

Institutional Stays and Continuum of Care and Emergency Solutions Grants Eligibility

Institutional stays of more than 90 days may affect someone’s status as homeless or chronically homeless and in-turn impact their eligibility for Emergency Solutions Grants (ESG) and Continuum of Care (CoC) Programs. The intent of this guide is to help programs assess the effect of institutional stays on: 1) a person’s homeless status, 2) a person’s chronically homeless status, and 3) a household’s continued eligibility for CoC and ESG programs if they stay in an institution once they are enrolled in project. This guide will help communities better understand their options for serving people exiting institutions, including incarceration and residential treatment programs.

Definitions of Homelessness and Chronic Homelessness

HOMELESSNESS

Category 1 of HUD’s homeless definition (§ 578.3) is an individual or family who lacks a fixed, regular, and adequate night-time residence, meaning:

- 1) Has a primary nighttime residence that is a public or private place not meant for human habitation; **OR**
- 2) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); **OR**
- 3) Is exiting an institution where (s) he has resided for 90 days or less and who resided in an emergency shelter or a place not meant for human habitation immediately before entering the institution.

CHRONIC HOMELESSNESS

HUD’s definition of chronically homeless¹, which is important to understand to help determine if households are eligible for housing dedicated to chronically homeless individuals or families under the CoC program, requires that an individual or head of household must meet the following criteria:

- 1) Is considered a “homeless individual with a disability,” **AND**
- 2) Currently lives in a place not meant for human habitation, in a safe haven, or in an emergency shelter, **AND**
- 3) Has been residing in a place not meant for human habitation, in a safe haven, or in an emergency shelter either continuously for the last 12 months, or on at least four separate occasions over the last three years that cumulatively total 12 months.

1. <https://www.hudexchange.info/resource/4847/hearth-defining-chronically-homeless-final-rule/>

This resource is prepared by technical assistance providers and intended only to provide guidance. The contents of this document, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

– Last updated May 2023

If an individual or head of household is considered chronically homeless because they have been residing in a place not meant for human habitation, in a safe haven, or in an emergency shelter on at least four separate occasions over the last three years that cumulatively total 12 months, it is important to note the following:

- The four separate occasions must be separated by a break of at least 7 consecutive nights of not living in a place not meant for human habitation, in a safe haven, or in an emergency shelter
- Stays in institutional care facilities for fewer than 90 days are not considered a break in homelessness and are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility.

Institutional Stays and their Impact on Homeless Status and Chronically Homeless Status

An individual's time spent in an institution may impact their homeless or chronically homeless status, and thus their eligibility for HUD ESG and CoC funded programs.

If someone stays in an institution (e.g., incarceration or residential treatment) for **90 days or more, they are no longer considered homeless or chronically homeless** immediately upon discharge. However, **HUD does not require an individual or family to sleep outdoors in order to be served by an ESG-funded Emergency Shelter program.**

Impact of an Institutional Stay Once Enrolled in a CoC or ESG funded Project

ENROLLMENT

Recipients and subrecipients must document a client's homeless or chronically homeless status **at program intake and enrollment** into a permanent housing project and must maintain and follow written intake procedures to ensure compliance with the [HEARTH: Defining "Homeless" Final Rule and Final Rule on Defining "Chronically Homeless."](#)

Once confirmed as homeless or chronically homeless and enrolled in a permanent housing program—rapid rehousing (RRH) or permanent supportive housing (PSH)—an individual or family generally continues to be eligible for that resource regardless of where they stay while they are looking for their unit (e.g., institution, with friends or family, or transitional housing). However, it's important to note that to maintain eligibility and homeless status as defined by HUD, a household must already **be accepted and enrolled** in the RRH or PSH project where there is an actual vacancy. Placement on a waiting list would not constitute enrollment until the individual or family come off the waiting list and receives the slot for their housing assistance (e.g., a tenant-based rental assistance voucher).

This means the household:



- 1) has been determined eligible for the project,
- 2) is currently receiving services through the project (at a minimum case management), and
- 3) is actively looking for housing or has secured a spot in housing.

Defining Institutions:

In general, for non-HUD funded homeless programs, the CoC is ultimately responsible for assigning the project type, including institutions. HUD considers the following characteristics when determining whether a facility is considered an institution, such as:

- how it is funded,
- the conditions upon which an individual can stay in that location,
- the level of supervision by medical staff, and
- the rules placed upon program participants while they reside there.

In general, jails, inpatient/residential treatment, hospitals, and nursing homes are likely to be considered institutions, whereas facilities such as outpatient substance abuse or mental health treatment facilities might not be. For example, if the person pays rent in recovery housing and has a legally binding or written lease this is considered housing and not an institution.

