Present

Representing Veterans in Housing Matters:
An Introduction to Military Cultural Competency
and Special Housing Programs for Veteran Clients

Wednesday, September 29, 2021
3:00 pm - 5:00 pm
Fordham Law School | CLE Program
via Zoom Webinar

CLE COURSE MATERIALS
FEERICK CENTER FOR SOCIAL JUSTICE

Representing Veterans in Housing Matters: An Introduction to Military Cultural Competency and Special Housing Programs for Veteran Clients

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TIMED AGENDA

3:00pm – 3:05pm  Introductions

3:05pm – 3:10pm  The Importance of Screening for Military Service - Peter Kempner

3:10pm – 3:35pm  Veteran/Military Cultural Competency - Captain Art Cody

3:35pm – 4:00pm  VA Benefits 101/NYS DVS - Benjamin P. Pomerance

4:00pm – 4:40pm  Veterans Homeless Prevention Programs - Alexander J. Brandes and Carla M. Guzmán
  ● HUD-VASH Section 8
  ● Supportive Services for Veteran Families (SSVF)
  ● Post 9/11 GI Bill
  ● VA Homelessness Prevention Programs

4:40pm - 4:50pm  Other Considerations in Representing Veterans - Alexander J. Brandes and Carla M. Guzmán
  ● Service Member Civil Relief Act
  ● State and Local Human Rights Laws
  ● Veterans Preferences in Affordable Housing
  ● Working with Government Agencies and VSOs

4:50pm – 5:00pm  Questions and Answers - Peter Kempner
Biographies of Presenters

Speakers:

Alexander J. Brandes is a Senior Staff Attorney with Legal Services of the Hudson Valley. Mr. Brandes joined Legal Services of the Hudson Valley in November of 2013, joining the Veterans and Military Families Advocacy Project that was created the prior year. Since November of 2013, Mr. Brandes has represented Veterans in a wide range of general practice cases, including landlord-tenant disputes, debtor-creditor disputes, applications for public assistance benefits from the Department of Social Services, and applications for disability benefits with the Social Security Administration and the Department of Veterans Affairs. In that time, Mr. Brandes and the Veterans Unit at Legal Services of the Hudson Valley have partnered and coordinated services with WestCOP and its Supportive Services for Veteran Families program in order to provide the best possible care to Veteran clients. Mr. Brandes graduated cum laude from Brooklyn Law School in 2011, where he was named an Edward V. Sparer Public Interest Law Fellow. He graduated with a Bachelor of Arts from the University of Virginia in 2001 and a Master of Education from the University of Virginia in 2005. He taught English in the Brooklyn public schools from 2001-2003 and 2005-2008.

Captain Art Cody, USN (Ret.) is the Director of Criminal Programs at VAP. His military career spans over 30 years and he has served worldwide. Art began his career as an Army helicopter pilot followed by a similar role in the U.S. Navy Reserve flying for a Strike Rescue/Special Operations Squadron. He served aboard USS Enterprise (CVN-65) in the initial response to the 9/11 attacks and was most recently deployed to Afghanistan (2011-2012) as the Staff Director of the Rule of Law Section, U.S. Embassy Kabul. As a civilian lawyer, he has represented criminal clients for over 20 years and is former chair of the Capital Punishment Committee of the New York City Bar Association. He frequently presents nationally on the defense of veterans, provides counsel to lawyers for capitally charged or sentenced veterans, and served as lead counsel in a veteran capital clemency hearing. In addition to an Aerospace Engineering degree from West Point, Cody graduated magna cum laude from Notre Dame Law School where he was the Executive Editor of the Notre Dame Law Review and founded the Notre Dame Coalition to Abolish the Death Penalty. He is a recipient of the New York City Bar Association’s Thurgood Marshall Award for Capital Representation, the Four Chaplains Legion of Honor Humanitarian Award for Lifetime Service, and the New York State Bar Association’s 2019 David S. Michaels Award for his representation of veterans in criminal courts. His military decorations include the Navy Bronze Star Medal, Meritorious Service Medal, Naval Aviator Badge, Army Aviator Badge, Army Parachutist Badge, and the German Armed Forces Parachutist Badge. Additionally, he received the State Department’s Meritorious Honor Award for his service in Kabul.

Carla M. Guzmán is the Supervising Attorney for the civil practice at the Veteran Advocacy Project. She has many years of housing law experience as a staff attorney and a supervising attorney at RiseBoro Community Partnership (formerly Ridgewood Bushwick Senior Citizens Council) and as a supervising attorney at New York Legal Assistance Group. She is fluent in Spanish and is committed to working with underserved communities. Carla received her J.D. from
CUNY School of Law in 2007 and graduated *cum laude* from the University of Texas at San Antonio, where she received a B.A. in Anthropology.

**Peter Kempner** is the Legal Director and Director of the Elderly Project at Volunteers of Legal Service (VOLS), where he has worked since May 2018 and oversees VOLS’ legal projects. Mr. Kempner has practiced at all levels of the New York State Court system and his work focuses on a population-based approach to providing legal services to under-resourced communities.

Prior to working at VOLS, he held various roles at Brooklyn Legal Services, where he worked from September 2001 until May 2018. Mr. Kempner was a Senior Staff Attorney and Government Benefits Specialist in the Comprehensive Rights/HIV Unit from 2001 until 2011 where he provided general legal services to HIV positive clients. In May 2011, Mr. Kempner helped create the Veterans Justice Project at Brooklyn Legal Services, an innovative general practice legal services project focusing on veterans, active duty military personnel and their families. He became Director of the Veterans Justice Project and Deputy Director of the Housing Unit in March 2015.

At VOLS he helped create the VOLS Veterans Initiative and the VOLS COVID-19 Frontline and Healthcare Workers Initiative. Both projects focus on end of life and incapacity planning for their targeted populations.

He received his J.D. from the Benjamin N. Cardozo School of Law at Yeshiva University in 2001 and was admitted to the New York State Bar in 2002. He received his B.A. in Political Science from the State University of New York College at Purchase in 1996 and he received an M.A. in Political Management from the Graduate School of Political Management at The George Washington University in 1998.

He has served as a member of the Social Welfare Law Committee of The Association of the Bar of the City of New York from 2007 until 2013 and served as the Chairperson of the Committee from 2013 until 2016. He now serves as a member of the City Bar’s Military and Veterans Affairs Committee. He served on the Advisory Committee to the Brooklyn Veteran Treatment Court from 2012 until 2018, was a member of the New York State Bar Association’s Committee on Veterans from 2013 until 2017 and rejoined that committee in 2020. He also co-chairs the New York City Veterans Law Working Group through the Feerick Center for Social Justice at Fordham Law School.

Mr. Kempner is an adjunct clinical professor at New York Law School where he created and has co-taught their Veterans Justice Seminar and Field Placement since August 2015.

Mr. Kempner is admitted to practice in the Eastern and Southern Districts of New York and is accredited to practice before the United States Department of Veterans Affairs.

**Benjamin P. Pomerance**, Esq., is the Deputy Director for Program Development for the New York State Division of Veterans’ Affairs. In this role, he serves as the Deputy General Counsel for the agency, as well as working as the agency’s Legislative Liaison and overseeing several of the Division’s programming initiatives. His work focuses on advocacy and assistance for Veterans, Service members, and their families on a wide range of federal and state issues. He also leads
Governor Cuomo’s Law School Consortium project, facilitating programs at New York State’s law schools offering pro bono legal services for Veterans.

Apart from his work for the Division, scholarly journals at Albany, Belmont, Delaware, Florida Coastal, Gonzaga, Hamline, Ohio Northern, Marquette, and Maryland law schools have published or will soon publish Benjamin’s articles on topics ranging from elder law to the federal judiciary to freedom of speech in post-revolutionary governments. He also contributed a chapter to an internationally published elder law anthology. The U.S. Court of Appeals for Veterans’ Claims has cited his written work about the United States Department of Veterans Affairs’ federal fiduciary system.

His recent speaking engagements include panel discussions at the 2016 and 2015 international Law & Society Conferences, the International Elder Law & Policy Conference, and the International Conference on Contracts, as well as leading and moderating programs in every region of New York State regarding benefits and services for Veterans and their families.

Benjamin graduated as the salutatorian of his class from Albany Law School in 2013. While at Albany Law, he founded and directed the school’s Veterans’ Rights Pro Bono Project, for which he received the “President’s Pro Bono Service Award” from the New York State Bar Association. He served as the Executive Editor for Symposium for the Albany Law Review, led the school’s student chapter of the National Academy of Elder Law Attorneys, and published a report about human rights concerns confronting America’s aging prison population as an Edgar & Margaret Sandman Fellow with the Government Law Center.

Apart from his work in the law, Benjamin is an avid arts journalist with more than 500 published articles, a pursuit for which he has received first-place awards in feature writing from the New York State Press Association.
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   A. Veteran/Military Cultural Competency - *Captain Art Cody*  
   B. VA Benefits 101/NYS DVS - *Benjamin P. Pomerance*  
   C. Veterans Homeless Prevention Programs – *Alexander J. Brandes* and *Carla M. Guzmán*  

II. *Porter v. McCollum* (excerpt)  

III. NPR Podcast Examine Divide Between Civilians and Military (publicly available podcast by National Public Radio); also at [https://www.npr.org/2021/05/31/1001936405/npr-podcast-examines-divide-between-civilians-and-military](https://www.npr.org/2021/05/31/1001936405/npr-podcast-examines-divide-between-civilians-and-military).  

IV. Federal Register: Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program (publicly available Notice by the Housing and Urban Development on 03/23/2021); also at [https://www.federalregister.gov/documents/2012/03/23/2012-7081/section-8-housing-choice-vouchers-revised-implementation-of-the-hud-va-supportive-housing-program](https://www.federalregister.gov/documents/2012/03/23/2012-7081/section-8-housing-choice-vouchers-revised-implementation-of-the-hud-va-supportive-housing-program)  

V. Federal Register: VA Homeless Providers Grant and Per Diem Program (publicly available Rule by the Veterans Affairs Department on 06/25/2021); also at [https://www.federalregister.gov/documents/2021/06/25/2021-13272/va-homeless-providers-grant-and-per-diem-program](https://www.federalregister.gov/documents/2021/06/25/2021-13272/va-homeless-providers-grant-and-per-diem-program)  

Art Cody
Captain United States Navy (Retired)
Veteran Advocacy Project
acody@veteranadvocacy.org
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One, but not the same....
YOUR TYPICAL VETERAN?
OR THIS...
The Branches

- Army
- Marine Corps
- Navy
- Air Force
- Coast Guard
CULTURAL DIFFERENCES IN MILITARY BRANCHES

Army (Soldiers)- “Army Strong”
- Think ‘Subordinate member of larger team’, practice of the art of war by the brotherhood of arms, Ground Combat focus, full-spectrum combat operations, largest of branches.

Navy (Sailors)- “A Global Force for Good”
- Think ‘Independence & Tradition’, Sea power, frequent competition between surface ships, naval airpower/carriers, and submarines, more rigid separation between officer/enlisted corps.

Marine Corps (Marines)- “Semper Fidelis”
- Think ‘Small, unique, elite’, Expeditionary and amphibious mindset. Combined arms (air, land, sea capability), independent, self-contained, self-reliant warrior who is used to and prefers to fight alone. Arguably has the most esprit de corps of all the services.

Air Force (Airmen)- “Aim High: Fly, Fight Win”
- Think ‘Technology’. Strategic air power, intelligence, cyber, missiles, and space. Most officer centric of branches, “Newest” of branches.

