

Presumption of Income Eligibility

Honorable Richard J. Riordan
Mayor of Los Angeles
Los Angeles, CA 90012

Dear Mayor Riordan:

Thank you for your February 15, 1994, letter requesting a presumption of income eligibility in the Community Development Block Grant (CDBG) program, in the form of an executive order, for persons with HIV and AIDS. You have raised an interesting issue at just the moment when data is beginning to be available to frame a useful response.

As you note in your letter, AIDS and HIV-infected persons are included in the definition of handicapped persons under the Americans with Disabilities Act. The CDBG program does not define the term "handicap" and grantees are given the flexibility to establish their own definition. The use of the term "handicapped persons" at § 570.208(a)(2)(i)(A) in the CDBG regulations applies to the presumption that such persons are principally low - and moderate-income. Thus, activities should only be carried out under this category when there is a very high probability that the majority of the persons benefiting from the activity will be income-qualified. In the case of the handicapped category, the individuals included in a community's CDBG definition of "handicapped persons that are likely to be low - and moderate-income" should therefore be impaired in such a manner that it is unlikely that they would be economically self-sufficient.

On receiving your request, the Department of Housing and Urban Development's (HUD) staff working on the CDBG program searched throughout the Federal Government for data that would support making a presumption of CDBG income-qualification for persons with AIDS and HIV available for all CDBG grantees. Fortunately, the Center for Disease Control (CDC) in Atlanta was able to provide as-yet-unpublished data for such an assumption for persons with AIDS. Therefore, for the CDBG program, HUD will accept a presumption that programs designed to assist a limited clientele consisting exclusively of persons with AIDS qualify as meeting the low - and moderate-income national objective under 24 CFR 570.208(a)(2)(i)(A) of the CDBG regulations. (The CDC expects to publish an article based on this data in August 1994.)

The Department does not yet have objective data to support the presumption on a national basis that HIV infection alone is likely to result in or correlate with a loss or lack of economic self-sufficiency. If the City has such data for its jurisdiction, it may wish to develop a definition of low - and moderate-income handicapped person for the CDBG program that includes those diagnosed with HIV. Also, please share the data with HUD through the Los Angeles HUD Field Office. The contact person is: Herbert L. Roberts, Director, Community Planning and Development Division, U.S. Department of Housing and Urban Development, 1615 W. Olympic Boulevard, Los Angeles, California 90015-3801. His telephone number is (213) 251-7235.

I note that your letter suggests accepting that persons with AIDS should be considered low - and moderate-income based on their eligibility for Social Security Disability Income. However, there is more than one social security program administered for individuals with disabilities. Under at least one program, payments are based on prior employment, not current need. HUD is still waiting for data to review to make a determination on a CDBG presumption based on eligibility for these programs.

The CDC may have a data source on which HUD can base the presumption you seek for persons with HIV. The Department expects that the CDC will provide HUD with some data for analysis by the end of the month. Should this data support a presumption of low - and moderate-income status for persons with HIV, this determination would be communicated to you.

Again, thank you for raising this issue and for your interest in the Department's programs. The Department hopes that this information will be helpful to you in meeting the needs of your community in responding to the effects of this disease.

Sincerely,

Henry G. Cisneros

UD Los Angeles Field Office address

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