Options to Serve People Exiting Institutional Care After More than 90 Days

Should discharge planning not prove effective for individuals leaving institutional care setting after residing there more than 90 days, ESG and CoC programs can serve individuals in following ways:

- *If not enrolled in a RRH or PSH program:*
 - Provide immediate access to ESG Emergency Shelter if the household presents and does not have a safe place to sleep.
 - Using Coordinated Entry, provide the household access to RRH or PSH projects, depending upon their needs.
- *If enrolled in RRH or PSH:*
 - Work with the household to find housing that meets their needs and provide rental assistance.

PAYING RENTAL ASSISTANCE ON BEHALF OF A PROGRAM PARTICIPANT WHILE THEY ARE RESIDING IN AN INSTITUTION

The CoC Program interim rule does not require that an individual receiving rental assistance ([§ 578.51\(i\)](#)) from a project to be exited from the project if they are institutionalized. A program participant may continue to be served by the project upon exiting the institution without re-establishing eligibility so long as the participant remains enrolled in the project (e.g., still considered a program participant by the project) during their stay in the institution. However, CoC Program Rental Assistance funds can only be used for rental payments on behalf of a program participant for up to 90 days of being in the institution. After 90 days, CoC rental assistance funds cannot be used, but the recipient or subrecipient may choose to use non-CoC funds to support rental assistance payments to hold the unit for the participant.

Alternatively, instead of using funds other than CoC Program rental assistance funds to pay rent for more than 90 days, the recipient or subrecipient could choose to stop renting the unit the program participant was residing in but keep the participant enrolled in the project. In this instance, the project can locate a new unit and begin making CoC-funded rental assistance payments for the individual upon their release from the institution. Meaning, if a person remained enrolled by a CoC-funded project while someone was in an institution for more than 90-days, they may exit the institution and still be eligible for CoC-funded permanent housing. However, they will likely need to find a new unit to live in since their prior unit is likely no longer available. When a new unit is located the recipient or subrecipient can resume rental assistance payments on behalf of the program participant in their new unit.

The rental assistance guidelines under the ESG Program Interim Rule ([§ 576.106](#)) does not include regulatory requirements around the length of time ESG funds can be used to pay rent for an empty unit. Therefore, the amount of time the unit may be held is at the discretion of the RRH project. Please note, each month of ESG rental assistance counts towards the total amount of assistance a program participant can receive, therefore in most cases HUD would advise the recipient not hold the unit for the individual for more than 90 days. ESG-funded projects should have clear policies and procedures in place regarding the absences from units, including when to exit program participants and when to start counting the number of days to hold the unit (e.g., when the program participant goes to jail or when the project learns they are in jail).

PSH LEASING FUNDS

If the recipient receives operating a PSH project receives funds for leasing ([§ 578.49](#)) the recipient is required to make payments on a unit in compliance with the lease, regardless of whether the a program participant is residing in the unit or structure. There is no a regulatory requirement around the length of time grant funds can be used to pay for an empty unit. Therefore, the amount of time the unit may be held is at the direction of the local program. However, HUD would advise the recipient not hold the unit for an individual staying in an institution for more than 90 days. After 90 days, the unit should be filled with another eligible households and, as with rental assistance if the program participant has not been exited from the project, the recipient or subrecipient may assist the participant exiting the institution find new housing. Leasing programs should have clear policies and procedures in place regarding absences from units related to these circumstances.

Example Scenarios: Exiting Institutions and Homeless Status

PRE-ENROLLMENT IN A PERMANENT HOUSING PROJECT

John is chronically homeless and staying in an emergency shelter when he enters a detention facility for 80 days. From the detention facility he immediately enters into a medical facility for an additional 40 days. In this circumstance, John's situation would be considered a single stay in an institution for a combined period of 120 days. John will not meet the definition of chronically homeless upon discharge because these 120 consecutive days residing in an institution would be considered a break in homelessness. In addition, since he is coming directly from an institution where he stayed for more than 90 days, John would not be considered homeless at the time of his release from the institution.

Cassy is chronically homeless and living in an encampment when she enters a medical facility due to health needs for 40 days. Upon exiting the institution, she returns to being unhoused for 3 days, but then requires additional assistance and enters a new medical facility for 60 days. Since Cassy returned to a place not fit for human habitation (e.g., an encampment) between institutional stays, the two instances would not be considered a single instance of residing in an institution. Therefore, the time Cassy spent in both institutions would count towards her total length of time homeless and chronically homeless status.

Noah is living in the woods – experiencing homelessness, but not chronic homelessness – when they enter the jail system for 95 days. Noah will not meet the definition of homeless upon their exit from jail since they were in an institution for over 90 days.

