MINUTES
MHCC MEETING

January 7, 2021

(Approved on June 10, 2021 at the MHCC Teleconference)

MINUTES
MANUFACTURED HOUSING CONSENSUS COMMITTEE (MHCC) MEETING

January 7, 2021

Call to Order

The Manufactured Housing Consensus Committee (MHCC) meeting was held on Thursday, January 7, 2021 via Zoom teleconference. MHCC Chair, Mitchel Baker, called the meeting to order at 10:05 a.m. Kevin Kauffman, Administering Organization (AO) Home Innovation Research Labs, called the roll and announced that a quorum was present. See Appendix A for a list of meeting participants.

Introduction and Opening Remarks

Teresa Payne, Administrator of the Office of Manufactured Housing Programs, and Designated Federal Officer (DFO) welcomed the MHCC members and meeting participants to the teleconference. DFO Payne provided an update to the MHCC members and reassignments. Joseph Sadler and Michael Wade have rolled off the MHCC following their end of term and they will be receiving certificates shortly recognizing their service to the MHCC. HUD has appointed Tara Brunetti and Philip Copeland as their replacements. DFO Payne welcomed the two new members to the MHCC. DFO Payne and MHCC Chair Baker announced the passing of Loretta Dibble (MHCC member) and offered condolences and a moment of silence.

DFO Payne explained the purpose behind the Advanced Notice of Proposed Rulemaking (ANPR): Revised Minimum Payments for State Oversight Program. HUD is considering streamlining and enhancing the minimum payment formula to provide more equitable payments to State Administrative Agencies (SAAs) that more appropriately reflect the responsibility of the corresponding state and to encourage states to participate to the maximum extent possible in the Federal-State Manufactured Housing Partnership Program. HUD is considering this change to reinforce HUD's commitments to HUD-state partnerships while incentivizing states to maintain current partnerships and consider additional participation in all aspects of the program.

Approval of the Minutes

Motion to approve the Draft October 29-31, 2019 MHCC Committee Meeting minutes.

Maker: Michael Moglia   Second: Robert Parks

The motion carried unanimously.

Public Comments Period

Manufactured Housing Institute (MHI) submitted written public comments. See Appendix B.

Mark Weiss, MHARR, thanked HUD and the MHCC for the opportunity to provide feedback. MHARR has strongly supported states participation in the program. Mr. Weiss has supported increased funding to states to encourage current members to stay and incentivize new members to join. Mr. Weiss believes that the payments to the states should not be lowered. The current rate should be the floor, MHARR would like to see the new payments as either the current payment, or the new calculated value, whichever is higher. Mr. Weiss requested to see a better description as to how the numbers and new formulas were derived.

Leslie Gooch, MHI, thanked HUD and the MHCC for the opportunity to provide feedback for this teleconference and through written comments. Ms. Gooch extended condolences to Lori Dibble and Tommy Colley. Ms. Gooch reminded everyone that in statute HUD has to facilitate the availability of affordable MH to all Americans. HUD needs to avoid causing harm to the states that are currently partnered. While MHI supports HUD's goal of getting new partnerships, we are concerned that if more states join, the overall payments might go down. In several states, this reduction in funding might force the SAA in that state to end their participation in the program. Rather than taking funds away from the states, Ms. Gooch believes that HUD has to find a way to support states, while incentivizing other states to join. The payments to the states should never go down. MHI recommend the following as HUD and the MHCC consider changes to state funding:

(1) Reductions in minimum payments to individual states should be avoided.
(2) HUD should study the likelihood of individual states ending their participation as SAAs and adjust funding accordingly, perhaps even increasing support. The results of the study, including data relied upon, should be made publicly available.
(3) HUD should monitor the impact of funding changes and make appropriate adjustments to avoid states terminating their role as an SAA and to incentivize more states to participate.
(4) HUD should use funds in the substantial Manufactured Housing Trust Fund account surplus to facilitate the availability of manufactured housing across the country and avoid reductions to payments made to individual states.

