



Required Participant Engagement in Services

Guidance for ESG and CoC Programs that are considering program participant participation requirements

Revised December 1.2023

OVERVIEW

This guidance is published to provide clarification relative to the U.S. Department of Housing and Urban Development's (HUD's) expectations relative to requirements for program participant engagement under ESG and CoC programming.

The following is excerpted from the HUD Exchange website¹ and specifically addresses HUD's position in this regard:

Required Participant Engagement in Services

Can recipients of ESG or CoC Program funds require program participants to participate in case management and supportive services?

ESG and CoC recipients are allowed flexibility in designing their programs, which means they have the discretion to establish their own policies regarding requiring participation in services. While there is no statutory or regulatory prohibition against providers setting reasonable standards regarding such policies, recipients should carefully consider whether requiring participation in a particular service is aligned with the recipient's priorities (e.g., Housing First) or could result in an unjustified disparate impact or discriminatory effect, which is a violation of the Fair Housing Act even when the provider had no intent to discriminate (e.g., under a drug testing/sobriety policy or practice).

Recipients and subrecipients may require program participants to take part in supportive services as a condition of continued participation in the program, as long as the required activities are not disability-related services provided through the project.

However, if the purpose of the project is to provide substance abuse treatment services, ESG and CoC Program recipients and subrecipients may require program participants to take part in substance abuse treatment services as a condition of continued participation in the program. Under the CoC Program, if the purpose of the project is not targeted to people with substance abuse histories, then the project may not require participation in substance abuse treatment services.

HUD is clear in its guidance that agencies have program flexibility in establishing their own reasonable standards while issuing the reminder that project priorities—such as the commitment to a Housing First model—do have bearing and merit consideration when setting such policies and practices. HUD does

¹ <https://www.hudexchange.info/homelessness-assistance/coc-esg-virtual-binders/coc-esg-additional-requirements/service-requirements/required-participation/>

specify that CoC and ESG subrecipients may not require any program participant to participate in supportive services (or be compliant with medications they are prescribed) that are related to the participant's disability.

Substance Use Disorder Exception

HUD's guidance similarly sets apart those projects² whose purpose is the provision substance abuse treatment services noting that such projects *"may require program participants to take part in substance abuse treatment services as a condition of continued participation in the program"*. Conversely, if the purpose of a CoC project, specifically, is not targeted to those with a substance use disorder, then *that project may not require participation in substance abuse treatment services*.

Within the New Bedford Continuum of Care (MA-505), subrecipient agencies with a project/s whose purpose is providing substance use disorder treatment services and wishing to require their program participants take part in related programming as a condition of their program participation should confirm such purpose in writing to the Office of Housing & Community Development. Such documentation will become part of the project file.

Summary

ESG and CoC projects, consistent with their own policies and priorities and only to the extent that they are reasonable, can require engagement in services such as case management in order to help stabilize and support program participants, doing so in a manner consistent with applicable discrimination laws, provided engagement is never required to participate in services related to their disability. This allowance extends by exception to projects with a substance use disorder treatment focus where a requirement to participate in substance use treatment services may be a condition of program participation.

Questions relative to this guidance can be directed to the OHCD at 508.979.1500 or via email to staff: Jennifer.Clarke@newbedford-ma.gov or Jose.Maia@newbedford-ma.gov.

² Note that the guidance speaks to projects, not agencies or subrecipients, themselves. If an agency's purpose is provision substance abuse treatment services but the project does not share that same purpose, the exception does not hold true.