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U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

All Field Office Managers
All HOPWA Formula Grantees
All HOPWA Competitive Grantees

Notice CPD-02-9

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**Part 574 -- Housing Opportunities For
Persons With AIDS**

Subject: Standards for Short-term Rent, Mortgage, and/or Utility Assistance (STRMU) Payments

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I. Purpose:

This Notice provides guidance in determining the eligible payment period for STRMU benefits, verification of tenancy and need, and grantee efforts to provide permanent housing for HOPWA clients, who are appropriately housed and capable of independent living.

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II. Overview:

Section 858 of the AIDS Housing Opportunity Act (Publ. L. 101-625, November 28, 1990) authorizes the use of Housing Opportunities For Persons with AIDS (HOPWA) program funds *for short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or mortgagor of the dwelling.* Regulations implementing STRMU are found at 24 CFR 574.300(b). This part of the HOPWA program is often referred to as "Short-term," or "Emergency Assistance," since clients are frequently facing eviction, foreclosure or termination of utilities due to non-payment of these expenses. Clients routinely solicit help in paying some or all of these eligible expenses when they are several months in arrears, which causes an immediate or an emergency situation that may need to be resolved in order to eliminate the threat of homelessness of the HOPWA client.

III. Standards for STRMU Payments:

STRMU assistance is not intended to provide continuous or perpetual assistance and the statute requires that good faith efforts be undertaken to relocate clients to permanent housing. Other types of HOPWA assistance, such as rental assistance (see 574.300(b)(5)) should be employed when client assessments indicate that little or no improvement of the "conditions" that caused this financial burden are likely during or after the 21-week benefit period. STRMU assistance is intended to benefit clients who are not able to meet their monthly housing expenses including utilities, due to unexpected situations.

To be eligible for STRMU assistance, the client must first be eligible for HOPWA assistance. The person must, therefore, be HIV positive or have AIDS and be low-income. Additionally, the client must also be a tenant on a valid lease for property in which they have been residing for a time before seeking the HOPWA assistance, or be the owner of a mortgaged dwelling in which they reside. In order to receive STRMU assistance, clients must present evidence that they are the named tenants under a valid lease (to receive a rental payment), the owner of mortgaged real property (to receive a mortgage payment), or have an account in their name with a utility company (to receive a utility payment).

A. Evidence of Client Tenancy and Need:

Satisfactory evidence of tenancy includes the lease or a default/late payment notice that identifies the client as the named tenant under the lease. Satisfactory evidence of ownership of encumbered property includes, a) a deed accompanied by a mortgage or

deed of trust; b) a mortgage or deed of trust default/late payment notice which identifies the client as the property owner/debtor; and c) a title insurance policy identifying the client as property owner/debtor. HOPWA is a "needs-based" program; therefore clients must demonstrate the level of benefits needed through verifiable documentation. Clients will need to submit evidence of their inability to make their monthly payments.

IV. The Eligible Period:

The statute and regulation place strict limitations on the length of time clients may receive STRMU assistance. Assistance may not be provided for costs accruing over a period of more than 21-weeks in any 52-week period. Therefore, the period of time in which the HOPWA program may pay for a client's rent, mortgage and/or utilities is limited to the total expenses accrued over 21-weeks.

An example of how the 21-week period is calculated follows: A person applying for assistance demonstrates a need for financial assistance by providing copies of their lease, deed or mortgage, along with late or delinquent payment notices from the mortgagor, landlord and/or utility company(s). The HOPWA provider must then verify the debt by contacting the entities that issued the notices, taking particular care to keep confidential and not reveal that HOPWA is the potential source of assistance. Once the applicant's need is verified, the HOPWA provider should process the payment(s) and send the payee those amounts necessary to bring the account current, including any late fees or penalties. The bills submitted to the provider routinely have payment due dates for "dates of service" or for "periods" listed; e.g. due June 1, 2002 delinquent on June 15. The client may be several payments behind. [June 1, through August 31], which would total 13 weeks of assistance. Therefore allowing an additional 8 weeks of assistance (13 weeks + 8 weeks = 21 weeks) during the 21-week period of eligibility. The 21-week time clock begins on the due date for those bill(s) HOPWA paid out on behalf of the eligible client.

A. Methods for Calculating The Eligible Period:

The 21-weeks of eligibility may be calculated by using one of two acceptable methods. However, the provider must elect to use one method consistently for all of its clients. The first method is to use a set period for all clients. This can be either the calendar year, which begins January 1, and ends on December 31, or the grantee's operating year under their HUD-approved Consolidated Plan. A client could receive assistance for 21 nonconsecutive weeks during that period or for 21 consecutive weeks during that period. At the end of the set year, the next period of eligibility begins. The second method is for sponsors to establish a separate period of eligibility for each client, based on the date the client began to receive assistance. The client's period of eligibility would end 52 weeks after the payments were supposed to be received by the payee from the client; e.g. June 1, above, which establishes the beginning of the period covered by the assistance.

