



**Elizabeth G. Taylor**  
Executive Director

**Board of Directors**

**Robert N. Weiner**  
Chair  
Arnold & Porter, LLP

**Ann Kappler**  
Vice Chair  
Prudential Financial, Inc.

**Miriam Harmatz**  
Secretary  
Florida Health Justice Project

**Nick Smirensky, CFA**  
Treasurer  
New York State Health Foundation

**L.D. Britt, MD, MPH**  
Eastern Virginia Medical School

**Ian Heath Gershengorn**  
Jenner & Block

**Robert B. Greifinger, MD**  
John Jay College of  
Criminal Justice

**John R. Hellow**  
Hooper, Lundy & Bookman, PC

**Michele Johnson**  
Tennessee Justice Center

**Lourdes A. Rivera**  
Center for Reproductive Rights

**William B. Schultz**  
Zuckerman Spaeder

**Donald B. Verrilli, Jr.**  
Munger, Tolles & Olson

**Ronald L. Wisor, Jr.**  
Hogan Lovells

**Senior Advisor to the Board**  
**Rep. Henry A. Waxman**  
Waxman Strategies

**General Counsel**  
**Marc Fleischaker**  
Arent Fox, LLP

July 9, 2019

Submitted via [www.regulations.gov](http://www.regulations.gov)

Office of General Counsel, Rules Docket Clerk  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410-0500

**Re: HUD Docket No. FR-6124-P-01, RIN 2501-AD89 Comments  
in Response to Proposed Rulemaking: Housing and  
Community Development Act of 1980: Verification of Eligible  
Status**

Dear Sir/Madam:

The National Health Law Program (NHeLP) protects and advances the health rights of low-income and underserved individuals and families by advocating, educating, and litigating at the federal and state level. We write to express our strong opposition to the proposed rule change regarding "verification of eligible status," published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01).

The Department of Housing and Urban Development (HUD) contends that the proposed rule is a means of addressing the waitlist crisis faced by a majority of Public Housing Authorities nationwide. Yet, imposing onerous and unnecessary verification requirements on immigrant households will not fix this problem. Immigrants and their families are vital to the social and economic fabric of our country, and communities thrive when everyone has access to secure and affordable housing. For the reasons detailed in the comments below, we urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect. Instead, HUD should focus on advancing policies that ensure every individual and family, regardless of immigration status, has access to one of the most basic of human rights—a secure and safe place to call home.

## I. The Proposed Rule Will Have a Harmful Impact on the Health and Well-Being of Immigrant Families

Access to stable and affordable housing is a basic platform for family and community health, well-being, and dignity for all. When families have to spend too much of their income towards rent, they often cannot afford to pay for other basic needs like food and health care. Low-income households with children that pay more than half of their monthly income on rent spend considerably less on other necessities—they spend \$200 less per month on food, nearly \$100 less on transportation, and about \$80 less on health care.<sup>1</sup> As a result, food insecurity increases along with housing costs, and many renters delay needed health care because they cannot afford it.<sup>2</sup>

The nation should be building a housing system that supports the affordability, quality, and quantity needs of all. Yet the proposed rule adds significant barriers to affordable housing that will harm the health and well-being of immigrant families and their communities. Thousands of immigrant families will likely be forced to move from federally subsidized housing under this proposal, which will have severe consequences on their health. People who are evicted from their homes or even threatened with eviction are more likely to experience health issues such as depression, anxiety, and high blood pressure compared to people with stable housing.<sup>3</sup> They are also more likely to become homeless, contend with long-term housing instability, and visit an emergency room.<sup>4</sup> Studies have also shown that people in unstable housing situations experience increased hospital visits, loss of employment, and can dramatically increase the risk of an acute episode of a behavioral health condition, including relapse of addiction in adults.<sup>5</sup>

The proposed rule change will also have detrimental health impacts on many children living in mixed status families. Nearly 40 percent of households currently receiving rental assistance

---

<sup>1</sup> Joint Center for Housing Stud. of Harvard University, *The State of the Nation's Housing 2018*, tabulations of U.S. Bureau of Labor Statistics, 2016 Consumer Expenditure Survey (2018),

[http://www.jchs.harvard.edu/sites/default/files/Harvard\\_JCHS\\_State\\_of\\_the\\_Nations\\_Housing\\_2018.pdf](http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf).

