

RHS, RBS, RUS, FSA, USDA

§ 1944.252

under Public Law 103-354 and to any extensions and removals and to any security instrument which may be made in replacement thereof or at any time hereafter be placed on the property of the corporation. Member hereby agrees to execute, at the Cooperative's request and expense, any instrument which the Cooperative or any lender or mortgagee may deem necessary or desirable to subordinate this Agreement to any such security instrument. Member hereby appoints the Cooperative and each and every officer thereof, and any future officer, as irrevocable attorney-in-fact during the term of the agreement to execute any such instrument on behalf of Member.

ARTICLE 18. LATE CHARGES AND OTHER COSTS IN CASE OF DEFAULT

Section 18.01. In addition to all other sums due or to become due under this agreement, Member shall pay to the Cooperative a late charge, not to exceed \$10.00, at any time payment of occupancy charges, or part thereof, is more than 10 days late. This late fee may be waived, depending on the circumstances and at the discretion of the board.

Section 18.02. If, because of default by Member under any obligation in this agreement, the Cooperative obtains the services of an attorney, Member shall pay to the Cooperative all costs and fees involved, including reasonable attorney's fees and the costs of any resulting law suit, if such an action becomes necessary.

ARTICLE 19. NOTICES

Section 19.01. Whenever any bylaw of Cooperative, any law, or this agreement requires notice to be given to either party, any notice or demand by the Cooperative to Member shall be considered to have been duly given if the same is delivered to Member at Member's unit or to Member's last known address. Any notice or demand by Member to the Cooperative shall be considered to have been duly given if delivered to an officer of the Cooperative. Such notice may also be given by depositing same in the United States mails addressed to Member as shown on the books of the Cooperative, or to the president of the cooperative, as the case may be, and the time of mailing shall be the time of giving such notice.

ARTICLE 20. ORAL REPRESENTATION NOT BINDING

Section 20.01. No representation other than those contained in this Agreement and in the charter and the bylaws of the Cooperative shall be binding upon the Cooperative.

In Witness Whereof, the parties hereto have caused this agreement to be signed and sealed the day and year first above written.

Cooperative

By: _____ (Seal)

Member

To Be Duly Acknowledged

[56 FR 2253, Jan. 22, 1991]

Subpart F—Congregate Housing Services Program

SOURCE: 61 FR 42943, 42949, Aug. 19, 1996, unless otherwise noted.

§ 1944.251 Purpose.

The requirements of this subpart augment the requirements of section 802 of the National Affordable Housing Act of 1990 (approved November 28, 1990, Public Law 101-625) (42 U.S.C. 8011), (hereinafter, section 802), as amended by the Housing and Community Development Act of 1992 (Public Law 102-550, approved October 28, 1992), which authorizes the Congregate Housing Services Program (hereinafter, CHSP or Program).

§ 1944.252 Definitions.

In addition to the definitions in section 802(k), the following definitions apply to CHSP:

Activity of Daily Living (ADL) means an activity regularly necessary for personal care.

(1) The minimum requirements of ADLs include:

(i) Eating (may need assistance with cooking, preparing or serving food, but must be able to feed self);

(ii) Dressing (must be able to dress self, but may need occasional assistance);

(iii) Bathing (may need assistance in getting in and out of the shower or tub, but must be able to wash self);

(iv) Grooming (may need assistance in washing hair, but must be able to take care of personal appearance);

(v) Getting in and out of bed and chairs, walking, going outdoors, using the toilet; and

(vi) Household management activities (may need assistance in doing housework, grocery shopping or laundry, or getting to and from one location to another for activities such as going to the doctor and shopping, but must be mobile. The mobility requirement does not exclude persons in

wheelchairs or those requiring mobility devices.)

(2) Each of the Activities of Daily Living noted in paragraph (1) of this definition includes a requirement that a person must be able to perform at a specified minimal level (e.g., to satisfy the eating ADL, the person must be able to feed himself or herself). The determination of whether a person meets this minimal level of performance must include consideration of those services that will be performed by a person's spouse, relatives or other attendants to be provided by the individual. For example, if a person requires assistance with cooking, preparing or serving food plus assistance in feeding himself or herself, the individual would meet the minimal performance level and thus satisfy the eating ADL, if a spouse, relative or attendant provides assistance with feeding the person. Should such assistance become unavailable at any time, the owner is not obligated at any time to provide individualized services beyond those offered to the resident population in general. The Activities of Daily Living analysis is relevant only with regard to determination of a person's eligibility to receive *supportive services* paid for by CHSP and is not a determination of eligibility for occupancy;

Adjusted income means adjusted income as defined in 24 CFR parts 813 or 913.