Coast Guard (Coast Guardsmen)- “Born Ready”
- Think ‘Unique Capabilities’. After 9/11 became part of the Department of Homeland Security. During war the USCG can operate under the DoD as a service in the Department of the Navy if Congress declares war or at the request of the President. Only service with statutory authority to enforce US domestic laws. Elements can be deployed overseas to support contingency operations.
Components

Active Duty 24/7/365
In 2000, Charles Cragin, a former Assistant Secretary of Defense for Reserve Affairs, summed up the changing role of the reserve components in the following words: "The role of our Reserve forces is changing in the United States. We have seen their traditional role, which was to serve as manpower replacements in the event of some cataclysmic crisis, utterly transformed. They are no longer serving as the force of last resort, but as vital contributors on a day-to-day basis around the world."
Reserve (Federal Only)
National Guard (State and Federal)
# Rates/Ranks

## Rank Insignia of the U.S. Armed Forces

### Enlisted

<table>
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<th>Ranks</th>
<th>Army</th>
<th>Marine Corps</th>
<th>Air Force</th>
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### Officers

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<td>0-3</td>
<td>Captain (O-3)</td>
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<td>General (O-10)</td>
<td>General (O-10)</td>
<td>General (O-10)</td>
</tr>
</tbody>
</table>
Enlisted personnel typically do the following:
- Participate in, or support, military operations, such as combat or training operations, or humanitarian or disaster relief
- Operate, maintain, and repair equipment
- Perform technical and support activities
- Supervise junior enlisted personnel

Officers typically do the following:
- Plan, organize, and lead troops and activities in military operations
- Manage enlisted personnel
- Operate and command aircraft, ships, or armored vehicles
- Provide medical, legal, engineering, and other services to military personnel
Senior NCO’s
MOS = JOB

Combat: Ex. Armor, Artillery, Infantry

Combat Support
Ex. Military Police, Signal Corps, Military Intelligence

- Combat Service Support
  - Ex. Chaplain, JAG, Finance, Medical, Transportation
### Table 1. Active-duty enlisted personnel by broad occupational group and branch of military, and Coast Guard, June 2019

<table>
<thead>
<tr>
<th>Enlisted Occupational group</th>
<th>Army</th>
<th>Air Force</th>
<th>Coast Guard</th>
<th>Marine Corps</th>
<th>Navy</th>
<th>Total enlisted personnel in each occupational group</th>
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<td>Administrative</td>
<td>5,015</td>
<td>13,937</td>
<td>—</td>
<td>10,490</td>
<td>19,147</td>
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<td>Combat Specialty</td>
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<td>666</td>
<td>—</td>
<td>27,661</td>
<td>9,151</td>
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<td>Construction</td>
<td>14,581</td>
<td>4,509</td>
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<td>5,235</td>
<td>3,976</td>
<td>28,301</td>
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<td>Electronic and Electrical Equipment Repair</td>
<td>26,851</td>
<td>28,806</td>
<td>—</td>
<td>7,415</td>
<td>45,005</td>
<td>108,077</td>
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<td>Engineering, Science, and Technical</td>
<td>35,907</td>
<td>48,426</td>
<td>—</td>
<td>22,258</td>
<td>42,486</td>
<td>149,077</td>
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<td>Healthcare</td>
<td>25,303</td>
<td>14,888</td>
<td>—</td>
<td>—</td>
<td>25,732</td>
<td>65,923</td>
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<td>Human Resource Development</td>
<td>15,424</td>
<td>13,035</td>
<td>—</td>
<td>8,267</td>
<td>4,026</td>
<td>40,752</td>
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<td>Machine Operator and Production</td>
<td>4,172</td>
<td>5,957</td>
<td>—</td>
<td>2,370</td>
<td>9,761</td>
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<td>Media and Public Affairs</td>
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<td>1,541</td>
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<td>Protective Service</td>
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<td>33,832</td>
<td>—</td>
<td>9,469</td>
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<td>Support Service</td>
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<td>1,661</td>
<td>8,992</td>
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<td>Transportation and Material Handling</td>
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<td>—</td>
<td>21,440</td>
<td>36,534</td>
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<td>Vehicle and Machinery Mechanic</td>
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<td>16,052</td>
<td>48,138</td>
<td>149,481</td>
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<td>Non-occupation or unspecified coded personnel</td>
<td>28,161</td>
<td>21,235</td>
<td>—</td>
<td>31,186</td>
<td>5,384</td>
<td>85,966</td>
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<td><strong>Total enlisted personnel for each military branch and Coast Guard</strong></td>
<td>375,600</td>
<td>262,986</td>
<td>32,436</td>
<td>165,045</td>
<td>275,474</td>
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**SOURCE:** U.S. Department of Defense, Defense Manpower Data Center
Major US Ground Operations Since 1990

- [Link](https://en.wikipedia.org/wiki/Timeline_of_United_States_military_operations)
- 1990-1991 Desert Shield/Storm
- 1991-1996 Provide Comfort
- 1993 Mogadishu
- 1992-1996 Bosnia and Herzegovina
- 1999 Serbia
- 2001-Present Afghanistan
- 2003-2011 Iraq
The way they think . . .

WARRIOR ETHOS

I will always place the mission first.
I will never accept defeat.
I will never quit.
I will never leave a fallen comrade.
ALWAYS TRAINING

Train – War / War – Train
Basic Training
Schooling
PT
Discipline
Combatives
Teamwork
Weapons/knives/hands/ground fighting
HOME FROM WAR

- Transition – first 6 months
- PTSD/TBI
- Guilt
- Missing the Rush
- Family/Job (Loss of mission/role)
- I should just go back
- No one has your ‘6’
- Prescription Drugs
- Trigger words/smells
- Language – profanity
- Getting help is a sign of weakness “Army Strong”
UNDER FIRE?
CALL FOR SUPPORT

ART CODY, Esq.
Captain, USN (Ret)
Veteran Advocacy Program
1 Liberty Plaza, 23rd Floor
New York, NY 10006
acody@veteranadvocacy.org
CELL: 201-312-4644
Veterans’ Benefits Advocacy To Avoid Homelessness

FORDHAM LAW SCHOOL
SEPTEMBER 29, 2021
Talking VA’s Language

“VETERAN”
38 U.S.C. 101(2)

“[A] person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.”

Combat service is NOT required.
Deployments outside the United States are NOT required.
Service for a certain number of years is NOT required.
Why It Matters

Many Veterans do not realize that they are Veterans – and never receive the benefits and services that they have earned.

Many advocates never realize that they are working with a Veteran, either.

Ask the question. “Have you served?”
A lower-than-honorable character of discharge does not automatically mean that the Veteran did something terrible in the military.

A lower-than-honorable character of discharge also does not automatically bar a Veteran from all benefits.

E.g., Mental Health, Sexual Orientation, AWOL, etc.
Why It Matters

Many Veterans are told — even by other Veterans! — that they cannot ever get any benefits or services because they have a less-than-honorable discharge.

Don’t end the inquiry there. Get the whole story. Then compare the facts with the law to see if there is room for advocacy.
Talking VA’s Language

“HOMELESS”
42 U.S.C. 11302

Lacks a fixed, regular and adequate nighttime residence, or

Has a primary nighttime residence that is a public or private place not designated for or ordinarily used as a regular sleeping accommodation, or

Lives in a shelter
Why It Matters

VA will expedite a claim for a Veteran who is homeless or at imminent risk of becoming homeless.

This is NOT discretionary. VA MUST do this if notified that a Veteran is homeless or at risk of imminent homelessness.
Why It Matters

VA offers special pathways to health care services for Veterans who are homeless or at imminent risk of becoming homeless.

“Health Care For Homeless Veterans” program . . . bridge housing, health care, and case management services for any Veteran eligible for VA healthcare.
Talking VA’s Language

“COMPENSATION”

Picture a stool with three legs.

Leg #1: Military Service
Leg #2: Current Disabling Condition
Leg #3: Nexus Between Military Service & Current Disability

Build all three legs of the stool = Tax-free monthly payments for that Veteran
Federal estimates show that more than 50% of Veterans who are homeless have at least one chronic disability.

Prove that this disability is linked to military service, and that Veteran can receive tax-free monthly payments. Life-changing.
Talking VA’s Language

“AT LEAST AS LIKELY AS NOT”

Burden of Proof in a claim for VA benefits

NOT beyond a reasonable doubt
NOT by clear and convincing evidence
NOT by a preponderance of the evidence

Needs to be a 50% likelihood. “Tie goes to the Veteran.”
Why It Matters

Veterans — and advocates — often believe that a claim has to offer ironclad evidence for the VA to grant it.

This is not what the law says. “At least as likely as not” gives benefit of the doubt to the Veteran.

*When in doubt, file that claim.*
Talking VA’s Language

"PENSION"

Monthly benefit for wartime Veterans with low income, limited assets, and a permanent & total disability.

Wartime service does not require combat service. It simply requires active duty service during a time when the United States was deemed to be “at war.”

Permanent & total disability does not need to be caused or worsened by military service.

Successful claim = Tax-free monthly payment from the VA
Why It Matters

Many Veterans confronting homelessness have one or more permanent & total disabilities that are not caused by their military service.

If they served during wartime, then pension will be a benefit for which they are likely to be eligible.
Talking VA’s Language

“VETERAN READINESS & EMPLOYMENT”
TITLE 38, CHAPTER 31, UNITED STATES CODE

VA career-focused program that can offer:

** Individualized vocational counseling from VA experts

** Funding for tuition & more at VA-approved colleges, universities, and vocational programs

** Resume training, job training, & work readiness help

** Supportive rehabilitation services (counseling, med. Referrals, etc.) & independent living resources
To qualify, Veteran must have:

** Disability compensation rating of at least 20%, OR a rating of at least 10% with proof that the condition caused a “serious employment handicap.”**

** A specific employment objective

IF discharged before 1/1/13, Veteran must apply within 12 yrs. of discharge or qualifying disability comp. rating. If discharged on or after that date, no deadline to apply!
Why It Matters

Many Veterans have heard about the G.I. Bill . . . but know nothing about the opportunities that the Veteran Readiness & Employment program can offer to them.

The individualized career-focused services that this program provides can be a life-changing, life-stabilizing force for a Veteran.
Since 2019, lawful source of income has been a protected class in New York State.

Landlords and other housing providers across New York State cannot discriminate against renters in making housing decisions based on their use of a voucher or rental subsidy as their method of payment.

This has a tremendous impact on Veterans & their families.
Why It Matters

Many Veterans seek to rent using housing vouchers (e.g., HUD-VASH Program) or Basic Allowance for Housing subsidies.

Before 2019, housing providers could refuse to rent to these Veterans on the basis of their source of income.

Complaints of violations go to NYS Division of Human Rights
Talking Your Language

WHAT CAN YOU DO TO HELP?

EACH OF YOU CAN DO AT LEAST THREE THINGS

#1. Ask The Question.

“Have you or a member of your immediate family ever served in the United States Military?”

Make it part of your intake process.

Ask it to everyone.

Don’t assume that someone doesn’t “look like a Veteran.”
Talking Your Language

WHAT CAN YOU DO TO HELP?
EACH OF YOU CAN DO AT LEAST THREE THINGS

#2. Know Your Resources
New York State Division of Veterans’ Services
60+ field offices statewide
1-888-838-7697
www.veterans.ny.gov

We are not the only game in town. If you connect with another credible resource, that is excellent as well.
Talking Your Language

WHAT CAN YOU DO TO HELP?
EACH OF YOU CAN DO AT LEAST THREE THINGS

#3. Make A “Warm Handoff”

Connect the Veteran with the resource(s) that can provide the best services to address their needs.

Do not simply hand the Veteran a brochure, a phone number, a Web address, or anything else. Take the extra steps to make the connection with the resource(s) for the Veteran. This can make all the difference in the world.
Why It Matters

Your service to Veterans can change their lives – and even save their lives.

They have served us. We now hold the ability to serve them.

Thank you for your service.
Questions??

Benjamin Pomerance, Esq.
Deputy Director for Program Development
New York State Division of Veterans’ Services
(518) 474-6114
benjamin.pomerance@veterans.ny.gov
Housing Programs for Veterans

Alexander Brandes, Legal Services of the Hudson Valley
Carla M. Guzmán, Veteran Advocacy Project

September 29, 2021
Holistic Approach

• What interactions have clients had with programs for veterans?
  • What benefits are they receiving?
• What programs do they not know about? / What referrals might be available?
  • Housing specific: SSVF, VA homeless services ...
  • General: VA pension
Representation in Court

• Not really distinct from representation of non-veteran clients
• No different substantive laws for veterans in public or private housing eviction proceedings
• Practice Tip – you should mention in your papers (motion/affidavit/etc. that your client is a veteran and additional information if client consents to it.
  • Ex: Respondent is a disabled veteran of the United States Army.
VA-Issued Section 8 Voucher

- Generally available (when vouchers are available) to veterans who are currently homeless.
  - Not generally possible to refer someone to the program in the course of a housing case
- Veterans sometimes choose to become homeless in order to obtain a voucher
Voucher
  • Administered by Public Housing Authority

Case Management
  • Provided by VA or VA contractor

Each element is important for housing representation
  • But they are distinct
Housing Benefits: HUD VASH
*Program Description*

**HUD**
- housing voucher
- financial assistance
- PHA
- rent share

**VA**
- Case management
- Chronically homeless
- Treatment services
Housing Benefits: HUD-VASH

*Eligibility - VA requirements*

- eligible for VA healthcare benefits;
- need for case management services;
- meet the McKinney-Vento definition of homelessness
Housing Benefits: HUD-VASH

Eligibility - PHA requirements

- HUD income criteria;
- sex offender restriction
Housing Benefits: HUD VASH

*Important Protections*

- prohibition on discrimination;
- housing quality standards;
- notice requirements;
- pleading requirements;
- tenant share
Termination of Voucher

- Decision is the VA’s
  - Should be subject to challenge via Notice of Disagreement
- PHA in LSHV service area does not generally terminate HUD VASH vouchers unless VA does so
Termination by VA
  • Failure to comply with program rules
  • Inability to live independently

Challenge by Reasonable Accommodation Request
  • To convert voucher to non-HUD-VASH
Supportive Services for Veteran Families (SSVF)
SSVF Overview

- Provides housing stability to Veterans and their families who are either literally homeless or at-risk of becoming homeless
- Funded by the Department of Veterans Affairs
- There are SSVF programs in every county in the United States
- VA awards grants to non-profits. The past several years the VA has only allowed existing grantees to apply for funds
- Grantees provide supportive services to low-income Veteran households who are either literally homeless or at-risk of becoming homeless
### SSVF New York Service Providers