<sup>2</sup> See Jason M. Fletcher et al., *Assessing the Effect of Increasing Housing Costs on Food Insecurity* (Nov. 12, 2009), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1503043](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1503043). See also, Enterprise, *Renters Report Housing Costs Significantly Impact Their Health Care* (Apr. 3, 2019), [https://www.enterprisecommunity.org/news-and-events/news-releases/2019-04\\_renters-report-housing-costs-significantly-impact-their-health-care](https://www.enterprisecommunity.org/news-and-events/news-releases/2019-04_renters-report-housing-costs-significantly-impact-their-health-care).

<sup>3</sup> Alison Bovell & Megan Sandel, *The Hidden Health Crisis of Eviction*, Children's Health Watch Blog (Oct. 5, 2018), <http://childrenshealthwatch.org/the-hidden-health-crisis-of-eviction/>.

<sup>4</sup> Robert Collinson & Davin Reed, *The Effects of Evictions on Low-Income Households*, NYU LAW (Dec. 2018), [https://www.law.nyu.edu/sites/default/files/upload\\_documents/evictions\\_collinson\\_reed.pdf](https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf).

<sup>5</sup> See Will Fischer, Center on Budget and Policy Priorities, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, (Oct. 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains>. See also, Linda Giannarelli et al., *Reducing Child Poverty in the US: Costs and Impacts of Policies Proposed by the Children's Defense Fund* (Jan. 2015), <http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf>.

include children.<sup>6</sup> Research shows that rental assistance for households with children results in significant positive effects for future child outcomes and family economic security. Housing assistance lifts about a million children out of poverty each year, and can improve a child's chances for long-term economic mobility.<sup>7</sup>

However, eviction and other forms of housing instability, such as frequent moves, have particularly harmful effects on children and our economy.<sup>8</sup> HUD estimates that 55,000 children will be displaced and at risk of homelessness if this rule is implemented. Homelessness, even for a brief time, is extremely detrimental to a child's healthy development. The younger and longer a child experiences homelessness, the greater the cumulative toll of negative health outcomes.<sup>9</sup> Homelessness is also associated with an 87 percent greater likelihood of a child or youth dropping out of school.<sup>10</sup>

Unstable housing also increases the likelihood of a child to have behavioral problems and to struggle in school.<sup>11</sup> In classrooms where the student population changes quickly and frequently, all students can fall behind.<sup>12</sup> Educational attainment is linked to positive health outcomes and a longer lifespan.<sup>13</sup> Creating housing instability in children's lives can have immediate and negative

---

<sup>6</sup> Center on Budget and Pol'y Priorities, *National and State Housing Fact Sheets & Data* (Aug. 2017) <https://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data>.

<sup>7</sup> See Liana Fox, *The Supplemental Poverty Measure: 2017* (Sept. 2018), <https://www.census.gov/library/publications/2018/demo/p60-265.html>. See also, Fredrik Andersson & John C. Haltiwanger, *Childhood Housing and Adult Earnings: A Between-Siblings Analysis of Housing Vouchers and Public Housing*, National Bureau of Economic Research, Working Paper No. 22721 (Sept. 2018).

<sup>8</sup> A recent landmark study from the National Academy of Sciences found that child poverty and homelessness costs our society over \$1 trillion each year. The study also found that making housing vouchers available for seventy percent of the families who are currently eligible would reduce child poverty by three percentage points. See National Academies of Sciences, Engineering, and Medicine 2019. *A Roadmap to Reducing Child Poverty* (2019), <https://www.nap.edu/catalog/25246/a-roadmap-to-reducing-child-poverty>. There is also research that shows low-income immigrants and their families make important contributions to the U.S. economy, and that overall, immigration into the United States is a long-term fiscal net positive. See Francine D. Blau & Christopher Mackie, eds., *Panel on Econ. & Fiscal Consequences of Immigration* (2017), <https://www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration>.

<sup>9</sup> See Megan Sandel et al., Center for Housing Policy, *Compounding Stress: The Timing and Duration Effects of Homelessness on Children's Health, Insights from Housing Policy Research* (2015), <https://www.issuelab.org/resources/21731/21731.pdf>.

<sup>10</sup> See Erin S. Ingram et al., *Hidden in Plain Sight: Homeless Students in America's Public Schools* (2016), <http://www.americaspromise.org/report/hidden-plainsight>.

