
Title: 3.1.4 Emergency Transfer Policies and Procedures for Survivors of Domestic Violence

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Reviewed By: Governing Council

Approved By: Governing Council

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Purpose:

The Memphis/Shelby County CoC strives to uphold the safety of participants in homeless assistance programs, which includes specific provisions for persons who are survivors of domestic violence, dating violence, sexual assault, human trafficking, or stalking. As outlined in HUD's Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs Final Rule¹, CoCs must be able to provide individuals and families fleeing violence access to housing and trauma-informed, victim-centered services that prioritize the survivor's safety needs, accommodates their unique circumstances, and maximizes client choice. This policy outlines the emergency transfer plan that the Memphis/Shelby County CoC has adopted to comply with federal requirements.

Policy:

In accordance with the Violence Against Women Act (VAWA), Memphis/Shelby County CoC and ESG homeless assistance programs providing housing or rental assistance must allow participants who are victims of domestic violence, dating violence, sexual assault, human trafficking, or stalking to request an emergency transfer from the participant's current unit to another unit. This requirement applies to programs supported by U.S. Department of Housing and Urban Development (HUD) CoC Program funds, HUD Emergency Solutions Grants (ESG), and all programs participating in the CoC's Coordinated Entry System (CES).

The ability to request a transfer is available regardless of sex, gender identity or expression, or sexual orientation as well as any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. The ability of the CE Lead Agency to honor requests for participants currently receiving assistance may depend upon a preliminary determination that the participant is or has been a victim of domestic violence, dating violence, sexual assault, human trafficking, or stalking, and on whether another dwelling unit is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan includes information on eligibility for an emergency transfer, required documentation, confidentiality protections, the transfer process, and guidance to participants on safety and security. This plan is based on a model emergency transfer plan published by HUD, which is the Federal agency that oversees VAWA compliance of CoC- and ESG-funded programs.

Eligibility for Emergency Transfers

¹ Department of Housing & Urban Development. Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs: Final Rule. Retrieved from: <https://www.govinfo.gov/content/pkg/FR-2016-11-16/pdf/2016-25888.pdf>

A participant is eligible for an emergency transfer when any member of the household is a victim of domestic violence, dating violence, sexual assault, human trafficking, or stalking, and reasonably believes that there is a threat of imminent harm from further violence if the participant remains within the same unit. If the participant is a victim of sexual assault, the participant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A participant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. Participants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the participant shall notify their housing provider's management and submit a written request for a transfer to that provider. The provider must provide reasonable accommodations to this policy for individuals with disabilities. The participant's written request for an emergency transfer should include either:

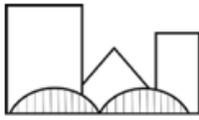
1. A statement expressing that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the provider's program; OR
2. A statement that a member of the participant's household was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the participant's request for an emergency transfer.

The participant may use the HUD model form 5383 (found in the Appendix) to request an emergency transfer. The housing provider may request documentation of the domestic or sexual violence. If requested, the participant may provide any one of the following forms of documentation:

1. HUD model form 5382 stating the individual is a victim (found in the Appendix);
2. Signed documentation from a victim service provider, an attorney, a medical professional, or a mental health professional from whom the participant has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; or
3. A police report or court record.

If a housing provider receives reports or documentation of domestic or sexual violence that contain conflicting information (including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator), the housing provider may require a participant to submit third-party documentation, as described in 2 & 3 above and in 24 C.F.R. 5.2007(b), within 30 calendar days of the date of the request for the third-party documentation. If third party documentation is not received or third-party documentation presents conflicting information, the housing provider must contact the CE Lead Agency for case consultation.

Confidentiality



The housing provider and the CE Lead Agency team will keep confidential any information that the participant submits in requesting an emergency transfer, and any information about the emergency transfer, unless the participant gives the housing provider written permission to release the information on a time-limited basis, or if disclosure of the information is required by law or for use in an eviction proceeding or termination hearing. To this end, in order to submit an emergency transfer request to the Memphis/Shelby County CES, even without any details about the circumstances, the housing provider must get a signed consent form (found in the Appendix). This protection also includes keeping confidential the new location of the dwelling unit of the participant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, stalking, or trafficking against the participant. See the Notice of Occupancy Rights (found in the Appendix) under the Violence Against Women Act for more information about the provider's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

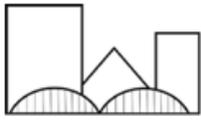
Emergency Transfer Timing and Availability

Each provider must develop a strategy to transfer a survivor to a safe unit as quickly as possible. Nothing may preclude a participant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available. The housing provider must explain both options to the participant. The provider is responsible for assisting the household members as they work to meet their safety needs, until a transfer can occur. At the participant's request, the provider will also assist the participant with contacting the local organizations assisting victims of domestic violence, dating violence, sexual assault, human trafficking, or stalking. Community partners can assist with assessing whether the participants' safety plan needs to include immediate relocation before a transfer can be effected and are trained in creating safety plans with participants.