<table>
<thead>
<tr>
<th>NY</th>
<th>12-NY-060</th>
<th>HELP Social Service Corporation (NY-600) New York City CoC</th>
<th>New York, Kings, Bronx, Queens, and Richmond Counties in New York</th>
<th>646-619-3275</th>
<th><a href="mailto:ssvfny@helpusa.org">ssvfny@helpusa.org</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>NY</td>
<td>12-NY-063</td>
<td>Community Opportunity Program, Inc. (WestCOP) (NY-602) Newburgh, Middletown/Orange County CoC; (NY-604) Yonkers, Mount Vernon</td>
<td>Dutchess, Orange, Rockland, Sullivan, Ulster and Westchester-Putnam Counties in New York</td>
<td>914-664-8680</td>
<td><a href="mailto:svaughn@westcop.org">svaughn@westcop.org</a></td>
</tr>
<tr>
<td>NY</td>
<td>13-NY-119</td>
<td>Catholic Charities of the Roman Catholic Diocese of Syracuse NY (NY-505) Syracuse, Auburn/Onondaga, Oswego, Cayuga Counties CoC</td>
<td>Onondaga County in New York</td>
<td>315-424-1800</td>
<td><a href="mailto:relocationassistance@ccoc.us">relocationassistance@ccoc.us</a></td>
</tr>
<tr>
<td>NY</td>
<td>13-NY-121</td>
<td>Soldier On of Delaware, Inc. (NY-501) Elmira/Steuben, Allegany, Livingston, Chemung, Schuyler Counties CoC</td>
<td>Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Schuyler, Seneca, St. Lawrence, Steuben,</td>
<td>866-406-8449</td>
<td><a href="mailto:ssvfintake@wesoldieron.org">ssvfintake@wesoldieron.org</a></td>
</tr>
<tr>
<td>NY</td>
<td>14-NY-249</td>
<td>Utica Center for Development, Inc. (NY-518) Utica, Rome/Oneida, Town/Broome, Otsego, Chenango, Delaware, Cortland, Tioga Counties CoC</td>
<td>Oneida, Madison, Herkimer, Otsego, Jefferson, St Lawrence, and Lewis Counties in New York.</td>
<td>315-765-0975</td>
<td><a href="mailto:frontdesk@ucdevelopment.org">frontdesk@ucdevelopment.org</a></td>
</tr>
<tr>
<td>NY</td>
<td>14-NY-250</td>
<td>The Jericho Project (NY-600) New York City CoC</td>
<td>Bronx, Kings, New York, Queens, and Richmond Counties in New York.</td>
<td>347.468.8462</td>
<td><a href="mailto:ssvf@jerichoproject.org">ssvf@jerichoproject.org</a></td>
</tr>
<tr>
<td>NY 14-NY-253</td>
<td>Pathstone Corporation</td>
<td>(NY-508) Buffalo, Niagara Falls/Erie, Niagara, Orleans, Genesee, Wyoming Counties CoC</td>
<td>Erie and Niagara Counties in New York</td>
<td>7167855480</td>
<td>j <a href="mailto:puff@pathstone.org">puff@pathstone.org</a></td>
</tr>
<tr>
<td>NY 14-NY-254</td>
<td>Economic Opportunity Council of Suffolk, Inc.</td>
<td>(NY-502) Albany City &amp; County CoC; (NY-507) Schenectady City &amp; County CoC; (NY-512) Troy/Rensselaer County CoC</td>
<td>Albany, Troy, Rensselaer and Schenectady Counties in New York.</td>
<td>518-694-0639</td>
<td><a href="mailto:d.sosa@ahcvets.org">d.sosa@ahcvets.org</a></td>
</tr>
<tr>
<td>NY 14-NY-256</td>
<td>Albany Housing Coalition, Inc.</td>
<td>(NY-503) Nassau, Suffolk Counties CoC</td>
<td>Suffolk County in New York</td>
<td>631-289-2601</td>
<td><a href="mailto:kvaiana@eoc-suffolk.com">kvaiana@eoc-suffolk.com</a></td>
</tr>
<tr>
<td>NY 18-NY-062</td>
<td>Services for the UnderServed, Inc.</td>
<td>(NY-504) Springfield/Hampden County CoC; (MA-507) Pittsfield/Berkshire, Franklin, Hampshire Counties CoC; (NY-501)</td>
<td>Bronx, Kings, Nassau, New York, Queens, Richmond and Suffolk Counties in New York.</td>
<td>646-790-2449</td>
<td><a href="mailto:services@sus.org">services@sus.org</a></td>
</tr>
</tbody>
</table>
SSVF: Financial Assistance

Direct Payments to Third Parties to Prevent or Remedy Veteran Homelessness

- Rental Arrears Assistance Paid to Landlords
  - Generally up to six months’ assistance
  - Can pay late and legal fees as well
- Best practice is to work directly with program staff to determine assistance eligibility and settle the case once assistance is assured
Payments can be for the purpose of moving a veteran into a home
  • Can be available for housed veterans whose current housing is unsuitable

Suite of services include:
  • Security Deposit
  • First Month’s Rent
  • Broker’s Fee
  • Moving Expenses
SSVF, Practice for Housing Attorneys

Provide client referral to SSVF administrator
  • Note that HUD VASH program participants may contact program through caseworkers

Follow up with office re veteran eligibility

Practice Tip - Attempt to adjourn court proceedings until SSVF eligibility has been determined
  • Opposing counsel hopefully agrees based on prospect of payment
  • Case strategy may depend on availability of assistance
SSVF, Practice for Housing Attorneys

Determine Assistance Being Sought (arrears or relocation; non-rent fees) and whether other sources of assistance will be required

Craft Settlement Terms and Application Materials that suit program needs
  • Simple Ledger
  • W9

Show administrator proposed Stip before signing
SSVF, Practice for Housing Attorneys

Note: Predicate Notice without filed Petition may be sufficient for SSVF to provide assistance

Note: Administrator often provides assistance without attorney involvement

Note: For additional / alternative sources of financial assistance, there may be veteran-specific private charities that can contribute.
Core SSVF Services

- Services are time-limited (usually 6-9 months)
- Case Management Service
- Housing Counseling
- Employment Services
- Assistance Obtaining VA/Public Benefits
- Linkages to Physical Health, Mental Health, and Substance Use Services
- Legal Services
- Transportation
- Budgeting

Temporary Financial Assistance
**SSVF Temporary Financial Assistance (TFA)**

- Payments must help participants remain in or obtain permanent housing.
- Payments must be made to third party, cannot be made directly to veteran.
- Certain limits apply based off guidelines of most recent NOFA and Veteran’s income.

<table>
<thead>
<tr>
<th>Types of Temporary Financial Assistance</th>
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</thead>
<tbody>
<tr>
<td>Rental Arrears and Fees</td>
</tr>
<tr>
<td>Rental Assistance Ongoing</td>
</tr>
<tr>
<td>Security Deposit</td>
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<tr>
<td>Broker’s Fee</td>
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<tr>
<td>Emergency Housing Assistance (Hotels)</td>
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<tr>
<td>Emergency Supplies</td>
</tr>
<tr>
<td>Household Items</td>
</tr>
<tr>
<td>Utilities</td>
</tr>
<tr>
<td>Moving Costs</td>
</tr>
<tr>
<td>Transportation</td>
</tr>
<tr>
<td>Child Care</td>
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<tr>
<td>Employment Trainings, Uniforms, Etc</td>
</tr>
</tbody>
</table>
Participant Eligibility

- Member of a Veteran Family
  - Single Veteran OR
  - Family in which the head of household, or the spouse of the head of household, is a Veteran

- Under 50% Area Median Income (AMI)

- “Occupying Permanent Housing”
  - Literally homeless (in shelter, street homeless, etc.) OR
  - At-imminent risk of becoming homeless/being evicted
Participant Eligibility, cont.

Assistance is to enable the veteran to be stably housed.

• For that reason, veterans who cannot afford to pay ongoing rent are not eligible for assistance.

Also, some veterans will have already exhausted SSVF assistance prior to contacting a legal services provider.
SSVF Denials (Westchester)

Referrals to:
- Wounded Warrior Project 888-997-2586
- Committee for families of war veterans 800-221-4742
- Bridge Fund 914-949-8146
- Catholic Charities 914-237-5098
- https://otda.ny.gov/programs/emergency-rental-assistance/ (apply for rental assistance online)
- People for People
- Catholic Charties
- Jewish Family Service
- Dyson Foundation
- My Cousin Vinny
- Hudson Valley Veterans Alliance
- Soldier On
SSVF Denials (NYC)

Referrals to:

• One-Shot Deal – apply online at https://a069-access.nyc.gov/accesshra/

• HomeBase -

• Private charities –
  • Coalition for the Homeless – (212) 776-2039
  • The Bridge Fund – to refer call Housing Court Answers Helpline (212) 962-4795
Supportive Services for Veteran Families

Have you served in the U.S. Armed Forces and fallen behind on your rent?

Call SSVF today to see if you qualify for rental assistance!

SSVF resources are time limited and subject to funding availability. Eligibility conditions apply.

To receive services under this program, applicants must:

1. Have served in the Active Duty in the U.S. Armed Forces, including members of the guard and reserve who have been activated under federal orders.
2. Currently have very low-income households with income that does not exceed 50% of area median income (as adjusted).

<table>
<thead>
<tr>
<th>New York City Area</th>
<th>Very Low Income (Area Median Income)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York City Area</td>
<td>93,200 84,700 81,000 75,000 66,600 61,200 56,900 52,700 48,800</td>
</tr>
</tbody>
</table>

3. "Occupying Permanent Housing" households who are currently homeless or currently at risk of eviction.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Address &amp; Email</th>
<th>Telephone</th>
<th>Fax</th>
</tr>
</thead>
<tbody>
<tr>
<td>HELP USA</td>
<td>515 East 48th St, New York, NY 10017</td>
<td>646-220-5100</td>
<td>646-220-5100</td>
</tr>
<tr>
<td>Lutheran Housing</td>
<td>295 Street, P.O. Box 8169, New York, NY 10008</td>
<td>212-579-5100</td>
<td></td>
</tr>
<tr>
<td>Service for the Homeless</td>
<td>17 East 14th Street, New York, NY 10003</td>
<td>212-579-5100</td>
<td></td>
</tr>
<tr>
<td>Volunteers of America</td>
<td>400 East 40th Street, New York, NY 10016</td>
<td>212-579-5100</td>
<td>212-579-5100</td>
</tr>
</tbody>
</table>
Veterans enrolled in the program are eligible to have their rent paid for any months that they are taking classes.

Veterans in the program are generally aware of the parameters.
Other Housing Benefits:
Post-9/11 GI Bill

Eligibility:
★ Discharge status
★ Active duty service

Benefits:
★ tuition & fees
★ books & supplies stipend
★ monthly housing allowance
CityFHEPS for Veterans residing in NYC

- Veteran does not have to be in housing court
- Criteria – income eligible at or below 200% FPL
- The household includes someone who served in the U.S. Armed Forces and is at risk of homelessness.
- Refer to local HomeBase for CityFHEPS application
VA Homeless Programs

VA Health Care Campuses have Homeless Programs employees

- Director of Homeless Services at VA Hudson Valley is Paul Stolz

Advocates for veterans facing homelessness can contact VA homeless services advocates for assistance securing resources
Enhanced Shelter Services (Jan Peek) with case management and service coordination with VA

Domiciliary Program: On-Site transitional housing provided by VA
  • Case management provided on-site
  • Pension, HUD VASH applications, etc.

Inpatient medical treatment

Common Ground / Breaking Ground: Closed
Housing Resources for NYC Homeless Veterans

• Borden Avenue Veterans Residence (BAVR) – for male and female veterans
• Porter Avenue – male veterans
Grants and Per Diem Program

The Department of Veterans Affairs’ (VA) Homeless Providers Grant and Per Diem Program (GPD) is offered annually by the VA’s Health Care for Homeless Veterans (HCHV) Programs to fund community agencies providing services to homeless Veterans. The purpose is to promote the development and provision of supportive housing and services with the goal of helping homeless Veterans achieve residential stability, increase their skill levels and income, and obtain greater self-determination. Only programs with supportive housing (up to 24 months) or service centers (offering services such as case management, education, crisis intervention, counseling, services targeted towards specialized populations including homeless women Veterans, etc.) are eligible for these funds.

Prepared by Peter Kempner, Volunteers of Legal Service [2020]
What is The Servicemembers Civil Relief Act (SCRA)?

50 U.S.C. § 3902

The purposes of this Act are

(1) to provide for, strengthen, and expedite the national defense through protection by this Act to Service-members (SM) of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of SM during their military service.
Benefits of The SCRA

- Stays civil proceedings. 50 U.S.C. § 3932
- Allows SM to reopen a default judgment and present a defense. 50 U.S.C. § 3931
- Tolls statutes of limitations. 50 U.S.C. § 3936
- Reduction of interests of debts entered into before active duty to six percent. 50 U.S.C. § 3937
- Protects against evictions and foreclosures. 50 U.S.C. § § 3951-3953
- Allows for termination of certain leases and service contracts. 50 U.S.C. § 3955
Who is Covered by The SCRA?

1) Active duty members of the military.
   - Begins the day that Soldier, Sailor, Airman, or Marine takes the Oath.
   - Date benefits end varies, depending on the provision. Generally, no longer than date service obligation ends (ETS, for enlisted; date of resignation of commission, for officers; or retirement date, for both) + 1 year.
   - Remember SCRA a “shield, not a sword”

2) Members of the Reserves ordered to report for military service (50 U.S.C. § 3917)
3) Members of the National Guard, **only if**:
   - They are converted to active duty status pursuant to Title 10 orders; or
   - They are converted to active duty status pursuant to Title 32 orders AND
     - Orders were authorized by POTUS or SECDEF for purposes of responding to a national emergency, and
     - Orders are for a period of 30+ consecutive days.

