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TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER VIII--OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING-FEDERAL

HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 891\_SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH

DISABILITIES--Table of Contents

Subpart C\_Section 811 Supportive Housing for Persons With Disabilities

Sec. 891.300 Applicability.

The requirements set forth in this subpart C apply to the Section

811 Program of Supportive Housing for Persons with Disabilities only,

and to applicants, Sponsors, and Owners under that program.

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Sec. 891.305 Definitions.

As used in this part in reference to the Section 811 Program, and in

addition to the applicable definitions in Sec. 891.105:

Acquisition means the purchase of (or otherwise obtaining title to)

existing housing and related facilities to be used as supportive housing

for persons with disabilities.

Congregate space (hereinafter referred to as community space) means

space for multipurpose rooms, common areas, and other space necessary

for the provision of supportive services. Community space does not

include commercial areas.

Disabled household means a household composed of:

(1) One or more persons at least one of whom is an adult (18 years

or older) who has a disability;

(2) Two or more persons with disabilities living together, or one or

more such persons living with another person who is determined by HUD,

based upon a certification from an appropriate professional (e.g., a

rehabilitation counselor, social worker, or licensed physician) to be

important to their care or well being; or

(3) The surviving member or members of any household described in

paragraph (1) of this definition who were living in a unit assisted

under this part, with the deceased member of the household at the time

of his or her death.

Nonprofit organization means any institution or foundation:

(1) That has tax-exempt status under section 501(c)(3) of the

Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.);

(2) No part of the net earnings of which inures to the benefit of

any Board member, founder, contributor, or individual;

(3) That has a governing board;

(i) The membership of which is selected in a manner to assure that

there is significant representation of the views of the community in

which such housing is located (including persons with disabilities); and

(ii) That is responsible for the operation of the housing assisted

under this part; and

(4) That is approved by HUD as to financial responsibility.

Owner means a single-purpose nonprofit organization established by

the Sponsor that will receive a capital advance and project rental

assistance payments to develop and operate, as its legal owner,

supportive housing for persons with disabilities under this part. The

purposes of the Owner must include the promotion of the welfare of

persons with disabilities. The Owner may not be controlled by or under

the direction of persons or firms seeking to derive profit or gain

therefrom.

Person with disabilities shall have the meaning provided in Section

811 (42 U.S.C. 8013(k)(2)). The term ``person with disabilities'' shall

also include the following:

(1) A person who has a developmental disability, as defined in

section 102(7) of the Developmental Disabilities Assistance and Bill of

Rights Act (42 U.S.C. 6001(5)), i.e., if he or she has a severe chronic

disability which:

(i) Is attributable to a mental or physical impairment or

combination of mental and physical impairments;

(ii) Is manifested before the person attains age twenty-two;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitation in three or more

of the following areas of major life activity:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of

special, interdisciplinary, or generic care, treatment, or other

services which are of lifelong or extended duration and are individually

planned and coordinated.

(2) A person with a chronic mental illness, i.e., a severe and

persistent mental or emotional impairment that seriously limits his or

her ability to live independently, and which impairment could be

improved by more suitable housing conditions.

(3) A person infected with the human acquired immunodeficiency virus

(HIV) and a person who suffers from alcoholism or drug addiction,

provided they

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meet the definition of ``person with disabilities'' in Section 811 (42

U.S.C. 8013(k)(2)). A person whose sole impairment is a diagnosis of HIV

positive or alcoholism or drug addiction (i.e., does not meet the

qualifying criteria in section 811 (42 U.S.C. 8013(k)(2)) will not be

eligible for occupancy in a section 811 project.

Sponsor means any nonprofit entity:

(1) That has tax-exempt status under section 501(c)(3) of the

Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.);

(2) No part of the net earnings of which inures to the benefit of

any private shareholder, member, founder, contributor or individual;

(3) That is not controlled by or under the direction of persons or

firms seeking to derive profit or gain therefrom;

(4) That has a governing board the membership of which is selected

in a manner to assure that there is significant representation of the

views of persons with disabilities; and

(5) That is approved by HUD as to administrative and financial

capacity and responsibility.

