

Summary of Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Homeless Definition

On December 5, 2011 HUD published the [Final Rule](#) on the *Definition of Homeless* in the Federal Register. The information summarizes this Rule and provides additional information.

When does the new Definition of Homeless in the Final Rule go into effect?

January 4, 2012

What HUD Homeless Programs are impacted by the new Definition of Homeless in the Final Rule?

The new Emergency Solutions Grant (ESG) and new and existing Supportive Housing Program and Shelter Plus Care (SPC) grants funded through the Continuum of Care application are directly impacted by the new Definition of Homeless. The rule applies to programs funded by HUD differently depending on the type of program (ESG formula or CoC competitive) and, for competitive programs, when your operating year begins. Specifically, the new Definition of Homeless applies to:

- All State and local recipients of Emergency *Solutions* Grant funds (including the second allocation of FY2011 ESG funds)
- SHP projects funded in the FY2011 CoC competition - both new projects and renewals
- SPC projects funded in the FY2011 CoC competition - both new projects and renewals

For SHP and SPC renewal projects funded through the FY2011 CoC competition, the Final Rule applies at the point that the renewal award takes effect. For example, a project with a start date of May 1, 2012 would be subject to the new definition regulation on May 1, 2012 when their Fiscal Year 2011 renewal grant agreement takes effect. [NOTE: in many cases, the *Fiscal Year* in which a project was funded is not the same as the *Calendar Year* of the project start date.

For those renewal projects with operating start dates of January 1-3, 2012, the Final Rule applies as well.

What HUD Homeless Programs are NOT impacted by the new Definition of Homeless in the Final Rule?

The new Definition of Homeless in the Final Rule does not apply to the following HUD Homeless programs:

- Emergency *Shelter* Grant funding awarded in FY2011 (sometimes referred to as the “first ESG allocation”)
- McKinney-Vento Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) projects
- Homelessness Prevention and Rapid Re-Housing programs

In addition, the new Definition of Homeless in the Final Rule currently does not apply to the following HUD Homeless programs, but may apply upon renewal of these specific grants:

- SHP projects funded prior to the FY2011 CoC competition (i.e., projects currently operating with 2-or 3-year grant terms)
- SPC projects funded prior to the FY2011 CoC competition (i.e., projects currently operating under their original grant term of 5- or 10-years).

Homeless Definition

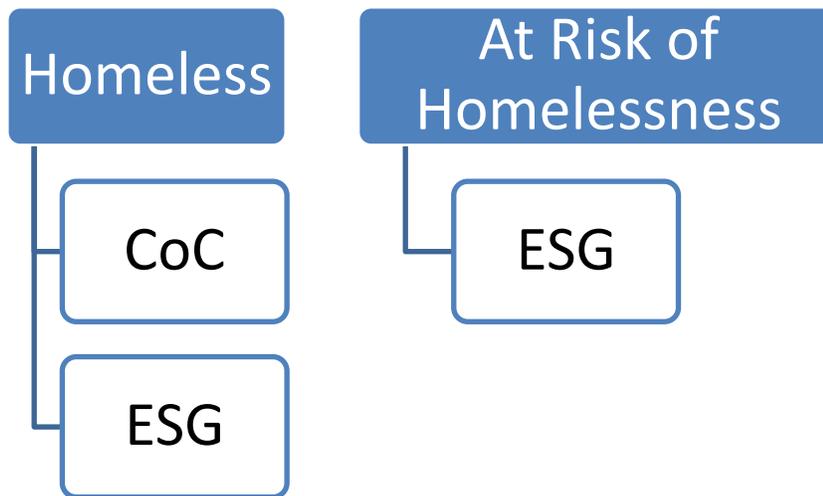
Category	Defined as...	Eligible for:
1. Literally Homeless	Sleeping in a place not designed for or used as a regular sleeping accommodation, including a car, park, abandoned building, bus or train station, airport, camping ground, etc.	ESG Programs SHP - Supportive Services Only SHP-Transitional Housing SHP Permanent Housing Shelter Plus Care
	Living in a shelter designed to provide temporary living arrangements (including emergency shelter, congregate shelters, transitional housing, hotels and motels paid for by charitable organizations or by government programs)	
	Exiting an institution where they: <ul style="list-style-type: none"> • resided for ≤ 90 days AND • were residing in an <u>emergency shelter</u> or place not meant for human habitation <u>immediately</u> prior to entering the institution 	
2. Imminent Risk of Homeless	<ul style="list-style-type: none"> • Will lose primary nighttime residence within 14 days AND • No subsequent residence has been identified AND • No resources or support networks to obtain permanent housing 	ESG Programs SHP - Supportive Services Only SHP-Transitional Housing People in Categories 2, 3, or 4 are not eligible for SHP-Permanent Housing no Shelter Plus Care¹
3. Homeless Under Other Federal Statutes	Unaccompanied youth < 25, or families with children and youth, who: <ul style="list-style-type: none"> • Do not qualify as homeless under the Categories 1, 2, or 4, but who qualify as homeless under other federal Statutes AND • Have not had a lease, ownership interest, or occupancy agreement in permanent housing any time during the past 60 days; AND • Have moved 2+ during the past 60 days; AND • Can be expected to continue such status for an extended period of time due to special needs or at least 2 barriers 	
4. Fleeing/Attempting to Flee Domestic Violence	<ul style="list-style-type: none"> • Fleeing, or is attempting to flee domestic violence AND • No subsequent residence has been identified AND • No resources or support networks to obtain permanent housing 	

