

HOUSING
HOUSING FOR PERSONS WITH DISABILITIES (SECTION 811)
2017 Summary Statement and Initiatives
(Dollars in Thousands)

HOUSING FOR PERSONS WITH DISABILITIES (SECTION 811)	<u>Enacted/ Request</u>	<u>Carryover</u>	<u>Supplemental/ Rescission</u>	<u>Total Resources</u>	<u>Obligations</u>	<u>Outlays</u>
2015 Appropriation	\$135,000	\$175,550 ^a	...	\$310,550	\$206,600	\$186,895
2016 Appropriation	150,600	103,950	...	254,550	195,757	196,881
2017 Request	<u>154,000^b</u>	<u>58,793</u>	...	<u>212,793</u>	<u>149,093</u>	<u>192,478</u>
Program Improvements/Offsets	+3,400	-45,157	...	-41,757	-46,664	-4,403

a/ Includes \$160.8 million in carryover, \$13.4 million in recaptures, and \$1.2 million in spending authority from offsetting collections.

b/ Includes an estimated transfer to the Research and Technology (R&T) account of \$770 thousand of Budget Authority.

1. What is this request?

The Department requests \$154 million for the Supportive Housing for Persons with Disabilities ("Section 811") program in fiscal year 2017, an increase of \$3.4 million above the fiscal year 2016 Enacted appropriation. The funding request for the Housing for Persons with Disabilities program includes funding for two primary activities: \$152 million for Project Rental Assistance Contract (PRAC) and Project Assistance Contract (PAC) renewals and amendments to fully fund over 27,000 units across 2,350 housing properties; and \$2 million for other program expenses, including property inspections.

The Department also requests renewed authority to apply residual receipt collections to fund the Section 811 Project Rental Assistance (PRA) program and build on the success of previous rounds of funding. These funds will support state housing agencies that have partnered with state health care agencies to develop an integrated health care and housing approach to serving persons with disabilities.

HUD is funding an evaluation of the Section 811 Project Rental Assistance (PRA) program in two phases. Phase 1 is under contract and includes a comprehensive process evaluation of fiscal year 2012 grantees. Phase 2 is expected to be awarded in 2016 and will assess the effectiveness of the Section 811 PRA program and its effect on participants' quality of life, health outcomes, and costs. The evaluation is discussed in more detail in Section 4 ("How do we know this program works?").

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Description of Each Set-Aside

Section 811 Project Rental Assistance Program

The PRA program was authorized by the Frank Melville Supportive Housing Investment Act of 2010 and first implemented through a demonstration program in fiscal year 2012. The demonstration program revealed the presence of significant demand at the state level for rental assistance for integrated housing for extremely low income persons with disabilities. In the first year of funding, thirty-five states submitted competitive applications, with seven of the applicant states requesting the then maximum allowable award. Based on available funds, the Department could only fund grant awards to 13 states out of many competitive applications. Under the fiscal year 2013 NOFA, forty-five states submitted applications for funding consideration, of which thirty-five applications were eligible for selection. Based on the total amount of funds available, selection recommendations were limited to the top twenty-five applications for a total of 4,584 units. The Department is not requesting appropriations for PRA awards in 2017, but will review collections from excess residual receipts, recaptures, and other unobligated balances to determine whether funds are available for funding new investments.

Project Rental Assistance Contracts/Project Assistance Contracts Renewals/Amendments

The Department requests \$152 million for Project Rental Assistance Contract (PRAC) and Project Assistance Contract (PAC) renewals and amendments in fiscal year 2017. Project Assistance Contracts (PACs) support projects developed for persons with disabilities under the Supportive Housing for the Elderly (Section 202) program before authorization of Section 811 as a separate program in 1990. This set-aside provides continued assistance to tenants of Section 811 projects in which the initial PRAC/PAC has expired or all reserved funding has been disbursed. HUD estimates that from fiscal years 2016 to 2017, almost 1,400 units will require first-time amendment (during their initial term) or first-time renewal. To offset the resulting increase in costs, the Department anticipates that a relatively small amount of carryover funding, approximately \$7 million, will be available. In addition, for fiscal year 2017 HUD assumes a 3 percent cost inflation factor based on analysis of historical per-contract subsidy increases from fiscal year 2013 to fiscal year 2015.