<sup>11</sup> See How Housing Matters, *Housing Instability is Linked to Adverse Childhood Behavior* (May 9, 2019), <https://howhousingmatters.org/articles/housing-instability-linked-adverse-childhood-behavior/>.

<sup>12</sup> See Mary Cunningham & Graham MacDonald, Urban Institute, *Housing as a Platform for Improving Education Outcomes among Low-Income Children* (May 2012), [https://www.researchgate.net/profile/Heather\\_Schwartz/publication/267687704\\_Housing\\_as\\_a\\_Platform\\_for\\_Improving\\_Education\\_Outcomes\\_among\\_Low-Income\\_Children/links/546621100cf25b85d17f58d7/Housing-as-a-Platform-for-Improving-Education-Outcomes-among-Low-Income-Children.pdf](https://www.researchgate.net/profile/Heather_Schwartz/publication/267687704_Housing_as_a_Platform_for_Improving_Education_Outcomes_among_Low-Income_Children/links/546621100cf25b85d17f58d7/Housing-as-a-Platform-for-Improving-Education-Outcomes-among-Low-Income-Children.pdf).

<sup>13</sup> See S. Egerter et al., Robert Wood Johnson Foundation, *An Examination of the Many Ways in Which Education can Influence Health, Including How Educational Attainment Affects Health Across Generations*

health impacts and can also lead to poorer health across the life course by disrupting their education.

Many mixed status households also include family members with disabilities who receive HUD housing assistance covered under the proposed rule. About one in three households using Section 8 vouchers are headed by a non-elderly person with a disability and about one in five households living in public housing are headed by a non-elderly person with a disability. People with disabilities have fewer financial resources and are more likely to live in poverty compared to people with no disabilities.<sup>14</sup> Affordable housing can also be particularly difficult for people with disabilities to secure due to discrimination when seeking housing.<sup>15</sup> The lack of accessible, affordable housing is also a continuing and significant barrier to integrated community living, making it difficult for people with disabilities to move from segregated facilities into the community, and putting many people with disabilities at risk of unnecessary institutionalization or homelessness. Termination of assistance under the proposed rule could put people with few options at risk with tremendous cost to their health, earning potential, well-being and other significant harm.

## II. The Proposed Rule Imposes the Threat of Family Separations

As proposed, the rule will force many mixed status families to make an impossible decision—either split up to allow eligible family members to continue receiving assistance or forgo housing assistance so the family can stay together. Both options will have lasting impacts on child and family health. Research shows that families who are evicted are more likely to experience homelessness, move into substandard or overcrowded housing, and have a sequence of adverse physical and mental health outcomes.<sup>16</sup> The alternative, family separation, is a stressful and traumatizing experience for children, which can alter the architecture of a child’s developing brain and have lifelong consequences.<sup>17</sup> Family separations undermine family stability, and lead to toxic stress, trauma, and attachment issues in children. Even a temporary separation has an enormous negative impact on the health and educational attainment of these children later in life,

---

*and the Social and Economic Advantages it Represents* (Apr. 1, 2011), <https://www.rwjf.org/en/library/research/2011/05/education-matters-for-health.html>.

<sup>14</sup> See, e.g., L. Kraus et al., *2018 Disability Statistics Annual Report* 9 (2019), [https://disabilitycompendium.org/sites/default/files/user-uploads/Annual\\_Report\\_2018\\_Accessible\\_AdobeReaderFriendly.pdf](https://disabilitycompendium.org/sites/default/files/user-uploads/Annual_Report_2018_Accessible_AdobeReaderFriendly.pdf). (“In 2017, the poverty rate of individuals with disabilities (ages 18-64) was 29.6 percent. In contrast, in 2017 the poverty rate of individuals without disabilities was estimated at 13.2 percent.”).

<sup>15</sup> See, e.g., National Fair Housing Alliance, *Making Every Neighborhood A Place of Opportunity: 2018 Fair Housing Trends Report* 52 (2018), [https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report\\_4-30-18.pdf](https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report_4-30-18.pdf). (“As has been the case in past years, the majority of complaints from 2017 involved housing discrimination against people with disabilities.”)