Applicant means a State, Indian tribe, unit of general local government, public housing authority (PHA), Indian housing authority (IHA) or local nonprofit housing sponsor. A State, Indian tribe, or unit of general local government may apply on behalf of a local nonprofit housing sponsor or a for-profit owner of eligible housing for the elderly.

Area agency on aging means the single agency designated by the State Agency on Aging to administer the program described in Title III of the Older Americans Act of 1965 (45 CFR chapter 13).

Assistant Secretary means the HUD Assistant Secretary for Housing-Federal Housing Commissioner or the HUD Assistant Secretary for Public and Indian Housing.

Case management means implementing the processes of: establishing linkages with appropriate agencies and service providers in the general community in order to tailor the needed services to the program participant; linking program participants to providers of services that the participant needs; making decisions about the way resources are allocated to an individual on the basis of needs; developing and monitoring of case plans in coordination with a formal assessment of services needed; and educating participants on issues, including, but not limited to, supportive service availability, application procedures and client rights.

Eligible housing for the elderly means any eligible project including any building within a mixed-use project that was designated for occupancy by elderly persons, or persons with disabilities at its inception or, although not so designated, for which the eligible owner or grantee gives preference in tenant selection (with HUD approval) for all units in the eligible project (or for a building within an eligible mixed-use project) to eligible elderly persons, persons with disabilities, or temporarily disabled individuals. For purposes of this subpart, this term does not include projects assisted under the Low-Rent Housing Homeownership Opportunity program (Turnkey III (24 CFR part 905, subpart G)).

Eligible owner means an owner of an eligible housing project.

Excess residual receipts mean residual receipts of more than \$500 per unit in the project which are available and not committed to other uses at the time of application to HUD for CHSP. Such receipts may be used as matching funds and may be spent down to a minimum of \$500/unit.

For-profit owner of eligible housing for the elderly means an owner of an eligible housing project in which some part of the project's earnings lawfully inure to the benefit of any private shareholder or individual.

Grantee or Grant recipient means the recipient of funding under CHSP. Grantees under this Program may be states, units of general local government, Indian tribes, PHAs, IHAs, and local nonprofit housing sponsors.

Local nonprofit housing sponsor means an owner or borrower of eligible housing for the elderly; no part of the net earnings of the owning organization shall lawfully inure to the benefit of any shareholder or individual.

Nonprofit includes a public housing agency as that term is defined in section 3(b)(6) of the United States Housing Act of 1937.

Person with disabilities means a household composed of one or more persons, at least one of whom is an adult who has a disability.

(1) A person shall be considered to have a disability if such person is determined under regulations issued by the Secretary to have a physical, mental, or emotional impairment which:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that the person's ability could be improved by more suitable housing conditions.

(2) A person shall also be considered to have a disability if the person has a developmental disability as defined in section 102(5) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-7). Notwithstanding the preceding provisions of this paragraph, the terms *person with disabilities* or *temporarily disabled* include two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary of HUD) to be essential to their care or well-being, and the surviving member or members of any household where at least one or more persons was an adult with a disability who was living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

Program participant (participant) means any project resident as defined in section 802(e)(1) who is formally accepted into CHSP, receives CHSP services, and resides in the eligible housing project served by CHSP grant.

Qualifying supportive services means those services described in section 802(k)(16). Under this Program, *health-related services* mean non-medical supervision, wellness programs, preven-

tive health screening, monitoring of medication consistent with state law, and non-medical components of adult day care. The Secretary concerned may also approve other requested supportive services essential for achieving and maintaining independent living.

Rural Housing Service (RHS) means a credit agency for rural housing and rural development in the U.S. Department of Agriculture (USDA).

Secretary concerned means (1) The Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by HUD; and

(2) The Secretary of Agriculture with reference to programs administered by the Administrator of the Rural Housing Service.

Service coordinator means CHSP staff person responsible for coordinating Program services as described in section 1944.130.

Service provider means a person or organization licensed or otherwise approved in writing by a State or local agency (e.g., Department of Health, Department of Human Services or Welfare) to provide supportive services.

State agency means the State or an agency or instrumentality of the State.

State agency on aging means the single agency designated by the Governor to administer the program described in Title III of the Older Americans Act of 1965 (See 45 CFR part 13).

§ 1944.253 Notice of funding availability, application process and selection.

(a) *Notice of funding availability.* A Notice of Funding Availability (NOFA) will be published periodically in the FEDERAL REGISTER by the Secretary concerned containing the amounts of funds available, allocation or distribution of funds available among eligible applicant groups, where to obtain and submit applications, the deadline for submissions, and further explanation of the selection criteria, review and selection process. The Secretary concerned will designate the maximum allowable size for grants.

(b) *Selection criteria* are set forth in section 802(h)(1) and shall include additional criteria specified by the Secretary concerned.