

99-346 MAINE STATE HOUSING AUTHORITY

Chapter 19: HOMELESS SOLUTIONS RULE

Summary: The Maine State Housing Authority uses funds from certain federal and state resources to give grants to agencies for a variety of activities to assist people who are experiencing homelessness. This Rule governs MaineHousing’s allocation of resources for such programs, program design, the publication and distribution of program guides, basic criteria for determining eligible recipients, and potential selection criteria. Some resources are distributed according to a funding formula set forth in the Rule. Other resources may be distributed according to programs designed by MaineHousing.

1. Definitions

- A. “Act” means the Maine Housing Authorities Act, 30-A M.R.S.A. §4701, *et seq.* as amended.
- B. “Agency Participation Agreement” is a document that sets forth the obligations of service providers participating in HMIS and governs how information regarding clients and the services they receive is treated.
- C. “Applicant” means the municipality or non-profit corporation applying for funds governed by this Rule.
- D. “Bed Capacity” means the maximum number of beds in an Emergency Shelter as indicated on the agency’s Program Guide and Application; provided, however, for purposes of this Rule, the Bed Capacity of a Low Barrier Shelter means its maximum number of beds as indicated on the Program Guide and Application, multiplied by 125%.
- E. “Clients Assessed and Stabilized” means clients who were assessed for program eligibility, and who are receiving housing stabilization services.
- F. “Continuum of Care” or “CoC” is the group organized to carry out the responsibilities required under the CoC Program Interim Rule (24 CFR Part 578) and comprises representatives of organizations that provide a full range of emergency, transitional, and permanent housing and other service resources to address the various needs of Persons Experiencing Homelessness within the State of Maine.
- G. “Coordinated Entry Process” means a process designed to coordinate program participant intake, assessment, and provision of referrals within a geographic area. A Coordinated Entry Process covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.
- H. “Emergency Shelter” means any facility, the primary purpose of which is to provide a temporary shelter for Persons Experiencing Homelessness or for specific populations of Persons Experiencing Homelessness and which meets the criteria set forth in section 3 of this Rule.

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- I. “Emergency Solutions Grant” means a grant available under the federal Emergency Solutions Grants Program of the McKinney-Vento Act as amended by the HEARTH Act.
- J. “Funding Formula Allocation” means an annual allocation of funds by MaineHousing for Emergency Shelters as further described in section 4 of this Rule.
- K. “HEARTH Act” means the Homeless Emergency and Rapid Transition to Housing Act of 2009 (P.L. 111-22), and the regulations promulgated thereunder.
- L. “HMIS” means the Homeless Management Information System as further defined in the McKinney-Vento Act as amended by the HEARTH Act.
- M. “HMIS Data Standards” means the baseline data collection requirements developed by each of the federal partners which require participation in HMIS, or a comparable database for those serving survivors of domestic violence, as a condition of their funding.
- N. “Homeless Prevention” means activities or programs designed to prevent persons from experiencing homelessness including without limitation subsidies for rent, utilities, security deposits, and mortgage payments.
- O. “Homeless Service Hub” also referred to as “Hub” or “Service Hub” means a group of regional providers that creates local foundation for the prioritization and case conferencing of the Coordinated Entry Process, as well as working collectively toward ending homelessness. Each Hub supports regional coordination and resource alignment and provides system level data used to improve performance. Maine has nine Service Hubs: 1- York County; 2- Cumberland County minus the towns of Brunswick and Harpswell; 3(Midcoast)-Sagadahoc, Lincoln, Waldo and Knox Counties, plus the towns of Brunswick and Harpswell; 4- Androscoggin County minus the towns of Livermore and Livermore Falls; 5(Western Maine)- Franklin and Oxford Counties, plus the towns of Livermore and Livermore Falls; 6(Central Maine)- Kennebec and Somerset Counties; 7(Penquis)- Penobscot and Piscataquis Counties; 8(Downeast)- Hancock and Washington Counties; 9- Aroostook County.
- P. “Housing First” is an approach to quickly and successfully connect Persons Experiencing Homelessness to permanent housing without preconditions and barriers to entry, such as sobriety, treatment, or service participation requirements.
- Q. “Housing Inventory Count” (HIC) is a point-in-time inventory of beds and units for Persons Experiencing Homelessness within a Continuum of Care categorized by five program types: Emergency Shelter; transitional housing; Rapid Re-housing; safe haven; and permanent supportive housing.
- R. “Housing Stabilization” means assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing.
- S. “HUD” means the United States Department of Housing and Urban Development.

