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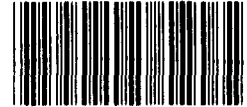
**Testimony**

Before the Congressional Staff Symposium on Nonelderly  
Disabled Persons Living in Public Housing for the Elderly

For Release on Delivery  
Expected at  
9:00 a.m., EST  
Friday  
March 27, 1992

**PUBLIC HOUSING**

**Issues in Housing the  
Nonelderly Mentally Disabled  
With the Elderly**



146345

Statement of Judy A. England-Joseph, Director,  
Housing and Community Development Issues, Resources,  
Community, and Economic Development Division



Ladies and Gentlemen:

We appreciate this opportunity to assist the Congress in considering how to address issues involving housing nonelderly persons with mental disabilities in public housing for the elderly. As you are aware, this is a matter that must be approached with a great deal of care and understanding. Issues that we will focus on today include the rights of nonelderly people with mental disabilities to occupy public housing for the elderly and options that are available to the Congress if it chooses to change current policy regarding admitting such people to public housing for the elderly. We are preparing a report to the Senate Subcommittee on Housing and Urban Affairs on this topic. We are currently reviewing comments from several organizations on our draft report and we plan to issue the report later this spring.

We would like to share with you today some of the results from the questionnaire we sent to public housing agencies (PHAs), our conclusions on the rights of nonelderly persons to live in public housing for the elderly, and our views on several proposals that would alter the current policy of housing nonelderly mentally disabled persons and elderly persons together.

Prior to our work, only anecdotal information has been available on the extent to which nonelderly people with mental disabilities occupy public housing for the elderly and the extent to which this arrangement causes problems for PHA management and the occupants of the public housing units. In mid-1990 we sent a questionnaire to a statistical sample of PHAs and received responses that allow us to estimate the nature and the extent of problems in 2,644 PHAs--or about 85 percent of all PHAs. We also discussed the issue of nonelderly mentally disabled persons in public housing for the elderly with many organizations representing housing, mental health, and civil rights constituencies.

In summary, our work indicates that

- Nonelderly mentally disabled people occupied about 9 percent of the public housing units for the elderly in 1990. About 31 percent of these households reportedly caused moderate or serious problems because of behavior such as alcohol abuse or excessive noise and because of the presence of disruptive visitors. These factors result in problems for public housing agency (PHA) management and intergenerational conflict with elderly tenants.
- Under federal antidiscrimination laws, people with mental disabilities may not lawfully be excluded from or segregated in public housing for the elderly under the conventional public housing program.
- Various proposals have been made to address both the behavioral issues' associated with housing nonelderly mentally disabled

tenants in public housing for the elderly and the provision of services. These proposals range from offering several housing options to mentally disabled persons, including section 8 assistance, to requiring that HUD provide more detailed guidance to PHAs for their use in determining whether nonelderly mentally disabled applicants will likely make suitable tenants. These proposals are not mutually exclusive. While such proposals may be expected to improve the quality of life for elderly persons in public housing for the elderly, any changes to current policy would have to be carefully structured to ensure that mentally disabled persons are not adversely affected. In this regard, the Congress, as it weighs these proposals, will have to consider the effect of antidiscrimination laws, the expected behavior of nonelderly mentally disabled people in different housing settings, and the availability of funds for providing alternative forms of subsidized housing and mental health services.

- About 78 percent of PHAs reported to us that mental health services are provided in their communities. The extent to which these services meet existing needs in each community is unknown, although a number of experts have said that, overall, services are inadequate. However, we found that cooperative agreements, where they exist, between PHAs and local mental health service providers have helped to ensure that needed mental health care is available to nonelderly mentally disabled residents in public housing.

#### BACKGROUND

The Department of Housing and Urban Development's (HUD) public housing program serves about 1.3 million households, over one-third of which are estimated to include the elderly. Under federal antidiscrimination law, PHAs are prohibited from discriminating against eligible persons with mental disabilities. PHAs place these individuals in public housing designated for the elderly because public housing law defines "elderly families" to include not only people who are 62 years of age and above but also people who are disabled regardless of their age. These individuals are often single and need efficiency or one-bedroom units, which are generally found in public housing for the elderly. Excluding them from or segregating them in public housing for the elderly would be inconsistent with federal housing antidiscrimination laws.

