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## **Regulatory Impact Analysis**

### **Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980**

#### **Proposed Rule Docket No: FR-6124-P-01**

## **1 Summary of Rule and Economic Analysis**

Section 214 of the Housing and Community Development Act of 1980 (Section 214)<sup>1</sup> prohibits the Secretary of HUD from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens in HUD's public and specified assisted housing programs. This proposed rule is intended to bring HUD's regulations into greater alignment with the wording and purpose of Section 214. First, the proposed rule would require the verification of the eligible immigration status of all recipients of assistance under a covered program who are under the age of 62, including those who are currently living in a mixed family and receiving prorated assistance. Second, it would specify that individuals who are not in eligible immigration status may not serve as the leaseholder, even as part of a mixed family whose assistance is prorated on the percentage of members with eligible status. Third, a household would not receive housing assistance unless every member residing in the assisted unit, including those over the age of 62, is of eligible immigration status.<sup>2</sup>

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<sup>1</sup> Adopted as Section 214 (Restriction on Use of Assisted Housing) of the Housing and Community Development Act of 1980, 42 U.S.C. §1436a.

<sup>2</sup> Nonfamily members, e.g., live-in aides for elderly families or disabled families and foster children and adults, may still reside in an assisted unit [CFR 982.551(h)(4); HUD Public Housing Occupancy Guidebook]. However, they are not required to have verified immigration status [24 CFR 5.508].

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The proposed rule would require verification of the eligible immigration status of all recipients of assistance under a covered program who are under the age of 62.<sup>3</sup> HUD already verifies the eligible immigration status of everyone who declares they have eligible immigration status. The requirement that individuals who are not in eligible immigration status may not serve as the leaseholder will have no impact because it is preempted by the more restrictive provision that a household will not receive housing assistance unless every member residing in the assisted unit is of eligible immigration status.

Some households, especially those previously classified as “mixed” households<sup>4</sup> may be denied assistance or simply terminated from a program. The denial or termination of assistance will have an impact on the level of subsidy as the prorated rent previously paid by mixed households will be eliminated—the consequence of which is full subsidy for the replacement eligible household.

A qualitative benefit of the rule is to target housing assistance to the eligible households as required by law. Approximately 30 percent of the household members of mixed households are ineligible. HUD believes these amendments better reflects the statutory requirements of Section 214.

One economic effect of the rule would be to transfer subsidies from ineligible households (mixed families), which contain some ineligible individuals, to eligible households (non-mixed families), which contain no ineligible individuals. The estimated size of the aggregate transfer

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<sup>3</sup> Individuals 62 years of age or older, who claim eligible immigration status, are exempted from the immigration status verification requirements [42 U.S.C. 1436a(d)(2)]. However, aside from proof of age, this proposed rule will require them to submit one of the documents approved by the Department of Homeland Security (DHS) as acceptable evidence of immigration status.

<sup>4</sup> A household that has at least one eligible household member, as well as other ineligible household members is called a “mixed” household. Mixed households are currently permitted to live in housing covered by the Section 214 restrictions. However, the amount of assistance they receive is prorated. The rent is adjusted based on the number of household members, the total household income, the number of eligible members of the household and the type of rent subsidy in the covered unit.

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from mixed households currently receiving assistance to the incoming eligible ones ranges from \$179 million to \$210 million. This transfer would be an annually recurring transfer. The estimate of the aggregate transfer will remain constant over time as long as there would be an even replacement of outgoing mixed households with households where all family members are eligible.

An additional transfer of the rule results from the replacement households requiring a higher subsidy than the mixed households. This would occur because the households that would replace mixed families, on average, have less income and would receive higher per household subsidies. The aggregate increase in HUD's budget to provide subsidies to the replacement households would range from \$193 million to \$227 million annually. If Congress were to allocate these funds, then the transfer would be from taxpayers to eligible households. A likelier scenario would be for HUD to serve these costlier households without additional resources. The federal government could respond by re-directing resources from other HUD activities to assisted housing. Another, and perhaps the likeliest scenario, would be that HUD would have to reduce the quantity and quality of assisted housing in response to higher costs. In this case, the transfer would be from assisted households who experience a decline in assistance (in whole or in part) to the replacement households. With part of the budget being redirected to cover the increase in subsidy, there could be fewer households served under the housing choice vouchers program; while for public housing, this would have an impact on the quality of service, e.g., maintenance of the units and possibly deterioration of the units that could lead to vacancy. The aggregate size of these transfers is approximated by the additional cost to HUD of providing housing assistance to the lower-income replacement households.