3a) Many States have laws that extend SCRA-like coverage to National Guard members on State active status

4) Some non-traditional or non-military personnel.
   - Active Duty Commissioned officers of the Public Health Service and of the National Oceanic Atmospheric Administration.
   - Civilian contractors performing military-like duties with allied military forces (50 U.S.C. § 3914)
Evictions
50 U.S.C. § 3951

Who is covered?
- SM and SM's dependents

What is covered?
- Rented property:
  - Occupied, or intended to be occupied, by the above, and
  - For which, the rent is < 2400/mo. $2400 max has been adjusted annually according to CPI component.

When covered?
- During SM's period of military service
Evictions
50 U.S.C. § 3951 (cont)

● What happens?
  ○ Without a court order, landlord cannot:
    ■ Evict, or
    ■ Subject rented property to distress.
  ○ When landlord applies for court order to authorize eviction, SM still retain protections
    ■ If SM’s military service materially affects ability to pay rent, the court *sua sponte* may or must upon application of SM or someone acting on SM’s behalf, the court must:
      ● Stay proceeding, or
      ○ Generally, for 90 days. Court can alter period in interest of justice
      ● Adjust the least to preserve all parties’ interests.
    ■ Knowing violators are subject to criminal penalties
  ○ Landlord protections
    ■ SECDEF must authorize an allotment (3951(d))
New York State Human Rights Law

New York State Human Rights Law § 292

The term "military status" when used in this article means a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.
New York City Human Rights Law

The New York City Administrative Code Title 8 § 8-102

The law protects people who are currently serving or previously served in the uniformed services. This includes the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, Army National Guard, Air National Guard, NOAA Commissioned Corps, Commissioned Corps of the U.S. Public Health Service, the organized militia of any U.S. state or territory, or U.S. or state military reserves.
Veterans Preferences in Affordable Housing

- **Public Housing**
  Preference limited to veterans and surviving spouses where the military discharge was under conditions other than dishonorable and the service was between February 19, 1961 and May 19, 1971.

- **Mitchell-Lama Housing**
  Preference in admission is given to a member of the armed forces of the United States who served therein in time of war, who was honorably discharged or released under honorable circumstances from such service.
  Private Housing Finance Law § 31(7)
  Preference in admission to a project with an open waiting list, as determined by the commissioner or the supervising agency, shall be given by a mutual company or an urban rental company or by the New York state housing finance agency when subleasing dwellings in projects of such companies pursuant to section forty-four-a of this chapter, to persons or surviving spouses of persons who are veterans as such term is defined pursuant to section eighty-five of the civil service law.
Resources for Veterans

VA
★ medical care
★ support groups
★ case management
★ home loans
★ caregiver support
★ events

844 698 2311
https://www.va.gov/find-locations/

Vet Centers
★ quasi-independent
★ community-based
★ readjustment counseling

877 WAR VETS
https://www.vetcenter.va.gov/
Resources for Veterans

**Federal**
Member of Congress
https://www.house.gov REPRESENTATIVES/FIND-YOUR-REPRESENTATIVE

**State**
Division of Veterans’ Services
https://veterans.ny.gov/
888 838 7696

**Local**
Veterans Service Agency
https://www.orangecountygov.com/624/VETERANS-SERVICE-AGENCY
Vet2Vet
https://mhadutchess.org/services/vet2vet/
Q & A

Alexander Brandes: abrandes@lshv.org
Carla M. Guzmán: cguzman@veteranadvocacy.org

“[o]ur Nation has a long tradition of according leniency to veterans in recognition of their service, especially for those who fought on the front lines as Porter did. Moreover, the relevance of Porter’s extensive combat experience is not only that he served honorably under extreme hardship and gruesome conditions, but also that the jury might find mitigating the intense stress and mental and emotional toll that combat took on Porter.” Porter, 558 U.S. at 43.
The new season of the NPR podcast *Rough Translation* focuses on the growing divide between civilians and the military. NPR's Mary Louise Kelly talks to the podcast co-host Quil Lawrence.

MARY LOUISE KELLY, HOST:

Memorial Day is about the fallen, which is something fewer and fewer Americans have a personal connection to. That's because of a divide between those who serve and those who don't, between civilians and the military. That golf, the civ-mil divide, is the subject of a new season of the NPR podcast *Rough Translation*. NPR's Quil Lawrence co-hosts this season of that podcast, and he's here to tell us more.

Hey, Quil.

QUIL LAWRENCE, BYLINE: Hey, Mary Louise.
KELLY: All right. So just explain a little bit more what exactly we mean when we talk about the civ-mil divide.

LAWRENCE: Yeah. So up until Vietnam, all of America's major wars, the whole country was involved because there was a draft. So the military changed that to an all-volunteer force after Vietnam. But none of us really had to notice until we had another major wars (ph), two wars. And for the next 20 years, America sort of lived in two drastically different realities. For most of us, these two wars that have been going on were on the news, you know, sometimes. But for about 1% of the country, they were going to Iraq and going to Afghanistan. And most of them more than once. And most of them actually had a family connection already to the military.

KELLY: Oh, that's interesting - and that - it's just 1%. So it's - the military is a family tradition, but for very few of us, unlike past generations where it was more of a shared experience for the whole country.

LAWRENCE: Right. And so NPR's Rough Translation podcast did a callout to listeners, and we asked people about the civ-mil divide. The responses we got came overwhelmingly from the military side, and they were eager to talk. And you can listen to a few of them right here.

(SOUNDBITE OF ARCHIVED NPR BROADCAST)

UNIDENTIFIED PERSON #1: This is me. This is me. This is so me.

UNIDENTIFIED PERSON #2: I think we live in sort of increasingly isolated tribes in America.

UNIDENTIFIED PERSON #3: People can forget that we've been at war for 20 years because they were never at war in the first place.

UNIDENTIFIED PERSON #4: When my husband decided to enlist, the response from all of our friends and family, I mean, it was shock, complete shock.
UNIDENTIFIED PERSON #5: I generally don't talk to civilians. I just yell at them.

UNIDENTIFIED PERSON #6: The first thing I tried to do was reason with myself that I've got to have some friends and some connections of people who aren't in the military. And I came to the conclusion that I really don't.

KELLY: Wow. I'm listening, Quil, to that last speaker - no friends who aren't military. And I - it sounds like many Americans might be the exact opposite - civilians who don't really know anyone in the military that well. Why are there not more friendships, more relationships across that divide?

LAWRENCE: I think it's mostly just a lack of knowledge and experience, maybe compounded by a bunch of Hollywood cliches that, you know, veterans have to be either saintly heroes or, on the other hand, you know, PTSD time bombs. And most civilians don't realize - it's not their fault - that the vast majority of troops, for example, never saw combat. Like Dan Price - he served in Afghanistan. And he says he dreads this question, which people do actually ask him, of, did you get shot at?

(SOUNDBITE OF ARCHIVED NPR BROADCAST)

DAN PRICE: I mean, it wasn't trivial just because I didn't get shot at or I didn't shoot back. If I tell them that it's that mild, then I miss all of the anxiety about going out on missions and then all of the sadness of missing family events.

LAWRENCE: So he usually, you know, just deflects with a joke when people ask him, but it leaves him feeling almost, you know, doubting the value of his own service.

KELLY: So we can hear the cost there on a very personal level of him feeling not seen. What about it at a high level? You have commanders in chief. You have other political leaders who are civilians. How does the divide play out at that level?

LAWRENCE: Well, President Joe Biden's late son, Beau, served in Iraq. But none of the post 9/11 presidents have any personal experience at war - Bush, Obama, Trump. And many people wonder if the wars would have lasted so long if the cost was felt by
more of our leaders. For me, the civ-mil divide burst out into the open at a press conference at the White House in 2017. And President Trump's chief of staff, John Kelly - he's a former Marine general - was talking about four soldiers who'd been killed in West Africa.

(SOUNDBITE OF ARCHIVED RECORDING)

JOHN KELLY: Who are these young men and women? They are the best 1% this country produces. Most of you as Americans don't know them.

LAWRENCE: And John Kelly - he was talking about a condolence call to one of the families. And then he starts talking about his own son, who was killed in Afghanistan. Kelly is a Gold Star father, and he's received that visit from a casualty officer. And this is one of the few times he's spoken about it publicly.

(SOUNDBITE OF ARCHIVED RECORDING)

KELLY: Let me tell you what my best friend, Joe Dunford, told me because he was my casualty officer. He said, Kel, he was doing exactly what he wanted to do when he was killed. He knew what he was getting into by joining in - that 1%. He knew what the possibilities were because we're at war.

KELLY: Talking about Joe Dunford, the former chairman of the Joint Chiefs, there. But what was your read, Quil, on what he was trying to do there? Was John Kelly trying to explain to civilians, this is what it feels like from a vet's perspective? Was he trying to reach across this divide?

LAWRENCE: I mean, that's the way it felt at first. I mean, I found it quite moving. But then, it was time for questions. And Kelly made this request.

(SOUNDBITE OF ARCHIVED RECORDING)

KELLY: So I'm willing to take a question or two on this topic. Is anyone here a Gold Star parent or sibling? Does anyone here know a Gold Star parent or sibling? OK, you
LAWRENCE: And Kelly only takes questions from those people. So some military folks told me they thought that this was really dangerous territory. Whether Kelly meant to do this or not, it's a four-star general saying, basically, unless you're connected to military sacrifice, no one on the civilian side of the civ-mil divide can ask me questions about this war.

KELLY: And that - you said that was 2017, right?

LAWRENCE: Yup.

KELLY: Have things changed? Where are we now in 2021 on the civilian-military divide?

LAWRENCE: Yeah. The wars are apparently finally ending, but here at home, there have been some events that were confusing to a lot of civilians. I am thinking about the military role in controlling protests in front of the White House or the high number of vets who were involved on January 6 at the - in the riot at the U.S. Capitol. And the military in the past has been this institution that was usually well-trusted in polls of Americans, but that might be starting to slip. And Americans, because of this divide, they just don't know their military as well as they used to.

KELLY: Yeah. Well, so I - people must be trying to change this, to bridge the divide. As someone who covers veterans, who covers the military, do you think it's possible?

LAWRENCE: Yes. I'm a civilian, and I cross this divide all the time. I'll leave you with one more voice to answer that question. This is Kayla Williams, who's an Iraq vet. She's now an assistant secretary of the Department of Veterans Affairs.

(SOUNDBITE OF ARCHIVED NPR BROADCAST)

KAYLA WILLIAMS: When I first got out of the military, I definitely bought into believing that nobody could understand what I went through if they hadn't worn the
uniform. And I came to reject that idea and believe that civilians have an obligation to try to understand. And that’s the only way we’re going to bridge this, is to try to meet one another halfway.

KELLY: And we should note that is what this new podcast series is all about - the stories of people trying to cross this divide.

Thank you, Quil.

LAWRENCE: Thank you, Mary Louise.

KELLY: Quil Lawrence, co-host of that new season of NPR's Rough Translation podcast. It's called "Home/Front."

(SOUNDBITE OF KYLE DIXON & MICHAEL STEIN'S "FRIENDSHIP")
Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-VA Supportive Housing Program

A Notice by the Housing and Urban Development Department on 03/23/2012

Printed version:
PDF (https://www.govinfo.gov/content/pkg/FR-2012-03-23/pdf/2012-7081.pdf)

Publication Date:
03/23/2012 (/documents/2012/03/23)

Agency:
Department of Housing and Urban Development (https://www.federalregister.gov/agencies/housing-and-urban-development-department)

Document Type:
Notice

Document Citation:
77 FR 17086

Page:
17086-17090 (5 pages)

Agency/Docket Number:
Docket No. FR-5596-N-01

Document Number:
2012-7081
ACTIONS:
Notice.

SUMMARY:
This notice establishes the policies and procedures for the administration of tenant-based Section 8 Housing Choice Voucher (HCV) rental assistance under the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program administered by public housing agencies (PHAs) that partner with local Department of Veterans Affairs (VA) medical facilities. This notice provides new and clarifying guidance regarding certain types of verification documentation, addition of family members after the veteran is a participant in the HCV program, termination of assistance, portability moves within the same catchment area where both PHAs have received HUD-VASH vouchers, portability moves when case management is no longer required, reallocation of HUD-VASH vouchers, and Housing Quality Standards (HQS) initial inspections.

DATES:
Effective date: March 23, 2012.

FOR FURTHER INFORMATION CONTACT:
Michael S. Dennis, Director, Office of Housing Voucher Programs, Office of Public Housing and Vouchers Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410-8000, telephone number 202-708-0477 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:
I. Background

II. Special Rules for the HUD-VASH Voucher Program
   a. Family Eligibility and Selection
   b. Termination of Assistance
   c. Income Eligibility
   d. Initial Term of the HCV
   e. Initial Lease Term
   f. Ineligible Housing
   g. Mobility and Portability of HUD-VASH Vouchers
   h. Case Management Requirements
I. Background

Since Fiscal Year (FY) 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by section 8(o)(19) of the United States Housing Act of 1937 (1937 Act) (42 U.S.C. 1437 (https://api.fdsys.gov/link?collection=uscode&title=42&year=mostrecent&section=1437&type=usc&link-type=html)f(o)(19)). The initiative, known as the HUD-VASH program, was initially authorized by Division K, Title II, of the Consolidated Appropriations Act, 2008 (Pub. L. 110-161 (https://api.fdsys.gov/link?collection=plaw&congress=110&lawtype=public&lawnum=161&link-type=html), approved December 26, 2007) (“2008 Appropriation Act”) (see proviso (7) under the heading “Tenant-Based Rental Assistance”). Each annual HUD appropriation since FY 2008 has continued to authorize this program.[1] The HUD-VASH program combines HCV rental assistance for homeless veterans with case management and clinical services provided by the VA through its community medical centers. Since implementation of the program, ongoing VA case management, health, and other supportive services have been made available to homeless veterans at more than 300 VA Medical Center (VAMC) supportive services sites and Community-Based Outpatient Clinics (CBOCs) across the nation. The HUD-VASH program is a key component of reducing homelessness among veterans outlined in the Administration’s Federal Strategy to Prevent and End Homelessness.