- T. “Low Barrier Shelter” means an Emergency Shelter that does not require any of the following for a client to stay at the shelter: (i) criminal background checks, (ii) credit checks or income verification, (iii) program participation, (iv) sobriety, or (v) identification. Low Barrier Shelters may, however, enforce safety requirements for self, staff, place, and others.
- U. “MaineHousing” means Maine State Housing Authority.
- V. “Maine Consolidated Plan” is a plan prepared by MaineHousing and the Maine Department of Community and Economic Development (“DECD”) and approved by HUD in accordance with 24 CFR part 91. The Consolidated Plan serves as the framework for a statewide dialogue to identify housing and community development priorities that align and focus funding from the Community Development Block Grant Program administered by DECD, the HOME Investment Partnerships Program, the Housing Trust Fund, and the Emergency Solutions Grant Program, which are administered by MaineHousing.
- W. “Mainstream Resources” means a variety of Federal and state benefit government assistance programs Persons Experiencing Homelessness may be eligible to receive. These include but are not limited to: Temporary Assistance For Needy Families (TANF), Food Supplement Program, veterans’ benefits, MaineCare, General Assistance, Supplemental Security Income Program (SSI), Social Security Disability Insurance (SSDI), and Housing Choice Voucher Program.
- X. “Maine’s Job Bank” is an on-line job posting and job search system provided by Maine CareerCenter.
- Y. “McKinney-Vento Act” means the Stewart B. McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11301 *et seq.*, and the regulations promulgated thereunder.
- Z. “Persons Experiencing Homelessness” means:
- i. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 1. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 2. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
 3. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

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- ii. An individual or family who will imminently lose their primary nighttime residence, provided that:
 1. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 2. No subsequent residence has been identified; and
 3. The individual or family lacks the resources or support networks; e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
 - iii. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 1. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 2. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 3. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 4. Can be expected to continue such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
 - iv. Any individual or family who:
 1. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

2. Has no other residence; and
3. Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

As defined in 24 CFR §576.2. Should the applicable federal regulation be changed or amended, this Rule will adhere to the most current regulation.

- AA. “Program” means an offering of grants subject to recapture available to prospective eligible Applicants on certain terms and for certain purposes determined by MaineHousing pursuant to this Rule.
- BB. “Program Guide and Application” means the written procedural and administrative guide for a particular Program governed by the terms and conditions of this Rule. It includes the annual application completed by Applicants.
- CC. “Rapid Re-housing” means housing relocation and stabilization services and short- and/or medium-term rental assistance as necessary to help Persons Experiencing Homelessness move as quickly as possible into permanent housing and achieve stability in that housing.
- DD. “Regional Homeless Council” means one of the following three advisory committees concerning homelessness: Region I comprising York and Cumberland Counties; Region II comprising Androscoggin, Franklin, Kennebec, Knox, Lincoln, Sagadahoc, Somerset, Oxford, and Waldo Counties; and Region III comprising Penobscot, Piscataquis, Aroostook, Washington, and Hancock Counties.
- EE. “Shelter Operations” are the costs of maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operation of an Emergency Shelter.
- FF. “Statewide Homeless Council” means the advisory committee created pursuant to §5046 of the Act.
- GG. “Victim Service Provider” means a private nonprofit organization whose primary mission is to provide direct services to victims of domestic violence.
- HH. “Violence Against Women Act “or “VAWA” is a United States federal law (Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355).