Shell Suber, Manufactured Housing Institute of South Carolina, stated that this proposal can take away as much of 80% of the funding from South Carolina. Mr. Suber appreciates what HUD is trying to do, but if the funds are cut, like what is being proposed, then they will not be able to continue their services. South Carolina would end up being punished for not having a manufactured housing plant, even though South Carolina has 1 in 5 people in a manufactured home, which is the highest of any state. SC inspects 100% of the homes, and their SAA is routinely praised by HUD as being one the best in the country. We are one of the states that would see a reduction in payments. The goal is to make manufactured housing more available and cutting funding to South Carolina is not the way to do it.

JD Harper similarly stated that like SC and others, the State of Arkansas has lost its last manufacturing housing factory around 2001. Thus, under the current proposal, they would lose funding in this program as much as 40% of the operating budget. It seems that it is a common theme that states that either lost or don't have resident manufacturer plants appear to lose funding based on the current proposal.

William Sherman stated that 15% of NY residents live in a manufactured home. NY would see an increase in our funding as average payments currently from HUD are around $20,000, which isn't enough. Mr. Sherman wanted payments to be increased to states that see a rise in manufactured homes and manufacturers.

Betty Whittaker said that she did not have a fear of losing funding for the state of Kentucky under the current proposal, but wanted to encourage fair treatment for all states.

ANPR Discussion

The MHCC worked on the questions from the Advanced Notice of Proposed Rulemaking: Revised Minimum Payments for State Oversight Program. Jason McJury provided some background on the ANPR and the intent behind it. The ANPR contemplates the potential payments to states that have installation and dispute resolution programs. In addition to setting forth the whole concept and scheme for making payments to states, HUD has asked six specific questions about the ANPR which will help guide the feedback.

The MHCC Chair introduced each question and opened the floor for discussion. The questions from the ANPR have been *italicized* and the answers submitted to the ANPR from the MHCC are in blue. See Appendix C for MHCC's submission to the ANPR.

1. *Should HUD change from a minimum annual payment structure to a payment structure that is based on an eligible state's participation in the federal program? Are the activities proposed by HUD for incorporation into the payment structure appropriate? Are there activities that should be added to or removed from that list? Provide the reasoning for your response.*

> MHCC Response: Current payments to the states should be the minimum when considering the structure, we need to ensure that adequate funds are available to each state. Dispute resolution programs may not be an appropriate activity to incorporate into the payment structure.
>
> SAA funds received from HUD are dedicated receipts from HUD for payments for SAA functions only. Dispute resolution and the installation programs are not SAA functions, therefore payments to these states can not be used for these purposes. How does HUD intend to pay these states separate from the SAA payments if the states wish to participate in Dispute Resolution and Installation Programs?
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> Dealer lot monitoring should be included as a separate element in the SAA function, because these are optional provisions provided by the regulations.

Russell Watson asked the MHCC members and HUD "Where does the fund come from and if we are running a surplus or are we trying to address a shortage?" MHCC Chair Baker summarized that funding comes from certification/labor fee collected from manufacturers and there is adequate money. Jason McJury stated that $15 million has been collected and only $13 million was appropriated by Congress.

Michael Moglia noted that the dispute resolution and installation programs are not SAA functions, therefore payments to these states cannot be used for these purposes. The Committee generally agreed that the current payments to the states should be a minimum when considering the future payment structure.

2. *Should HUD provide a uniform annual funding amount associated with each partnership element? Is the range of funding proposed by HUD for each partnership element appropriate? What amounts within the ranges proposed by HUD are appropriate:*

a. For incenting existing SAA states to continue participation in each partnership element?

b. For incenting existing SAA states to implement additional partnership elements?

MHCC Response: The MHCC believes that the minimum range for the installation program in the ANPR is significantly below what it needs to be and the MHCC estimates that it should be in the range of $20,000-$30,000. HUD should review current services and current expenses in the installation programs to allow for training, inspections, and licensing/certification. There needs to be an assessment done for each individual state as to the range that will provide adequate training and incentivizes the states to participate.

The MHCC discussed the various list of participation elements such as Subpart I, inspection, and joint monitoring and how different states fulfill these elements. The MHCC noted that training will be a big startup cost to get existing SAA states to implement additional participation elements.