¹ Consistent with Section III.E.d(3) of the FY2011 CoC Notice of Funding Availability
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Do both the “Homeless” and the “At Risk of Homelessness” definitions included in the Final Rule apply to all ESG and CoC programs?

No. There are 2 components to the new Definition: the definition of "homeless" and the definition of "at risk of homelessness."

As shown in the figure below, ESG-funded projects can serve people who are homeless as well as people at-risk of homelessness. Projects funded through the CoC competition can only serve those people that meet the definition of "homeless"



How does the Final Rule change who is eligible for the CoC programs?

Category 1: This is not a new homeless eligibility category. There are a few significant changes. The first change is that people will be considered homeless if they are exiting an institution where they resided for up to 90 days (it was previously 30 days), and were in shelter or a place not meant for human habitation immediately prior to entering that institution. The Final Rule clarifies that people existing an institution under the Category 1 homeless definition, may not have resided in transitional housing immediately prior to entering that institution. The second significant change is that people residing in transitional housing no longer need to document that they were homeless (i.e., on the streets or in an emergency shelter) before entering transitional housing.

Category 2: This is not a new homeless eligibility category. The only significant change is that people will be considered homeless if they are losing their primary nighttime residence, which may include a motel or hotel or a doubled up situation, within 14 days (it was previously 7 days) and lack resources or support networks to remain in housing. The Final Rule also describes specific documentation requirements for this category.

Category 3: This is a new category of homelessness, and it applies to families with children or unaccompanied youth who are not eligible under Categories 1,2, or 4 and have not had a lease or ownership interest in a housing unit in the last 60 or more days, have had two or more moves in the last 60 days, and who are likely to continue to be unstably housed because of disability or multiple barriers to employment.

Category 4: This is not a new homeless eligibility category, but it has been expanded to include people who are fleeing or attempting to flee domestic violence, as well as sexual assault, stalking or other dangerous or life-threatening situations related to violence.

In Category 3 of the new Homeless Definition, what qualifies as Special Needs and Barriers?

To qualify as homeless under Category 3, an unaccompanied youth or family must:

- not qualify as homeless under the other Categories 1,2, or 4, but who qualify as homeless under other federal Statutes; AND
- not have had a lease, ownership interest, or occupancy agreement in permanent housing any time during the past 60 days; AND
- have moved 2+ during the past 60 days; AND
- be expected to continue such status for an extended period of time

For this definition, the unaccompanied youth or family must also have a *special need* or at least two *barriers to employment*.

Special needs include:

- Chronic disabilities
- Chronic physical health or mental health conditions
- Substance addiction
- Histories of domestic violence or childhood abuse (including neglect)
- Presence of a child or youth with a disability

Barriers to employment include:

- Lack of a High School degree or GED
- Illiteracy
- Low English Proficiency
- History of incarceration or detention for criminal activity
- History of unstable employment

What Federal Statutes are included in Category 3 of the new Homeless Definition?

- Runaway and Homeless Youth Act (42 U.S.C 5701 et seq.)
- Head Start Act (42 U.S.C. 9831 et seq.)
- Violence Against Women Act of 1994; subtitle N (42 U.S.C. 14043e et seq.)
- Public Health Service Act; section 330 (42 U.S.C. 254b)
- Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)
- Child Nutrition Act of 1966; section 17 (42 U.S.C. 1786)
- McKinney-Vento Act; subtitle B of title VII (42 U.S.C. 11431 et seq.)

Where can I find more information about these other Federal Statutes?

