

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

July 9, 2019

Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Submitted via [regulations.gov](https://www.regulations.gov)

Re: HUD Docket No. FR-6124-P-01, RIN 2501-AD89 Comments in Response to Proposed Rulemaking: Housing and Community Development Act of 1980: Verification of Eligible Status

Justice in Aging appreciates the opportunity to comment on the above referenced Notice of Proposed Rulemaking (NPRM) issued by the Department of Housing and Urban Development's (HUD). Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. Since 1972 we've focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

Justice in Aging strongly opposes the proposed changes regarding "verification of eligible status" and urges the agency to withdraw the NPRM in its entirety. The proposed rule would greatly harm tens of thousands of immigrant families, many of which include older adults and individuals with disabilities. HUD states that it is proposing this rule to address the waitlist crisis faced by a majority of Public Housing Authorities nationwide. We disagree that it would in fact reduce waitlists or help any low-income families secure affordable housing. In fact, HUD's own analysis demonstrates that the proposed rule would result in fewer families receiving public housing assistance.¹ The housing crisis is not a result of ineligible families accessing assistance; rather, it is a result of insufficient funding. HUD should be putting forward policies to ensure that everyone living in the United States, regardless of immigration status, has access to the basic human right of a safe place to call home. A policy that would result in over 100,000 people losing assistance² directly conflicts with this commonsense objective.

I. The Proposed Rule Will Increase Homelessness and Force Intergenerational Immigrant Families to Break Apart

The proposed rule jeopardizes family and housing stability and puts tens of thousands of immigrant families at risk of homelessness. These families include nearly 110,000 low-income U.S. citizens as well as immigrants—the majority are women, over 2,000 are seniors, and over 5,000 are people with

¹ HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01 (Apr. 15, 2019).

² *Id.*

WASHINGTON

1444 Eye Street, NW, Suite 1100
Washington, DC 20005
202-289-6976

LOS ANGELES

3660 Wilshire Boulevard, Suite 718
Los Angeles, CA 90010
213-639-0930

OAKLAND

1330 Broadway, Suite 525
Oakland, CA 94612
510-663-1055

disabilities.³ The proposed rule would force these mixed status families to choose between two harmful options—either separate so eligible family members can continue to receive assistance, or forgo the subsidies to keep their families together. Separating families undermines family stability and leads to toxic stress, trauma, and attachment issues in children.

The proposed rule’s effect on families that choose to stay together is also devastating. HUD writes that it “expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified.”⁴ In other words, this rule would effectively evict as many as 108,000 individuals in mixed status families (in which nearly 3 out of 4 are eligible for assistance) from public housing, Section 8, and other programs. Many of these individuals and whole families will experience homelessness and face a future of unstable housing.

Federal housing assistance programs provide vital support to 1.9 million older adults who would otherwise be unable to afford the cost of shelter.⁵ Seniors with fixed incomes are especially at risk of serious harm if they live in mixed status families and lose rental assistance due to the rule, because they have such limited resources to spend on other basic needs, including food, medicine, transportation, and clothing.⁶

The proposed rule would also make it impossible for many intergenerational families to live together and share resources that enable them to succeed. Housing support and the stability it provides are critical to getting families on a pathway to self-sufficiency and better life outcomes. By forcing families to break apart or lose housing assistance, the proposed rule ignores the critical roles many grandparents play in caring for their grandchildren and other family members, as well as the role adult children play in caring for their aging parents and relatives.

II. The Proposed Rule Will Hurt U.S. Citizen Older Adults and People with Disabilities

The harms of this proposed rule would extend far beyond the tens of thousands of “mixed status” families it explicitly targets through additional documentation requirements. By requiring every person who declares they are a U.S. citizen under penalty of perjury to provide documentary proof of their citizenship, such as a birth certificate, the proposed rule creates red tape that threatens housing security for more than 9 million U.S. citizens currently receiving HUD assistance and for all U.S. citizens seeking these benefits in the future.⁷

The burden of this requirement is greatest for citizens who are seniors, low-income, women, persons of color, and persons with disabilities. A 2006 survey showed that as many as seven percent of citizens,

³ Ctr. on Budget & Policy Priorities, *Demographic Data Highlight Potential Harm of New Trump Proposal to Restrict Housing Assistance* (July 1, 2019), www.cbpp.org/research/housing/demographic-data-highlight-potential-harm-of-new-trump-proposal-to-restrict-housing.

⁴ HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 7 (Apr. 15, 2019).

⁵ Ctr. on Budget & Policy Priorities, *United States Federal Rental Assistance Fact Sheet* (updated May 14, 2019), <https://apps.cbpp.org/4-3-19hous/PDF/4-3-19hous-factsheet-us.pdf>.

⁶ See Justice in Aging, *Supporting Older Americans’ Basic Needs: Health Care, Income, Housing and Food* (Apr. 2018), www.justiceinaging.org/wp-content/uploads/2018/04/Supporting-OlderAmericans%E2%80%99-Basic-Needs_Health-Care-Income-Housing-and-Food.pdf.

⁷ Ctr. on Budget & Policy Priorities, *Demographic Data Highlight Potential Harm of New Trump Proposal to Restrict Housing Assistance* (July 1, 2019), www.cbpp.org/research/housing/demographic-data-highlight-potential-harm-of-new-trump-proposal-to-restrict-housing

and at least 12 percent of citizens earning less than \$25,000 a year, did not have citizenship documentation readily available.⁸ Some older adults were never issued a birth certificate in the first place.⁹ And nearly 1 in 5 citizens age 65 and older and 1 in 4 African Americans do not have any photo ID. Moreover, many more citizens who do have birth certificates or IDs have changed their name or moved, so that the documents don't reflect their current name or address. A third of adult women who are U.S. citizens do not have any proof of citizenship with their current legal name.¹⁰

Obtaining documentary proof of citizenship or nationality can be extremely difficult for older adults and people with disabilities. They may have spent an extended period of time in a hospital or nursing facility and were not able to keep track of important documents, especially if they were not able to afford to keep their home while they were in the institution. Lack of accessible transportation and other issues can make it challenging to get to government offices to replace lost records. Seniors who are eligible for housing assistance are living on very limited fixed incomes, so they may not have money in their budgets to replace any lost records.

HUD would terminate housing assistance for older citizens and citizens with disabilities who cannot produce the required documents within the proposed rule's required time period. More than 1.5 million U.S. citizens age 62 and older and almost 2 million citizens with disabilities could lose vital assistance, causing many to be evicted from their homes and put at immediate risk of being homeless.¹¹

The proposed rule also requires noncitizens 62 years old or older to provide documentation of their immigration status.¹² Presently, noncitizen seniors are required to submit a signed declaration of their eligible immigration status and proof of age. This added red tape threatens housing assistance for 120,000 noncitizen seniors and 66,000 people with disabilities, who will face the same challenges as citizen seniors to produce this documentation.

The proposed documentation requirements would also be particularly burdensome for recipients of rental assistance who were formerly homeless, as well as for people experiencing homelessness who could be assisted by Section 214 programs in the future. Seniors in America are at particular risk of homelessness—one study predicts that homelessness among people age 65 and older will more than double by 2050, from over 44,000 in 2010 to nearly 93,000 in 2050.¹³ People experiencing homelessness often lose important documents such as photo identification, birth certificates, and social security cards because they have no safe places to store them. Many seniors in these stressful

⁸ Brennan Ctr. for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship & Photo Identification* (Nov. 2006), www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.

⁹ Ina Jafe, *For Older Voters, Getting the Right ID Can Be Especially Tough*, NPR: All Things Considered (Sept. 7, 2018), www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough.

¹⁰ Brennan Ctr. for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship & Photo Identification* (Nov. 2006), www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.

¹¹ Ctr. on Budget & Policy Priorities, *Demographic Data Highlight Potential Harm of New Trump Proposal to Restrict Housing Assistance* (July 1, 2019), www.cbpp.org/research/housing/demographic-data-highlight-potential-harm-of-new-trump-proposal-to-restrict-housing.

¹² Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019) (to be codified at 24 C.F.R. part 5).

¹³ Homelessness Research Institute, *The Demographics of Homelessness Series: The Rising Elderly Population* (Apr. 2010), http://www.endhomelessness.org/files/2698_file_Aging_Report.pdf.

circumstances also struggle with cognitive impairments. Adding more documentation requirements will make it harder if not impossible for those who need housing the most to get assistance, while also causing those who have gained stability through rental assistance to return to homelessness.

In the Medicaid context, requiring documentation of citizenship has proven to be burdensome, costly and unnecessary to protect program integrity.¹⁴ After Medicaid began implementing a citizenship documentation requirement, there was a sharp decline in Medicaid enrollment. Half of the 44 states responding to a Government Accountability Office (GAO) survey indicated that Medicaid enrollment fell because of the citizenship documentation requirement.¹⁵ The GAO also found that states reported increased administrative costs and increased time spent on eligibility determinations.

Because HUD has failed to take into account the added costs and burdens of these new documentation requirements, it should not finalize the proposed rule. Instead, it must analyze and address these costs before moving forward.

III. Conclusion

As stated above, the proposed rule would greatly harm tens of thousands of immigrant families, many of which include older adults and individuals with disabilities. We urge HUD to withdraw this proposal in its entirety, and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families in the future.

Thank you for the opportunity to submit comments on the proposed rulemaking. If any questions arise concerning this submission, please contact Natalie Kean, Senior Staff Attorney, at nkean@justiceinaging.org.

Sincerely,



Jennifer Goldberg

Deputy Director

¹⁴ Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019); Donna Cohen Ross, *New Medicaid Citizenship Documentation Requirement is Taking a Toll: States Report Enrollment Is Down and Administrative Costs Are Up*, CPBB (Mar. 13, 2007), www.cbpp.org/research/new-medicaid-citizenship-documentation-requirement-is-taking-a-toll-states-report.

¹⁵ U.S. Gov't Accountability Office, *Medicaid: States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens* (June 2007), <https://www.gao.gov/new.items/d07889.pdf>.