



OFFICE OF LEAD HAZARD CONTROL  
AND HEALTHY HOMES

<b>Policy Guidance Number:</b> 2017-03	<b>Date:</b> August 25, 2017
<b>Subject:</b>	<b>Treating 0-Bedroom Pre-1978 Units with a Child under Age 6 under Lead Hazard Control Grants</b>
<b>Status:</b>	<b>Current</b>
<b>Applicability:</b>	<b>All Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Grantees</b>
<b>Related Guidance:</b>	
<b>Comments:</b>	<b>Effective for 0-bedroom pre-1978 units with a child under age 6 enrolled on or after May 5, 2017.</b>

**Summary:** The Office of Lead Hazard Control and Healthy Homes (OLHCHH) is issuing this policy guidance to expand the scope of target housing units that may be treated under its Lead Hazard Control Grant Programs (Lead-Based Paint Hazard Control (LBPHC) and Lead Hazard Reduction Demonstration (LHRD)) to include 0-bedroom dwellings constructed prior to 1978 in which a child under age 6 resides or is expected to reside.

**Background:** The Residential Lead-Based Paint Hazard Reduction Act of 1992 (known as “Title X”),<sup>1</sup> section 1011, Grants for lead-based paint hazard reduction in target housing,<sup>2</sup> authorizes the OLHCHH’s Lead Hazard Control Grant Programs. Currently, the Office awards Lead Hazard Control grants under the Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Grant Programs. The definition of target housing in Title X as originally enacted<sup>3</sup> excluded 0-bedroom dwellings units constructed prior to 1978. Accordingly, the OLHCHH’s Lead Hazard Control grantees could not enroll 0-bedroom units into their grant programs.

On May 5, 2017, the Consolidated Appropriations Act, 2017 was enacted.<sup>4</sup> The Appropriation revised the definition of target housing to include any 0-bedroom dwelling constructed prior to 1978 in which a child under age 6 resides or is expected to reside.<sup>5</sup>

<sup>1</sup> Public Law 102-550, Housing and Community Development Act of 1992, Title X. [www.congress.gov/bill/102nd-congress/house-bill/5334/text](http://www.congress.gov/bill/102nd-congress/house-bill/5334/text); view the enrolled bill.

<sup>2</sup> 42 U.S.C. § 4852. <http://uscode.house.gov/view.xhtml?edition=2015&req=granuleid%3AUSC-1996-title42-section4852>.

<sup>3</sup> Title X, section 1004(27), 42 U.S.C § 4851b(27), using the equivalent phrase “less than 6 years of age.” <http://uscode.house.gov/view.xhtml?edition=2015&req=granuleid%3AUSC-2015-title42-section4851b>.

<sup>4</sup> Public Law 115-31. [www.congress.gov/bill/115th-congress/house-bill/244/text](http://www.congress.gov/bill/115th-congress/house-bill/244/text); view the enrolled bill.

<sup>5</sup> Public Law 115-31, Division K, Title II, section 237.

**Implementation:** Based on the amendment to Title X, if a child under age 6 resides or is expected to reside in a 0-bedroom pre-1978 unit, the unit and the common areas servicing the unit may be enrolled under the grant and have their lead-based paint and lead-based paint hazards evaluated and controlled, if the unit is otherwise eligible for enrollment.

The phrase “is expected to reside” was not defined in the Appropriation, so the definition already in use in past Lead Hazard Control Grant Program Notices of Funds Availability (NOFAs),<sup>6</sup> namely the definition in the Lead Safe Housing Rule,<sup>7</sup> a rule invoked by the NOFAs, will continue to be used for 0-bedroom units as it has been for 1-or-more-bedroom units:

“Expected to reside means there is actual knowledge that a child will reside in a dwelling unit reserved for the elderly or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit.”<sup>8</sup>

Note that the condition of “actual knowledge” differs from the potential for a child under age 6 to reside in a unit sometime in the future; the potential does not create an expectation. While a resident woman being known to be pregnant creates actual knowledge, an expectation is also created when a child under age 6 or a pregnant woman is otherwise known to be moving into the unit, such as by the woman or another person having signed a lease or other rental agreement for the child and/or woman (as applicable) to move in. Grantees must collect and provide documentation to support “actual knowledge” of a child under age 6 residing or expected to reside, in each unit file (whether the unit has 0, 1, or more bedrooms, and whether it is vacant or occupied) in which there are no children under the age of 6 listed on the intake application.

This policy guidance is effective for 0-bedroom pre-1978 units with a child under age 6 residing or expected to reside, enrolled in a Lead Hazard Control Grant Program on or after the enactment of the Appropriation, that is, May 5, 2017. Units for which enrollment was undertaken before that date continue to be ineligible for enrollment because of the statutory prohibition against enrollment before that date. A grantee wishing to enroll such a unit must reverify its eligibility through the assigned Government Technical Representative (GTR). If currently eligible, the unit may be enrolled for lead evaluation and control activities to be conducted since the enactment of the Appropriation, but costs for that unit incurred before the enactment date continue to be ineligible.

If you have any questions, please contact your grant’s GTR.

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<sup>6</sup> See, e.g., the FY 2017 LBPHC and LHRD NOFAs at, respectively, [https://portal.hud.gov/hudportal/HUD/program\\_offices/administration/grants/fundsavail/2017lbphcnofa](https://portal.hud.gov/hudportal/HUD/program_offices/administration/grants/fundsavail/2017lbphcnofa) and [https://portal.hud.gov/hudportal/HUD/program\\_offices/administration/grants/fundsavail/2017lhrdnofa](https://portal.hud.gov/hudportal/HUD/program_offices/administration/grants/fundsavail/2017lhrdnofa).

<sup>7</sup> 24 CFR 35, subparts B – R. [www.ecfr.gov/cgi-bin/retrieveECFR?n=pt24.1.35](http://www.ecfr.gov/cgi-bin/retrieveECFR?n=pt24.1.35).

<sup>8</sup> 24 CFR 35.110.