2. Eligible Applicants

To be eligible to receive funds, an Applicant must:

- A. be a non-profit corporation in good standing in the State of Maine qualified for tax exemption under 501(c)(3) of the Internal Revenue Code or a municipal corporation;
- B. be eligible in accordance with the HEARTH Act;

- C. be a provider of homeless services with at least one (1) year of experience providing emergency housing, street outreach, Homeless Prevention, or Rapid Re-housing activities;
- D. be a regular and active participant in the Maine Continuum of Care, in accordance with its governance charter and performance criteria;
- E. be a regular and active participant in their local Homeless Service Hub by participating in Hub meetings and providing relevant data to the Hubs for the generation of a by-name list of Persons Experiencing Homelessness;
- F. have board and or advisory board representation from Persons Experiencing Homelessness or formerly experiencing homelessness who are involved in policy or planning of the organization;
- G. participate in Coordinated Entry Process by acting as an access point to the Coordinated Entry Process, administering the common assessment tools, placing eligible participants on the housing prioritization list, participating in case conferencing meetings, and completing housing referrals utilizing the process and procedures designated by the Maine Continuum of Care;
- H. have the administrative and financial management capacity necessary to administer and to account for the use of the applicable grant in accordance with the funding requirements;
- I. operate in accordance with the homelessness strategy outlined in the Maine Consolidated Plan;
- J. meet the objectives of the Program under which they are applying as set forth in the applicable Program Guide;
- K. participate in and meet the performance and reporting requirements of the Homeless Management Information System (HMIS) or a comparable database if the Applicant is a Victim Service Provider;
- L. not engage in any explicitly religious activities, such as worship, religious instruction, or proselytization, as part of the activities and services funded with any grant for activities or services covered by this Rule; and if religious activities are offered, they must be offered at a separate time or location from the activities and services covered by this Rule; and participation in those religious activities must be voluntary for persons receiving assistance with funds covered by this Rule;
- M. operate its programs free from discrimination on the basis of age, race, color, religion, national origin, physical or mental disability, sexual orientation, or gender in accordance with applicable federal and state fair housing laws;
- N. comply with Section 504 of the Rehabilitation Act of 1973, which prohibits disability discrimination in programs that receive HUD funds; and
- O. comply with Maine Housing requirements.

3. Emergency Shelter Requirements

Applicants that are Emergency Shelters must do the following:

- A. provide access 365 days per year to assist Persons Experiencing Homelessness meet basic emergency shelter needs;
- B. provide adequate sleeping space or beds, and clean and functioning shower and toilet facilities;
- C. provide safe and nutritious food, including breakfast or access to breakfast and, if open 24 hours, also provide lunch and dinner or access to lunch and dinner;
- D. treat all guests with dignity and respect, regardless of religious or political beliefs, cultural background, disability, gender identity or sexual orientation;
- E. provide shelter and housing services based upon a Rapid Re-housing or Housing First approach;
- F. have admittance and stay policies that are appropriate for the population served and do not create unnecessary barriers to guests staying;
- G. provide linkages and access to community resources such as health care, job readiness and employment services, Mainstream Resources, and educational services to assist guests in achieving housing stability;
- H. assess guests for program eligibility and services to enable mobility to permanent housing with adequate supports;
- I. inform guests of their rights and responsibilities, including specific shelter policies and house rules;
- J. accept eligible persons regardless of their ability to pay or their eligibility for reimbursement or actual reimbursements from any third party source, including local, municipal, state, or federal funding sources;
- K. have no lease requirements for guests;
- L. if serving families with children, provide space other than open dormitory style and do not require involuntary family separation for admission;
- M. provide separate accommodations for male and female consumers consistent with their gender identity;
- N. protect the privacy and confidentiality of guests and their personal information;
- O. provide training, policies, procedures and regular maintenance to encourage, improve, and maintain the health and safety of guests, volunteers and staff;

- P. post fire, disaster, and other emergency procedures in a conspicuous place and review the procedures with each guest;
- Q. maintain a daily and confidential census of shelter clients including precise sleeping locations;
- R. operate in compliance with all applicable federal, state and local codes, laws and regulations; and
- S. have written policies and procedures for standards that address the following areas: non-discrimination, client grievance and appeal of termination, approval of financial transactions, record retention, procurement, whistleblowers, access to shelter and services, client rights and responsibilities, program personnel and facility operations, health and safety, food preparation and distribution, electronic data and security, Fair Housing, and Drug Free Workplace. All policies must meet federal guidelines.