<sup>16</sup> A. Bovell-Ammon & M. Sandel, *The Hidden Health Crisis of Eviction*, BOS. U. SCH. OF PUB. HEALTH (2018), <http://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>; Desmond M. & Tolbert Kimbro R., *Evictions Fallout: Housing, Hardship, and Health*, 94 SOCIAL FORCES 295 (2015).

<sup>17</sup> S. Simha, *The Impact of Family Separation on Immigrant and Refugee Families*, 80 NC MED J. 95, 96 (2019).

and many parents struggle to restore the parent-child bond once it has been disrupted by a separation.<sup>18</sup>

Seventy percent of mixed status families currently receiving HUD assistance are composed of eligible children and at least one ineligible parent. It is likely these families will forgo the subsidies to avoid separation. In fact, the agency's own regulatory impact analysis notes that "HUD expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified."<sup>19</sup> Therefore, this rule could force as many as 108,000 individuals in mixed status families (in which nearly three out of four are eligible for assistance) from public housing, Section 8, and other programs.<sup>20</sup> These mass departures from housing assistance programs may cause increased rates of homelessness and unstable housing situations among an already vulnerable population.<sup>21</sup>

### III. The Proposed Verification Requirements Are Burdensome and Unnecessary

The proposed rule creates onerous verification requirements that will be burdensome on any household—immigrant, mixed status, or citizen—currently receiving or seeking HUD assistance. The rule would require that all U.S. citizens who are recipients of Section 214 housing assistance provide evidence of their citizenship, a practice that has proven to be burdensome, costly, and unnecessary to protect program integrity.<sup>22</sup> Currently, to establish eligibility for Section 214 housing assistance, U.S. citizens need to provide a declaration signed under penalty of perjury of their citizenship or nationality status. The proposed rule would require that these individuals also provide documentary proof of citizenship or nationality, such as a birth certificate, which can be extremely difficult for certain segments of the population. One survey from 2006 showed that as many as seven percent of citizens did not have citizen documentation readily available.<sup>23</sup>

Obtaining such documentation can be particularly difficult for U.S. citizens over the age of 50, citizens of color, citizens with disabilities, and citizens with low incomes. A 2012 survey on government-issued photo ID ownership showed that people of non-White racial groups (13 percent of Blacks/African Americans and 10 percent of Latinx) were more likely to lack photo

---

<sup>18</sup> Laura C.N. Wood, *Impact of Punitive Immigration Policies, Parent-Child Separation and Child Detention on the Mental Health and Development of Children*, 2 *BMJ PEDIATRICS OPEN* (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6173255/>.

<sup>19</sup> HUD, Regulatory Impact Analysis, Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980, Docket No. FR-6124-P-01, at 7 (Apr. 15, 2019).

<sup>20</sup> *Id.* at 8.

<sup>21</sup> Pratt Ctr. for Cmty. Dev., *Confronting the Housing Squeeze: Challenges Facing Immigrant Tenants, and What New York Can Do* (2018), <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do>.

<sup>22</sup> Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019) (to be codified at 24 C.F.R. part 5); Donna Cohen Ross, CPBB, *New Medicaid Citizenship Documentation requirement is Taking a Toll: States Report Enrollment Is Down and Administrative Costs Are Up* (Mar. 13, 2007), <https://www.cbpp.org/research/new-medicaid-citizenship-documentation-requirement-is-taking-a-toll-states-report>.

<sup>23</sup> Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification* (Nov. 2006), [http://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf).

identification compared to Whites (5 percent).<sup>24</sup> People with low incomes are also less likely to have photo ID; twelve percent of adults living in a household with less than \$25,000 annual income lack photo ID, compared to just two percent of households with over \$150,000 in annual income.<sup>25</sup> Older individuals in particular face challenges in getting this kind of documentation due to difficulties getting to government offices to replace lost records, coming up with the funds to replace these records, and some may have never been issued a birth certificate in the first place.<sup>26</sup> People who are unable to produce the required documents within the time period proposed in the HUD rule will lose their housing assistance, and many will be evicted from their homes.