The appropriation acts funding the HUD-VASH program provide that HUD is not required to distribute assistance competitively. Rather, these acts require that HUD-VASH funding be distributed to PHAs that partner with eligible VAMCs, or other entities as designated by the VA Secretary, and based on the geographical need for such assistance, as identified by the VA Secretary. The appropriation acts also provide that funding be distributed based on PHA administrative performance, and other factors as specified by the Secretary of Housing and Urban Development (HUD Secretary) in consultation with the VA Secretary.

Based on this language, the allocation for HUD-VASH vouchers has been a collaborative, data-driven effort conducted by HUD’s Offices of Community Planning and Development (CPD) and Public and Indian Housing (PIH), and the VA. The process relies primarily on three sets of data: (1) HUD’s point-in-time data submitted by Continuums of Care; (2) VAMC data on contacts with homeless veterans; and (3) performance data from local PHAs and VAMCs. As noted, the VA, in consultation with HUD, has identified more than 300 VAMCs and CBOCs willing to participate in the program since 2008. There is at least one site in each of the 50 states, the District of Columbia, Puerto Rico, and Guam.

1. Turnover of HUD-VASH Vouchers
2. Moving-to-Work (MTW) Agencies
3. Project-Based Assistance
4. Section Eight Management Assessment Program (SEMAP)
5. Reallocation of HUD-VASH Vouchers
6. HQS Initial Inspection

III. Reporting Requirements
HUD, in consultation with the VA, and in consideration of a PHA's administrative performance, identified eligible PHAs located in the jurisdiction of the VAMCs or CBOCs and invited them to apply for HUD-VASH vouchers. The number of HUD-VASH vouchers awarded to each PHA was determined by HUD and the VA. Currently, between 25 and 35 rental vouchers have been awarded for each professional, full-time HUD-VASH case manager in the local VA facility. A PHA that participates in the HUD-VASH program must partner with its VAMC or CBOC. Additional information on program requirements and procedures may be found on HUD’s Web site at www.HUD.gov (http://www.HUD.gov).

II. Special Rules for the HUD-VASH Voucher Program

This section of the notice sets forth the design features of the HUD-VASH vouchers, including the eligibility of families, portability, case management, and the turnover of these vouchers. This notice replaces and revises the special rules published by HUD in a Federal Register notice on May 6, 2008 (73 FR 25026 (/citation/73-FR-25026)). The appropriations acts funding the HUD-VASH program authorize the HUD Secretary, in consultation with the VA Secretary, to waive, or specify alternative requirements for, any provision of any statute or regulation that the HUD Secretary administers in connection with the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective delivery and administration of such voucher assistance. Assistance made available for this program must, however, continue to remain available for homeless veterans upon turnover.

This notice outlines the waivers or alternative requirements determined by the HUD Secretary to be necessary for the effective delivery and administration of the HUD-VASH program. These waivers or alternative requirements are exceptions to the normal HCV requirements, which would otherwise govern the provision of HUD-VASH assistance. In addition, a PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program. These requests may be submitted to the HUD Secretary for review and decision through the HUD Assistant Secretary for Public and Indian Housing.

HUD-VASH vouchers under this part are administered in accordance with the HCV tenant-based rental assistance regulations set forth at 24 CFR part 982 (/select-citation/2016/04/08/24-CFR-982). In the HCV program, the PHA pays monthly rental subsidies so that eligible families can afford decent, safe, and sanitary housing. HUD provides housing assistance funds to the PHA and funds the PHA to administer the program.

Under the HCV tenant-based program, families select and rent units that meet program housing quality standards (HQS). If the PHA approves a family’s unit and tenancy, the PHA contracts with the owner to make rent subsidy payments (housing assistance payments) (HAP) directly to the owner on behalf of the family, on a monthly basis. The family enters into a lease with the owner and pays its share of the rent to the owner in accordance with the lease. The HAP contract between the PHA and the owner covers only a single unit and a specific assisted family. If the family moves out of the leased unit, the HAP contract with the owner terminates. The family may generally move to another unit with continued assistance, so long as the family is complying with program requirements.

Unless expressly herein, all regulatory requirements and HUD directives regarding the HCV tenant-based program are applicable to HUD-VASH vouchers, including the use of all HUD-required contracts and other forms. The PHA’s local discretionary policies adopted in the PHA’s written administrative plan apply to HUD-VASH vouchers, unless such local policy conflicts with the requirements of the HUD-VASH vouchers outlined herein.
PHAs are required to maintain records that allow for the easy identification of families receiving HUD-VASH vouchers. PHAs must identify these families in the Public and Indian Housing Information Center (PIC). This recordkeeping will help ensure, in accordance with appropriations renewal language, that HUD-VASH vouchers that are in use will remain available for homeless veterans upon turnover.

The alternative requirements established in this notice apply to all PHAs that administer HUD-VASH vouchers, including those that have not received an allocation of HUD-VASH vouchers, but which administer them as a receiving PHA under the portability feature of the HCV program.

This notice does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19, this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969.

**a. Family Eligibility and Selection**

HUD-VASH-eligible families are homeless veterans and their families. The appropriations acts funding the HUD-VASH program authorize the HUD Secretary, in consultation with the VA Secretary, to waive, or specify alternative requirements for, any provision of any statute or regulation that the HUD Secretary administers in connection with the use of funds made upon a finding by the HUD Secretary that such waivers or alternatives are necessary for the effective administration and delivery of voucher assistance (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). The December 17, 2007, Explanatory Statement for the 2008 Appropriation Act states, “The Appropriations Committees expect that these vouchers will be made available to all homeless veterans, including recently returning veterans” (153 Cong. Rec. H16514 (daily ed., Dec. 17, 2007)).

Section 8(o)(19) of the 1937 Act, which requires homeless veterans to have chronic mental illnesses or chronic substance-use disorders with required treatment of these disorders, as a condition of receipt of HUD-VASH assistance, is waived.

VA HUD-VASH case managers will refer HUD-VASH-eligible families to the PHA for the issuance of vouchers. The PHA must accept referrals from their VA partner. Written documentation of these referrals must be maintained in the tenant file by the PHA. Therefore, the PHA will not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Accordingly, section 8(o)(6)(A) of the 1937 Act (42 U.S.C. 1437), in regard to preferences, is waived to provide for the effective administration of the program. In addition, 24 CFR 982.202, relating to applicant selection from the waiting list and local preferences, are also waived. Sections 982.203, 982.205, and 982.206 regarding special admissions, cross-listing of the waiting list, and opening and closing the waiting list do not apply to the HUD-VASH program.

VA HUD-VASH case managers will screen all families in accordance with VA screening criteria. By agreeing to administer the HUD-VASH program, the PHA is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies. Specifically, under the HUD-VASH program, PHAs will not have the authority to screen any potentially eligible family members or deny
assistance for any grounds permitted under 24 CFR 982.552 (/select-citation/2016/04/08/24-CFR-982.552) (broad denial for violations of HCV program requirements) and 982.553 (specific denial for criminals and alcohol abusers), with one exception: PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. However, unless the family member that is subject to lifetime registration under a state sex offender registration program is the homeless veteran (which would result in denial of admission for the family), the remaining family members may be served if the family agrees to remove the sex offender from its family composition. Accordingly, the Department is exercising its authority to waive 42 U.S.C. 1437 (https://api.fdsys.gov/link?collection=uscode&title=42&year=mostrecent&section=1437&type=usc&link-type=html)d(s); 42 U.S.C. 13661 (https://api.fdsys.gov/link?collection=uscode&title=42&year=mostrecent&section=13661&type=usc&link-type=html)(a), (b), and (c); and 24 CFR 982.552 (/select-citation/2016/04/08/24-CFR-982.552) and 982.553 in regard to denial of admission, with the exception of § 982.553(a)(2)(i), which requires denial of admission to certain registered sex offenders.

When adding a family member after the HUD-VASH family has been admitted to the program, the rules of § 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular screening criteria in doing so.

In regard to verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual along with other identifying information of the individual, is acceptable in accordance with 24 CFR part 5.216 (/select-citation/2016/04/08/24-CFR-5.216)(g). In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a SSN card. These documents must also be accepted for proof-of-age purposes in lieu of birth certificates or other PHA-required documentation. Please note that veterans are also issued photo identification cards by the VA. If such identification is required by the PHA, these cards must be accepted by the PHA in lieu of another type of government-issued photo identification. These cards may also be used to verify SSNs and date of birth.

Civil rights requirements cannot be waived. The HUD-VASH program is administered in accordance with applicable Fair Housing requirements. These include applicable authorities under 24 CFR 5.105 (/select-citation/2016/04/08/24-CFR-5.105)(a) and 24 CFR 982.53 (/select-citation/2016/04/08/24-CFR-982.53) including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act. These requirements prohibit discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or disability.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, HUD's reasonable accommodation standards requirements apply. These standards require PHAs to make a reasonable adjustment to rules, policies, practices, and procedures when it may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, the common areas of a dwelling, or participate in or access a recipient's programs and activities. These standards extends to various aspects of program implementation, including, for example, denial or termination of assistance, initial search term of the HCV, initial lease term, and informal reviews and hearings.

b. Termination of Assistance
c. Income Eligibility

The PHA must determine income eligibility for HUD-VASH families in accordance with 24 CFR 982.201. Income-targeting requirements of section 16(b) of the 1937 Act, as well as 24 CFR 982.201, do not apply for HUD-VASH families so that participating PHAs can effectively serve the eligible population specified in the various appropriations acts; that is, homeless veterans, who may be at a variety of income levels, including low-income. The PHA may, however, choose to include the admission of extremely low-income HUD-VASH families in its income targeting numbers for the fiscal year in which these families are admitted. In conformance with normal program rules, PHAs may not deny admission to a family with zero income and must consider hardship circumstances before charging a minimum rent in accordance with 24 CFR 5.630.

d. Initial Term of the HCV

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least 120 days. Therefore, § 982.303(a), which states that the initial search term must be at least 60 days, shall not apply, since the initial term must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in the PHA's administrative plan, but will apply after the minimum 120-day initial search term.

e. Initial Lease Term

Under the HCV program, voucher participants must enter into an initial lease with the owner for one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be less than 12 months; therefore, both section 8(o)(7)(A) of the 1937 Act and 24 CFR 982.309 are waived.

f. Ineligible Housing

HUD-VASH families will be permitted to live on the grounds of a VA facility in units developed to house homeless veterans. Therefore, 24 CFR 982.352, which prohibits units on the physical grounds of a medical, mental, or similar public or private institution, is waived for that purpose only.
g. Mobility and Portability of HUD-VASH Vouchers

An eligible family that is issued a HUD-VASH voucher must receive case management services provided by the partnering VAMC or CBOC. Therefore, special mobility and portability procedures must be established. HUD-VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by VA HUD-VASH case managers at the partnering VAMC or CBOC. Since the case managers will be identifying homeless veterans eligible to participate in the HUD-VASH program, section 8(r)(1)(B)(i) of the 1937 Act (42 U.S.C. 1437(f)(1)(B)(i)), which restricts portability in cases where the family did not reside in the jurisdiction of the PHA at the time of application for HCV assistance, and 24 CFR 982.353(a), (b), and (c), do not apply. HUD may publish public housing notices from time to time to further explain portability requirements under the HUD-VASH program.

1. PORTABILITY MOVES WITHIN SAME CATCHMENT AREA (OR AREA OF operation) WHERE CASE MANAGEMENT IS PROVIDED BY THE INITIAL PHA’S PARTNERING VAMC OR CBOC

If the family initially leases up, or moves, under portability provisions, but the initial PHA’s partnering VAMC or CBOC will still be able to provide the necessary case management services due to the family’s proximity to the partnering VAMC or CBOC, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355(a), (b), and (c). However, since the initial PHA must maintain records on all HUD-VASH families receiving case management services from its partnering VAMC or CBOC, receiving PHAs without a HUD-VASH program must bill the initial PHA. Therefore, 24 CFR 982.355(d), which gives the receiving PHA the option to absorb the family into its own HCV program or bill the initial PHA, is not applicable.

2. PORTABILITY MOVES WITHIN SAME CATCHMENT AREA WHERE BOTH PHAS HAVE RECEIVED HUD-VASH VOUCHERS

The receiving PHA may bill the initial PHA or absorb the family into its own HUD-VASH program if the VAMC or CBOC providing the initial case management agrees to the absorption by the receiving PHA and the transfer of case management. The absorption will also entail the availability of a HUD-VASH voucher and case management provision by the receiving PHA’s partnering VAMC or CBOC.