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There would be a one-time upfront fixed cost of transition from the proposed rule. Displaced households who would have to search for a new apartment, make a deposit on a new apartment, and then move to the new apartment would be estimated to bear upfront moving costs between \$9.5 million to \$13 million. To enforce the proposed rule, HUD would bear eviction costs between \$3.3 million to \$4.4 million for those households that required more rigorous enforcement of the regulation through a formal eviction. Administrative costs are not expected. However, the cost of turnover may be sizeable.

## **2 Need for Rule**

HUD believes that this proposed rule better reflects the requirements of Section 214 and assures that housing assistance is specifically targeted to the eligible households as required by the law. Moreover, this proposed rule would assure that the individual who is legally obligated under the lease or other tenancy agreement would undergo a uniform verification process that would better facilitate locating such person and bringing any necessary administrative or legal actions. HUD no longer agrees that a leaseholder can be exempted from having verified eligible immigration status at the outset of the tenancy and assistance. As such, HUD believes that requiring verification of the head of household's or spouse's immigration status is consistent with the intent to limit eligibility to individuals with eligible immigration status, subject to limited exceptions, and consistent with HUD's existing treatment of leaseholders in its assisted housing programs. In addition, HUD's current regulations excuse individuals from submitting documentation if they do not contend having eligible immigration status, which results in no actual determination of the immigration status of individuals. HUD, however, believes that the "do not contend" provision is inconsistent with the statutory requirements to the extent that it permits prorated assistance of unlimited duration.

### 3 Background

In addition to U.S. citizens and U.S. nationals, eligibility for HUD assistance includes a number of categories of noncitizens. Categories of eligible noncitizens include: (1) individuals lawfully admitted for permanent residence under the Immigration and Nationality Act (INA); (2) individuals admitted as refugees or under 207 or those granted asylum under 208 of the INA; (3) those paroled into the United States under 212(d)(5) of the INA; and (4) those granted withholding of removal under 241(b)(3) of the INA.

An individual's immigration status is primarily verified through USCIS's SAVE Program. Through a memorandum of agreement between HUD and USCIS, the terms and conditions governing HUD's participation in the SAVE Program are established. PHAs and project (or housing) owners, who administer Section 214 covered programs, register and gain access to the SAVE system through HUD at no cost.<sup>5</sup>

Under the current regulations, when citizenship status of all members of the household is requested for housing assistance, it is possible for some members to declare themselves ineligible by not contending eligibility status. Housing assistance to a household is not denied for having ineligible member(s) as long as there is at least one family member who is eligible, but it affects how much assistance a household receives. A household that has at least one eligible household member, as well as other ineligible household members is called a "mixed" household. Mixed households are permitted to live in housing covered by the Section 214 restrictions. However, the amount of assistance they receive is prorated. The rent is adjusted based on the number of household members, the total household income (including the income of ineligible members),

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<sup>5</sup> In the process, HUD pays an annual fee of \$62,800 to DHS-USCIS. For more information on the SAVE Program, see <https://www.uscis.gov/save>.

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the number of eligible members of the household and the type of rent subsidy in the covered unit. For example, a four-person household with one ineligible member would receive the 75 percent of what it would receive if every member were eligible.

According to data in HUD databases (see table below), there are approximately 25,000 mixed households having at least one ineligible member.<sup>6</sup> Among these mixed households, 71 percent are eligible members, of which 73 percent are children (0-17 years old), 25 percent are adult (18-61 years old), and 2 percent are elderly (62 and over); while 29 percent are ineligible members, of which 93 percent are adult, 5 percent are children, and 2 percent are elderly. Also, the data show that majority of mixed households have 3 eligible members and 1 ineligible member. Geographically, 72 percent of mixed families are concentrated in three states—California (37 percent), Texas (23 percent), and New York (12 percent)—while the rest is scattered around the country with 3 percent or less mixed families per state.