2. What is this program?

The Section 811 Supportive Housing for Persons with Disabilities program¹ allows very low- or extremely low-income persons with disabilities to live independently by providing deeply affordable rental housing that is integrated into the local communities. The

¹ The Supportive Housing for Persons with Disabilities program is authorized by Section 811 of the Cranston-Gonzales National Affordable Housing Act of 1990 (PL 101-625) as amended by the Housing and Community Development Act of 1992 (PL 102-550), the American Homeownership and Opportunity Act of 2000 (PL 106-569), and most recently by the Frank Melville Supportive Housing Investment Act of 2010 (PL 111-374), which passed with unanimous bipartisan support and

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program targets vulnerable persons with disabilities who need affordable housing to effectively access community-based supports and services. Those living in Section 811 supportive housing need access to a variety of community-based services and support (such as case management, housekeeping assistance, assistance with activities of daily living and more) to live independently in the community. Without Section 811 supportive housing, many of those served by the program would live in an institution, with aging parents, in a homeless shelter, or on the streets. By helping individuals with disabilities live independently in their communities, this program avoids the costs of more expensive institutional settings and helps states comply with the Supreme Court's *Olmstead* decision.

Section 811 serves very low- and extremely low-income individuals with serious and long-term disabilities, including physical or developmental disabilities as well as mental illness. More than two-thirds of Section 811 residents have developmental disabilities and chronic mental illness, and the majority of those residents came from nursing homes, hospitals and other specialized residences. Many residents of Section 811 are at-risk of homelessness or have experienced chronic homelessness. To be eligible for traditional Section 811 housing, individuals with disabilities must have incomes at or below 50 percent of area median income. Most residents fall far below that threshold. In fiscal year 2011, the average annual income of the approximately 30,000 households served by Section 811 was estimated at \$11,000. Starting in fiscal year 2012 under the Project Rental Assistance program, Section 811 has been further targeted to serve only extremely low-income individuals with disabilities whose income is at or below 30 percent of the area median income.

Recipients of Section 811 Funds

Project Rental Assistance Awarded to State Housing Agencies

The Melville Act authorized a new funding model for Section 811 in which Project Rental Assistance (PRA) is administered by state housing agencies to better align activities with state healthcare priorities. To be eligible for Section 811 PRA funds, a state housing agency must have a formal partnership with its state's health and human services agency that will provide appropriate services directly to residents. The PRA comes in the form of operating assistance grants from the grantee state housing agencies to new or existing multifamily housing complexes which have received capital funding from Low-Income Housing Tax Credits (LIHTC), federal HOME funds, or other governmental and private sources of funding. Awards made in fiscal year 2012 include an initial 5-year increment of operating assistance funding. To be eligible for PRA, units must be integrated into multifamily complexes of five or more units. This assistance allows these properties to provide housing to people with disabilities, including individuals transitioning out of institutions or experiencing chronic homelessness, who are much lower income than those who would normally be able to access or afford housing subsidized only through the LIHTC and/or HOME programs.

was signed into law on January 4, 2011. The Melville Act significantly reformed the Section 811 program by authorizing Section 811 Project Rental Assistance to be administered by State housing agencies in order to align the housing assisted by Section 811 with state health care priorities.

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Additionally, the program is structured to adequately address the service needs of the target population. The program is designed to encourage collaboration between state agencies that administer health and human services and housing programs. This has resulted in the creation of long-term strategies for the development of affordable housing with structured access to appropriate services and a substantial increase in the production of rental housing units for persons with disabilities by integrating these units within existing and new multifamily properties where the capital costs for construction are being provided at the state and local level (such as through tax credits).

