HUD rule would roll back transgender homeless protections

Federal regulators this week proposed a new rule that would roll back protections for transgender Americans in federally funded homeless shelters, raising the alarm bells of activists and advocacy groups.

The proposed rule, which the Department of Housing and Urban Development (HUD) unveiled Wednesday, would let shelters with sex-segregated facilities consider gender identity or “sex as reflected in official government documents,” when deciding to accommodate a person.

In other words, federally funded shelters could require transgender women (people assigned male at birth but who identify as women) seeking accommodations to share bathrooms, sleeping quarters and other facilities with men, and to require transgender men (people assigned female at birth who now identify as men) to live with women.

The proposal would reverse an Obama-era policy known as the Equal Access Rule, which was meant to prevent gender identity discrimination at homeless shelters.

The rule would also let the shelters consider religious beliefs when making accommodation determinations.

Transgender people experience homelessness at higher rates than the average population, according to surveys. One recent report by the National Center for Transgender Equality (NCTE), a trans rights advocacy group, found that up to 30 percent of its 27,715 transgender-identifying respondents had been homeless at some point in their lives, and 12 percent due to their transgender identity.

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In its description of the proposed rule, HUD claimed Wednesday that it would continue the agency's "policy of ensuring that its programs are open to all eligible individuals and families regardless of sexual orientation or gender identity."

However, critics were not convinced and said that instead the proposed rule would allow discrimination.

Jeff Berger, founder and CEO of the National Association of Gay and Lesbian Real Estate Professionals (NAGLREP), told Inman that the rule would be "a step backward, for sure, in the wrong direction."

"We're extremely concerned that the current administration is taking this stance," Berger added.

Ian Thompson, legislative representative for the American Civil Liberties Union (ACLU), called the rule "yet another dangerous and disgraceful attack on transgender people from the Trump administration."

"When shelters are allowed to turn transgender people away — a policy that is sanctioned by a government that continues to push the lie that the mere existence of trans people threatens the privacy and safety of others — deadly violence against the trans community on the streets will rise," Thompson added in a statement.

NCTE also said Wednesday in a series of tweets that "transgender people already face disproportionate levels of discrimination at shelters," and added that the proposed rule "will only make the situation worse."

In a statement, NCTE executive director Mara Keisling called the proposal "a heartless attack on some of the most vulnerable people in our society."

HUD's new proposal was also unveiled one day after department Secretary Ben Carson was asked about the existing, Obama-era rule during a congressional hearing. At the time, Carson said that he was "not currently anticipating changing the rule."

> One day after @SecretaryCarson told me he isn't anticipating any changes to protections for LGBTQ people in shelters, HUD announced a proposal to gut that very rule.
>
> He either lied to Congress or has no idea what policies his agency is pursuing. Either way, it’s unacceptable. pic.twitter.com/zn99sEKvth
>
> — Rep. Jennifer Wexton (@RepWexton) May 22, 2019

HUD did not immediately respond to Inman’s request for comment. The department’s brief description of the proposal also did not say when it might go into effect.

However after the proposal debuted Wednesday, Rep. Jennifer Wexton — the Virginia Democrat who had asked Carson about the rule — tweeted video of the exchange, saying that the HUD secretary “either lied to Congress or has no idea what policies his agency is pursuing.”

“Either way, it’s unacceptable,” Wexton added.

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