In calculating the 21-week period, it is possible that the weeks of assistance provided will not be consecutive. For example, a client obtains assistance for past due rent and utility payments incurred during a period of unemployment. Upon reemployment, the client no longer receives assistance. Six weeks later the client loses his or her job again, reapplies and begins receiving assistance. The 6-week period during which the client did not receive assistance will not count toward the 21-week limitation. However, if the grantee or project sponsor establishes a maximum client subsidy for a given period of time and the client receives the maximum subsidy for that period, HUD will deem the assistance to have been attributable to the entire period. For example, a city that makes quarterly payments to clients establishes a \$1,000 cap on the amount it will pay to any client for any quarter. Even though the city made the full payment to the individual in one week, HUD will attribute that payment to the entire quarter, thus the client will be deemed to have received 12 weeks of assistance for the purpose of calculating the 21-week period of eligibility.

V. **Waiver of Short-term Rent, Mortgage and Utility Payments (to prevent homelessness)**

In certain situations it will be necessary to obtain a waiver of the *time limitation*. Waiver requirements are found in the regulations at 24 CFR 574.330 (a)(2): *Waiver of time limitations*. HUD may waive, as it determines appropriate, the time limitation based on the good faith effort of the grantee or project sponsor to provide permanent housing or housing in a living environment appropriate to the client's health or social needs. However, since grantees can make use of rental assistance under 24 CFR 574.300(b)(5) in lieu of continuing short-term assistance, a waiver of the short-term limit should only be requested in special circumstances and not for reasons of administrative convenience.

Housing that does not meet the housing quality standards found at 574.310(b) is not, in CPD's determination, appropriate to any client's health or social needs. Similarly CPD has determined that clients living in rental housing receiving STRMU assistance in excess of the maximum, monthly rental-assistance subsidy under 574.320(a) are not appropriately housed. All waiver requests will therefore need to address the clients' housing quality standards, and waiver requests for clients receiving rental assistance in excess of 574.320 (a) shall also address the maximum subsidy limit.

VI. **Waiver Request Process:**

HUD's Directors of Community Planning and Development are *not* authorized to approve waivers. Field Offices must follow the standard procedures used when the waiver of a regulation provision is requested. To expedite these waivers so that they may, be obtained before payments for a twenty-second week of assistance are made, the CPD Director should send a concurring or nonconcurring statement, together with the grantee's written request for a waiver of the regulation to the attention of: Director, Office of HIV/AIDS Housing at Headquarters. Please inform this office by calling the unit secretary on (202) 708-1934 as soon as practical, that this request is underway.

A. Necessary Elements:

The Assistant Secretary will process all requests for approval with concurrence by OGC. In granting waiver requests, HUD will consider the appropriateness of the housing to the needs of the individual client, such that the current level of housing support will maintain the individual in an independent living situation in a reasonable manner. HUD will also consider the grantee's good faith effort to provide permanent housing. For example, case management efforts to secure alternate housing solutions, housing counseling efforts, as well as placing the client on wait lists for mainstream permanent types of housing assistance, such as HOPWA rental assistance, Section 8 vouchers or various other housing resources.

Each client for whom a waiver is sought must attest that the conditions that caused the original financial burden and need continues to exist, and without this assistance that the client would be at risk of homelessness. Prior to soliciting HUD's approval of a waiver, each property inspector or case manager shall document the client's capacity to live independently, and that the level of benefits received is sufficient to satisfactorily sustain the client in their dwelling.

VII. Field Office Oversight:

After CPD approves a waiver of the time requirement, the Director of the CPD Field Office is encouraged, in future monitoring, to inspect a random sampling of client files for the clients for whom waivers were issued. An effort should be made to determine if these clients have been moved to permanent housing or continue to receive assistance, and that assistance is appropriate to their needs. Grantees and project sponsors should maintain in each client file, adequate documentation for HUD review. A waiver of the time limit could extend a client's benefits for an indefinite period of time, should the client's conditions persist.

Clients receiving STRMU assistance are eligible to receive supportive services, as provided by 574.310(a)(1). Supportive services may be provided to individuals when they remain in their residences because the residence is appropriate to the needs of the individual. A mortgage, rent and utility program assisted under this part shall provide, when reasonable, supportive services specifically designed to maintain the individual in such residence.

A. **Permanent and Appropriate Housing:**

The grantee and/or project sponsor must evaluate each client's level of need and care to determine if it is appropriate to maintain an individual in an *independent living environment*, prior to requesting a permanent waiver of the time limitations. An approved waiver would serve to extend each client's benefits for as long as they are able to live independently and their housing is appropriate to their needs. A good faith effort to provide long-term housing solutions *must* be pursued for each client. Under certain circumstances, the clients *current* living environment may be the most appropriate for "his or her health and social needs," and is deemed more appropriate than relocating an already adequately housed client; if that housing is deemed to be safe, decent and sanitary. Persons in substandard living environments shall not be continued under this short-ten-n program and *must* be referred to organizations that can provide the appropriate level of care and housing needed by this individual.