The mixed households receive an aggregate annual subsidy (HAP for “housing assistance payment”)<sup>7</sup> of approximately \$210 million and make tenant payments (“Tenant Rent”) of \$195 million for total rents of \$405 million (HAP + Tenant Rent). The average annual subsidy received by mixed families is about \$1,900 per person ( $\$210 \text{ million} / 108,000$ ) or \$8,400 per household ( $\$210 \text{ million} / 25,000$ ). On average, a mixed family has 4.3 household members ( $108,000/25,000$ ).

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<sup>6</sup> The data in this paragraph are taken from HUD databases. Due to privacy concern, these specific data are for HUD internal use only. However, HUD provides data on subsidized households which is available through this link: <https://www.huduser.gov/portal/datasets/assthsq.html>

<sup>7</sup> HAP is the payment by HUD or the Contract Administrator to the owner of an assisted unit as provided in the contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the tenant rent. An additional payment is made to the family when the utility allowance is greater than the total tenant payment. (24 CFR 880.201)

| Section 214 Covered Programs, December 2017 |                  |                  |               |               |               |                |                   |                           |
|---|------------------|------------------|---------------|---------------|---------------|----------------|-------------------|---------------------------|
| Program Type                                | Households (HHs) | Persons          | Mixed Family  |               |               |                |                   |                           |
|   |                  |                  | HHs           | Persons       |               |                | HAP (millions \$) | Tenant Rent (millions \$) |
|   |                  |                  |               | Eligible      | Ineligible    | Total*         |                   |                           |
| Housing Choice Vouchers                     | 2,248,125        | 5,249,793        | 12,722        | 39,897        | 15,526        | 55,448         | 128               | 106                       |
| Section 811                                 | 32,499           | 35414            |               |               |               |                |                   |                           |
| Section 202                                 | 122,852          | 132719           | 1             | 3             | 0             | 4              | 0.002             | 0.008                     |
| Project-Based Housing, Multifamily          | 1,211,678        | 2,065,082        | 3,004         | 8,699         | 3,648         | 12,368         | 27                | 22                        |
| Public Housing                              | 977,358          | 2,067,946        | 9,296         | 27,491        | 12,612        | 40,202         | 55                | 67                        |
| Section 236                                 | 11,155           | 22110            | 22            | 51            | 25            | 82             |                   | 0.247                     |
| <b>Total</b>                                | <b>4,603,667</b> | <b>9,573,064</b> | <b>25,045</b> | <b>76,141</b> | <b>31,811</b> | <b>108,104</b> | <b>210</b>        | <b>195</b>                |

\* Total may not add up due to pending verification of eligibility.

Source: HUD

## 4 Expected Responses to the Rule by Mixed Households

How mixed households respond to the rule will affect the aggregate costs, benefits, and transfers. HUD assumes that most mixed households will leave HUD’s assisted housing as a result of this rule. Ineligible members are likely to be illegal residents, although some may have pending verification of eligibility status; may be parent or child of eligible members but this parent or child are not eligible; or there may be inconsistencies in proof of eligibility or discrepancy in values of submitted papers. HUD expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified. However, an alternative option would be for the household to ask ineligible members to leave. A few households may follow this strategy. HUD’s estimates of the potential prevalence of rejecting ineligible members of mixed households is based on the demographic characteristics of households. It is assumed that smaller households consisting of parents and children are unlikely to separate in order to retain housing assistance. By this assumption, most mixed households are

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likely to leave assisted housing together. A small fraction (6 percent of the total mixed families) of households consist of ineligible children and eligible parents (Case 1). A larger fraction (70 percent) of households consist of eligible children and ineligible parents (Case 2). It is possible that larger households including an ineligible adult, who is not a parent, will choose to remain in assisted housing and ask the ineligible adult to leave (Case 3). The table below summarizes the possible cases for the 25,000 mixed families that would be affected by the proposed rule.

| Possible Cases for Mixed Families |   | Data          |                      |             | HAP<br>(millions \$) <sup>2</sup> | Likely Outcome  |
|-----------------------------------|---|---------------|----------------------|-------------|-----------------------------------|---|
|                                   |   | Households    | Members <sup>1</sup> | Share       |                                   |   |
| <b>Case 1</b>                     | Households with ineligible children and eligible parents                | 1,392         | 6,008                | 6%          | 12                                | Terminate housing assistance  |
| <b>Case 2</b>                     | Households with eligible children and ineligible parents                | 17,591        | 75,930               | 70%         | 147                               | Terminate housing assistance  |
| <b>Total (Cases 1 and 2)</b>      |   | <b>18,983</b> | <b>81,938</b>        | <b>76%</b>  | <b>159</b>                        |   |
| <b>Case 3</b>                     | Households with ineligible “other adults” and eligible immediate family | 6,062         | 26,166 <sup>3</sup>  | 24%         | 51                                | Continue housing assistance <i>if</i> ineligible members leave the unit |
|                                   | Eligible members  |               | 15,832               |             | 31                                |   |
|                                   | Ineligible other adults   |               | 10,182               |             | 20                                |   |
| <b>Total</b>                      |   | <b>25,045</b> | <b>108,104</b>       | <b>100%</b> | <b>210</b>                        |   |