[61 FR 11956, Mar. 22, 1996, as amended at 68 FR 67321, Dec. 1, 2003; 70

FR 54210, Sept. 13, 2005]

Sec. 891.310 Special project standards.

In addition to the applicable project standards in Sec. 891.120,

the following special standards apply to the Section 811 Program and to

projects funded under Sec. Sec. 891.655 through 891.790:

(a) Minimum group home standards. Each group home must provide a

minimum of 290 square feet of prorated space for each resident,

including a minimum area of 80 square feet for each resident in a shared

bedroom (with no more than two residents occupying a shared bedroom) and

a minimum area of 100 square feet for a single occupant bedroom; at

least one full bathroom for every four residents; space for recreation

at indoor and outdoor locations on the project site; and sufficient

storage for each resident in the bedroom and other storage space

necessary for the operation of the home. If the project involves

acquisition (with or without rehabilitation), the structure must at

least be in compliance with applicable State requirements. In the

absence of such requirements, the above standards shall apply.

(b) Additional accessibility requirements. In addition to the

accessibility requirements in Sec. 891.120(b), the following

requirements apply to the Section 811 Program and to projects funded

under Sec. Sec. 891.655 through 891.790:

(1) All entrances, common areas, units to be occupied by resident

staff, and amenities must be readily accessible to and usable by persons

with disabilities.

(2) In projects for chronically mentally ill individuals, a minimum

of 10 percent of all dwelling units in an independent living facility

(or 10 percent of all bedrooms and bathrooms in a group home, but at

least one of each such space), must be designed to be accessible or

adaptable for persons with disabilities.

(3) In projects for developmentally disabled or physically disabled

persons, all dwelling units in an independent living facility (or all

bedrooms and bathrooms in a group home) must be designed to be

accessible or adaptable for persons with physical disabilities. A

project involving acquisition and/or rehabilitation may provide a lesser

number if:

(i) The cost of providing full accessibility makes the project

financially infeasible;

(ii) Fewer than one-half of the intended occupants have mobility

impairments; and

(iii) The project complies with the requirements of 24 CFR 8.23.

(4) For the purposes of paragraph (b) of this section, the following

definitions apply:

(i) Accessible describes a site, building, facility, or portion

thereof that complies with the Uniform Federal Accessibility Standards

and that can be approached, entered, and used by physically disabled

people;

(ii) Adaptability means the ability of certain building spaces and

elements, such as kitchen counters, sinks, and grab bars, to be added or

altered so as to accommodate the needs of either disabled or nondisabled

persons, or to accommodate the needs of either disabled or nondisabled

persons, or to accommodate the needs of persons with different types or

degrees of disability.

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Sec. 891.315 Prohibited facilities.

This section shall apply to capital advances under the Section 811

Program, as well as loans financed under subpart E of this part. Project

facilities may not include infirmaries, nursing stations, spaces

dedicated to the delivery of medical treatment or physical therapy,

padded rooms, or space for respite care or sheltered workshops, even if

paid for from sources other than the HUD capital advance or loan. Except

for office space used by the Owner (or Borrower, if applicable)

exclusively for the administration of the project, project facilities

may not include office space.

Sec. 891.320 Site and neighborhood standards.

In addition to the requirements in Sec. 891.125 and Sec. 891.680,

if applicable, the following site and neighborhood requirements apply to

the Section 811 Program:

(a) Travel time and cost via public transportation or private

automobile, from the neighborhood to places of employment providing a

range of jobs for very low-income workers (or low-income workers, as

applicable), must not be excessive.

(b) Projects should be located in neighborhoods where other family

housing is located. Projects should not be located adjacent to the

following facilities, or in areas where such facilities are

concentrated: schools or day-care centers for persons with disabilities,

workshops, medical facilities, or other housing primarily serving

persons with disabilities. Not more than one group home may be located

on any one site and no such home may be located on a site contiguous to

another site containing such a home.

Sec. 891.325 Lead-based paint requirements.

The requirements of the Lead-Based Paint Poisoning Prevention Act

(42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction

Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part

35, subparts A, B, H, J, and R of this title apply to the section 811

program and to projects funded under Sec. Sec. 891.655 through 891.790.

[69 FR 34276, June 21, 2004]