

Melville Act Convening Session – notes – web version

April 14, 2011

1st discussion question:

The legislation provides for “state housing agencies or other entities” to apply for PRA authority. Should HUD make this authority available to state health and human service agencies or just state housing agencies? Should HUD make this authority available to sub-state entities, such as cities or metropolitan area agencies?

- Bring in as many state agencies as possible. This should be administered through the HFAs (the “housing people” referenced in the next two comments.). Not just public entities could be private entities that have the capacity to bring together the capital and make the connections to services following the “New Market” tax credit model.

- Keep this money with housing people, even if not a state entity - Not HHS (for example).
- Entities that have experience in allocating resources, section 42 administrators, CPD [SH: not sure what “CPD” is referencing] that have the ability to easily receive and distribute funds
- Collaborate with state housing finance agencies & health state agency.

2nd Question:

Should PRA funds be awarded through a competitive NOFA (with a limited number of participating states each year) or should HUD allow all administering agencies who demonstrate conformance with the PRA requirements to participate?

- Scale of demo does matter. Breaking it up into many pieces will make it inefficient (agreement by 3 others)
- Use pre-NOFA process to build state relationships and consider existing relationships
- Opportunity to look at best practices, varying approaches –what can be done with this model?
- Understand tenant services. Provide services thru private grants - not secure.

3rd Question:

What level of guidance and oversight should HUD require of participating agencies, both for awarding of funds and for ongoing processing, oversight and reporting? Should the operating assistance offered under the PRA be similar to PRAC? Should it allow for a

debt service component similar to Section 8? Should it be left open to the administering agencies?

-Find partner with most capacity and experience, private developers – we'd love to have them participate, each local jurisdiction has differing capacities. Flexible oversight based on experience.

– On integrating properties: given that only 25% of units can participate; encourage state levels to competitively award funds to the whole packages, not just the developer. [SH: I think this may be related to my comment but doesn't capture what I think was said. I was saying that given that a maximum of 25% of the units in a project can receive the PRA, HUD should allow HFAs to determine which developments to award the PRA to, and in so doing so to pick the best developments for the PRA units and consider how those units would fit into a larger development. Given that it's only up to 25% of the units, and given that no capital subsidy is involved, HUD shouldn't use as heavy an oversight process as in a project that is 100% capital- and rent-subsidized.] Service providers provide the best type of property [SH: I don't think anyone said this.] -- calls to mind the way that some HOPE VI developments occur where housing authority may have to develop best in class developments – important to prod them to think about incorporating these units. Provide assistance tools. If limited resources, makes sense to use a budget-based reimbursement, such as PRAC as a model for a rent operating subsidy.

– Transaction cost and operating cost is a huge factor when there are only 25% of units. Sub-allocating agency should not get too restrictive on how money flows. It's a nightmare and unnecessary with limited resources

- Rather than checking cash flow, look at performance instead.

– North Carolina currently determines the amount of revenue that each owner should be able to collect. Figures out the dollar amount that owner collects per unit. That's a simple and easy way to administer – decide what that payment standard is statewide after you take out what tenant can afford to pay. Subsidy can be used for operating expenses or debt service.

– Guidance needs to be clear on statutory parameters, but should be flexible beyond that. Flexibility and room for innovation. There are some good models that could be replicated.

Question #4:

What level of guidance and oversight should HUD require of participating agencies, both for awarding of funds and for ongoing processing, oversight and reporting? Should the operating assistance offered under the PRA be similar to PRAC? Should it allow for a debt service component similar to Section 8? Should it be left open to the administering agencies?

-Rely on state for oversight (agreement)

- Use HOME funds as a model, rather than current 811.
- Statutory language suggests this would be different than current 811. HUD would be funding and awarding programs, rather than individual projects, oversight must change & reduce approval process. If an owner has to wait on various approvals, it may prevent owner from taking on the program.

Discussion # 5:

The legislation requires the administering agency to identify the “population” to be targeted. What kinds of disabled populations should HUD allow states to target? How narrow can administering agencies make this determination and to what extent should flexibility be provided if states realize they are too narrowly focused? And should administering agencies allow property owners to change their designations over time?

- The goal is to take supportive housing to a policy level. State Medicaid agency should be part of it, must be at the table. Affordable Care Act envisions state is the funder. Consistency with long-term services through ACA. Long-term care services. Mental illness, HIV, people who need services over the long term and they are funded thru various plans. Some state appropriated dollars going into services. Hugely important that this side is done thru Medicaid & state agency level. Once a target population is identified, the services are identified.
- Need the commitment of those 3 agencies – MOU can be 2-4 yr process. Get them on record saying they are committed. This is a paradigm shift in the healthcare world.
- MOU’s need to be long-term explicit and specific. Often recipients have no idea.
- Agree. Keep policy makers and partners with advocates – service providers should commensurate with Medicaid, DD directors. Thinking more broadly than just health care agencies.
- Developers will have to commit for 30-40 yrs, has to be serious and binding. Use agreements, but must keep services and housing separate.
- How closely involved are mgmt companies & communities? They don’t know how to provide services. Issue: landlord should not know what your medical history is. Be careful about that in requirements. Should not be part of federal mandate. Clearly define what the role of mgmt agent.
- People who are getting services should actually get them in an organized way. Important to be cognizant of the way people get these community-based supportive services. May mean

multi-layered relationships, county, local, state. Crucial that housing is separate from services. (agreement)

- Are there good models? 30-yr commitment, or 20 years to match HAP contract?

