September 22, 2020

Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: HUD Docket No. FR-6152-P-01, RIN 2506-AC53 Comments in Response to Proposed Rulemaking: Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs.

Dear Office of General Counsel:

The HIV Medicine Association (HIVMA) appreciates the opportunity to comment regarding the Department of Housing and Urban Development’s (HUD) proposed rule change published in the Federal Register on July 24, 2020 (RIN 2506-AC53; HUD Docket No. FR-6152-P-01) entitled, “Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs.” We urge that this proposed rule change is withdrawn in its entirety as it negatively impacts individuals who are transgender who are seeking stable housing, a critical need made more urgent by the COVID-19 pandemic in the United States.

HIVMA represents more than 5,000 medical providers and researchers working on the frontlines of the HIV epidemic across the U.S. HIVMA’s mission is to promote access to quality HIV care and to advocate for policies that ensure a comprehensive and humane response to the HIV/AIDS pandemic informed by science and social justice. As medical providers, we call on HUD to withdraw this harmful rule that only serves to marginalize further individuals who are transgender.

HUD’s proposed rule is rooted in harmful and dangerous stereotypes about transgender persons, in particular transgender women. The rule would allow HUD-funded programs to establish their own policies for making admission or placement determinations in facilities based on an individual’s sex instead of their gender identity. Longstanding non-discrimination protections in place in over 20 states and over 300 localities have helped increase fairness and opportunity for marginalized communities, and research shows these protections have not produced any increase in public safety issues.

In conjunction with access to affordable, comprehensive health care, access to stable housing is critical to effective care for individuals living with HIV. In 2018, the largest percentage of diagnoses of HIV infection was for transgender women aged 25–29 years at 27%.

A study examining the link between housing status and HIV risk factors among transgender women in Los Angeles revealed that...
transgender women exhibited the most significant risk profile for HIV acquisition or transmission.\textsuperscript{iv}

Stable housing is a reliable predictor of better health outcomes for people living with HIV. Shelters are often a person’s best access-point to programs that provide safe, individual housing, a critical need during the current COVID-19 pandemic that endangers anyone forced to share living spaces with others, whether outdoors or in a shelter. By limiting access to safe and healthy shelters for transgender persons, HUD’s rulemaking will create additional barriers for individuals to safely physically distance and self-isolate.

HIVMA strongly opposes the rule and believes that moving forward with this proposed rule change during a global pandemic is particularly egregious and cruel. The federal initiative to end HIV as an epidemic in the U.S. within the next decade will not be successful if we fail to address social determinants of health, including access to health care services, transportation options, and access to reliable housing. HIVMA urges HUD to withdraw its current rule proposal immediately and dedicate its efforts to mitigating the present effects that COVID-19 has had on housing stability for not only the LGBTQ+ community but for everyone. If you have any further questions, please feel free to contact Jose A. Rodriguez, Senior Policy & Advocacy Manager at the HIVMA at JRodriguez@hivma.org.

Sincerely,

Judith Feinberg, MD, FIDSA
Chair, HIVMA Board of Directors

\textsuperscript{i} Amici Curiae Brief Of School Administrators From Thirty-Three States And The District Of Columbia In Support Of Plaintiff-Appellant. Filed May 16, 2017. Available at: \url{https://www.aclu.org/sites/default/files/field_document/school_admin_amicus.pdf}.
\textsuperscript{iv} Fletcher, J.B., Kisler, K.A. & Reback, C.J. Housing Status and HIV Risk Behaviors Among Transgender Women in Los Angeles. Arch Sex Behav 43, 1651–1661 (2014). \url{https://doi.org/10.1007/s10508-014-0368-1}. 