For Category 3, an individual or household will need certification by a nonprofit or state or local government that the individual or head of household meets the criteria of homeless under another Federal Statute. To find more information about these Federal Statutes:

- *Runaway and Homeless Youth* funding is administered by the Family and Youth Services Bureau within the Administration for Children & Families (ACF) of the U.S. Department of Health and Human Services (HHS). Information about Runaway and Homeless Youth program grantees is available online at <http://www2.ncfy.com/locate/index.htm>.
- *Head Start* funding is administered by the Office of Head Start (OHS) within ACF/HHS. A listing of Head Start programs, centers, and grantees is available online at <http://eclkc.ohs.acf.hhs.gov/hslc/HeadStartOffices>
- *Violence Against Women Act* established the Office on Violence Against Women (OVW) within the U.S. Department of Justice (DOJ). OVW administers financial and technical assistance to communities across the country that are developing programs, policies, and practices aimed at ending domestic violence, dating violence, sexual assault, and stalking. Currently, OVW administers one formula grant program and eleven discretionary grant programs, all of which were established under VAWA and subsequent legislation. More information about OVW is available online at <http://www.ovw.usdoj.gov/>.
- *The Public Health Service Act* authorized the Health Center Program, which is administered by the Bureau of Primary Health Care within the Health Resources and Services Administration (HRSA) of HHS. Information about local Health Centers can be found online at <http://bphc.hrsa.gov/index.html>
- *Food and Nutrition Act of 2008* relates to the Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps. SNAP is administered by the U.S. Department of Agriculture (USDA). More information about SNAP can be found online at <http://www.fns.usda.gov/snap/>
- *Child Nutrition Act of 1966* authorized numerous programs related to school lunches and breakfasts and funds for meals for needy students. For more information about these programs, contact the local School Department.
- *McKinney-Vento Act; subtitle B of title VII* authorized the McKinney-Vento Education for Homeless Children and Youths Program, which is administered via the Office of Elementary and Secondary Education within the U.S. Department of Education. More information about this program is available online at <http://www2.ed.gov/programs/homeless/index.html>

Are there any limits on using funds to Serve People that meet the Category 3 Definition of Homeless?

Yes. According to [HUD Notice CPD-12-001](#), there are a few limitations. First, the Category 3 definition will only apply to new and renewal projects funded through the FY2011 competition that proposed to serve families with children and/or unaccompanied youth. For these projects, the new definition will apply when the FY2011 grants agreement goes into effect. The target population of a project cannot be changed in order to serve this newly eligible group.

Also, HEARTH statutory language limited the use of funds for people that meet the Category 3 Definition of Homeless (no more than 10% of funds awarded to a Collaborative Applicant can be used to serve this population). As such, to use funds for this population, CoCs must make a formal written request to the local HUD Field Office to use any portion of their funds for this purpose. No FY2011 SHP or SPC project will be allowed to use their funds for Category 3 homeless persons until the CoC has received written permission from HUD. For more information about how to request permission, see [HUD Notice CPD-12-001](#).

What does an SHP or Shelter Plus Care grantee have to do to begin using the new Definition of Homelessness in the Final Rule?

SHP and S+C projects that received funding in FY2011 CoC Competition must use the revised definition when administering their projects (effective when the grant goes into effect). HUD has not yet published the guidelines for how existing SHP and SPC projects should make the transition to the new Definition of Homeless in the Final Rule. HUD is currently developing several documents and webinars regarding the new Definition of Homeless that will be available on the [Homelessness Resource Exchange](#).

What administrative policies have to be in place to use the new Definition of Homelessness in the Final Rule?

All ESG recipients as well as SHP and SPC grantees must have in place written intake policies and procedures to ensure compliance with gathering documentation of homeless/at-risk of homelessness status at intake. These policies must prioritize the type of documentation required and establish requirements regarding due diligence for gathering documentation. The priorities for type of documentation must include:

- 1st priority: third party documentation
- 2nd priority: intake worker observation
- 3rd priority: self-certification

What documentation is needed to verify that an applicant meets the new Homeless Definition?

Each Category has different documentation and recordkeeping requirements. These requirements can be found in [HUD Criteria and Recordkeeping Requirements for Definition of Homeless](#).

Where do I find more information?

[Homeless Emergency Assistance and Rapid Transition to Housing: Defining "Homeless" Final Rule](#)

[HUD Determining Homeless and At-Risk Status, Income and Disability Webinar](#)

[HUD Criteria and Recordkeeping Requirements for Definition of Homeless](#)

[HUD Criteria for Definition of At Risk of Homelessness](#)