- We want to hear examples – how will this agreement materialize? What would MOU say on Medicaid side?

- Services are different per individual and states differ too. At a minimum state Medicaid agency. Depends who we target.

– Important to coordinate with Olmstead (from an legal perspective)

- I believe there was also mention of the need for MOUs between housing entity and Medicaid agency to be made easily available to the public – such as posted to Medicaid and Housing agency websites and otherwise publicly disseminated.

Going further, since support services are so critical, I recommend that the Medicaid (or appropriate) agency be required to specify what number of and what Medicaid waivers are involved or what programs they will “activating” for this purpose, including at a minimum, an addendum listing the number, type and name of the service provider entities they are working with that will deliver the supportive services that the housing agency will be implementing. This way, the housing and finance entity as well as advocates and landlords will know the full degree of commitment on the services side, which is the critical element. Perhaps even consider requiring a public comment period at the local level as these MOUs are developed because these are in many ways a plan for how non-institutional housing is to occur OR ask the state to require a public planning process to ensure that the MOU once developed is in fact implementable. Where there are already good relationships between these two agencies, this requirement would be easy to fulfill. It is the locales where there are entrenched and bureaucratic barriers that I am most concerned about. I’m not sure how to go about incentivizing responsive and responsible support service delivery at the local level but having requirements for transparency in the planning and MOU development process could lead to some accountability and meet the need for landlords to have better assurances of support services delivery, an essential element of the new program.

There was also some more discussion about the link with ADA Title II non-discrimination requirements and how the Olmstead decision is part of the legal ecosystem for the intent of Melville. In any proposed rules, I recommend that this should be explicit as it could lead to better involvement of advocates and people with disabilities in any state level processes.

-While we understand the importance of having an extended use agreement, we think the application of the use agreement should be tied to ongoing funding of the rental assistance. Having a 20+ year contract is an important part of the discussion but the rental assistance itself needs to be funded by Congress too. Appropriations risk has always been an issue of concern in the underwriting community and while we hope this will never be the case, if Congress does not appropriate sufficient dollars to fund the rental assistance in the future there needs to be some sort of transformation remedy or the partnership might not be able to sustain the

property. Without some sort of remedy if the worst happens it may be very difficult to attract the debt and equity financing necessary to cover the capital costs. Given the budget environment, I think syndicators and lenders will be scrutinizing appropriations risk much more closely than they have in the past. Given the populations targeted by this program, I assume in most cases their tenant contribution will be pretty minimal (much more so than a traditional Section 8 resident). It's certainly a delicate issue politically but I think it needs to be addressed if this program is going to be able to attract the private capital necessary to make it a success.

Question # 6:

“Appropriate services” must be made available to the tenants. Should HUD require services to be identified prior to award of PRA or on a project by project basis? How should HUD confirm that the services are appropriate to the population being served? Should HUD detail the kinds of funding streams (eg, Medicaid home and community based waivers) that must be evidenced?

-Target those at risk of premature institutionalization considering other mainstream resources for other people with disabilities.

– Very good model in Louisiana. State targeted populations – state agency monitors to make sure the people are eligible. You can underwrite the fact that people who come to the project come from the states' choosing, they will come with a robust package of services. They'll come with the services, but they may not need them in 10 yrs, so has to remain flexible (agreement). Assurance for services through tenant referral process.

– As flexible as possible because needs of community change. On underwriting question – most will use tax credits. Don't think it's necessary to repeat that work on the capital side.

– Property owners may need to change designations over time – flexibility is key.

– We oppose segregated living. If they're allowed to target, they can't exclude. Folks with mental illness are always excluded. You can't just have certain populations be allowed in these settings. Problematic at state and property levels. Money follows the person program – the hardest clients to serve have mental illness. I can see those people being left behind again. Some folks are homeless with mental illness, and they are not being targeted. Safeguards need to be put in place to make sure all populations are being served.

-As you look at this, we're seeing more and more DOJ investigations, homestead

– It's important to understand the pieces and secure commitment throughout the duration of the project/ program

Question # 7:

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- There’s a Pennsylvania program – tax credit developers, HOPE VI arrangements. They have a system to refer people to the units. They make sure people know when there’s a unit available. Look at PA example as well as Louisiana.
- California has a program in the same space.
- Parallel conversation between HUD and CMS

Other:

Could HUD ensure that MF model works in conjunction with state agreement? Policy construct that gets to what state wants to do. Processes around affordable care act – use agreement to go way beyond 811. Ex. Leverage with Medicaid to help homeless. Vouchers = shelter + care

- Giving the states authority – there needs to be something in there to restrict use for the federal spending that it’s intended for. Carefully give them money so they don’t use it for something else. Guarantee funds are obligated consistently for housing in states.

Build in research design