4. **Funding Formula Allocation**

From time to time MaineHousing will allocate a certain amount of funds to be distributed, subject to availability, pursuant to the following funding methodology:

- A. **Shelter Operations.** An amount equal to 45% of the Funding Formula Allocation will be disbursed among Emergency Shelters, such that each Emergency Shelter will receive a percentage equal to its Bed Capacity divided by a number equal to the total Bed Capacity available statewide for the calendar year. MaineHousing will review the number of beds reported, along with occupancy data to ensure that bed utilization is commensurate with community need. If a persistent discrepancy is observed, MaineHousing, at its sole discretion, reserves the right to reduce the number of funded beds. Agencies will receive scheduled payments on a quarterly basis.
- B. **Housing Stabilization Share.** An amount equal to 45% of the Funding Formula Allocation will be disbursed among eligible agencies, such that each agency providing staffing for Rapid Re-housing, Housing First and Housing Stabilization services operated by the agency will be eligible to receive a percentage equal to the agency's total number of Clients Assessed and Stabilized, divided by the total number of Clients Assessed and Stabilized statewide. The number of Clients Assessed and Stabilized will be based upon the most recent four quarters of data available to MaineHousing at the start of the grant year. Agencies are reimbursed for costs on a quarterly basis.
- C. **Performance Share.** An amount equal to 10% of the Funding Formula Allocation will be allocated among eligible applicants that in the previous 6 months maintained or increased their data quality for the following data points: Date of Birth, Race, Veteran Status, Destination, Relationship to Head of Household, and Client Location. In January and July of each year, Maine HMIS will report to each eligible applicant their error rate for each of those data points. Victim Service Providers will report from their comparable database. At the conclusion of the six month period, any eligible applicant whose data error rate is equal to or less than it was at the beginning of the period, will be eligible for a portion of Performance Share funds equal to the percentage of the number of Clients Assessed and Stabilized by the eligible applicant, divided by the number of Clients Assessed and Stabilized by all eligible applicants. The performance share for the first half

of the calendar year will be calculated in July and the performance share for the second half of the calendar year will be calculated in the following January.

5. Program Design

- A. **Allocation.** In addition to the Funding Formula Allocation, MaineHousing may allocate other funds for Programs to assist Persons Experiencing Homelessness in accordance with applicable federal and state laws.
- B. **Programs.** MaineHousing shall design and offer Programs based upon available funds, restrictions attached to such funds, best practices, and needs. The funds may be used for shelter services and outreach activities; for Homeless Prevention and Rapid Re-housing activities such as rental assistance, housing search, mediation, outreach to property owners, legal services, security on utility deposits, and moving costs; and to support entities that offer an integrated array of services to meet the health, housing, employment, and other basic needs of Persons Experiencing Homelessness.
- C. **Program Guides.** MaineHousing shall publish on MaineHousing's website a Program Guide with respect to each Program and shall distribute the Program Guide to parties who may be eligible for the Program and who have expressed an interest to MaineHousing in connection with the type of activities eligible under the Program, to parties MaineHousing selects for marketing the particular Program, and upon request.

6. Funding

- A. **Processing of Applications.** MaineHousing may process applications on a first come first served basis or may set an application due date described in the Program Guide for submission for review by a scoring committee. The selection process will be outlined in the Program Guide.
- B. **Selection for Funding.** MaineHousing shall retain final discretion as to whether or not to offer funds to a particular Applicant for a particular purpose.
- C. **Availability of Funds.** Grants are always subject to the availability of funds.
- D. **Selection Criteria.** MaineHousing will set forth requirements and selection and approval criteria germane to a particular Program in the applicable Program Guide. Selection criteria may include but are not limited to the following:
 - i. **Mainstream Resources**
 - 1. how well the Applicant assists clients in the completion and submission of applications for Mainstream Resources; and
 - 2. how well the Applicant captures the results of the actual benefits received.
 - ii. **Housing**

1. how well the Applicant assists clients in the completion and submission of applications for client appropriate housing;
2. how well the Applicant assists clients with housing searches;
3. how well the Applicant assists clients with landlord relationships; and
4. how well the Applicant has developed and maintained effective working relationships with local General Assistance offices in assisting clients with access and applications.

iii. **Health Care**

1. Applicant's relationships and links with one or more local health care providers who provide treatment for clients; and
2. Applicant's ability to provide or refer clients for mental health or substance abuse assessments and treatment.

iv. **Employment**

1. how well the Applicant assists clients with employment searches, including registering with Maine's Job Bank;
2. how well the Applicant has developed and maintained effective working relationships with local Career Centers in assisting clients; and
3. how well the Applicant has developed and maintained effective working relationships with local employers or employment agencies in assisting clients.

v. **Prevention**

1. Applicant's knowledge of and ability to refer clients to Pine Tree Legal Assistance for eviction prevention and other legal assistance; and
2. Applicant's knowledge of and ability to actively refer clients to other local and regional resources, as appropriate.