3. *Can a state determine its budgeting needs and establish and implement additional partnership elements to retain maximum compensation within a 5 or 10-year sunset period? Would another time frame be more appropriate? By what means, if any, should the remaining supplemental payment be phased out during the sunset period? For example, should the supplemental payment (calculated after subtracting payments for production and state participation) be reduced by a particular percentage each year (20% in year 2, 40% in year 3, and so on)? Provide the reasoning for your responses.*

MHCC Response: The MHCC recommends that there should not be a sunset period, as ending the payments could lead to states being forced to leave the program. There does not appear to be anything in the next 5-10 years that would supplement these payments.

4. *Will states that are not currently SAAs be incentivized to become SAAs? If so, will those states also be incentivized to become active participants to the maximum extent possible in each aspect of the manufactured housing program? Provide the reasoning for your response.*

MHCC Response: For a state to be incentivized to participate as an SAA, there needs to be adequate funding. States will not want to join and either operate at a loss or supplement the cost.

HUD should establish a program that either HUD and/or a current SAA can contact interested states to encourage them to adopt an SAA program, provide adequate training for new SAAs, and aid in establishing the program. HUD or a participating SAA can reach out to a state's MH Associations/Trade Group Associations (examples: MHI, MHARR, and state affiliates) to gauge interest and to explain benefits of an SAA program.

MHCC Chair Baker and a few of the public officials brought up the point that states will not operate any program without adequate funding.

5. *Should HUD consider payments to states that are not SAAs? If so, what instrument needs to be implemented to enable such payments? Provide the reasoning for your response.*

MHCC Response: Yes, HUD should consider payments to states that are not SAAs only after the current SAAs are adequately funded. Without increasing the Manufacturer Certification Label Fees, any additional funds, potentially requested through Congress, should be used to fully fund the states to have the full capacity to implement the Manufactured Housing program. MHCC urges Congress to appropriate HUD the additional funds it needs to support the Office of Manufactured Housing Programs and proper staffing.

HUD should mimic the existing mechanism to provide funds to SAAs to be applied to those states without an SAA. The MHCC recognizes that regulatory changes may be necessary to accomplish this. Another option could potentially be to use a memorandum of understanding (MOU) between the non-SAA state and HUD.

The MHCC members wanted to ensure two points: 1) that HUD should consider payments to states that are not SAAs only after the current SAAs are adequately funded and 2) there should not be an increase to the Manufacturer Certification Label Fees. Alan Spencer pointed out that there are six states that have SAAs but have HUD manage their installation programs and there are nine states that have HUD manage their installation programs that are non-SAAs. Out of those nine states, two states make up probably 15-20% of the total shipments. It would be a mistake for HUD to eliminate support to those states.

6. *Should HUD augment the per-unit formula to account for each transportable section with a manufacturer-reported first destination in a state that administers a HUD-approved installation program? What are states' costs of overseeing installation, and if HUD were to help offset those costs, what amount of payment per transportable unit would help to meaningfully offset those costs?*

MHCC Response: Yes, only if the SAA states are fully funded, the per-unit formula to account for each transportable section should be used to augment HUD-approved installation program states. Based on the information provided by the Pennsylvania SAA, Pennsylvania would require an additional $30 per transportable unit to restart their installation program. This number could potentially be reduced over time once the program is running. The MHCC recognizes that other states may have different recommendations to offset the cost of running an installation program.

Need to ensure that payments are broken down correctly to first fund the SAA functions and to have a distinct separation between the additional program elements.

Mr. Moglia states that Pennsylvania would need approximately $125,000 for overseeing installation initially but this cost will go down in time.

Additional Comments from MHCC

The MHCC recognizes that including startup costs and a concept of matching funds would incentivize state participation.

Motion for the Administering Organization, Home Innovation Research Labs, to submit on behalf of the MHCC, the MHCC comments as recorded during the *Advanced Notice of Proposed Rulemaking: Revised Minimum Payments for State Oversight Program* January 7, 2021 MHCC teleconference.

Maker: Aaron Howard Second: Russell Watson

The motion carried unanimously.