<sup>1</sup> Include both eligible and ineligible members of the mixed families.

<sup>2</sup> Calculated based on the average annual subsidy received per person in a mixed family.

<sup>3</sup> Total may not add up due to pending verification of eligibility.

For Cases 1 and 2, housing assistance to 19,000 mixed families (76 percent) could be terminated since it is likely that a family with dependent children will prefer to leave the assisted housing as a family than being separated from one another. It is possible, but not likely, that some of the Case 2 households would have a similar reaction as the Case 3 households: any ineligible adults would leave the housing unit to preserve housing assistance for the eligible members. The eligible members of the household would remain and receive housing assistance. While possible, this outcome is unlikely for the households in which one of the parents is



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ineligible. Expelling a parent, whether forced or voluntary, is improbable among households whose goal it is to maximize the welfare of the family. The economic benefit of children growing in a two-parent household outweighs the financial assistance from the housing subsidy.<sup>8</sup> Even if a parent is willing to sacrifice him- or herself for the sake of the household's continuing receipt of housing assistance; a household would probably suffer a worse outcome by trying to adapt to the new rules than by leaving together.

For Case 3, housing assistance to 6,000 mixed families (24 percent) would be continued only if the ineligible other adults in the households (e.g., children 18 and older; other family member; distant family relatives like aunts, uncles, and cousins) would leave the housing unit and only eligible members would remain in the assisted unit.

In determining the household's rent, the income of ineligible members is included in total household income although ineligible members are not included in determining the prorated subsidy for the household. If these ineligible members (in Cases 2 and 3) leaving the unit are income-earners, the total household income will decrease. This would lead to an increase in subsidy. Another plausible scenario is that instead of leaving the unit, ineligible members would stay but as undeclared family members, i.e., not included in the lease. To remain as an unofficial resident would be difficult in public housing where there is oversight over tenants but easier for voucher-assisted housing for which inspections are limited. This would constitute a violation of lease and tenant rules, behavior that HUD cannot predict from administrative data. The impacts

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<sup>8</sup> Studies on family structure and its implications on child well-being (economic mobility, cognitive, behavioral, and physical, and mental health) show that children growing up in two-parent household fare better, on average, than those in single parent households. See, for example, Brown, S., et al. (2015). Family Structure and Child Well-Being: Integrating Family Complexity, *Journal of Marriage and Family*; Schulz, N. (2013). [The Consequences of Changing Family Structure](#), *American Enterprise Institute*; Deleire, T. and Loppo, L. (2010). Family Structure and the Economic Mobility of Children, *The Pew Charitable Trusts*; and Hanson, S. and Ooms, T. (1991). The Economic Costs and Rewards of Two-Earner, Two-Parent Families, *Journal of Marriage and Family*.

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of undeclared ineligibles remaining would be overcrowding and possibly higher subsidies. On net, some ineligible households may gain if they are able to reduce their tenant payment.

## **5 Benefit of the Proposed Rule**

The qualitative benefit of the rule is that the housing assistance is targeted to the eligible individuals as required by the law. HUD believes these amendments better reflect the statutory requirements of Section 214. HUD is focused upon regulatory reform efforts that reduce unnecessary regulatory burdens but also enhancing the effectiveness of those regulations which are necessary and promoting principles underlying the rule of law.

Currently, housing assistance to mixed households is prorated but ineligible members indirectly receive assistance through the household's income. With 32,000 ineligibles receiving an average of \$1,900 annually, the total subsidy redirected to eligible members is \$60 million annually. This amount is not a measure of the benefit (and is technically a transfer) but is illustrative of the portion of the transfer redirected to better target housing subsidies to the intended recipients.

