



## Overview of CARES Act Moratorium on Evictions and Effect on the Housing Opportunities for Persons With AIDS (HOPWA) Program

### Coronavirus (COVID-19)

Effective Date March 27, 2020

Coronavirus Aid, Relief, and Economic Security (CARES) Act Moratorium on Evictions

#### Overview

*The following Q and A's provide guidance on Section 4024 of the CARES Act. Section 4024 of the CARES Act imposes a temporary moratorium on evictions. The eviction moratorium went into effect on March 27, 2020, upon the enactment of the CARES Act, and will be in effect for 120 days from that date. The temporary eviction moratorium applies to the HOPWA program, as discussed below.*

Link to CARES Act: <https://www.congress.gov/116/bills/hr748/BILLS-116hr748eas.pdf>

#### **Q. When does the moratorium on evictions take affect and how long does it last?**

A. The moratorium starts on March 27, 2020 and extends for 120-days, i.e. July 25, 2020.

#### **Q. Does this affect properties assisted with HOPWA funds?**

A. Yes, households that receive **on-going rental assistance** in Tenant/Project-Based Rental Assistance (TBRA/PBRA), Transitional Housing (TH) and Short-Term Rental Assistance under STRMU (Short-Term Rent, Mortgage, and Utility Assistance).

As a one-time non-recurring payment, households that only receive utility and mortgage assistance under STRMU are not covered by the CARES Act moratorium on evictions. However, Section 4022 of the CARES Act describes the 60-day moratorium of eviction on federally backed

mortgage loans. This includes the Housing Choice Voucher program and Public Housing Homeownership program to the extent that the family has a federally backed mortgage (as defined in Section 4022(a)(2)).

**Q. What tenant protections does the 120-day moratorium include?**

A. During the 120-day moratorium, a landlord cannot:

- Require a protected tenant to vacate a unit
- Issue a notice to vacate to a protected tenant
- File to evict a protected tenant (or cause an eviction to be filed) for non-payment of rent or for non-payment of other fees or charges
- Accrue fees, or other charges on a protected tenant for non-payment of rent

**Please Note:** Tenants are still responsible for their portion of rent during the eviction moratorium. For any unpaid rent during the moratorium, the household must repay the landlord or sign a repayment agreement to pay any amount owed after the moratorium has ended. If the amount owed is not repaid, the landlord may terminate the household and proceed with a legal action to evict after the 120-days.

Grantees and project sponsors should review local guidance to see if any additional restrictions on eviction moratoriums have been put in place in their geographic area.

**Q. Can a landlord still evict for criminal activity or other lease violations?**

A. Yes. The eviction moratorium found in Section 4024(b) of the CARES Act only applies with respect to nonpayment of rent or nonpayment of other charges. Therefore, landlords may still undertake an eviction action against a tenant, based on the terms of the leases, as long as the eviction is unrelated to nonpayment of rent. HUD encourages all HOPWA grantees and project sponsors – not merely households receiving permanent supportive housing – to do all they can to keep the people they serve from being evicted. Grantees and project sponsors should also be mindful of other restrictions that apply to evictions, such as the tenant protections provided in HUD’s VAWA final rule.

**Q. What if a household has not resided in their unit for several days and has not responded to notices about overdue rent?**

A. Given the shelter-in-place requirements and other current restrictions on leaving housing HUD asks that grantees/project sponsors and landlords be as flexible as possible. A household or household member could be absent from their unit because they have decided to quarantine with other family members, could be hospitalized, or could be prevented from returning to the unit due to an emergency declaration by the state. Grantees/project sponsors and landlords should not assume a household’s absence from a unit means that they have abandoned the unit. If a grantee/project sponsor or landlord has reason to believe the unit has truly been abandoned, they should take careful steps to document

why they believe this is the case and not make any termination decisions during this 120-day period. A person's failure to respond to communication is not sufficient to proceed with termination.

**Q. What should a HOPWA-assisted household do if they receive an eviction notice?**

A. Section 4024(b) prohibits grantees/project sponsors and landlords receiving HOPWA funding from evicting households for nonpayment of rent during the 120-day period from the enactment of the CARES Act. If a HOPWA-assisted household receives an eviction notice for nonpayment of rent, they should reach out to their case manager as soon as possible, and the grantee/project sponsor or household member can inform the landlord that the eviction is against the law if it applies to nonpayment of rent between March 27, 2020 to July 25, 2020 and that no fees and penalties related to nonpayment of rent can be charged. The moratorium does not prevent lessors from filing for evictions for other violations of the lease or occupancy agreement or for nonpayment of rent prior to March 27, 2020.

**Q. Does the CARES Act provide any tenant protections after the 120-day moratorium ends?**

A. Yes, after the 120-day moratorium ends, a landlord cannot require a protected tenant to vacate the tenant's unit without providing a notice to vacate at least 30 days in advance.

**Q. Will HUD continue to provide guidance on how the CARES Act moratorium on evictions will affect HOPWA in our geographic area?**

A. Yes, additional guidance and tools will be provided on a continual basis. Additional guidance will include: (a) additional notification information for new/current landlords and HOPWA-assisted households about the moratorium, (b) interim rent calculation processes for households experiencing income changes due to COVID-19, and (c) actions local jurisdictions can take to ensure there are not mass evictions for HUD-assisted households after the 120-day eviction moratorium has passed.

Link to HOPWA Guidance for COVID-19 page: [https://www.hud.gov/program\\_offices/comm\\_planning/aidshousing](https://www.hud.gov/program_offices/comm_planning/aidshousing)