#### RESULTS OF OUR QUESTIONNAIRE ON NONELDERLY MENTALLY DISABLED PEOPLE IN PUBLIC HOUSING FOR THE ELDERLY

Our questionnaire results showed that, for public housing units represented in our survey, nonelderly tenants with mental disabilities are estimated to occupy about 9 percent of the units

in public housing for the elderly.<sup>1</sup> Too, these people are more typically found in larger rather than smaller PHAs. For instance, our questionnaire results showed that about 12 percent of the units in PHAs with 1,250 or more units were occupied by nonelderly people with mental disabilities.

Nonelderly people with mental disabilities reportedly caused problems more often than elderly residents of public housing for the elderly. Our questionnaire results showed that about 31 percent of these households caused moderate or serious problems for PHA management and staff, according to PHA managers responding to our survey. For PHAs with 1,250 or more units, the reported percentage rises to about 39 percent. Problems included loud and abusive language, noisy activities at all hours, threats, and occasionally physical attacks. The impact of these problems is probably heightened by the intergenerational conflict that PHAs and representatives of the elderly report as a serious problem. In comparison, the proportion of elderly people in the same housing reportedly causing moderate or serious problems was only 1 in 15 (about 7 percent).

Finally, our questionnaire results showed that among all responding PHAs about 25 percent reported that problems with mentally disabled tenants had increased from the year before. Although about 14 percent of the PHAs reported fewer problems, 58 percent of larger PHAs--those with 1,250 or more units--reported an increase over the previous year.

#### RIGHTS OF PEOPLE WITH MENTAL DISABILITIES TO RESIDE IN PUBLIC HOUSING FOR THE ELDERLY

Under current law people with mental disabilities may not be excluded from or segregated in housing for the elderly under the conventional public housing program.<sup>2</sup> The United States Housing Act defines "elderly families" to include not only people at least 62 years of age, but also to include handicapped people regardless of age, including the nonelderly mentally disabled. Under the United States Housing Act, no basis exists to distinguish between them. Nor, in our view, is there any authority under that act, expressed or implied, for excluding handicapped people, including

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<sup>1</sup>As requested by the Subcommittee, we limited our review to issues concerning the mentally disabled segment of the nonelderly population in public housing for the elderly. As such, we did not collect information on other nonelderly disabled households, such as people with physical disabilities.

<sup>2</sup>Our final report will also discuss the rights of people with mental disabilities to reside in housing assisted by HUD section 8, section 202, section 221(d)(3), and section 236 rental housing programs.

nonelderly mentally disabled people, from particular elderly projects, or segregating them in projects separate from those that house people 62 years old or more.

Section 504 of the Rehabilitation Act of 1973 and section 804 of the Federal Fair Housing Act, as amended in 1988, both prohibit housing discrimination on the basis of handicap. Accordingly, excluding or segregating nonelderly mentally disabled people from elderly public housing projects would violate these antidiscrimination laws. Under the United States Housing Act, nonelderly mentally disabled people have the same right as other "elderly families," including the right to a preference, to be admitted into elderly projects. It is their mental disability, not their age, that qualifies them. A policy of excluding or segregating handicapped people would single out this one protected group--the nonelderly handicapped--for discriminatory treatment in violation the federal antidiscrimination laws.

Moreover, I would like to point out that it is no defense under section 504 or the Fair Housing Amendments Act to claim that the exclusion or segregation of the mentally disabled would be limited to the nonelderly mentally disabled, while the elderly mentally disabled could be admitted freely. Those antidiscrimination laws protect the housing rights of all handicapped people and do not permit discrimination or segregation against any such people.

Finally, both antidiscrimination statutes require that PHAs and other owners of federally assisted housing make reasonable accommodations so that an otherwise unsuitable applicant may be admitted to assisted housing. However, an important qualification exists. PHAs and other owners of federally assisted housing are not required to rent to a person who would constitute a direct threat to the health or safety of other tenants or who might be expected to cause substantial physical damage to the property of others.

