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Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street, SW Room 10276
Washington, D.C. 20410-0500

Re: Docket No. FR-5994-N-07 Revision of Operations Notice for the Expansion of the Moving to Work Demonstration Program

Thank you for the opportunity to provide feedback on HUD's proposed Revision of Operations Notice for the Expansion of the Moving to Work Demonstration Program.[1] The following comments are submitted on behalf of the National Housing Law Project (NHLP) and the undersigned Housing Justice Network member organizations.

NHLP's mission is to advance housing justice for people living in poverty and their communities. NHLP achieves this by strengthening and enforcing the rights of tenants and increasing housing opportunities for underserved communities. Our organization also provides technical assistance and policy support on a range of housing issues to legal services and other advocates nationwide. NHLP hosts the national Housing Justice Network (HJN), a vast field network of over 2,600 community-level housing advocates and resident leaders. HJN member organizations are committed to protecting affordable housing and residents' rights for low-income families across the country. Meaningful tenant involvement is fundamental to all federally assisted housing decisions, and the following comments draw on NHLP and HJN members' extensive experience working for decades with advocates, organizers, and residents.

Since Congress initially authorized the program in 1996, NHLP and HJN members have played a key role monitoring local implementation of the Moving to Work demonstration. NHLP has repeatedly elevated issues to HUD on a formal basis through the public notice and comment process and we also raised questions informally through direct communication with key HUD staff.

Due to concerns about the impacts of deregulation on HUD tenants in the original 39 MTW agencies, when Congress expanded the MTW program in 2016, it sought to greatly revise how the demonstration program was administered by participating PHAs. HUD, in its initial Operations Notice, set forth new rules for expansion agencies that included safeguards for families from the potential harms of implementing regulatory and statutory waivers. With comments from a range of stakeholders, the Operations Notice went through several revisions. In fact, NHLP and HJN submitted comments on the original Operations Notice[2] published on

[1] Revision of Operations Notice for the Expansion of the Moving to Work Demonstration Program, 91 FR 168 (proposed September 1, 2026) (hereinafter "proposed rule").
[2] Operations Notice for the Expansion of the Moving to Work Demonstration Program Solicitation of Comment; Waiver Revision and Reopening of Comment Period, 82 Fed. Reg. 20,912 (May 4, 2017)

Thursday, May 4, 2017.[3] NHLP also submitted comments[4] on the Republication of the Operations Notice published on October 11, 2018.[5] The notice has undergone a handful of minor revisions since then. Now, HUD is attempting to further revise the Notice, without providing sufficient evidence to support the changes.

NHLP opposes the proposed changes to the Operations Notice and suggests that HUD revert to the prior Operations Notice. The proposed changes are arbitrary, have no evidentiary basis and will only cause harm to tenants.

I. HUD's proposed changes to the work requirement and time limit waivers are arbitrary; HUD provided absolutely no basis for the revisions.

In 1996, Congress established the Moving to Work (MTW) program to allow enrolled PHAs to experiment with waivers of statutory and regulatory requirements as a means of increasing economic self-sufficiency.[6] HUD enrolled 39 PHAs under this initial authorization. For those original 39 MTW agencies, work requirements and time limits are two of the permissible statutory waivers. The goal of MTW is to test and study innovative policies which, if successful, could be replicated on a broader scale. Participating programs are explicitly required to apply for statutory and regulatory waivers from HUD to implement work requirement or time limit policies currently unauthorized by HUD and Congress. A 2025 HUD review of MTW found that nine initial MTW agencies had at some point instituted a work requirement policy and seven remained in place with little documented success. [7]

In 2016, Congress expanded MTW by an additional 100 PHAs.[8] PHAs wishing to participate in the MTW expansion applied to be part of a specific cohort, and each cohort was tasked with evaluating the impact of targeted policy innovations. Initially a cohort was established to implement work requirements and study the efficacy and impact of such policies.[9] However, in 2021, HUD ultimately pulled the work requirement cohort from the MTW expansion citing conflict with current economic realities and needs of low-income families.[10] In 2021, HUD

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[3] Comment Letter to Regulations Division, HUD Office of General Counsel from Deborah Thrope (June 5, 2017).

[4] Comment Letter to Regulations Division, HUD Office of General Counsel from Deborah Thrope (November 26, 2018).

[5] Operations Notice for the Expansion of the Moving to Work Demonstration Program; Republication and Extension of Comment Period, 83 Fed. Reg. 51,474 (Oct. 11, 2018) (hereinafter "Operations Notice").

[6] Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, § 204(a), 110 Stat. 1321 (Apr. 26, 1996) (expanded by Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 239, 129 Stat 2242 (Dec. 15, 2015)); Office of Policy Development and Research, Department of Housing and Urban Development, *A Review of Work Requirement Policies in HUD-Funded Assisted Housing: Final Research Report*, (June 10, 2022), p. ii.

[7] Cong. Rsch. Serv., R48531, *Work Requirements: Existing Policies in Medicaid, SNAP, Housing Assistance, and TANF*, (June 25, 2025), pp. 31-33.

[8] *Id.*

[9] Department of Housing and Urban Development PIH 2021-02, *Request for Applications under the Moving to Work Demonstration Program for Fiscal Year 2021: COHORT #3 – Work Requirements* (Jan. 7, 2021).

[10] *Fostering Local Innovations Through HUD's Moving to Work Program*, Bipartisan Policy Center (Oct. 17, 2023); Department of Housing and Urban Development PIH 2021-18, *RESCINDING of Request for*

canceled its work requirements cohort, and as a result, HUD has never had the opportunity to adequately study the impact of work requirements in the MTW program.

No matter what cohort a PHA is involved in, there are certain waivers available to all MTW expansion PHAs including work requirements and time limits.[11] However, in issuing HUD's Operations notice for the MTW program, importantly, HUD added "safe harbors" for the waivers that were most likely to harm tenants, like work requirement and time limit waivers. "Safe harbors" require a PHA to do an annual impact analysis of the proposed policy and to adopt a hardship policy. HUD determined that both work requirement and time limit waivers run the risk of harming HUD residents; therefore, in order to implement both policies, MTW expansion PHAs must also adopt safe harbors per the MTW expansion Operations Notice, including the requirement to undergo an annual impact analysis and the adoption of a hardship policy.[12]

The impact analysis for purposes of work requirements and time limits includes a "written analysis of the various impacts of the MTW activity" and must be completed prior to adoption of the policy and on an annual basis. It also must be completed if the PHA seeks a waiver from the safe harbor policy from HUD and when the MTW activity is closed out. The analysis must consider several factors including the policy's cost, impact on the waiting list, impact on family termination rates, and more. The requirements regarding a PHA's hardship policy are equally robust and both must be in writing and included in the PHA's MTW Supplement to the Annual PHA Plan.[13]

In the prior Operations notice, additional safe harbors for work requirements include that HUD capped the work requirement at 15 hours per week per individual or 30 hours per week per household. Similarly, HUD laid out additional safe harbors for PHAs wishing to implement time limits including that the term of assistance must not be shorter than four years and that services must be offered to the family prior to termination for reaching a time limit. HUD therefore acknowledged that work requirements and time limits come with significant risks for HUD participants such that they should only be applied in a very limited way, including robust safeguards to avoid termination and eviction and formal mechanism to track the policy's outcomes.

Yet, in this revised notice, HUD does a complete reversal and minimizes the potential harm that an aggressive work requirement and time limit can have on participating families. Without any evidence to back up the change, HUD proposes to (1) increase the maximum allowable work requirement to 40 hours per week and (2) reduce the minimum term of assistance to two years (12.a, 12.b, 7.a, and 7.b). HUD provides absolutely no rationale for this change which contradicts HUD's prior position that both work requirement and time limit waivers run the risk of creating housing instability for HUD residents and therefore should only be applied with robust safe harbors.

Applications under the Moving to Work Demonstration Program – Work Requirements Cohort (June 21, 2021).

[11] Operations Notice for the Expansion of the Moving to Work Demonstration Program, 85 Fed. Reg. 53444, 53468 (Aug. 28, 2020).

[12] 85 Fed. Reg. 53444.

[13] *Id.*

To date, only 16 MTW PHAs have implemented work requirements (among both initial and expansion agencies). Work requirement policies varied in how many hours were required.[14] Only one documented work requirement obligated HUD residents to full-time (40 hours/week) employment.[15] Most agencies mandated only 15-20 hours per week showing little appetite among PHAs to impose a harsh 40-hour work week among residents.[16] And at least 7 of these 16 agencies later changed or rescinded their work requirements because they were unworkable.[17] Similarly, 19 MTW agencies adopted time limits and of those, not one PHA opted for a time limit as low as two years.[18] And 11 of those 19 agencies later rescinded their time limit policies.[19]

The history of Congress's deliberate and slow expansion of MTW makes clear that Congress recognized the potentially harmful implications of instituting broad or harsh work requirements and time limits on tenants in federally subsidized housing. Congress has only sparingly granted HUD this authority. Congress has also recognized the need to study the actual impacts and results of the work requirement and time limit policies at the original MTW cohorts before expanding any authority to implement such policies more broadly.

In fact, in the recently passed 21st Century Road to Housing Act, Congress expanded the MTW program by 25 agencies but explicitly prohibited the new expansion agencies from applying certain waivers, including time limits and work requirements.[20] The proposed changes to the Operations Notice steamrolls Congress's intent to carefully limit the ability of HUD to waive statutory provisions for PHAs; a cautious approach that protects both federally subsided tenants and the integrity of HUD's programs.

II. HUD should maintain the full exemption from the Income Inclusion/Exclusion waiver for elderly and disabled individuals.

HUD proposes amending the Alternative Income Inclusion/Exclusion safe harbor (1.v and 1.w) to only exclude elderly and disabled individuals if it would "have a detrimental effect on the household." HUD's proposal is arbitrary and HUD provides no evidence of any impact that this change will have either on residents or PHAs. The revised language is also vague and therefore HUD should not make this change. HUD does not define "detrimental effect" in the Operations Notice. Therefore, it will be impossible for housing agencies to determine when the safe harbor must be applied. This change will only result in confusion among housing providers and residents as to whether seniors and people with disabilities will be harmed and therefore exempt from the waiver.

III. HUD should not remove disparate impact from the impact analysis.

HUD proposes to remove the disparate impact analysis from the impact analysis in

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[14] Claudia Aiken & Ellie Lochhead, *Policy at a Crossroads: What We Know About Work Requirements and Time Limits in Federal Housing Assistance*, Local Housing Solutions (Sep. 5, 2025).

[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] Pub. L. No. 119-**101** (Title V, Section 504).

Appendix II and from safe harbors (Activity 11 on MTW Self-Sufficiency Program). NHLP opposes this revision. HUD itself, throughout the Operations Notice, expresses that some waivers run the risk of harming participant families because they may result in higher rents, administrative burdens, or other factors that cause housing instability. Given the risks, HUD put in place safe harbors, or guardrails, to protect families from potential harm. One important guardrail is a robust impact analysis to determine impacts of the MTW activity, along with a hardship policy should the PHA determine that an activity constitutes a financial or other hardship. HUD should maintain all factors of the impact analysis because it helps avoid negative consequences for families due to participation in the MTW demonstration.

In addition, by removing the disparate impact analysis required for potentially harmful waivers, HUD is increasing the chances that MTW policies have an unjustified disparate impact on protected classes, opening up PHAs to fair housing act liability.

IV. HUD should maintain the current stepped rent waiver.

HUD proposes to make a change to the waiver and associated activities (1.c and 1.d) on Stepped Rent. The Safe Harbor (viii) was edited to no longer require the stepped rent to be tied to unit size. Divorcing the stepped rent from unit size will result in hardship for many families. Stepped rents run the risk of placing enormous rent burdens on HUD tenants. Stepped rents are so problematic that, like work requirements and time limits, Congress prohibited MTW expansion agencies authorized by the 21st Century Road to Housing Act from implementing waivers that authorize stepped rents.[21] Until HUD has any conclusive research about the efficacy of stepped rents to support self-sufficiency, HUD should not encourage PHAs to apply the waiver.

V. NHLP opposes the elimination of the 10% cap on HAP funding for local non-traditional programs.

NHLP opposes eliminating the 10% HAP funding cap on local non-traditional activities (activities 17.a, 17.b, and 17.c on Local Non-Traditional Programs). Scarce housing resources should be used for rental housing as opposed to other "local, non-traditional" housing services.

One valuable lesson learned from the original MTW program is that with little HUD oversight, PHAs serve significantly less families than before participation in the program. In fact, the five (initial) MTW agencies originally 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.[22] Moreover, one study showed that the average voucher utilization rate for a traditional PHA was 96% on average and the average voucher utilization rate for initial MTW agencies was only 81%.[23] Some MTW PHAs have utilization rates as low as 71%.[24] Voucher applicants are left on increasingly long waitlists while PHAs fail to use their share of authorized vouchers. HUD should be encouraging PHAs to

[21] Pub. L. No. 119-101 (Title V, Section 504).
[22] Will Fischer, *HUD Seeks Significant Improvements to "Moving to Work" Demonstration, But Additional Changes Needed*, Center on Budget and Policy Priorities (January 21, 2015).
[23] 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).
[24] Center on Budget and Policy Priorities, *Housing Choice Voucher Utilization Data*, http://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data

maximize HAP funding for the voucher program as opposed to allowing them to spend precious federal dollars on non-housing programs, with no research to date that supports the use of HAP funds for non-traditional programs.

Thank you for your time. For questions, please contact Deborah Thrope, Chief Program Officer, National Housing Law Project, dthrope@nhlp.org.

Sincerely,



Chief Program Officer
National Housing Law Project

On behalf of the Housing Justice Network:

Khalilah M. Harris, Public Justice Center
Grant Anderson, Housing Justice Center
Leah Simon-Weisberg, California Center for Movement Legal Services
Thomas Silverstein, Poverty & Race Research Action Council
Robert Damewood, Regional Housing Legal Services
Benjamin Henderson, Western Center on Law and Poverty
Michael Rawson, The Public Interest Law Project
Lauren King, Legal Aid Justice Center
LeighAnn Rosenberg, Maryland Legal Aid
Ben Iness, Nevada Housing Justice Alliance
Sabyl Landrum, Law Foundation of Silicon Valley