Successful Section 811 PRA applications ensure that necessary services will be provided or coordinated once the project is funded. Services vary depending on the needs of individual tenants, who can be people with physical disabilities, developmental disabilities, serious mental illness or other disabilities or chronic conditions. Most Section 811 residents are Medicaid-eligible and are accessing community-based services that might otherwise require services in an institutional setting. Services may include case management, homemaker, home health aide, personal care, adult day health services, habilitation, and respite care. States have the flexibility to target PRA-funded units to people with a broad range of disabilities, including people who are currently residing in institutions or experiencing homelessness or people at significant risk of institutionalization.

Capital Advances and Operating Assistance Contracts

Prior to fiscal year 2012, HUD provided operating subsidies and interest-free capital advances to nonprofit sponsors to help them finance the development of affordable rental housing for persons with disabilities. This financial assistance has been used to support the construction, rehabilitation, or acquisition (with or without rehabilitation) of housing for persons with disabilities. Capital advances were most recently awarded for new Section 811 projects in November 2011. The capital advance did not have to be repaid as long as the housing remained available for very low-income persons with disabilities for at least 40 years.

Under this program, HUD provided a Project Rental Assistance Contract (PRAC) with each capital advance to cover the difference between the HUD-approved operating cost for the project and the tenant's contribution towards rent, which is limited to 30 percent of a tenant's income. The initial term of the PRAC was 3 years, and these contracts are renewed annually based on project's compliance with Section 811 requirements. While capital advance funds are no longer being awarded, HUD continues to support existing Section 811 properties with PRAC.

3. Why is this program necessary and what will we get for the funds?

This program addresses the high unmet housing need of very-low income renters with disabilities who cannot find affordable housing and have severe housing problems. HUD's *Worst Case Housing Needs: 2015 Report to Congress* reveals that among very low-income rental households that lacked assistance in 2013, 7.7 million had worst case housing needs resulting from severe rent burden (paying more than one-half of their monthly income for rent) or living in severely inadequate housing units. It also estimates

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that one in seven renters with worst case housing needs include one or more nonelderly person with disabilities. The number of households with worst case needs having at least one nonelderly person with disabilities decreased from 1.31 million households in 2011 to 1.09 million households in 2013, but remained 10 percent above the 2009 estimate.

Persons with disabilities often require special accommodation and support services to live independently, and finding housing that accommodates these special needs is a challenge. Approximately half of households that include non-elderly persons with disabilities that have worst case housing needs also have ambulatory and cognitive disabilities; one-third of the households also have independent living limitations.² Two-thirds of people with disabilities assisted by the traditional Section 811 have developmental disabilities or chronic mental illness and thus require extensive supportive services.³

State Level Efforts to Promote Community Living and *Olmstead* Compliance

The Section 811 Project Rental Assistance (PRA) program is designed to directly complement state-level strategies for targeting high-cost populations of persons with disabilities who are unnecessarily living in institutional settings. Efforts by States to rebalance their service delivery from institutions to home and community-based services to comply with the Supreme Court's *Olmstead* decision have created an additional pressing need for housing for persons with disabilities.

Under the Americans with Disabilities Act and the Supreme Court's *Olmstead* decision, states are legally obligated to favor community-based and integrated settings over institutional settings for persons with disabilities.⁴ State Medicaid agencies are making efforts to comply with this mandate through Medicaid home and community-based "waiver" programs administered by Health and Human Services (HHS) Centers for Medicare and Medicaid Services. States often find themselves limited in achieving this mandate even when they have effective Medicaid waiver programs in place because the target population cannot afford or find suitable housing to live in the community. Twenty out of 34 states reported insufficient supply of affordable and accessible housing options to meet the need of the program.⁵ A recent report by the US Senate's Health, Education, Labor, and Pensions Committee also found

² Mathematica Policy Research. 2011. *Money Follows the Persons 2010 Annual Evaluation Report: Final Report*. Retrieved from http://www.mathematica-mpr.com/publications/pdfs/health/MFP_2010_annual.pdf.