#### PROPOSALS FOR HOUSING NONELDERLY PEOPLE WITH MENTAL DISABILITIES

Several interested parties have proposed changes to the current policy of housing people with mental disabilities in public housing for the elderly or for providing services. Some of these proposals require a change in federal housing law. And all require a delicate balancing of the rights and the needs of both the mentally disabled and the elderly to decent and safe federally assisted housing. The proposals are not mutually exclusive: Each could be adopted should the Congress and/or HUD decide to do so. The four proposals involve (1) changing the statutory definition of an elderly family, (2) providing alternative housing, such as section 8 housing, (3) improving the delivery of community services for nonelderly people with mental disabilities, and (4) providing

more detailed screening criteria for PHAs to use when mentally disabled people apply to live in public housing for the elderly.

### 1. Changing the Statutory Definition of "Elderly Family"

The Congress could amend the public housing statutory definition of an elderly family by limiting it to those age 62 or older. This action would preclude all people, including the mentally disabled, who are not at least 62 years old, from being admitted to public housing for the elderly. Taken alone, changing the definition would, over time, decrease the number of nonelderly handicapped tenants (both physically and mentally disabled) currently residing in public housing for the elderly, and, quite possibly, the resulting problem behavior and intergenerational conflict. However, this action would inevitably serve to deny housing opportunities for the nonelderly disabled and might lead to increased homelessness, unless alternative affordable housing options were provided, as discussed below.

### 2. Provide Alternative Housing Opportunities for People With Mental Disabilities

One proposal would provide alternative housing choices for one- and two-person households, including nonelderly people with mental disabilities. To that end, a PHA could offer the mentally disabled person the choice of several housing options, including

- housing, which would include disability-specific services provided by the PHA or outside agencies;
- family public housing in so far as appropriately sized units are available; and
- section 8 assistance.

For the first two options to be successful, PHAs would have to provide buildings that were composed primarily of one-bedroom units or efficiencies, "down-size" larger units, or build new buildings. The second approach would require HUD development and modernization funds, of which there is a very limited supply. Too, to the extent that a large number of the nonelderly mentally disabled are segregated in a single building, this housing arrangement might be considered a form of reinstitutionalization.

The option of using section 8 assistance appears most in line with the deinstitutionalization policy goal--to mainstream those with mental disabilities throughout communities. Mainstreaming of nonelderly mentally disabled tenants also envisions that sufficient community support services--including mental health services--are provided. However, if this approach were chosen, section 8 rental assistance for other needy households would be reduced unless additional funding is made available.

These options will take time to implement and, for the first two options, will work best where the PHA has a large number of vacant units in which to house new tenants. For existing tenants, the success of these options will depend on tenants' willingness to move between buildings. However, over time these options will likely decrease intergenerational conflict and problems attributed to mentally disabled tenants as their presence in public housing for the elderly decreased.

An alternative approach is for two or more individuals to share a family public housing unit and receive periodic case management services. This approach is being used by a PHA in LaSalle County, Illinois. Community mental health service providers might find it easier to provide on-site services to the extent that their clients reside in one location. However, this approach, as well as the options discussed above, can work only if vacant, appropriately sized units are available; individuals are willing to participate; and needed support services are provided.

While we cannot predict the future behavior of nonelderly mentally disabled tenants in any housing setting, targeted community support services, including mental health services, may be needed to enable these people to be successful tenants. The cost of such services and provision of whatever housing opportunities the Congress may wish to offer may require substantial appropriations.

### 3. Service Provision for Nonelderly Tenants with Mental Disabilities

Other proposals call for additional federal funding for services in public housing and for greater reliance on available community resources for those with mental disabilities. However, resource allocation decisions are made by state and local governments who control the funding and delivery of many support services.

One proposal for additional funding would have the federal government require that states direct a portion of federal alcohol drug and mental health block grant program resources to fund mental health services in public housing. While the Congress could legislate such a set-aside, unless additional funding were provided, this proposal would likely result in a reduction of services elsewhere in the community. Additionally, federal funding requirements without accompanying resources assume that the federal government is in a better position to determine local needs for community-based mental health services than are state or local governments.

Another alternative calls for the Congress to appropriate funds for PHAs to contract with nonprofit providers for needed services if state and municipal mental health service providers are

unable or unwilling to provide on-site services to nonelderly mentally disabled residents of public housing. This proposal, which would require new authority and appropriations, envisions a competitive grant program among PHAs based on demonstrated need.

A third proposal calls for better reliance on existing service resources and expertise. For example, local mental health officials could provide advice to PHA officials on appropriate, reasonable accommodation strategies that would lessen behavioral problems. A final proposal would have the Congress fund the PHA public housing service coordinator position authorized under section 507 of the National Affordable Housing Act. This provision allows PHAs with a sufficient number of frail elderly or disabled people to pay for the cost of a person to coordinate delivery of services that will help them live independently, among other things.

Use of services is a matter of individual choice. Therefore, the success of service efforts, however sufficient, depends upon individual willingness and ability to use them, regardless of where such individuals reside.

#### 4. Detailed Guidance Could Assist PHAs in Serving the Mentally Disabled

The final approach does not require a change in housing policy, but rather calls for detailed guidance from HUD to help PHAs better judge the suitability as a tenant of an applicant for residency in public housing. PHAs and interest groups representing them are concerned that HUD's Public Housing Occupancy Handbook guidance is not specific enough to ensure that they will be able to adhere to antidiscrimination statutes and help PHAs judge an applicant's suitability as a tenant. Accordingly, these organizations would have HUD detail exactly what questions PHAs can ask, of whom they can ask the questions, and what information is sufficient to determine if a person is suitable for tenancy. Furthermore, these groups would have HUD provide detailed examples of what constitutes a reasonable accommodation for a mentally disabled person.

Providing detailed guidance might answer many of the PHA's questions about tenant's suitability. However, the mere fact that the PHA acted on HUD guidance would not immunize the PHA from a court finding of discrimination, either intentional or in effect. For example, in Cason v. Rochester Housing Authority, the court ruled that PHAs' practices of requiring applicants to demonstrate an ability to live independently, as formerly advised by the Public Housing Occupancy Handbook, was discriminatory in effect because it



resulted in fewer assisted housing opportunities for disabled applicants.<sup>3</sup>

RESOURCE ADEQUACY AND USEFULNESS  
OF COOPERATIVE AGREEMENTS

Communities, rather than the state or federal government, organize the delivery of mental health services. While between 74 and 82 percent of PHAs reported that mental health services are provided, the lack of national, comprehensive data on the use of available services by public housing tenants, or their adequacy, hinders an assessment of whether additional resources are needed. On the basis of their overall knowledge of state and local programs, experts in mental health and housing issues whom we interviewed agreed that resources allocated for community-based mental health services, including case management services, were insufficient to meet client needs.<sup>4</sup>

Also, the location of services can be significant, because (1) transportation may not be available or affordable for the mentally ill, who generally have low incomes, and (2) some people with mental illness have a tendency to isolate themselves and not leave their residences. Therefore, on-site provision of case management services may be necessary to reach such individuals.

As discussed earlier, policy options generally require additional money to be effective. We found that some of the problems with housing the mentally disabled in public housing for the elderly can be lessened within the existing framework. For example, some PHAs have entered into cooperative agreements with local service providers and found that service delivery helps mentally ill individuals to be successful tenants. This approach can help assure that mental health services will be provided to nonelderly mentally disabled residents of public housing for the elderly.

Cooperative agreements are a good first step to help PHAs and mental health providers develop an understanding of their mutual responsibilities to the mentally ill and to the overall provision of services. Moreover, establishing cooperative agreements has widespread support among PHAs and their interest groups, mental health service providers and advocates, and mentally ill client representatives we contacted. HUD and the Department of Health and

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<sup>3</sup>748 F. Supp. 1002 (W.D. N.Y. 1990).

<sup>4</sup>Among those we contacted were the National Institutes of Mental Health Community Support Programs, National Association of State Mental Health Program Director's standing committee of housing and residential services, National Alliance for the Mentally Ill, and the Center for Community Change Through Housing and Support.

Human Services also support efforts to establish cooperative agreements. Finally, community-based case management for mental health services remains a requirement of the Mental Health Plan Act. Therefore, establishing cooperative agreements is consistent with congressional goals.

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This concludes my statement. I would be glad to answer any questions.

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