Upon receiving the participant's emergency transfer request, the housing provider will assess the possibility of an internal emergency transfer by determining the availability and safety of an alternative unit within that provider's inventory. If an internal emergency transfer is feasible (there is a safe unit available), the provider will act within 24-48 hours to move the participant who is a victim of domestic violence, dating violence, sexual assault, human trafficking, or stalking to another unit. All internal emergency transfer requests within this plan must receive the same priority that other types of emergency transfer requests, such as those related to emergency maintenance issues, receive.

If a unit is available and safe, the transferred participant must agree to abide by the terms and conditions that govern occupancy in the unit to which the participant has been transferred. The provider may be unable to transfer a participant to a particular unit if the participant has not or cannot establish eligibility for that unit. If a participant reasonably believes a proposed transfer would not be safe, the participant may request a transfer to a different unit.

If the participant wishes to submit concurrent transfer requests or if the participant prefers an internal emergency transfer, but the provider has no safe and available units in its inventory for which the participant making the request is eligible, the provider will request documentation of the victim's status in any of the forms previously mentioned, including the self-certification form. The provider will confer with the CE Lead Agency to discuss current openings within the CE and will prioritize the client for the most immediate and appropriate housing opening that the participant



can qualify for. Clients placed on the By-Name List for prioritization will have no identifiable information included, and will have a placeholder name associated with the agency they are working with (i.e. Agency1).

Regardless of VI-SPDAT score, the individual or family shall have priority over all other applicants within the CES for rental assistance, transitional housing, and permanent supportive housing projects for which the household meets all eligibility criteria. The household shall retain their original homeless or chronically homeless status for the purposes of the transfer. If the external transfer request is approved and the participant is matched to another program, the provider is responsible for assisting the household with meeting documentation requirements of the program they are moving to. For instance, the provider would share the documentation of homelessness, disability, and/or other items that were received at entry to their program. The provider would not share any information about the situation prompting the transfer without receiving specific written consent from the participant.

Non-transferring Household Member(s) & Lease Bifurcation

If a family separates in order to affect an emergency transfer and the non-transferring household member is engaged in criminal activity directly relating to domestic violence, sexual assault, dating violence, human trafficking, or stalking, the housing provider may bifurcate the lease, or remove said household member from the lease in order to evict, remove, terminate occupancy rights, or terminate assistance to the non-transferring member. In terminating assistance or occupancy rights of the non-transferring household member, the housing provider must follow its written termination policy and grievance procedure, including formal due process. In removing the abuser or perpetrator from the unit, the housing provider must follow Federal, State, and local eviction procedures. When a household receiving assistance separates, the household's assistance shall continue for the household member(s) who are not evicted or removed in a program for which the remaining household member(s) are eligible.

Costs of Breaking a Lease

Providers of HUD CoC-funded tenant-based rental assistance may use grant funds to pay amounts owed for breaking the lease if the family qualifies for an emergency transfer under this emergency transfer plan.

Safety and Security of Participants

Pending processing of the transfer and the actual transfer, if approved, the participant is urged to take all reasonable precautions to be safe and the provider is urged to support those efforts.

Limitations on Transfer Requests

Neither a housing provider nor the CES can force a participant to move to unit that does not feel safe. A survivor of domestic violence, dating violence, sexual assault, human trafficking, or stalking can invoke this plan multiple times. A transfer cannot be denied because the perpetrator learned of a new location of residence, even if the perpetrator learned from the victim. There is no limitation on the number of emergency transfers that a survivor can request.

Grievance

If denied an emergency transfer, participants can file a grievance by following the grievance procedures within the Coordinated Entry Manual in Section 1.8. If an emergency transfer is denied, participants can still be eligible for rehousing based on the policy in the Coordinated Entry Manual under Section 1.7. The household shall retain their original homeless or chronically homeless status for the purposes of the transfer.

Record Keeping

Both housing providers and the CE Lead Agency must keep a record of all emergency transfers requested, the documentation provided with the requests, and the outcomes of such requests. Requests and outcomes of such requests must be reported to HUD annually. Agencies are encouraged to reach out to the local HUD office for protocols on reporting. Records must be retained for at least 5 years after the expenditure of all funds from the grant under which the program participant was served.