but on a prorated basis.

VAWA self-petitioners are eligible for EHV's while their petitions are pending and during the pendency of any appeal, but may need additional time to secure appropriate documentation. As a result, HUD is waiving the requirement that PHAs must obtain Social Security number and eligible noncitizen documentation before issuing a voucher for EHV's. Accordingly, PHAs may, but are not required to, admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. Instead, families, including VAWA self-petitioners, have 180 days from the date of admission to provide the documentation or additional time if the PHA grants an extension based upon evidence from the family that they have been making a good faith effort to obtain the documentation. It is important that advocates working with VAWA self-petitioners are aware of this potential extension to provide documentation because VAWA self-petitioners generally need additional time, due to no fault of their own, to secure the necessary documentation such as an SSN. Given this circumstance, advocates should urge their local PHAs to consider VAWA self-petitioner households as qualifying for a "good faith" extension of time.

Additional HUD Guidance on fleeing or attempting to flee or transferring on an emergency basis due to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

HUD has stated that CoCs and VSPs "may accept survivors' self-definition of 'fleeing or attempting to flee' for the purpose of meeting eligibility for [an] EHV as a person fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking." This means that if a survivor self-identifies as fleeing or attempting to flee one of these forms of violence, that survivor qualifies for an EHV. This HUD update is important because lack of clarity regarding what it means to "flee or attempt to flee" violence had caused confusion in the field.



HUD also stated that the category of “fleeing or attempting to flee” violence “includes cases where a HUD-assisted tenant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same dwelling unit, or in the case of sexual assault, the HUD-assisted tenant reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit that they are currently occupying.” Additionally, this category includes cases where a sexual assault occurred on the premises within the preceding 90 days. HUD has clarified that “imminent harm” references the “tenant’s belief or fear of the threat or danger of domestic violence, dating violence, sexual assault, stalking or human trafficking based on their particular experiences and responses to violence, threats, and trauma that they will or may face if they remain in the same unit that they are currently occupying.” This means that “imminent harm” is based on the tenant’s own belief.



Technical Assistance and Resources.

This article has outlined the basics of the EHV program, but survivor advocates should consult HUD resources, particularly the operations notice for the EHV program (PIH 2021-15 (HA)), accompanying FAQs, both of which can be located on HUD's EHV webpage.

For technical assistance, advocates can reach out to the National Housing Law Project, or to HUD's EHV email, ehv@hud.gov.

Conclusion

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In conclusion, survivor advocates should familiarize themselves with the EHV program, the revised guidance on “fleeing or attempting to flee” violence and research whether this housing resource can meet their clients' needs. The flexibilities and features of the program are designed to give EHV families, including survivors, better chances at successfully finding safe, affordable housing.

USDA Issues Updated Guidance on VAWA

On March 15, 2021, the Rural Development (RD) division of the United States Department of Agriculture, which provides a critical supply of affordable housing in rural communities, issued new guidance on the Violence Against Women Act as it relates to residents and applicants of RD's housing programs, which are the 515 Rental Housing program, the Section 514/516 Farm Labor Housing program, the 538 Guaranteed Rental Housing program, and the 533 Housing Preservation Grant program. This guidance, called an Unnumbered Letter, updates and revises prior VAWA guidance issued by RD.

This guidance emphasizes that RD staff should continue to remind RD owners and property managers that they play a critical role in helping tenants obtain safe housing and supportive services. The guidance provides suggestions on how to best ensure the VAWA protections are available to tenants that need them given concerns of limited staffing levels and capacity to improve victim outcomes. Some key suggestions and directives include:



- Owners/managers can permit extended absences from units;
- Owners/managers must allow eligible tenants who reasonably believe they would be threatened with imminent harm from further violence if they were to remain in the unit to transfer to another available and safe Rural Development unit. The Rural Development Local Servicing Official will issue a VAWA Letter of Priority Entitlement (LOPE), stating that the tenant may receive priority placement in an available Rural Development unit within given timeframes.
- Owners/managers must continue to distribute key VAWA forms, namely Form HUD-5380 "Notice of Occupancy Rights" and Form HUD-5382 "Certification of Domestic Violence and Alternate Documentation," to all applicants and tenants on four occasions: 1) when an individual is denied residency in a Rural Development unit; 2) at the time the individual is assigned a Rural Development unit; 3) at the time of annual tenant recertification; and 4) with any notification of eviction or termination of assistance. Documents, such as termination notice and the VAWA forms should be given to each adult member of the household in addition to the head of the household.
- Owners/managers should prioritize victims' requests and process emergency transfers and lease bifurcations as quickly as possible. This would include accepting verbal statements regarding incidents of violence or if written documentation is requested, accept a self-certification or sworn statement. If the emergency transfer cannot be made immediately, frequent status updates must be given the victim, while exercising extreme caution to maintain confidentiality.
- Evictions, lease bifurcations, and terminations of assistance against victims due to the presence of an "actual and imminent threat" caused by a perpetrator should be utilized only when there are no other actions that could be taken to reduce or eliminate the threat. Other possible actions include but are not limited to transferring the victim to a different Rural Development unit, barring the abuser from the property, and contacting law enforcement to increase police presence.
- When processing a lease bifurcation where a perpetrator who was the head of household has been removed because of violence, borrowers must allow victims and the remaining household members, who are tenants or residents, reasonable time to establish eligibility for the existing housing program or another subsidized housing program. Reasonable time is at least 90-days from the date of the lease bifurcation.

- When communicating with an applicant or tenant who has requested VAWA protections, the borrower must provide safe options to communicate with victims while exercising strict measures for maintaining confidentiality. Precautionary steps must be taken to avoid inadvertent disclosure of confidential information to another individual or entity.
- The following best practices are meant to address the challenges of collecting information from and communicating with a victim while maintaining flexibility and meeting the strict confidentiality requirements of the VAWA:
 - Conduct the intake session in a private room, where the individual and staff person can talk without the risk of other staff or clients overhearing.
 - Explain the Management Agent's information sharing policies. Communicate to the individual who is responsible for handling questions or complaints about confidentiality.
 - Provide adequate time for the individual to review and sign forms.
 - Post confidentiality notices in the intake room and around the property's common areas.
 - Ensure relevant staff understand confidentiality policies and procedures through regular staff training.
 - Unless given permission from the victim to do so, do not send mail or leave messages of any type that contain confidential information or refer to the VAWA. The perpetrator may have access to the victim's mail or be the co-head of household, or the perpetrator may be employed at the residence of the victim.
 - When discussing these matters directly with the victim, ensure that no one can overhear the conversation. Make arrangements that do not place the victim at risk, such as making the documentation request in a private room, not in an open space at the management office.
 - Direct staff to respond to third-party inquiries only after verifying that written client consent has been obtained.
 - Clarify information sharing policies with referring/referral agencies and other service and business partners.
 - Maintain distinct phone lines for certain purposes.
 - Avoid using language referencing domestic violence or sexual assault in agency names, program names, organization names, and staff titles.
 - Use a Management Agent controlled post office box to receive written correspondence.
 - Serve individuals off-site as needed or when appropriate.
 - Provide interpretation and/or documents translated into the appropriate language when necessary.
 - Provide accessible documents or assistance filling out forms for individuals with disabilities.



- Owners/managers should consider adopting a preference for admission and make every effort to accept admission applications from victims at any time, even when a waiting list may be closed. In addition, eligible victims currently in congregate living situations should be permitted to move into safe housing which will allow for compliance with social distancing requirements.
- To better accommodate victims who do not feel safe attending hearings where their perpetrators would be present, owners/managers should use available technology so that victims have safe options to testify at hearings where their housing subsidy is at stake.
- Owners/managers should make available to tenants a list of other Rural Development and non-Rural Development housing providers in the local area who assist victims of VAWA-related crimes.
- Owners/managers should ensure that a list of programs and phone numbers of advocacy organizations that assist victims of domestic violence, dating violence, sexual assault, and stalking on an emergency basis is readily available.

Conclusion

The complete Unnumbered Letter can be found at

<https://www.rd.usda.gov/sites/default/files/rdul-safehousing.pdf>.

RD's policy guidance provides some important directives and safety tips for survivors and their advocates to utilize when working with housing providers who are a part of the rural housing programs.



For technical assistance or requests for trainings or materials, please contact:

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www.nhlp.org/OVWgrantees

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