## **6 Transfers from the Proposed Rule**

There are two types of transfers engendered by the proposed rule which originate from two flows: first, the exchange of subsidies from mixed households to their replacements; and second, an increase in the subsidy required for the replacement households. These two types of transfers are annual and are estimated to be between \$179 million–\$210 million and \$193 million–\$227 million in the first year of implementation. The table below summarizes the transfers.

| <b>Summary of Transfers (millions \$)</b>   |                           |                            |           |
|---|---------------------------|----------------------------|-----------|
|   | Low Estimate <sup>1</sup> | High Estimate <sup>2</sup> | Range     |
| Exchange of housing assistance <sup>3</sup> | 179                       | 210                        | 31        |
| Increase in subsidy <sup>4</sup>            | 193                       | 227                        | 34        |
| <b>Total</b>                                | <b>372</b>                | <b>437</b>                 | <b>65</b> |

<sup>1</sup> Based on the 3 possible cases for mixed families.

<sup>2</sup> Includes all members in mixed families.

<sup>3</sup> For low and high estimates, calculated by multiplying 92,000 (82,000 members in cases 1 and 2 and 10,000 ineligible members in case 3) and 108,000 by \$1,900, respectively.

<sup>4</sup> For low and high estimates, calculated by multiplying 92,000 and 108,000 by \$2,100 (the difference between the subsidy for non-mixed family member and mixed family member).

*Note: Due to rounding, numbers may not add up precisely to the totals.*

Since the transfers would be from all mixed households receiving housing assistance (original population and future replacements), we would set the turnover rate to zero, assuming that incoming residents are the same as outgoing ones.

### *6.1 Exchange of Housing Assistance*

The rule will result to a transfer of housing assistance from mixed families to those with only eligible members. The aggregate subsidy for the affected group is estimated to be between \$179 million to \$210 million annually. It is assumed that all of this amount would be transferred to eligible households on the waiting list. Although the transfer would be between similar types of households (because both groups are low-income households), the households are differentiated by whether they receive rental assistance. The proposed rule would lead to \$179 million–\$210 million transfer of the rental subsidies from mixed families to those with only eligible members. Alternatively, like in case 3, in response to the changed regulatory provisions, members of mixed families might ask ineligible members to leave the household, rendering the household eligible; if this occurs, some of the rental subsidies would not be transferred to other households. However, there would be a cost to these formerly mixed households because they would no longer be in close proximity to the ineligible former members of their households.

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## 6.2 *Increase in Subsidy*

There could be a budgetary impact of replacing mixed households with non-mixed households. The budgetary impact is, if it occurred would be apart from and beyond the transfer of housing assistance from mixed to non-mixed households and could arise because the replacement households would likely receive a higher subsidy than the current mixed households. There are two reasons that the level of assistance per household would be expected to increase. First, the housing assistance payment would increase because it would no longer be prorated. The average rate of proration is approximately 70 percent, which would translate to an increase of 30 percent of the subsidy received by otherwise similar households (income and household size). Second, the housing assistance payment (that is prorated) would change if the characteristics of the replacement households merit a different base subsidy (before being prorated). Because the households would be in the same housing units, then neither the household size nor market rent would change. The primary change would be in the household income.<sup>9</sup> The average income of a mixed household is \$18,000 and the average income of a non-mixed household is \$14,000; the difference is \$4,000. On average, the subsidy would increase by 30 percent of the decline in household income, or \$1,200.

A rough estimate of the change in the subsidy cost from the two effects can be gained by applying per person subsidy amounts. The per person subsidy for mixed families (of both eligible and ineligible) is \$1,900 annually. The per person subsidy for the non-mixed household is \$4,000. The increase in subsidy would be \$2,100. If only 92,000 tenants (all members in cases 1 and 2; and 10,000 ineligible members in case 3) were replaced, the aggregate budgetary impact

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<sup>9</sup> When computing the prorated assistance (which is based on the annual income of the household aside from immigration status of the members), the annual income includes income of all family members, including any family member who has not established eligible immigration status, i.e., noncontending members/ineligible members.

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could be \$193 million (92,000 x \$2,100); however, if all 108,000 tenants (all members in mixed families) were replaced, then the aggregate budgetary impact could be as high as \$227 million (108,000 x \$2,100).

However, it is unlikely that this transfer would occur in the form of increased subsidies from taxpayers to the replacement households. Housing assistance is not an entitlement and the federal budget for housing is not expected to increase because of this rule. Instead, it is likely that the higher per household subsidies would be paid for by reducing average spending on housing assistance for all households, or reducing the number of households served. The number and quality of public housing units likely could decline as could any additional resident services provided by housing authorities.

## 7 Costs of the Proposed Rule

The costs of the proposed rule include those costs required to achieve the desired transfer. These include evictions necessary to remove noncompliant households and possibly temporary homelessness for those households that are displaced. The table below summarizes the costs.

| Summary of Costs* (millions \$) |              |               |            |
|---------------------------------|--------------|---------------|------------|
|                                 | Low estimate | High estimate | Range      |
| Moving costs                    | 9.5          | 13.0          | 3.5        |
| Eviction costs                  | 3.3          | 4.4           | 1.1        |
| <b>Total</b>                    | <b>12.8</b>  | <b>17.4</b>   | <b>4.6</b> |

\*Do not include homelessness and administrative costs.

### 7.1 Moving Costs

If a mixed family moves to an unsubsidized unit, there would be a loss of subsidy to them but that does not represent a cost to society. The primary cost would be the economic costs of moving. Although the proposed rule has provisions for easing the burden on mixed households by allowing them time to plan, all of the affected families will have to search for a new

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apartment, make a deposit on a new apartment, and then move to the new apartment. Assuming that all moves are local and completed without hiring a moving company, then the cost of moving will add up to approximately \$500 per household. This includes a small truck rental of \$50, 4 people working 8 hours at \$10/hour, and \$100 of related expenses. If only the 19,000 mixed families (cases 1 and 2) would be affected by the proposed rule, this will add up to approximately \$9.5 million ( $\$500 \times 19,000$ ); however, if all 25,000 mixed families would be affected, the cost could reach as high as \$13 million. Although there would be moving costs for those ineligible members leaving the unit in case 3, we have not included them in the calculation. The number of households in case 3 will not be affected; only the number of members living in the households and so those existing households will not incur moving costs. Other costs could include search cost, although PHAs have expressed a willingness to assist households by providing them access to information.

## 7.2 *Eviction Costs*

Some households may need to be evicted formally.<sup>10</sup> It is not likely that many households including ineligible tenants, especially as adults, will choose to actively protest HUD's decision. Although living in a HUD household is not a basis for removal, there may be a perception among ineligible tenants that that would be a risk of not immediately complying with the proposed regulation. Some areas, cities and states, have strong tenant and immigrant protection policies and advocates. A challenge to the termination may occur in limited cases.

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<sup>10</sup> Under program regulations and leases, *termination of assistance* occurs when a tenant is no longer eligible for subsidy or to enforce HUD program requirements. *Termination of tenancy* occurs when the owner gives the tenant notice to vacate the unit because of a lease violation(s). When initiating a termination of assistance or tenancy, PHAs and owners are required to follow proper notification and documentation procedures and may only terminate for reasons permitted by HUD. In some cases, regulations give PHAs the discretion to either terminate the household's assistance or to take another action. Public housing residents have a right to the grievance process outlined at 24 CFR Part 966, subpart B before the PHA seeks a court-ordered eviction. This process allows an informal settlement process and formal hearing if not the matter is not resolved through informal means.

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HUD would bear costs for those households that required more rigorous enforcement of the proposed regulation through a formal eviction. There is a number of costs paid for an eviction. The most direct are court fees, server charge, and eviction services which may total from \$400 to \$700 per household.<sup>11</sup> Legal fees and new repairs are among additional costs that would inflate the basic cost of eviction. In a high-cost scenario, for which major repairs are required and a lawyer must be engaged, the cost of an eviction could be as high as \$3,000 per household. Out of 25,000 households, HUD estimates that at most 25 percent will have to be formally evicted.<sup>12</sup> Considering the mixed families in cases 1 and 2, the aggregate cost would be \$3.3 million ( $\$700 \times 4,700$ ) but it could reach \$4.4 million for all mixed families ( $\$700 \times 6,250$ ).<sup>13</sup>

### 7.3 *Homelessness*

A mixed family has more choices than moving to an unsubsidized unit or facing forced eviction. If households could afford the rent, then mixed households in project-based programs would have the option to remain tenants but pay the market rent instead of the subsidized tenant payment. The same option is available for mixed households under the housing choice voucher program – termination of assistance affects the household’s right to the unit since the lease automatically terminates when the HAP contract terminates. However, the owner may offer the household a separate, unassisted lease. For mixed households in public housing, the effect of the proposed rule is termination of assistance (and tenancy) and thus, eviction.