Similar citizenship documentation requirements implemented in the Medicaid program caused many eligible citizen children, pregnant women, and parents to lose or be denied health coverage, and there was a sharp decline in Medicaid enrollment.<sup>27</sup> Half of the 44 states responding to a Government Accountability Office (GAO) survey indicated that Medicaid enrollment fell because of the citizenship documentation requirement. The GAO also found that states reported increased administrative costs and needing to spend more time providing help to applicants and beneficiaries, increasing their time spent on applications and redeterminations of eligibility.<sup>28</sup>

Adding more documentation requirements creates more barriers to housing for those who need it most, and could cause many people who have gained stability through rental assistance to return to homelessness. Many people with disabilities will be at risk of losing assistance because of the proposed rules new documentation requirements for seniors and citizens. People with disabilities often have additional barriers to accessing proof of citizenship and identity. For example, some people with disabilities do not drive and are less likely to have state-issued identification; in 2012, 7.5 percent of people with disabilities lacked a valid ID compared to less than five percent of people without disabilities.<sup>29</sup>

---

<sup>24</sup> Vanessa M. Perez, Project Vote, *Americans with Photo ID: A Breakdown of Demographic Characteristics 1* (Feb. 2015), <http://www.projectvote.org/wp-content/uploads/2015/06/AMERICANS-WITH-PHOTO-ID-Research-Memo-February-2015.pdf>.

<sup>25</sup> *Id.*

<sup>26</sup> Ina Jafe, *For Older Voters, Getting the Right ID Can Be Especially Tough*, NPR: ALL THINGS CONSIDERED (Sept. 7, 2018), <https://www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough>.

<sup>27</sup> Donna Cohen Ross, Ctr. on Budget and Policy Priorities, *New Medicaid Citizenship Documentation Requirement is Taking a Toll: States Report Enrollment is Down and Administrative Costs are Up* (Rev. March 13, 2007), <https://www.cbpp.org/research/new-medicaid-citizenship-documentation-requirement-is-taking-a-toll-states-report>.

<sup>28</sup> U.S. Gov't Accountability Office, *Medicaid: States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens* (June 2007), <https://www.gao.gov/new.items/d07889.pdf>.

<sup>29</sup> s.e. smith & Rebecca Cokley, Ctr. for Am. Progress, *Reforming Elections Without Excluding Disabled Voters* (Mar. 29, 2019), <https://www.americanprogress.org/issues/disability/news/2019/03/28/468019/reforming-elections-without-excluding-disabled-voters/>.

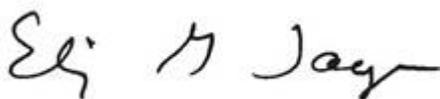
If implemented, HUD's proposed rule would have a devastating impact on communities of color. Analysis of U.S. Census 2016 ACS data shows that the majority of Asian Americans and Pacific Islanders (APIs) in poverty live in zip codes with housing costs above the national median.<sup>30</sup> In 2018, over a quarter of a million APIs received HUD subsidized housing assistance.<sup>31</sup> Similarly, 4.4 million (55 percent) Latinos who rented their home in 2017 were cost-burdened – meaning they devoted 30 percent or more of their income towards rent.<sup>32</sup> According to an analysis conducted by UnidosUS, federal housing assistance – including public and other subsidized housing – lifted approximately 800,000 Latinxs out of poverty in 2017, including more than 280,000 Latinx children.<sup>33</sup> The proposal to create additional documentation requirements will only create confusion and fear among current recipients, and create a chilling effect that will deter many eligible APIs and Latinx from participating in public or subsidized housing programs in the future.

#### IV. Conclusion

NHeLP urges HUD to immediately withdraw its current proposal and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families. If we want our communities to thrive, everyone in those communities must be able to stay together and get the care, services, and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Priscilla Huang ([huang@healthlaw.org](mailto:huang@healthlaw.org)) or Fabiola Carrión ([carrion@healthlaw.org](mailto:carrion@healthlaw.org)) for further information.

Sincerely,



Elizabeth G. Taylor  
Executive Director

---

<sup>30</sup> U.S. Census, 1-Year American Community Survey, 2011-2017.

<sup>31</sup> HUD, *Picture of Subsidized Households* (2018), <https://www.census.gov/programs-surveys/popest.html>.

<sup>32</sup> UnidosUS, *Latinos and the Great Recession: 10 Years of Economic Loss and Recovery* (Mar. 2019), <http://publications.unidosus.org/handle/123456789/1932>.

<sup>33</sup> UnidosUS, *Federal Programs Lift Millions of Latinos Out of Poverty* (Oct. 2018), <http://publications.unidosus.org/handle/123456789/1894>.