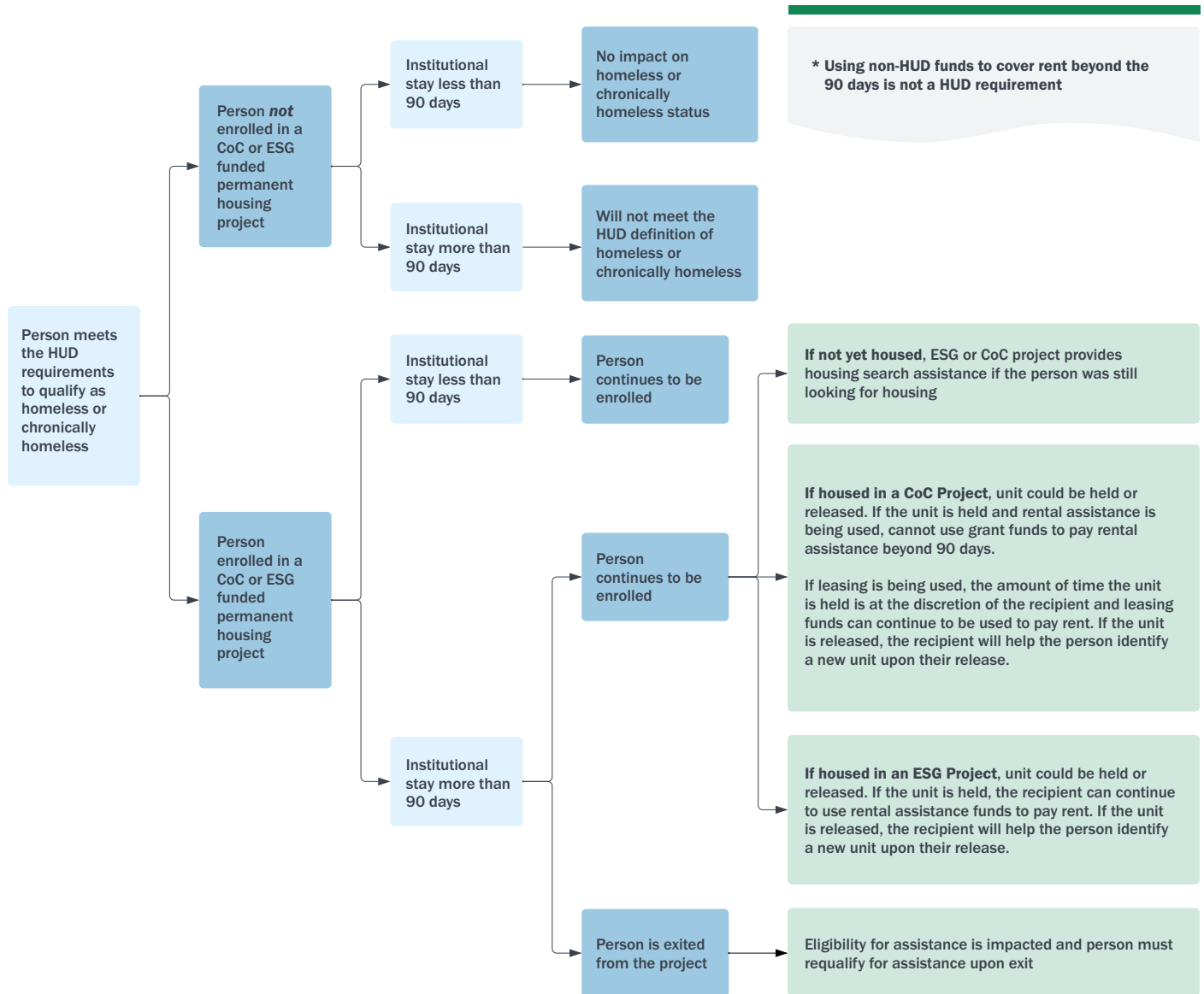
POST-ENROLLMENT IN A PERMANENT HOUSING PROJECT

Sally is living in a PSH project that receives CoC Program funding for Rental Assistance. Sally fell and injured her leg and needed to stay in a nursing home to receive physical therapy. While Sally is expected to fully recover and return to her PSH unit once discharged, her stay at the nursing facility may exceed 90 days. Sally can stay enrolled in the PSH project, but the CoC rental assistance funds can only be used to pay for up to 90 days of rental payments. If Sally's stay exceeds 90 days, the PSH project will need to determine if they need to move Sally out of her unit, keeping her enrolled in the PSH project, and help her find a new unit upon her exit from the nursing facility or if it is reasonable to maintain her current unit and continue paying rent with funds other than CoC Program grant funds.

George is currently living in a CoC-funded PSH project receiving leasing funds for over two years and decided he would enroll in a residential treatment program to address his active substance use. After 90 days, the project knew George would not return for several more months so they moved his belongings to storage and moved a new participant into the unit. While in the residential treatment program, George is still enrolled in the PSH project, receives periodic check-ins from his case manager, and when he is ready to be discharged, the project will be able to help him locate a new unit to lease.