³ Locke, G., C. Nagler, K. Lam. [Implications of Project Size in Section 811 and Section 202 Assisted Projects for Persons with Disabilities](#). Washington, DC: U.S. Department of Housing and Urban Development. 2005. Also Applied Real Estate Analysis (AREA). *Evaluation of Supportive Housing Programs for Persons with Disabilities, volume I and II*. Washington, DC: U.S. Department of Housing and Urban Development. 1996.

⁴ In *Olmstead v. L.C.*, 527 U.S. 581 (1999), the Supreme Court held that Title II of the Americans with Disabilities Act prohibits the unjustified segregation of people with disabilities in nursing homes or other institutional settings. federal regulations require that states or other public entities must reasonably modify their policies, procedures or practices to avoid such discrimination. 28 C.F.R. § 35.130(b)(7). For more information see "Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead*". *Olmstead v. L.C.*" at http://www.ada.gov/olmstead/qa_olmstead.htm.

⁵ Mathematica Policy Research. *Money Follows the Person Demonstration: Overview of State Grantee Progress, July to December 2011*. June 2012. Retrieved from: http://www.mathematica-mpr.com/publications/PDFs/health/mfp_jul-dec2011_progress.pdf.

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that states are lagging behind the implementation of the *Olmstead* mandate and lack of affordable and integrated housing was identified as one of the reasons for the lag.⁶

Due to *Olmstead* mandates, states across the country are going through the process of identifying high-priority populations for community-integration. In particular, seven states working with the Department of Justice have identified 28,500 individuals who must be moved from institutions to the community to comply with *Olmstead*. Extrapolating from these seven states and examining data from the Department of Health and Human Services Money Follows the Person (MFP) program, HUD estimates a national demand of approximately 170,000 units that would benefit from Section 811 Project Rental Assistance.

Potential Cost Savings

There is a great need to reduce health care costs for people with disabilities and find more cost-effective ways to ensure that people with disabilities receive community-based support and services. Affordable housing has been a key barrier to this goal: evaluations of the MFP program have found the lack of affordable housing in the community to be a primary barrier to transitioning people out of costly institutions.⁷

While there is currently no direct research on the cost-effectiveness of the Section 811 program, one of the evaluations of the MFP program indicates that there are significant savings that can be gained from moving people with disabilities from institutional settings to the community. The MFP 2010 annual evaluation found that the average annual spending on home and community-based services (HCBS) per participant was more than one-third lower than the average annual Medicaid spending on institutional care for beneficiaries in nursing homes.⁸

Nationally, there are an estimated 137,000 non-elderly persons who live in nursing homes and are eligible for MFP (people that live in an institution for more than 90 consecutive days) and could potentially be transitioned to a Section 811 unit. The Genworth 2014 Cost of Care Survey estimates the national average cost of a semi private room in a nursing home at \$77,380 per year. The cost of this type of facility has been increasing annually at a rate of 4 percent in recent years.⁹ The 2010 National Survey of Residential Care Facilities found that 6 out of 10 residents under age 65 in Assisted Living Facilities are Medicaid beneficiaries. This represents

⁶ U.S Senate Health, Education, Labor, and Pensions Committee. 2014. *Separate and Unequal: States Fail to Fulfill the Community Living Promise of the Americans with Disabilities Act*. Retrieved from: <http://www.help.senate.gov/imo/media/doc/Olmstead%20Report%20July%2020131.pdf>

⁷ Lipson, D.J., C.S Valenzano, and S.R. Williams. 2011. "What Determines Progress in State MFP Transition Programs?" National Evaluation of the Money Follows the Person (MFP) Demonstration Grant Program, Report from the Field, No. 8. Cambridge MA: Mathematica Policy Research. October 2011. Retrieved from <http://www.mathematica-mpr.com/publications/pdfs/health/MFPfieldrpt8.pdf>

⁸ Mathematica Report, June 2012.

⁹ Genworth. 2014 Genworth Cost of Care Survey. Medicaid billing for a nursing home facility could be lower, but national data on the cost of nursing homes for Medicaid beneficiaries was not available.

