September 22, 2020

Submitted via www.regulations.gov
Regulations Division, Office of General Counsel
Department of Housing & Urban Development
451 7th Street SW, Room 10276,
Washington, D.C. 20410-0500

Re: HUD Docket No. FR-6152-P-01, RIN 2506-AC53 Comments in Response to Proposed Rulemaking: Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs

Dear Office of General Counsel:

The AIDS Institute, a national non-profit organization dedicated to supporting and protecting health care access for people living with HIV/AIDS, viral hepatitis, and other chronic and serious health conditions is pleased to offer comments on the Department of Housing and Urban Development’s proposed rule change (Docket No. FR-6152-P-01; RIN 2506-AC53) entitled “Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs.” We urge you to withdraw this proposed rule change in its entirety.

To end the HIV epidemic in the United States, we must ensure that there is a coordinated, comprehensive, and fully resourced federal response to the epidemic. Rules and regulations guiding federal programs must ensure that structural interventions employed to combat the HIV epidemic are effective. The Administration’s Ending the HIV Epidemic Initiative (EHE Initiative) sets the goal of reducing new HIV infections by 90% by 2030, which we believe is possible if the federal government continues to prioritize it. However, this proposed rule change will undermine our nation’s ability to meet the goals of the EHE Initiative and could result in an increased disproportionate impact of HIV on the transgender community.

Expanding access to safe, affordable, and stable housing is key to ending the HIV epidemic. Nearly one-third of people living with HIV (PLWH) are marginally housed, and nearly half of PLWH in the US will

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experience housing instability following their diagnosis. Housing continues to be one of the biggest unmet needs of PLWH. Nevertheless, housing has proven to be a strong predictive factor in achieving quality HIV care outcomes. A HUD report found that housing instability has been linked to delayed diagnosis, delayed entry into HIV care, and discontinuation of care.

When a person is stably housed, they are 2-3 times more likely to achieve viral suppression, which means they can expect to live a near normal life expectancy, and they cannot transmit HIV to a partner — housing is HIV treatment and HIV prevention.

The AIDS Institute is deeply concerned that the proposed rule change will make it more difficult for transgender individuals to secure stable housing. With nearly one-third of transgender and non-binary people experiencing homelessness in their lives, it is important to ensure that housing is available without fear of stigma or discrimination.

As discussed previously, housing is important in combatting HIV, which disproportionately impacts transgender people. New HIV diagnoses among transgender women have increased by 6% since 2014, and an estimated 21% of transgender women in the US are living with HIV. The intersections of HIV stigma, transphobia, and racism are especially serious, as 26% of Latinx transgender women and 44% of Black transgender women in the US are living with HIV. The Centers for Disease Control notes that housing instability “affect the health and well-being of transgender people, placing them at an increased risk for HIV.”

We believe that the current HUD rules adequately ensure equal protections for all individuals seeking HUD-funded services. The proposed rule would strip away these protections. The AIDS Institute believes that the proposed rule is ill-informed, and the rationale behind the proposal is rooted in harmful stereotypes about transgender and gender non-conforming people. Prior to the Equal Access Rule, most

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shelters failed to properly house transgender women, and many refused services altogether. By rescinding this rule, as is being proposed, shelters will be allowed to ask invasive questions and stereotype people into sex categories that they do not identify with, resulting in discrimination against transgender people who are seeking shelter.

Additionally, we are deeply concerned that this rule is being promulgated during the COVID-19 pandemic. The sharp economic downturn caused by the pandemic has already increased homelessness in the US, and a looming rent and eviction crisis will likely make problems worse. Additionally, people living with chronic conditions like HIV and hepatitis face unique care and treatment challenges as a result of COVID-19. Combatting COVID-19 requires social distancing and access to hygiene services, all of which can be provided by shelters and housing services. Now is not the time to make it more difficult for people to seek shelter, and this proposal will do just that.

The AIDS Institute supports the goals of the Administration’s Ending the HIV Epidemic Initiative, and has partnered with Health and Human Services to ensure that the Initiative is implemented effectively. If this rule is finalized, the EHE Initiative will be less effective, and the Administration will further breed mistrust between the transgender community and federal agencies. This proposal is short-sighted, ill-informed, and especially egregious at a time when two infectious diseases are disproportionately impacting the transgender community.

We urge you to withdraw the proposed rule in its entirety.

Should you have any questions or comments please contact Nick Armstrong at narmstrong@taimail.org or (202) 835-8373, or Rachel Klein at rklein@taimail.org or (202) 815-2973.

Sincerely,

Nick Armstrong
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The AIDS Institute