Terry is enrolled in an ESG RRH project and actively searching for housing. Recently, Terry was brought into custody and was unable to make bail. He is now held in jail until the day of the trial, which is four months away (over 90 days). The RRH project is able to maintain Terry's enrollment while he is in jail and does not exit him from the project so he can receive RRH assistance once he is released.

Institutional Stays and Continuum of Care and Emergency Solutions Homelessness Status Workflow



Grants Homelessness Status Workflow

EXITING INSTITUTIONS & DISCHARGE PLANNING

While there are scenarios where people can reside in institutions and maintain their homeless status, chronically homeless status, and continued eligibility for CoC and ESG Program resources, it is important to keep in mind the importance of discharge planning to ensure people are not discharged from publicly-funded institutions into homelessness. ESG and CoC recipients that are State or local governments are required to establish and implement discharge policies that prevent people from being discharged from publicly-funded systems of care into homelessness. Strong discharge policies can eliminate situations where individuals are discharged to the streets or emergency shelter by preparing someone to live independently or with certain supports in a non-institutional setting.

However, if discharge planning is not carried out appropriately and the individual ends up unhoused or presenting at a shelter, then the individual is experiencing homelessness and can be served by an ESG-funded emergency shelter or an ESG or CoC-funded housing project (as long as they meet other HUD program eligibility requirements (e.g., disability)). Remember, ***HUD does not require an individual or family to sleep outdoors in order to be served by an ESG-funded Emergency Shelter program.***

[Helping people make successful transitions to the community](#) as they are released from institutions, such as jails, prisons, and health care, mental health, or substance abuse treatment facilities requires systems to work together to ensure continuity of care and linkages to appropriate employment, housing and community treatment and supports. Many partners must work together to accomplish these goals, including homeless service providers, mainstream programs, faith-based organizations, affordable housing developers and providers, public and private funders, local businesses, and political leadership. It is important to increase communications across multiple systems and CoCs to reduce unexpected discharges to shelters and to hold regular cross-system forums or trainings for each partner to examine the resources they can contribute towards effective discharge planning (e.g., workforce, facilities, funding, etc.). This may allow for discharge planning processes (in hospitals, jails, residential treatment programs) to include the consideration of housing needs and only make necessary linkages to the homeless service system.

Successful discharge planning also requires a robust Coordinated Entry process to ensure that every community's system is both responsive to the needs of people experiencing homelessness, can quickly connect people to permanent housing and needed services, and that resources are being used as efficiently as possible. This will also require providing training and knowledge sharing with institutional partners on how to refer and use Coordinated Entry, including developing shared assessment processes.

For more information on strategies and approaches for successful discharge planning, see HUD's [Discharge Planning from Publicly Funded Institutions: Customized Bibliography](#) on the HUD Exchange, listed within the resources below.

Resources

- [HEARTH: Defining “Homeless” Final Rule](#)
- [Final Rule on Defining “Chronically Homeless.”](#)
- [Criteria and Recordkeeping Requirements for the Definition of Homelessness](#)
- [Recording and Documenting Homeless Status Training](#)
- [CoC FAQ #2752](#): With regard to the final rule on the definition of chronically homeless, what constitutes an occasion of homelessness and how does HUD define a break?
- [CoC FAQ #2753](#): Can an individual or head of household be considered chronically homeless if they are coming directly from an institution? Why or why not?
- [CoC FAQ #2672](#): How can recipients and subrecipients document stays in institutions of fewer than 90 days with regard to the recordkeeping requirements that were established in the final rule on the definition of chronically homeless?
- [Discharge Planning From Publicly Funded Institutions: Customized Bibliography – HUD Exchange](#)
- [CoC and ESG Homeless Eligibility – Four Categories in the Homeless Definition Virtual Binder](#)
- [Webinar and supporting materials](#) related to the definition of chronically homeless
- CoC Virtual Binder: [Definition of Chronic Homelessness and Recordkeeping Requirements for Chronic Status](#)
- [FAQs about recordkeeping requirements](#)
- [Flowchart of HUD’s Definition of Chronic Homelessness](#): A flow chart that guides you through HUD’s Chronically Homeless Definition through mostly “Yes” or “No” questions, providing an interactive way to help understand who meets the definition and what documentation requirements apply
- [Sample Chronic Homelessness Documentation Checklist](#): A sample checklist that provides an optional way to help record Chronic Homelessness for those projects that need documentation of Chronic Homelessness.
- [Housing and Health Care Coordination and Systems Integration](#): Overview of nationwide efforts to form cross-sector partnerships and increase systems coordination to bridge the gap between homeless housing and service systems and mainstream health care and service systems.