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approximately 45,000 people under age 65 living in these facilities who are Medicaid beneficiaries. In 2013, the mean national total monthly charge per resident for residential care was \$3,500 (\$42,000 a year).¹⁰

4. How do we know this program works?

HUD is currently designing an evaluation of the Section 811 PRA demonstration program as required under the Frank Melville Supportive Housing Investment Act of 2010. This evaluation will be implemented in two phases. The first phase will include an in-depth process evaluation, case studies of promising supportive housing approaches for persons with disabilities, and a preliminary outcome study. The second phase of the evaluation will assess the effectiveness of the program and will capture participant-level quality of life and health care outcomes and costs. In collaboration with HHS' Centers for Medicare and Medicaid Services (CMS), HUD expects to utilize administrative and survey data to document participants' characteristics and housing and health outcomes and costs.

Until HUD gets results from this evaluation, the MFP program provides useful information about the outcomes of people with disabilities transitioning from institutions to the community. The MFP 2011 annual evaluation found that among those MFP participants who reported being unhappy with their lives while living in an institution, about 73 percent reported being satisfied with life in the community.¹¹ Participants also reported greater sense of choice and control and community integration.¹² Studies of the traditional Section 811 program confirm this level of satisfaction with integrated living arrangements. Approximately 65 percent of Section 811 residents were very satisfied with their living arrangements and 29 percent were somewhat satisfied. The majority of residents (80 percent) stated that they were able to obtain the services they needed. Frequently cited reasons for moving into HUD-assisted housing include: "a desire to live more independently" (47 percent), "availability of onsite support services" (9 percent), and "handicapped accessible" (9 percent).¹³

Past studies of the traditional Section 811 have shown that projects are in high demand with rare vacancies and very low turnover.¹⁴ In an MFP report, States cited lack of affordable, accessible housing as the single greatest barrier to helping more people move out of institutions.¹⁵

¹⁰ Caffrey, C. et al. 2012. Residents Living in Residential Care Facilities: United States, 2010. NCHS Data Brief 91. Genworth. 2014 Genworth Cost of Care Survey.

¹¹ Irvin, Carol V. et al. 2012. Money Follows the Person 2011 Annual Evaluation Report. Mathematica Policy Research

¹² Mathematica Report, June 2012

¹³ Applied Real Estate Analysis (AREA). *Evaluation of Supportive Housing Programs for Persons with Disabilities, volume I and II*. Washington, DC: U.S. Department of Housing and Urban Development. 1996.

¹⁴ Applied Real Estate Analysis (AREA). *Evaluation of Supportive Housing Programs for Persons with Disabilities, volume I and II*. Washington, DC: U.S. Department of Housing and Urban Development. 1996.

¹⁵ Locke, G., C. Nagler, K. Lam. [Implications of Project Size in Section 811 and Section 202 Assisted Projects for Persons with Disabilities](#). Washington, DC: U.S. Department of Housing and Urban Development. 2005. Also Applied Real Estate Analysis (AREA). *Evaluation of Supportive Housing Programs for Persons with Disabilities, volume I and II*. Washington, DC: U.S. Department of Housing and Urban Development. 1996.

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Recent reforms in Section 811 have addressed most of the issues identified in past studies and program reviews, namely: (a) delays in project development due to administrative processes, the low capacity of sponsors, and insufficient capital advances; and (b) a need for integrating the occupancy of the buildings themselves (less concentration of persons with particular types of disabilities or diagnoses) in addition to locating buildings in integrated settings. With key changes enacted into law in fiscal year 2011 by the Melville Act, Section 811 units funded through the Project Rental Assistance program will be integrated into larger multifamily developments. The program is expected to build on the capacity created by the MFP Demonstration. Between 2007 and 2011, States coordinated housing and supportive services to transition more than 11,560 non-elderly people with disabilities to community living through MFP.¹⁶

This Section 811 Project Rental Assistance is also expected to better leverage program funds by working better with other traditional sources of affordable housing finance, such as LIHTC. Additionally, by allocating Section 811 funds through state housing agencies that are already providing financing to multifamily projects and are coordinating supportive services to integrated community living, HUD hopes to ensure that projects are ready more quickly and align more closely with other federal initiatives.