Public Comments Period

Angie Diedrich, Wisconsin Housing Alliance, expressed concerns that these changes will result in significant reductions in funding for Wisconsin and other states, which seems counter to the ANPR's stated objective of seeking to incentivize more states to act as SAAs. Ms. Diedrich stated that there has been no increase over the past three years (or many years prior to this) and unfortunately, the cost to administer any program rises annually. Estimates from HUD are payments that would not increase to keep up with inflation, but in fact may decrease over $20,000. The fees currently might potentially cover the cost of one employee. With the reduction, it would just barely cover a part-time employee. With that type of reduction, the State of Wisconsin would not have any incentive to keep participating in the program. Wisconsin Housing Alliance recommends the following as HUD and the MHCC consider changes to state funding:

(1) Reductions in minimum payments to individual states should be avoided. These payments are based on a formula from many years ago and it does not make sense to reduce funding that should actually be increased. Avoiding the possibility that HUD would need to take over the SAA duties which, in the long run, will likely increase costs to HUD by far more than the reduction in payment to the state. In Wisconsin, we have 100% inspection on HUD Code home installations. That would be very costly to replicate at the Federal level.
(2) Data is critical to making good decisions. HUD should study the likelihood of individual states ending their participation as SAAs and adjust funding, accordingly, perhaps even increasing support. The results of the study, including data relied upon, should be made publicly available.
(3) According to HUD staff, Wisconsin's payments to the SAA could result in over a $20,000 loss in funding per year. HUD should monitor the impact of funding changes and make appropriate adjustments to avoid Wisconsin and other states terminating their role as an SAA.
(4) HUD should use funds already accumulated in the Manufactured Housing Trust Fund account surplus to facilitate the availability of manufactured housing across the country and avoid reductions to individual states.

Mr. Weiss thanked the MHCC members for their time and effort. Mr. Weiss brought up three points in his conclusion:

(1) MHARR views a sunset on base payment not lawful with the statute.
(2) Mr. Weiss has some concerns with Question 5 and 6. He pointed out the juxtaposition on how HUD can incentivize becoming an SAA when HUD is also willing to provide payments to states that do not have SAAs.
(3) Non-SAA states will need to have more manufactured homes to be truly incentivized to join. These states need to get rid of their restrictive zoning and HUD should encourage the use of manufactured homes.

Ms. Gooch requested HUD do more to move manufactured housing to the forefront. HUD should also look at the FHA and the financing program to support manufactured housing.

MHCC Chair Baker thanked the MHCC members and the public for their time and participation DFO Payne thanked the MHCC and the public for their work this meeting.

The MHCC adjourned at 3:50 p.m.

Appendix A:
MHCC Attendees

	MHCC	
	Name	**Attendance**
Users	David Anderson	Y
	Catherine Yielding	Y
	Garold Miller	N
	Stacey Epperson	Y
	Russell Watson	Y
	Catherine Yielding	N
	Rita Diienno	Y
Producers	Luca Brammer	N
	Phillip Copeland	Y
	Peter James	Y
	Robert Garcia	Y
	Manuel Santana	Y
	Alan Spencer	Y
General Interest / Public Official	Michael Moglia	Y
	Robert Parks	Y
	Mitchel Baker (Chair)	Y
	David Tompos	Y
	Tara Brunetti	Y
	Aaron Howard	Y
	James Husom	Y

HUD Staff

Teresa Payne, DFO
Jason McJury
Barton Shapiro
Demetress Stringfield
Alan Field
Leo Huott
Glorianna Peng
Jada Moss
Charles Ekiert
Christina Foutz
Tommy Daison
Angelo Wallace
Tamara Johnson
Rebecca Coy

AO Staff, Home Innovation Research Labs

Kevin Kauffman
Nay Shah
Elina Thapa

Public

William Sherman
Leslie Gooch
Mark Weiss
Shell Suber
Joseph Sadler
William Pinkard
Molly Price
Amy Bliss
Mark Campion
Angie Diedrich

Appendix B:
Written Public Comments

MANUFACTURED HOUSING CONSENSUS COMMITTEE

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To whom it may concern,

The Manufactured Housing Consensus Committee (MHCC) held a special meeting on Thursday January 7, 2021 to discuss and comment on *Docket No. FR-6234-A-14 RIN 2502-AJ57 Manufactured Housing Program: Minimum Payments to the States; Advanced Notice of Proposed Rulemaking and Request for Public Comment*. Home Innovation Research Labs, the administering organization (AO) of the MHCC, is submitting, by request of the MHCC, the comments as recorded during the meeting. MHCC comments in blue as follows:

MHCC Comments on the Advanced Notice of Public Rulemaking (ANPR)

When responding to questions from the Advanced Notice of Proposed Rulemaking (ANPR), the Manufactured Housing Consensus Committee (MHCC) reviewed and considered HUD's mandate as prescribed in statute; to "facilitate the availability of affordable manufactured homes to increase homeownership for all Americans." (42 U.S.C. 5401(b)(2)).