3. PORTABILITY MOVES WHERE RECEIVING PHA IS BEYOND CATCHMENT AREA

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA’s partnering VAMC or CBOC to provide case management services, the VAMC must first determine that the HUD-VASH family could be served by another VAMC or CBOC that is participating in this program, and the receiving PHA must have a HUD-VASH voucher available for this family. In these cases, the families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA’s jurisdiction). Upon absorption, the initial PHA’s HUD-VASH voucher will be available to lease to a new HUD-VASH-eligible family, as determined by the partnering VAMC or CBOC, and the absorbed family will count toward the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the form HUD-50058 under the scenarios above, the action type that must be recorded on line 2a is “1” for a new admission (a family that is new to the HCV program) or “4” for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether
the family is a new admission or a portability move-in, in section 12 of the HUD-50058 form, line 12d is always marked “Y.” In cases of portability where families move out of the catchment area of the initial PHA, line 12e must be 0, since the family must be absorbed, and line 12f must be left blank.

4. PORTABILITY MOVES WHEN CASE MANAGEMENT IS NO LONGER REQUIRED

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply. When completing the HUD-50058, the family will continue to be coded “VASH” on line 2n unless the initial PHA issues the family a regular voucher, in which case the code will no longer apply.

h. Case Management Requirements

The VAMC or CBOC’s responsibilities include: (1) The screening of homeless veterans to determine whether they meet the HUD-VASH program participation criteria established by the VA national office; (2) referrals of homeless veterans to the PHA; (3) providing appropriate treatment and supportive services to potential HUD-VASH program participants, if needed, prior to PHA issuance of rental vouchers; (4) providing housing search assistance to HUD-VASH participants with rental vouchers; (5) identifying the social service and medical needs of HUD-VASH participants and providing, or ensuring the provision of, regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and (6) maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive the case management services noted above from the VAMC or CBOC. Therefore, a HUD-VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or CBOC. However, a VAMC or CBOC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such a case, at its option, the PHA may offer the family continued HCV assistance through one of its regular vouchers, to free up the HUD-VASH voucher for another eligible family referred by the VAMC or CBOC. If the PHA has no voucher to offer, the family will retain its HUD-VASH voucher until such time as the PHA has an available voucher for the family. If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

i. Turnover of HUD-VASH Vouchers

In accordance with the appropriations acts cited herein, upon turnover, HUD-VASH vouchers must be issued to eligible families as identified by the VAMC or CBOC, as noted above.

j. Moving-to-Work (MTW) Agencies

HUD-VASH vouchers must be administered in accordance with this notice and are not eligible for fungibility under a PHA's MTW agreements. HUD-VASH vouchers must be reported on separately from vouchers under the agency's MTW Agreement.

k. Project-Based Assistance

Although HUD-VASH vouchers are tenant-based rental assistance, HUD will consider, on a case-by-case basis, requests from the PHA (with the support of the applicable Director of the VAMC or Veterans Integrated Service Network (VISN)) to project-base these vouchers in accordance with 24 CFR part 983 (/select-citation/2016/04/08/24-CFR-983). Public housing notices will be issued from time to time to address this issue.
I. Section Eight Management Assessment Program (SEMAP)

Since the leasing of HUD-VASH vouchers will be dependent on referrals from the VAMC or CBOC, the unit months and budget authority associated with these vouchers will not be included in the SEMAP leasing indicator. Therefore, 24 CFR 985.3(n)(1)(i) and (ii) are waived. However, utilization of these vouchers will be monitored separately through HUD systems.

m. Reallocation of HUD-VASH Vouchers

Under the appropriation acts cited herein, Congress has directed VA and HUD to allocate HUD-VASH vouchers based on geographical need for such assistance. In recognition that there may be changes and shifts in the population of homeless veterans over time, it may become necessary for HUD to reallocate HUD-VASH vouchers between PHAs regardless of the jurisdictional boundaries of the PHAs, in order to better address the current need of homeless veterans. In addition, HUD may reallocate vouchers due to poor performance by the PHA and/or the VAMC in serving this population, as evidenced by a lack of adequate referrals or inadequate voucher utilization rates after sufficient warning and cure time has been provided by HUD and/or the VA. Therefore, HUD-VASH vouchers may be reallocated among PHAs within the same state or between PHAs in different states based on the utilization of previously awarded HUD-VASH vouchers and current geographic need as determined by the VA and HUD.

n. HQS Initial Inspections

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing, in order to maintain a pool of eligible units. If a HUD-VASH family selects a unit that passed a HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (form HUD-52517), the unit may be approved, provided that it meets all other conditions under 24 CFR Section 982.305. However, the veteran must be free to select his/her unit and cannot be steered to these units.

III. Reporting Requirements

A new code (VASH) was established for use on line 2n of the Family Report (form HUD-50058), which indicates whether the family participates in “other special programs.” The information collection requested on HUD-50058 has been approved by the Office of Management and Budget (OMB) and given OMB control number 2577-0083. No person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid OMB control number. This code must remain on the HUD-50058 for the duration of the HUD-VASH family’s participation in the program. In addition, PHA that administers the HUD-VASH voucher on behalf of the family (regardless of whether the PHA has received an allocation of HUD-VASH vouchers) must enter and maintain this code on the HUD-50058.

Data will also be captured in the Voucher Management System on monthly leasing and expenditures.

For any additional systems reporting requirements that may be established, HUD will provide further guidance.

Dated: March 16, 2012.

Shaun Donovan,

Secretary.
Footnotes


Back to Citation

[FR Doc. 2012-7081 (/a/2012-7081) Filed 3-22-12; 8:45 am]

BILLING CODE 4210-67-P
AGENCY:
Department of Veterans Affairs.

ACTION:
Final rule.

SUMMARY:
The Department of Veterans Affairs (VA) is amending its regulations concerning the VA Homeless Providers Grant and Per Diem (GPD) Program. These amendments provide GPD with increased flexibility to: Respond to the changing needs of homeless veterans; repurpose existing and future funds more efficiently; and allow recipients the ability to add, modify, or eliminate components of funded programs. This rule updates these regulations to better serve our homeless veteran population and the recipients who serve them.

DATES:
The final rule is effective July 26, 2021.

FOR FURTHER INFORMATION CONTACT:
Jeffery Quarles, Director, Grant/Per Diem Program, (673/GPD), VA National Grant and Per Diem Program Office, 10770 N 46th Street, Suite C-200, Tampa, FL 33617, (813) 979-3570. (This is not a toll-free number.)
SUPPLEMENTARY INFORMATION:

Pursuant to 38 U.S.C. 501 (https://www.govinfo.gov/link/uscode/38/501?type=usc&year=mostrecent&link-type=html), 2001, 2011, 2012, 2061, and 2064, VA established the VA Homeless Providers Grant and Per Diem (GPD) Program with implementing regulations at 38 CFR part 61 (/select-citation/2021/06/25/38-CFR-61). Through the GPD Program, VA awards five types of grants to entities and organizations that meet specific criteria to support supportive or transitional housing for homeless veterans until the veteran can transition into permanent housing. VA awards capital grants, special need grants, technical assistance grants, case management services grants and per diem only grants to offset operating costs for a program of supportive housing or services.

On July 25, 2017, VA proposed to amend its regulations that govern the VA GPD Program. (82 FR 34457 (/citation/82-FR-34457)). VA provided a 60-day comment period, which ended on September 25, 2017. We received 15 comments on the rule. Most of the comments were generally positive; however, several commenters raised concerns about the proposed changes, which we address here.

§ 61.1 Definitions

VA proposed amending the definition of supportive housing to state that this type of housing is designed to either: Facilitate the movement of homeless veterans to permanent housing as soon as possible but no later than 24 months, subject to § 61.80; or provide bridge housing or specific medical treatment such as detoxification, respite, or hospice treatments that are used as step-up or step-down programs within that specific project’s continuum.

A commenter remarked that use of the term “bridge housing” is misleading. At 82 FR 34458 (/citation/82-FR-34458) we stated that bridge housing is a short-term, transitional housing option in a safe environment for veterans who have accepted a permanent housing placement, but access to the permanent housing is not immediately available for occupancy. Typically, the bridge housing model length of stay is less than 90 days, absent additional services, and devoid of a specific clinical care component.

The commenter noted that in the past, VA published a Notice of Funding Availability (NOFA) for the GPD Program which specified admission criteria. The commenter stated that the admission criteria published in the NOFA included the requirement that supportive housing must facilitate the movement of homeless veterans to permanent housing within a period that is not less than 90 days in length. Previously issued NOFAs stated, as part of the admission criteria, that the veteran “must have been offered and accepted a permanent housing intervention prior to admission or within the first 14 days of admission.” The commenter stated that the intent is for housing within 90 days, but not that housing has been identified prior to admission.

We do not agree that the use of the term “bridge housing” is misleading. While it is accurate to state that VA published certain admission criteria in past NOFAs, VA subsequently proposed changes to those criteria. While the commenter first focused on the proposed addition of “bridge housing” to the definition of supportive housing, it appears that the main concern is the proposed removal of the requirement that supportive housing must facilitate the movement of homeless veterans to permanent housing within a period that is not less than 90 days. The 90-day supportive housing requirement was intended to ensure that veterans have sufficient time to take full advantage of all supportive services, thereby enabling their successful transition to permanent housing. However, VA recognizes that each veteran has an individualized
treatment plan and may, for a variety of reasons, choose to exit the program before 90 days. VA believes that one of these reasons may be the desire to move into permanent housing rather than remain in supportive housing for up to 90 days.

In any case, we are eliminating the reference to 90 days in the proposed definition of supportive housing by removing the phrase “within a period that is not less than 90 days and does not exceed” and amending paragraph (2)(i) of the definition at 38 CFR 61.1 (/select-citation/2021/06/25/38-CFR-61.1) to state: “facilitate the movement of homeless veterans to permanent housing as soon as possible but no later than 24 months, subject to § 61.80; or”. This should address the commenter's concerns summarized above.

In addition, to address any potential confusion, we are removing the proposed addition of language about bridge housing. Specifically, we are removing the proposed definition of and reference to bridge housing as it is no longer necessary and not included in the regulation. At the time of the commenter's concern, bridge housing was a new concept for GPD programs. In subsequent years, however, bridge housing has become a standard practice in GPD programs, the meaning of which is common knowledge among grantees and available elsewhere, such as in funding opportunities and in technical assistance materials widely available to the community.

§ 61.33 Payment of Per Diem

We proposed several changes to this section, including amending general provisions on per diem payments, rates for such payments, and removal of one paragraph that duplicates content in new proposed § 61.5. We subsequently published, at 82 FR 38646 (/citation/82-FR-38646) (August 15, 2017) a correction to proposed paragraph (c). We received public comment on proposed changes to paragraphs (a)(3), (e), and (f).

We renumber proposed § 61.33 for clarity as follows. Proposed paragraph (a)(1)(iii) is renumbered as paragraph (a)(2). Proposed paragraph (a)(1)(iv) is now paragraph (a)(3). Proposed paragraph (a)(2) is now paragraph (b). Proposed paragraphs (b) through (h) are now paragraphs (c) through (h), with proposed paragraph (f) omitted. We have also renumbered the cross references within § 61.33 to reflect the new numbering.

In proposed paragraph (a)(3), now paragraph (b) as stated below, we stated that VA may at any time review the provision of supportive housing and services to individual veterans by the provider to ensure the care provided continues to be needed and appropriate. One commenter stated that the proposed reviewing of individual veteran service plans gives VA too much power. We do not agree. VA has always had the authority to inspect grantees to ensure they are complying with all program requirements, including review of individual service plans. See 38 CFR 61.65 (/select-citation/2021/06/25/38-CFR-61.65). This rulemaking clarifies that authority. Further, VA will not pay per diem where we conclude that services furnished by the recipient are unacceptable. All grantees must have individual service plans (ISPs) for veteran participants. As a condition of accepting the grant award, grantees must sign assurances allowing VA to access and review, on demand, all records associated with the grant award. Since moving individual veterans to permanent housing as quickly as they are ready is an important goal of GPD, VA will ensure that veterans are continuing to move toward this goal by reviewing ISPs. Also, we will provide assistance to veterans and grantees in cases where veterans are not moving to permanent housing as quickly as they are ready.

In proposed paragraph (e), now paragraph (f), we proposed that VA would pay per diem up to a maximum of seventy-two (72) consecutive hours for the scheduled absence of a veteran. This would amend the then-current rule that allowed payment for both scheduled and unscheduled absences, which we noted had been
misapplied or misunderstood by GPD grantees. One commenter stated that this proposed change would negate the purpose of the original rule, which allowed 72 hour passes for unexcused absences and did not take into account the fact that most hospital admissions are unplanned. The commenter stated that smaller providers would be forced to choose between absorbing the cost of an unexcused absence or documenting a negative exit for the veteran. The former would negatively impact the finances of the GPD provider while the latter would adversely impact the veteran. Other commenters expressed similar concerns. One commenter noted that a missing veteran may sometimes be unable to contact the facility right away, such as when hospitalized.

In addition, one commenter stated that the proposed change would disincentivize GPD providers from working with veterans and could result in substantial losses to larger programs. The commenter also stated that, for GPD providers not in compliance with performance metrics, the provider would have to weigh a negative exit (which would result in no loss of funds) against the risk of being placed in a Corrective Action Plan (CAP) (proposed § 61.80(c)(3)(vi)).

While other commenters generally expressed support for the rationale behind the proposed change, VA acknowledges the concerns of those commenters urging a substantive change to paragraph (f) as proposed. VA has taken into consideration that the populations the commenters choose to serve have a higher propensity to exit their homeless programs when exigent circumstances arise. We encourage our community partners to continue serving these populations. Accordingly, based on the public comments, we are amending paragraph (f) to state that VA will pay per diem up to a maximum of seven (7) days in the case of an inpatient hospitalization, or, will pay per diem up to a maximum of seventy-two (72) consecutive hours for the scheduled or unscheduled (non-hospitalization) absence of a veteran. Adding per diem coverage for up to 7 days of inpatient hospitalization is responsive to concerns raised by commenters.

Commenters also expressed concern regarding situations where a recipient would be forced to discharge veterans if it did not receive payment for services rendered. It is believed that a discharge under these circumstances could count against a veteran’s three-time allowable admission to GPD programs. Many commenters believe VA will only allow for three admissions to GPD programs. We believe this has been incorrectly interpreted. To clarify, VA will remove the previously proposed paragraph (f) altogether. Because VA allows more than three admissions to GPD programs under certain circumstances and in order to avoid incorrect applications of a perceived limitation for supportive housing bed days of care, this paragraph is removed.

Except as noted above, VA makes no edits to the rule based on these comments.

*Technical edits.* As discussed above, we renumber proposed § 61.33 for clarity as follows. Proposed paragraph (a)(iii) is renumbered as paragraph (a)(2). Proposed paragraph (a)(iv) is now paragraph (a)(3). Proposed paragraph (a)(2) is now paragraph (b). Proposed paragraphs (b) through (e) are now paragraphs (c) through (f). We have also renumbered the cross references within § 61.33 to reflect the new renumbering.

Additionally, we are amending proposed 38 CFR 61.33 (/select-citation/2021/06/25/38-CFR-61.33)(a)(1)(ii) to remove the word “and” at the end of the paragraph. We are also merging proposed paragraph 38 CFR 61.33 (/select-citation/2021/06/25/38-CFR-61.33)(a)(2)(A) with proposed paragraph 38 CFR 61.33 (/select-citation/2021/06/25/38-CFR-61.33)(a)(2) and numbering it as 38 CFR 61.33 (/select-citation/2021/06/25/38-CFR-61.33)(a)(2). After reviewing the language, VA determined that it would reduce confusion by merging the two paragraphs. The paragraph at 38 CFR 61.33 (/select-citation/2021/06/25/38-CFR-61.33)(a)(2) would now read: For providers of both supportive housing and...
services. When the referral or authorization of the homeless veteran will not result in the project exceeding the total number of bed days of care or total obligated funding as indicated in the grant agreement and funding action document.

Proposed paragraph (h) states that at the time of receipt, a per diem recipient must report to VA all other sources of income for the project for which per diem was awarded. We are amending proposed paragraph (h) to clearly state that the paragraph relates to receipt of a federal award by VA rather than a federal award by a different federal agency such as the Department of Housing and Urban Development.

§ 61.80 General Operation Requirements for Supportive Housing and Service Centers

This section is in subpart F which addresses awards, monitoring and enforcement of agreements. Paragraph (c) of this section focuses on establishment of performance goals, periodic assessment of grant recipient performance, remedies available to VA if a grantee fails to meet established performance goals, and actions the grant recipient must take if VA determines that established GPD performance goals have not been met over a certain period of time. VA proposed several non-substantive changes to this paragraph for purposes of clarity. In addition, we proposed that VA will establish performance goals for the initial award and update those goals annually. Performance goals would be established based on data VA collects on veterans in all homeless programs, and VA priorities in addressing the issue of homeless veterans. This would shift the burden of developing performance goals from the grant recipient without VA losing any oversight capabilities. We noted at 82 FR 34460 (/citation/82-FR-34460) (July 25, 2017) VA's intent to also reduce the number of performance items recipients are responsible for from the range of 10 to 20 per recipient project to a number that accurately captures acceptable performance. We proposed changing the trigger point at which VA would consider remedies for failure to meet performance goals from 15 percent to five percent below any performance goals. In addition, we proposed requiring a grant recipient to submit a Corrective Action Plan (CAP) to the VA GPD Liaison within sixty (60) calendar days if VA determines that established GPD performance goals have not been met for any two (2) consecutive quarters. The rationale for these proposed changes is to more closely monitor attainment of VA-established performance goals and to identify and address problem areas in a timely manner. As explained in detail below, VA is amending references to a Corrective Action Plan (CAP) to refer instead to a Performance Improvement Plan (PIP). Accordingly, all references to CAPs in the paragraphs below will use PIP instead of CAP. In addition, all of the CAP references below are in fact referring to what is now PIP under section 61.80(c)(3)(v) through (vii).

We received several comments related to VA's collection of data related to services provided to homeless veterans. Commenters expressed reservations as to the integrity and accuracy of VA data and VA's reliance on that data when establishing performance goals. One commenter stated that there should be a mechanism to allow a grant awardee the ability to challenge VA data it believes is inaccurate, where the alleged inaccuracy could impact a performance review. The commenter stated that such mechanism would allow for a comparison of grantee-provided data with that of VA, and ensure continuity of payment while that mechanism was in use. Another commenter stated that it is crucially important that the proposed rule rely on performance measures based on data from the Department of Housing and Urban Development’s Homeless Management Information System (HMIS) and not solely from the VA Homeless Operations Management and Evaluation System (HOMES) program.

We do not believe it is necessary for there to be additional mechanisms for recipients to challenge the accuracy of VA's data in HOMES. Grantees provide outcome data to VA Liaisons detailing the effects of moving veterans to permanent housing or discharging them for rule violations. We continue this practice...
under VA HOMES. VA uses HOMES to record information on every veteran entering and exiting GPD's nationally funded projects. From this system, VA is able to provide monthly performance data based on the technical specifications of each metric. The GPD program educates grantees on reading and using the data in practical ways and has used this information to understand performance and promote improvement. VA maintains rigorous methodologies which are reviewed and updated as needed. When grantees have questions about such data or its role in their performance, answers continue to be provided through the normal communication channels available among grantees, VA medical centers and the GPD national office.

As VA is standardizing performance outcomes for all of its transitional housing, we are able to produce these reports for each funded project and distinguish between GPD transitional housing models. Additionally, we have the opportunity to take into consideration the various operational definitions that make up each metric. The reports produced from HOMES provide results on national, regional (i.e., Veteran Integrated Service Network), medical center, and GPD funded projects. While we commend the commenter’s participation in the HMIS locally, the aforementioned capability is unavailable to VA at this time due to concerns about undue financial burden for grantees and the protection of confidential and clinical information about Veterans. HMIS participation involves grantees paying for several costs (e.g., access, training, staffing, usage). The cost is locally determined and is not necessarily able to be supported by grant funds. That said, the GPD program has encouraged, but does not require, participation among grantees in HMIS, and continues to collaborate with HMIS about options for the future.

Moreover, we have eliminated the reporting requirements for several types of grant project goals and objectives that were previously necessary. VA eliminated these reporting requirements in our efforts to grant flexibility for recipients in developing project goals based on the recipient’s experience with specific populations, services, and the recipient’s geographic location. The changes in 38 CFR 61.80 (c) utilize metrics that lead to empirical comparisons, such as outcome measures for homeless program success, which are consistent with VA’s national goal of ending homelessness. Historically, the selected data points within in the metrics have been used to report homeless program data within VA and to Congress. The use of common metrics is an effective method to determine success across different GPD program methodologies. Both VA and the recipients are linked as VA must also meet the very same metrics. We believe this will lead to better outcomes and strengthen community partnerships in the battle against homelessness. The amendments in this rulemaking are consistent with current VA policy and practice.

VA amends references to a Corrective Action Plan (CAP) to refer instead to a Performance Improvement Plan (PIP). One commenter remarked on the use of CAPs (now PIPs) listed in proposed 38 CFR 61.80 (c). We proposed in 38 CFR 61.80 (c)(3)(v) through (vii) that if after reviewing a recipient’s assessment, VA determines that it falls more than five percent below any performance goal, then VA may revise the award by withholding placements or payment, suspending payment, and terminating the grant agreement. While the five percent rather than fifteen percent would be a new standard, the four listed potential remedies remain unchanged from then-current paragraph (c)(6). The commenter stated that the proposed changes suggest that at any time VA could enact any options, regardless of the PIP. That is not VA’s intent, and we amend the proposed language to clarify the issue. We are amending proposed 38 CFR 61.80 (c)(3)(v) to explain that VA could avail itself to more than one, or a combination of, enforcement actions in 38 CFR 61.80 (c)(3)(v)(A)-(D). VA seeks to reserve its discretion to apply any combination or permutation of enforcement actions it deems fit. We amend 38 CFR 61.80 (c)(3)(v) to read as follows: If, after reviewing a recipient’s assessment,
VA determines that it falls more than five percent below any performance goal, then VA may require the recipient to create and follow a performance improvement plan (PIP) as outlined in 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(vi). We are moving the second part of proposed 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(3)(v) and numbering it as new 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(3)(vii). We believe that this move will provide a more sequential process for the PIP. Therefore, new paragraph (c)(3)(vii) will state that if the recipient is not compliant with the PIP, VA may impose any combination of the following enforcement actions by award revision: (A) Withhold placements; (B) Withhold payment; (C) Suspend payment; and (D) Terminate the grant agreement, as outlined in this part or other applicable federal statutes and regulations.

Other commenters expressed concern with the threshold VA selected to trigger a PIP in proposed 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(3)(v). One commenter stated that the proposed change in threshold for action to a deviation of more than five percent from a performance goal will have a greater negative impact on smaller programs than larger programs, with service issues related to only one or two veterans resulting in imposition of a PIP. As an example, the commenter stated that if a recipient serves ten veterans, this means that it cannot possess serious deficiencies or service issues for more than one veteran (i.e., five percent of the recipient's veteran population) or it will trigger a PIP. Similarly, other commenters stated that the changes may have unintended effects on recipients that would disproportionately affect small and rural programs. In particular, the commenters express concerns in situations where failure to meet their goals with small populations would give rise to the appearance that the program is substandard or failing.

We agree with the commenters that slight deviations in meeting goals successfully could give the appearance of program mismanagement or failure. Also, we agree that smaller programs with fewer veterans could appear unsuccessful if only one or two veterans do not exit successfully from the program. However, VA believes that the changes to 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(3)(v) and (vi) provide an adequate solution to tighten the performance metrics as well as provide relief from the disproportionate impact the changes would have on small and rural programs.

With respect to when VA may initiate a PIP, we believe the more than five percent deviation is the threshold where recipients should adjust their efforts to improve their outcomes in order to comply with the established GPD performance goals. This does not mean that VA will initiate imminent enforcement actions once a deviation greater than five percent is reached. VA will only take enforcement actions in the event the recipient is not compliant with the established GPD performance goals after attempting a PIP. This is why VA adopted a quarterly assessment period as opposed to a monthly review. VA wants to afford recipients the opportunity to correct issues that could disqualify them from future funding. In the first quarterly review where a grantee is more than five percent away from a performance goal, the grantee and VA Liaison can review the data along with other program aspects to ascertain what causal relationships are present. Part of that assessment is determining whether the total number of veterans served by the program contributed to the award recipient’s failure to attain performance goals. The recipient will have the ability to determine if the reason for the more than five percent deviation is an anomaly or requires the need for adjustments. If the greater than five percent deviation occurs for a second consecutive quarter, then this would indicate that an issue requires action, and the recipient would need to submit a PIP sixty days after VA's determination.

Accordingly, we are also amending the language in proposed 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(3)(vi). In the proposed rule, VA stated that recipients would need to submit a PIP to VA's GPD Liaison within sixty (60) calendar days. VA believes that this is unclear, and we are amending it to state if VA determines that the recipient has a more than five percent deviation from established GPD...
performance goals for any two (2) consecutive quarters as defined in 38 CFR 61.80 (select-citation/2021/06/25/38-CFR-61.80)(c)(3)(i) through (iv), the recipient will submit a PIP to the VA GPD Liaison sixty (60) calendar days after VA makes its determination.

The recipient and VA Liaison can use the third quarter as a period to examine if the recipient’s actions improved performance. While changing the name of the corrective action measure, VA declines to change the requirement that it is triggered after two consecutive quarters of reduced performance. Since two quarters are one-half of a typical one-year performance period for a grant, VA is reticent to accept the commenter’s proposal to increase the threshold to three quarters. We would find this unacceptable because it would cover approximately three-fourths (75%) of the one-year performance period.

Based on a review of public comments VA also believes that there is confusion regarding the purpose of the changes to 38 CFR 61.80 (select-citation/2021/06/25/38-CFR-61.80)(c)(3)(v) and (vi). Several commenters appear to view the changes as punitive in nature. We note that the remedial action for a grantee’s non-compliance with 2 CFR 200.338 (select-citation/2021/06/25/2-CFR-200.338) is a corrective action plan, and VA believes it is appropriate to distinguish action plans related to failure to meet performance goals from those related to failure to comply with federal statutes or regulations under Title 2 CFR part 200 (select-citation/2021/06/25/2-CFR-200). While some of the remedies reflected in 2 CFR 200.338 (select-citation/2021/06/25/2-CFR-200.338) are the same as those in 38 CFR 61.80 (select-citation/2021/06/25/38-CFR-61.80)(c)(3)(v), the impetus for imposing those remedies is not. VA views the remedies reflected in 38 CFR 61.80 (select-citation/2021/06/25/38-CFR-61.80)(c)(3)(v) and (vi) as a mechanism to initiate proactive reviews with recipients along with giving them the ability to make program adjustments in order to meet the goals set out in the GPD program application and improve the services to the veterans they serve. Accordingly, as discussed above, VA has amended references to a Corrective Action Plan (CAP) to refer instead to a Performance Improvement Plan (PIP) to avoid confusing recipients with the enforcement actions of 2 CFR 200.338 (select-citation/2021/06/25/2-CFR-200.338) for non-compliance.

Finally, one commenter referenced the absence of an appeal process for termination of grants. While it is true that Part 61 does not contain express appeal provisions, VA follows 2 CFR 200.340 (select-citation/2021/06/25/2-CFR-200.340) through 200.342. VA provides advance notice of any enforcement actions and an opportunity to be heard and object or provide documentation challenging the enforcement decision. These procedures afford due process protections and, specific to the commenter's concerns, provide grant recipients an opportunity to raise issues regarding the accuracy of VA data. VA follows 2 CFR 200.343 (select-citation/2021/06/25/2-CFR-200.343) regarding payments after a termination. VA makes no changes based on this comment.

Based on the rationale set forth in the proposed rule and in this document, VA is adopting the provisions of the proposed rule as a final rule with changes as noted above.

**Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507 (https://www.govinfo.gov/link/uscode/44/3507?type=usc&year=mostrecent&link-type=html)) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. According to the implementing regulations for the Paperwork Reduction Act (5 CFR 1320.8 (select-citation/2021/06/25/5-CFR-1320.8)(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule includes provisions constituting collections of information under the Paperwork Reduction Act of
1995 that require approval by OMB. Accordingly, pursuant to 44 U.S.C. 3507 (https://www.govinfo.gov/link/uscode/44/3507?type=usc&year=mostrecent&link-type=html)(d), VA is submitting a copy of this rulemaking action to OMB for review.

In the proposed rule we had stated that we would require a renewal of the collection of information under §§ 61.33 and 61.80. We had stated that § 61.33 requires recipients to report to VA all sources of income it has received for the project for which VA has awarded a grant. The proposed rule indicated that there would be no changes to this collection. We had also stated that under § 61.80 recipients are required to submit quarterly reports to VA Liaisons, who are VA staff members, about how the recipients are meeting the performance measures that are outlined in their grant applications. However, VA provides to the grantee (quarterly) the grantee's performance status regarding the VA performance metrics. The grantee does not provide a compliance report because it would be duplicative of information already available to the VA Liaison in existing VA systems through the grantee's monthly billing invoice information and admission and discharge notifications as reflected in the billing. Accordingly, we are no longer collecting information under these two sections. Compliance information from recipients is captured through other processes and therefore is not repeated in order to avoid duplication in collection.

The proposed rule also included the aggregate collection of information for capital grants, per diem grants and special need grants located at 38 CFR part 61 (/select-citation/2021/06/25/38-CFR-61). These collections were previously approved by OMB under OMB control number 2900-0554, which expired on September 30, 2020. As noted above, VA is submitting a new PRA request to OMB and awaits approval for the collections of information described herein. If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

**Title:** VA Homeless Providers Grant and Per Diem Program.

**Summary of collection of information:** This collection of information is for capital grants, per diem grants, special need grants and case management grants located at §§ 61.11, 61.15, 61.17, 61.31, 61.41, and, 61.92. Information must be collected to determine which applicants are eligible for the grant and per diem program, and to prioritize applications for determining who will be awarded funds.

**Description of the need for information and proposed use of information:** This information is needed to determine eligibility for capital grants, per diem grants, special need grants and case management grants.

**Description of likely respondents:** Non-Profit Agencies and State and Local Governments.

**Estimated number of respondents per year:**

- **Capital grants and per diem:** 100 per year.
- **Per diem for non-capital grant recipients:** 500 per year.
- **Special need grants:** 50 per year.
- **Case management grants:** 300 per year.

**Estimated frequency of responses per year:**


Capital grants and per diem: 1 time per year.

Per diem for non-capital grant recipients: 1 time per year.

Special need grants: 1 time per year.

Case management grants: 1 time per year.

Estimated average burden per response:

Capital grants and per diem: 35 hours.

Per diem for non-capital grant recipients: 20 hours.

Special need grants: 20 hours.

Case management grants: 20 hours.

Estimated total annual reporting and recordkeeping burden: 20,500 hours.

Capital grants and per diem: 3,500 hours.

Per diem for non-capital grant recipients: 10,000 hours.

Special need grants: 1,000 hours.

Case management grants: 6,000 hours.

Estimated cost to respondents per year: We estimate the annual cost to respondents will be $305,655, based on a rate of $14.91 per hour. Out of that annual cost, it is estimated that one fourth of the grant proposals will be written on a pro bono basis and the remaining three fourths of the grant proposals will be written by professional grant writers.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 (https://www.govinfo.gov/link/uscode/5/601?type=usc&year=mostrecent&link-type=html)-612. The provisions associated with this rulemaking do not involve costs to small entities because the VA Homeless Providers Grant and Per Diem (GPD) Program provides federal awards (e.g., grants) to small entities. VA awards five types of grants to small entities meeting specific criteria for supportive or transitional housing for homeless veterans until the veteran can transition into permanent housing. Specifically, VA awards capital grants, special need grants, technical assistance grants, and case management services grants, and per diem only grants to offset operating costs for a program of supportive housing or services. Small entities will choose whether to apply for federal awards, and there are no out-of-pocket expenses (e.g., no filing fees) to apply for funding. Therefore, under 5 U.S.C. 605 (https://www.govinfo.gov/link/uscode/5/605?type=usc&year=mostrecent&link-type=html)(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (/executive-order/13563) (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is a significant regulatory action under Executive Order 12866. VA’s impact analysis can be found as a supporting document at http://www.regulations.gov (http://www.regulations.gov), usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA’s website at http://www.va.gov/orpm (http://www.va.gov/orpm) by following the link for VA Regulations Published from FY 2004 through FYTD.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532 (https://www.govinfo.gov/link/uscode/2/1532?type=usc&year=mostrecent&link-type=html), that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on state, local, and tribal governments, or on the private sector.

**Congressional Review Act**


**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.024, VA Homeless Providers Grant and Per Diem Program.


- Administrative practice and procedure
- Alcohol abuse
- Alcoholism
- Day care
- Dental health
- Drug abuse
- Government contracts
- Grant programs—health
- Grant programs—veterans
- Health care
- Health facilities
- Health professions
§ 61.5 Implementation of VA Limits on Payments due to Funding Restrictions.

(a) Continuing payments. Once a grant agreement is awarded by VA, payments will continue for the time frame specified in the federal award, subject to the availability of funds, as long as the recipient continues to provide the supportive services and housing described in its grant application, meets VA’s Homeless Providers Grant and Per Diem (GPD) Program performance goals, and meets the applicable requirements of this part.

(b) Factors. (1) In cases of limited availability of funding during the time frame specified in the federal award, VA may terminate the payment of per diem payments to recipients after weighing the following factors:

(i) Non-duplication of ongoing services and equitable distribution of grant agreements across geographic regions, including rural communities and tribal lands;
(ii) Receipt by recipient of any capital investment from VA or any other source; and

(iii) Recipient’s demonstrated compliance with GPD performance goals.

(2) Notwithstanding paragraph (b)(1) of this section, when an awarded grant agreement is
terminated during the time frame specified in the federal award due to no fault by the recipient, VA
shall refrain from applying the recapture provisions of 38 CFR 61.67 (/select-citation/2021/06/25/38-CFR-61.67).

4. Revise § 61.33 to read as follows:

§ 61.33 Payment of per diem.

(a) General. VA will pay per diem to recipients that provide a bed day of care:

(1) For a homeless veteran:

(i) Who VA referred to the recipient; or

(ii) For whom VA authorized the provision of supportive housing or supportive service;

(2) For providers of both supportive housing and services. When the referral or authorization of
the homeless veteran will not result in the project exceeding the total number of bed days of care or
total obligated funding as indicated in the grant agreement and funding action document; or

(3) For service centers. When the total hours of service or total obligated funding as indicated in
the grant agreement and funding action document.

(b) VA Review. VA may at any time review the provision of supportive housing and services to
individual veterans by the provider to ensure the care provided continues to be needed and
appropriate.

(c) Rate of payments for individual veterans. The rate of per diem for each veteran in supportive
housing will be the lesser of:

(1) The daily cost of care estimated by the per diem recipient minus other sources of payments to
the per diem recipient for furnishing services to homeless veterans that the per diem recipient
certifies to be correct (other sources include payments and grants from other departments and
agencies of the United States, from departments of local and State governments, from private
entities or organizations, and from program participants); or

(2) The current VA state home program per diem rate for domiciliary care, as set by the Secretary

(d) Rate of payments for service centers. The per diem amount for service centers shall be 1-8 of
the lesser of the amount in paragraph (c)(1) or (c)(2) of this section, per hour, not to exceed eight
(8) hours in any day.
Reimbursements. Per diem may be paid retroactively for services provided not more than three (3) days before VA approval is given or where, through no fault of the recipient, per diem payments should have been made but were not made.

Payments for absent veterans. VA will pay per diem up to a maximum of seventy-two (72) consecutive hours for the scheduled or unscheduled absence of a veteran, or, in the case of an in-patient hospitalization, will pay per diem up to a maximum of seven (7) days.

Veterans receiving supportive housing and services. For circumstances where a veteran is receiving supportive housing and supportive services from the same per diem recipient, VA will not pay a per diem for the supportive services.

Reporting other sources of income. At the time of receipt of a federal award from VA, a per diem recipient must report to VA all other sources of income for the project for which per diem was awarded. The report provides a basis for adjustments to the per diem payment under paragraph (c) (1) of this section.

Amend § 61.61 by revising paragraph (a) to read as follows:

§ 61.61 Agreement and funding actions.

(a) Agreement. When VA selects an applicant for grant or per diem award under this part, VA will incorporate the requirements of this part into an agreement to be executed by VA and the applicant. VA makes the final decision on applicant selection. VA may negotiate with an applicant regarding the details of the agreement and funding, as necessary. VA will enforce the agreement through such action as may be appropriate, including temporarily withholding cash payments pending correction of a deficiency. Appropriate actions include actions in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 CFR part 200 (/select-citation/2021/06/25/2-CFR-200).

Amend § 61.80 by revising paragraph (c) to read as follows:

§ 61.80 General operation requirements for supportive housing and service centers.

(c) VA will provide performance goals to recipients in its initial federal award and update annually thereafter:

(1) Each recipient must conduct an ongoing assessment of the supportive housing and services needed by their residents and the availability of housing and services to meet this need. Recipients are expected to make adjustments to meet resident needs.

(2) The recipient will provide to the VA GPD Liaison evidence of its ongoing assessment of the plan described in the grant application. The assessment must show how it is using the plan to meet the GPD performance goals.

(3) The VA GPD Liaison will provide the GPD performance information to recipients. VA will incorporate this assessment information into the annual inspection report.
(i) The VA GPD Liaison will review the quarterly assessment with the recipient no later than (30) days after the end of each of the following quarters:

(A) Quarter 1 (October-December) assessment completed not later than January 30;

(B) Quarter 2 (January-March) assessment completed not later than April 30;

(C) Quarter 3 (April-June) assessment completed not later than July 30; and,

(D) Quarter 4 (July-September) assessment completed not later than October 30.

(ii) A valid assessment must include the following:

(A) A comparison of actual accomplishments to established GPD performance goals for the reporting period addressing quantifiable as well as non-quantifiable goals. Examples include, but are not limited to, a description of grant agreement-related activities, such as: Hiring and training personnel, community orientation/awareness activities, programmatic activities, or job development; and

(B) Identification of administrative and programmatic problems, which may affect performance and proposed solutions.

(iii) Recipients and VA GPD Liaisons must include a summary of the quarterly assessment in their administrative records. These quarterly assessments will be used to provide a cumulative assessment for the entire calendar year.

(iv) The recipient must immediately inform the VA GPD Liaison of any significant developments affecting its ability to accomplish the work. VA GPD Liaisons will provide necessary technical assistance.

(v) If, after reviewing a recipient's assessment, VA determines that it falls more than five percent below any performance goal, then VA may require the recipient to create and follow a performance improvement plan (PIP) as outlined in 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(vi).

(vi) Performance Improvement Plan (PIP): If VA determines that a recipient deviates more than five percent from established GPD performance goals for any two (2) consecutive quarters as defined in 38 CFR 61.80 (/select-citation/2021/06/25/38-CFR-61.80)(c)(3)(A)(i) through (iv), the recipient will submit a PIP to the VA GPD Liaison sixty (60) calendar days after VA makes its determination.

(A) The PIP must identify the activity which falls below the measure. The PIP must describe the reason(s) why the recipient did not meet the performance measure(s) and provide specific proposed corrective action(s) and a timetable for accomplishment of the corrective action. The plan may include the recipient's intent to propose modifying the grant agreement. The recipient will submit the PIP to the VA GPD Liaison.
(B) The VA GPD Liaison will forward the PIP to the VA National GPD Program Office. The VA National GPD Program Office will review the PIP and notify the recipient in writing whether the PIP is approved or disapproved. If disapproved, the VA GPD Liaison will make suggestions for improving the proposed PIP, and the recipient may resubmit the PIP to the VA National GPD Program Office.

(vii) If the recipient is not compliant after the PIP, then VA may impose any combination of the following enforcement actions by award revision:

(A) Withhold placements;

(B) Withhold payment;

(C) Suspend payment; and

(D) Terminate the grant agreement, as outlined in this part or other applicable federal statutes and regulations.

BILLING CODE 8320-01-P