5. Proposals in the Budget

Housing for Persons with Disabilities (Section 811) Transfer Authority. In certain States, existing 811 group homes are facing difficulties getting referrals for disabled populations due to state Olmstead settlements with the Department of Justice. This provision gives the Department needed flexibility to transfer Section 811 subsidies to properties that comply with local Olmstead requirements, which prohibit the unlawful segregation of persons with disabilities. (Sec 220)

Enhancing Enforcement Authority for Non-Performing HUD. The Budget also includes a proposal to expand HUD's authority to seek double the specified financial damages when project owners fail to maintain their properties in accordance with program requirements, to include Section 811, Housing for the Elderly, and Project-Based Rental Assistance. (Sec 272)

¹⁶ Mathematica Policy Research. 2012. *Money Follows the Person 2011 Annual Evaluation Report: Final Report*. Retrieved from http://www.mathematica-mpr.com/publications/pdfs/health/MFP_annual_report_2011.pdf

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**HOUSING
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Summary of Resources by Program
(Dollars in Thousands)**

<u>Budget Activity</u>	<u>2015 Budget Authority</u>	<u>2014 Carryover Into 2015</u>	<u>2015 Total Resources</u>	<u>2015 Obligations</u>	<u>2016 Budget Authority</u>	<u>2015 Carryover Into 2016</u>	<u>2016 Total Resources</u>	<u>2017 Request</u>
Disabled (Capital Advance, Other Expenses and PRAC) ...	...	\$16,142	\$16,142	\$4,690	\$2,000	\$13,110	\$15,110	\$2,000
Disabled PRAC PAC Renewal/Amendment	\$135,000	5,233	140,233	120,020	148,600	20,213	168,813	152,000
Project Rental Assistance Demonstration (PRAD) .	...	153,878	153,878	81,890	...	70,330	70,330	...
PIH Amendment/Renewal of Mainstream Vouchers (Tenant-Based) .....	...	297	297	...	...	297	297	...
Research and Technology (transfer)	<u>[-770]</u>
Total	135,000	175,550	310,550	206,600	150,600	103,950	254,550	154,000

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Appropriations Language

The fiscal year 2017 President’s Budget includes proposed changes in the appropriation language listed and explained below. New language is italicized and underlined, and language proposed for deletion is bracketed.

For amendments to capital advance contracts for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), for project rental assistance for supportive housing for persons with disabilities under section 811(d)(2) of such Act and for project assistance contracts pursuant to section 202(h) of the Housing Act of 1959 (Public Law 86–372; 73 Stat. 667), including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, for project rental assistance to State housing finance agencies and other appropriate entities as authorized under section 811(b)(3) of the Cranston-Gonzalez National Housing Act, and for supportive services associated with the housing for persons with disabilities as authorized by section 811(b)(1) of such Act, [~~\$150,600,000~~ *\$154,000,000*, to remain available until September 30, [2019] *2020*: *Provided*, That amounts made available under this heading shall be available for Real Estate Assessment Center inspections and inspection-related activities associated with section 811 projects: *Provided further*, That, in this fiscal year, upon the request of the Secretary of Housing and Urban Development, project funds that are held in residual receipts accounts for any project subject to a section 811 project rental assistance contract and that upon termination of such contract are in excess of an amount to be determined by the Secretary shall be remitted to the Department and deposited in this account, to be available until September 30, [2019] *2020*: *Provided further*, That amounts deposited in this account pursuant to the previous proviso shall be available in addition to the amounts otherwise provided by this heading for [amendments and renewals] *the purposes authorized under this heading*. *Provided further*, That unobligated balances, including recaptures and carryover, remaining from funds transferred to or appropriated under this heading shall be used for [amendments and renewals] *the current purposes authorized under this heading* notwithstanding the purposes for which such funds originally were appropriated. (*Department of Housing and Urban Development Appropriations Act, 2016.*)