Although the option of paying the full rent is possible, it may not be affordable. On average, mixed households would have to replace \$1,900 per household member annually.

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<sup>11</sup> HUD, *Instituting Smoke-Free Public Housing Regulatory Impact Analysis*, 2016.

<sup>12</sup> Matthew Desmond estimated that of all evictions, 24 percent are formal evictions (*Evicted*, 2016).

<sup>13</sup> 4,700 and 6,250 are 25 percent of 25,000 (all mixed families) and 19,000 (cases 1 and 2) households, respectively. Note that we have not included the eviction costs for the ineligible members (case 3).

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Temporary homelessness could arise for a household, if they are unable to find alternative housing, for example in tight housing markets.

Another compliance option, but a ruthless one, would be for the household to remain and continue to receive assistance but to ask the ineligible member(s) to leave. A few households may follow this strategy, but it is unlikely to occur on a significant scale. Most ineligibles live in small households that could not easily separate. However, for those rare cases in which an adult (most ineligibles are adults) leave assisted housing for the benefit of their family, a potential impact of this outcome would be homelessness of the unsupported family member. The costs of homelessness to society can be substantial, arising from the provision of transitional shelters and community supports, emergency services, health care, and criminal justice system. Some studies have found that the costs associated with homelessness could range from \$20,000 to \$50,000 per person per year.<sup>14, 15, 16</sup> This cost is somewhat speculative because the duration would depend upon the housing market.

#### *7.4 Administrative cost*

Under the proposed amendment to the rule, a current participant in a Section 214 covered program (except for Section 235 assistance payments) who has not previously submitted evidence of eligible immigration status, will be required to do so at the first regular reexamination after the effective date of HUD's final rule for this rulemaking, which typically occurs on an annual basis. Recertification will occur regardless of the rule, so that HUD expects only minimal administrative costs from being required to reverify all of those who are ineligible.

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<sup>14</sup> Knotts, L. (2015). Ending Chronic Homelessness in 2017, United States Interagency Council on Homelessness. [www.usich.gov](http://www.usich.gov).

<sup>15</sup> Evans, W. N., Sullivan, J. X., and Wallskog, M. (2016). The impact of homelessness prevention programs on homelessness, *Science* 353(6300): 694–699.

<sup>16</sup> Spellman, B., et al. (2010). Costs Associated with First-Time Homelessness for Families and Individuals. Prepared for U.S. Department of Housing and Urban Development.



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Most are likely not to be eligible and so there will be no additional work. However, the turnover that is created as a result of the requirement will generate administrative costs.

There is also the potential for program participants to incur some administrative cost related to the revision of the required Admissions and Continued Occupancy Policies (ACOP)<sup>17</sup> prepared and maintained by housing authorities. These activities would add to administrative work load and bear some cost, however small and insignificant. In addition, it is uncertain how the regulation would impact housing authorities in the Moving to Work (MTW) demonstration program<sup>18</sup>, since most HUD regulations are waived for program participants.

## **8 Alternatives**

There are less costly alternatives that would achieve a similar objective to this proposed rule. The first alternative regulatory action would be to grandfather all of the existing mixed-families and apply the provisions of this proposed rule to new admissions only. The alternative would better target housing assistance. Gradually mixed-households would be replaced. For example, with a turnover rate of 10 percent, the number of mixed households would be halved within seven years. Such an option would fulfill the objectives of the rule but would limit the transition costs. A second would be to limit the denial of housing assistance to households for which the leaseholder is ineligible. There are approximately 17,000 households with ineligible noncitizen household heads who will be affected by this proposed rule and would no longer be the leaseholders. This would reduce the number of households affected from 25,000 to 17,000. Such an alternative would likely limit the adverse impact of the transition on eligible children.

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<sup>17</sup> The ACOP is the PHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements.

<sup>18</sup> Established in 1996 by Congress to give HUD and designated PHAs the flexibility to design and test various ways to administer housing assistance to meet local housing needs and the program's three goals: moving families to self-sufficiency, expanding housing options, and achieving cost savings.