7. **Data Collection Requirements**

In order to receive funding, eligible Applicants must do the following, unless prohibited by VAWA:

- A. Enter into an Agency Participation Agreement to share certain Homeless Management Information System (HMIS) data with other Emergency Shelters and other providers of services for Persons Experiencing Homelessness;
- B. Enter client data as prescribed by MaineHousing and HUD in accordance with requirements set forth in the HMIS Data Standards as revised, and the HEARTH Act, and

ensure data completeness and quality in regard to program performance measures on a monthly basis and submit reports as prescribed by MaineHousing or HUD;

- C. Enter client data on outcomes and housing stability as prescribed by MaineHousing or HUD, which will be used for performance measurement, research, or evaluation;
- D. Have the capacity to enter client level data into the system of the CoC designated vendor for HMIS data entry; and
- E. Submit de-duplicated aggregate reports as required by MaineHousing.

Providers of shelter to victims of domestic violence are required to have the capacity of a comparable database that collects client level data and provides aggregate, de-duplicated data to MaineHousing in electronic form.

8. Reporting Requirements

- A. **General Reporting Requirements.** An Applicant who receives a grant (“Grantee”) must provide client data prescribed by MaineHousing in a form or forms prescribed by MaineHousing to centralized data collection systems prescribed by MaineHousing as often as required by MaineHousing.
- B. **Missing Reports or Data.** A Grantee must provide all reports and all required client data in accordance with the reporting requirements at the time of funds disbursement in order to receive funding.
- C. **Complete Report.** A report will not be considered submitted unless MaineHousing determines that the report is sufficiently complete and all client data is valid.
- D. **Final Reports.** A Grantee must submit a final report showing its use of a grant within 30 days of the end of the term of the grant.

9. Monitoring and Assessment.

- A. MaineHousing will review for program compliance at least every two years at reasonable times.
- B. MaineHousing may copy and examine all of a Grantee’s records other than medical or other confidential client information protected by privacy laws.
- C. Grantees will maintain records sufficient to meet monitoring and auditing requirements of MaineHousing and HUD including without limitation daily rosters and client files.

In the case of a physical shelter program facility, MaineHousing will inspect to a minimum for compliance with HUD’s minimum emergency shelter standards pursuant to [24 CFR §576.403\(b\)](#).

10. Rule Limitations

- A. **Other Laws.** If this Rule conflicts with any provision of federal or state law, the federal or state law shall control.

- B. **Waivers.** Upon determination of good cause, the Director of MaineHousing or the Director's designee may, subject to statutory limitations, waive any provision of this Rule. Each waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.
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BASIS STATEMENT: This Rule repeals and replaces in its entirety the current *Homeless Solutions Rule*. MaineHousing uses funds from certain federal and state resources to give grants to agencies for a variety of activities to assist people who are experiencing homelessness or the risk of becoming homeless. The Rule governs MaineHousing's allocation of resources for such programs. The new Rule (i) revises and updates language where appropriate; (ii) adds language regarding the new regionalized homeless response system; (iii) addresses concerns regarding bed utilization; and (iv) makes changes to the funding formula allocation.

PUBLIC COMMENT:

Process:

Notice of Agency Rule-making Proposal (MAPA-3) was published in the edition of the appropriate newspapers. Additionally, MaineHousing sent the proposed rule to Interested Parties on, and published the proposed rule on its website on September 28, 2022.

MaineHousing held a public hearing on Tuesday, October 18, 2022, to receive testimony on its proposal to repeal and replace the Rule. The comment period was held open until 5:00 p.m. on Friday, October 28, 2022. MaineHousing received comments from _____

Summary of Comments and Responses to Comments:

STATUTORY AUTHORITY: 30-A M.R.S.A. §§4741 (1) and (18); 42 U.S.C.A. §§11301, *et seq.*

EFFECTIVE DATE: