

August 15, 2016

**Docket Number: HUD-2016-0063**

**Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs**

The New York Association on Independent Living (NYAIL) is a statewide membership organization of Independent Living Centers (ILCs), cross-disability, consumer-controlled, community-based not-for-profit providers of services and advocacy for New Yorkers with disabilities of all ages. NYAIL is dedicated to removing barriers to full community integration of people with disabilities. A significant portion of the ILCs' work is dedicated to assisting people with disabilities to live as independently as possible in the community. We have long found that the most significant barrier is the lack of accessible, affordable and integrated housing in New York.

NYAIL thanks HUD for the opportunity to comment on their proposed rule for Small Area Fair Market Rent (SAFMR). The Housing Choice Voucher (HCV) program is an important program which enables many people with disabilities and seniors to live in the community and out of institutions. We support HUD's stated purpose of the SAFMR program, to provide voucher holders with a more effective means to move into areas of higher opportunity and lower poverty. We commend HUD for taking steps to improve the HCV program by allowing some voucher holders to move out of concentrated poverty and into high opportunity neighborhoods. Yet, we are concerned how this proposed rule will impact current voucher holders with disabilities.

Under the SAFMR program, areas designated high opportunity will have a much higher payment standard than under the current formula. Theoretically this will enable some individuals and families with vouchers to move into these high opportunity neighborhoods and out of areas with low opportunity and concentrated poverty. However, in order to keep this proposal cost neutral, HUD proposes to lower the payment standard in the low opportunity areas significantly. This would mean that many current voucher holders in the low opportunity areas will have to either pay a higher percentage of their income toward the rent, or relocate, risking possibly losing their voucher if they cannot locate an appropriate apartment in the given time frame.

People with disabilities and the elderly face significant barriers to locating affordable, accessible, and integrated housing in New York State. NYAIL urges HUD to consider the circumstances faced in New York and likely other parts of the country by people with disabilities. We call on HUD to modify their policy to ensure that this new rule does not provide some families with greater opportunities while negatively impacting some of our most vulnerable citizens.

### **Housing Crisis For People With Disabilities**

There is a housing crisis for people with disabilities in New York State due to the lack of affordable, accessible housing. People who receive Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) cannot afford to rent an apartment in New York State without a voucher. According to the Technical Assistance Collaborative national study on the state of housing in the U.S. for people with disabilities, *Priced Out In 2014*, the average cost of a

one bedroom apartment across the State of New York is 133% of a monthly SSI check. This varies greatly across New York, with a low of 97% in Binghamton to a high of 160% in Westchester. This illustrates how essential rental subsidies, such as the HCV program, are in assisting people with disabilities in remaining in the community.

There is also a severe need for more accessible housing in New York. People with disabilities often cannot find housing that allows them to simply get in the front door, for example, if they use a wheelchair. There are few requirements to build apartments and homes that are accessible to people with mobility and sensory disabilities and what requirements there are have been poorly enforced. There are no access requirements for single family homes, duplexes, triplexes, and townhomes, which make up a significant percentage of housing in the State - particularly in regions of upstate where zoning does not allow for multifamily housing to be developed. As a result, many people with disabilities who receive Housing Choice Vouchers have a hard time locating an accessible apartment where they can use their voucher.

People with disabilities also have a hard time finding an apartment due to discrimination. According to a national study commissioned by HUD, *Discrimination in the Rental Housing Market Against People Who Are Deaf and People Who Use Wheelchairs*, well-qualified home seekers in New York City who use wheelchairs are more likely than comparably qualified home seekers who are ambulatory to be denied an appointment to view recently advertised rental housing in buildings with accessible units. Those who do receive an appointment are less likely than their ambulatory counterparts to be told about and shown suitable housing units. In a market with precious few affordable and accessible apartments, this discrimination makes it even harder for voucher holders with disabilities to locate appropriate housing with their voucher. Given this fact, once people with disabilities have an apartment, they typically stay there for a long time.

New York City's housing market presents its own significant challenges, with an extremely low vacancy rate. There simply are no apartments to move to. New York, through the United States Census Bureau, completes a tri-annual survey of New York City's housing market. In the most recent report, the Housing and Vacancy Survey of 2014, determined New York City's vacancy rate was 3.45%, by surveying rents and incomes from three months in 2014. An analysis by the New York City Housing Authority found that for tenants looking for apartments at the current FMR set payment standard, the vacancy rate was 1.8%.

### **Recommendations**

NYAIL proposes that HUD hold harmless all current voucher holders who are seniors or people with disabilities. While NYAIL acknowledges that HUD is proposing to allow current voucher holders to keep their current payment standard until the second lease renewal after the program goes into effect, this is insufficient to ensure that seniors and people with disabilities will not be negatively impacted by this change in the rule.

HUD has cited its policy of allowing higher payment standards for people with disabilities as a reasonable accommodation. The problem is this puts the onus on the voucher holder to know their rights and to request them. Further, there are likely numerous people with disabilities in New York already receiving a higher payment standard as a reasonable accommodation. There are limits on the amount that a person can receive and have it be considered reasonable by HUD. In some zip codes, payment standards will be lowered by a couple of hundred dollars. This will mean that those already receiving a higher payment standard as a reasonable

accommodation will need to fight to keep their accommodation, which HUD may determine to be unreasonable once they lower the payment standard in that zip code.

While some families may choose to remain and pay a higher percentage of their income. This is not realistic for people with disabilities who are on fixed incomes and who cannot afford to pay a higher percentage of their income. For those who do attempt to move, they will risk losing their voucher if unable to locate a new apartment within the given time frame.

For people with disabilities, losing a voucher likely means they will wind up in nursing homes or other institutions. One cannot simply get on another waiting list as the lists in New York are closed. Those who are lucky enough to be on the HCV program waited years on the list for their vouchers.

NYAIL has outlined the significant barriers faced by New Yorkers with disabilities – particularly the lack of affordable and accessible housing, along with low vacancy rates and significant disability discrimination. This demonstrates the unique barriers that many people with disabilities and seniors will face if forced to move under SAFMR. HUD must not implement a rule which, while well intentioned, could cause countless seniors and people with disabilities to lose their vouchers and be forced to go into institutions, such as nursing homes.

NYAIL strongly urges HUD to hold harmless all people with disabilities and seniors who currently have vouchers in newly designated SAFMR areas.

Thank you for the opportunity to comment on this proposed rule.

Sincerely,

Meghan Schoeffling  
Policy Analyst