



**Treatment Action Group**

September 16, 2020

Andrew Hughes, Chief of Staff  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW  
Washington, DC 20410

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

Dear Mr. Hughes,

I am writing on behalf of Treatment Action Group (TAG) in response to the Department of Housing and Urban Development's (HUD) proposed rule change published in the Federal Register on July 24, 2020 (RIN 2506-AC53; HUD Docket No. FR-6152-P-01) entitled, "Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs." We urge that this proposed rule change be withdrawn in its entirety.

TAG is an independent, activist and community-based research and policy think tank fighting for better treatment, prevention, a vaccine, and a cure for HIV, tuberculosis (TB), and hepatitis C virus. As an organization that is committed to upholding the civil rights of all persons, we strongly oppose the proposed rule which would increase the likelihood of housing discrimination against transgender people. Stable housing – and even temporary shelter – is one of the most effective ways to protect the health of people living with HIV and to prevent HIV transmission, by better allowing a person to be able to adhere to treatment and avoid situations which would place them at higher risk of transmission.<sup>1</sup>

TAG recognizes that the proposed rule change is a part of the current administration's ongoing efforts to limit the rights and protections for the LGBTQ+ community, particularly transgender people.<sup>2</sup> This proposed rule would strip protections for transgender and gender non-conforming people seeking HUD-funded shelter and is rooted in harmful and dangerous stereotypes about transgender persons, particularly transgender women. These stereotypes, in addition to other forms of transphobic discrimination and stigmatization, already place transgender women at higher risk of HIV infection<sup>3</sup> – and interrupting access to shelter will only exacerbate that heightened vulnerability and put even more lives at risk.

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<sup>1</sup> Aidala AA, Wilson MG, Shubert V, Gogolishvili D, Globerman J, Rueda S, Bozack AK, Caban M, Rourke SB. Housing Status, Medical Care, and Health Outcomes Among People Living With HIV/AIDS: A Systematic Review. *Am J Public Health*. 2016 Jan;106(1):e1-e23.

<sup>2</sup> *The Discrimination Administration*, National Center for Transgender Equality (May 15, 2020) <https://transequality.org/the-discrimination-administration>

<sup>3</sup> Song W, Mulatu MS, Rao S, Wang G, Kudon HZ, O'Connor K. HIV Partner Service Delivery Among Transgender Women — United States, 2013–2017. *MMWR Morb Mortal Wkly Rep* 2020;69:35–39.



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HUD's anti-transgender proposal allows temporary, emergency single-sex shelters to ask someone to provide evidence of their sex "based on a good faith belief" that the person seeking shelter is not of the biological sex that the shelter serves. Adopting this "good faith belief" approach, as opposed to simply accepting someone's assertion of their own gender identity, invites sex stereotyping and invasive questioning by program staff. The extremely limited number of shelters specifically catering to transgender people will mean that, even with the mandate to provide a transfer recommendation, countless individuals will be left with no feasible options for shelter.

TAG believes that moving forward with this proposed rule change in the midst of a pandemic is particularly egregious and cruel. By limiting access to safe and healthy shelters for transgender persons, HUD's rulemaking will create additional barriers for individuals to safely physically distance and self-isolate. COVID-19 has been particularly devastating for transgender women, especially those living with HIV, largely due to discriminatory barriers to housing and healthcare.<sup>4</sup> The proposed rule would further worsen that trend and expose more people to a potentially life-threatening pathogen. At a time when the federal government should be doing everything in its power to save lives, HUD cannot afford the risk of increased deaths that the proposed rule would cause.

As we stated above, equal access to shelter is absolutely critical to fighting the HIV epidemic. We urge HUD to immediately withdraw its current rule change proposal and dedicate its efforts to mitigating the current effects that COVID-19 has had on housing stability for not only the LGBTQ+ community but for everyone. The country is in the midst of an economic, health, and housing crisis. The administration should be not devoting scarce agency resources to facilitating discrimination and perpetuating stereotypes.

Thank you for the opportunity to submit comments on the proposed rulemaking, and we hope you commit to keeping crucial housing protections in place. Please do not hesitate to contact Erica Lessem, TAG's Deputy Executive Director, at [erica.lessem@treatmentactiongroup.org](mailto:erica.lessem@treatmentactiongroup.org) with any questions.

Sincerely,

A handwritten signature in black ink that reads "Erica Lessem". The signature is written in a cursive, flowing style.

Erica Lessem, MPH  
Deputy Executive Director  
Treatment Action Group

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<sup>4</sup> Poteat TC, Reisner SL, Miller M, Wirtz AL. COVID-19 Vulnerability of Transgender Women With and Without HIV Infection in the Eastern and Southern U.S. medRxiv [Preprint]. 2020 Jul 24. Update in: J Acquir Immune Defic Syndr. 2020 Aug 25.