Because the ANPR could possibly result in a reduction of payments to states, the MHCC is against the approach taken in the ANPR. The MHCC supports the goal of incentivizing states to partner on all program elements and encouraging new state partnerships. The MHCC is concerned that such changes could result in reductions in funding for certain states, which seems counter to the ANPR's stated objective of seeking to incentivize more states to act as State Administrative Agencies (SAAs) therefore this proposed rule should be rejected.

Rather than take program funds away from states, HUD should be seeking ways to support the growth of manufactured housing. HUD must continue to fund the state programs at a level that supports continued participation and should seek ways to elicit additional participation. The responses to the questions offer recommendations to achieve these objectives.

Questions from ANPR

1. Should HUD change from a minimum annual payment structure to a payment structure that is based on an eligible state's participation in the federal program? Are the activities proposed by HUD for incorporation into the payment structure appropriate? Are there activities that should be added to or removed from that list? Provide the reasoning for your response.

> MHCC Response: Current payments to the states should be the minimum when considering the structure, we need to ensure that adequate funds are available to each state. Dispute resolution programs may not be an appropriate activity to incorporate into the payment structure.
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> MHCC Response: The MHCC believes that the minimum range for the installation program in the ANPR is significantly below what it needs to be and the MHCC estimates that it should be in the range of $20,000-$30,000. HUD should review current services and current expenses in the installation programs to allow for training, inspections, and licensing/certification. There needs to be an assessment done for each individual state as to the range that will provide adequate training and incentivizes the states to participate.

3. Can a state determine its budgeting needs and establish and implement additional partnership elements to retain maximum compensation within a 5 or 10-year sunset period? Would another time frame be more appropriate? By what means, if any, should the remaining supplemental payment be phased out during the sunset period? For example, should the supplemental payment (calculated after subtracting payments for production and state participation) be reduced by a particular percentage each year (20% in year 2, 40% in year 3, and so on)? Provide the reasoning for your responses.

> MHCC Response: The MHCC recommends that there should not be a sunset period, as ending the payments could lead to states being forced to leave the program. There does not appear to be anything in the next 5-10 years that would supplement these payments.

4. Will states that are not currently SAAs be incentivized to become SAAs? If so, will those states also be incentivized to become active participants to the maximum extent possible in each aspect of the manufactured housing program? Provide the reasoning for your response.

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> MHCC Response: Yes, HUD should consider payments to states that are not SAAs only after the current SAAs are adequately funded. Without increasing the Manufacturer Certification Label Fees, any additional funds, potentially requested through Congress, should be used to fully fund the states to have the full capacity to implement the Manufactured Housing program. MHCC urges Congress to appropriate HUD the additional funds it needs to support the Office of Manufactured Housing Programs and proper staffing.

HUD should mimic the existing mechanism to provide funds to SAAs to be applied to those states without an SAA. The MHCC recognizes that regulatory changes may be necessary to accomplish this. Another option could potentially be to use a memorandum of understanding (MOU) between the non-SAA state and HUD.

6. Should HUD augment the per-unit formula to account for each transportable section with a manufacturer-reported first destination in a state that administers a HUD-approved installation program? What are states' costs of overseeing installation, and if HUD were to help offset those costs, what amount of payment per transportable unit would help to meaningfully offset those costs?

MHCC Response: Yes, only if the SAA states are fully funded, the per-unit formula to account for each transportable section should be used to augment HUD-approved installation program states. Based on the information provided by the Pennsylvania SAA, Pennsylvania would require an additional $30 per transportable unit to restart their installation program. This number could potentially be reduced over time once the program is running. The MHCC recognizes that other states may have different recommendations to offset the cost of running an installation program.

Need to ensure that payments are broken down correctly to first fund the SAA functions and to have a distinct separation between the additional program elements.

Additional Comments from MHCC

- The MHCC recognizes that including startup costs and a concept of matching funds would incentivize state participation.