

CHAPTER 23
EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM

427—23.1(PL100-77) Purposes. The purposes of the program authorized by PL100-77, the Stewart B. McKinney Homeless Assistance Act of 1987, are: (1) to use public resources and programs in a more coordinated manner to meet the critically urgent needs of the homeless of the nation; and (2) to provide funds for programs to assist the homeless, with special emphasis on elderly persons, handicapped persons, families with children, native Americans, and veterans.

The Iowa emergency community services homeless grant program (EHP) is designed recognizing the following elements: (1) the unique role defined for EHP funds within PL100-77, (2) the availability of resources from PL100-77 for other programs serving the homeless, (3) the unique skills and abilities of Iowa's community action agencies, and (4) the differing nature of homeless problems and resources in different parts of Iowa and among homeless individuals and families in Iowa.

427—23.2(PL100-77) Definitions.

"CAA" means community action agency.

"Community action agency, community action program or eligible entity" means any organization which was officially recognized as a community action agency or a community action program under the provisions of Public Law 97-35, Subtitle B, as amended by Public Law 98-558 and Iowa Code section 216A.91.

"DCAA" means the division of community action agencies of the state department of human rights.

"EHP" means emergency community services homeless grant program.

"Homeless" includes an individual who lacks a fixed, regular, and adequate nighttime residence; and an individual who has a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
2. An institution that provides a temporary residence for individuals intended to be institutionalized; or
3. A public or private sleeping place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

An inadequate nighttime residence shall be limited to those residences exhibiting one or more of the following conditions: overcrowding (1.01 or more persons per room); lack of complete plumbing for exclusive use (indoor flush toilet, piped hot and cold water, and bathtub or shower); lack of heat (during cold weather). The potential for these conditions to exist does not constitute inadequate housing.

"Near-homeless" means an individual who has received a notice of foreclosure or eviction.

"Poverty line" means the official poverty line established annually by the Secretary of the U.S. Department of Health and Human Services.

"Suspension" means temporary withdrawal of the eligible entity's authority to obligate funds pending corrective action by the eligible entity.

"Termination" means permanent withdrawal of the eligible entity's authority to obligate funds before that authority would otherwise expire. If an eligible entity's authority to obligate funds is terminated, no funds may be obligated by the eligible entity after the effective date of the termination. It may also mean the voluntary relinquishment of this authority by the eligible entity.

427—23.3(PL100-77) Apportionment distribution.

23.3(1) Formula. Funds shall be awarded on a noncompetitive basis to the existing community action agencies using the following formula: Forty-seven and one-half percent of the total state award will be distributed equally among the CAA areas. Forty-seven and one-half percent of the total state award will be distributed among the CAA areas based on their relative share of the state's poverty population.

23.3(2) State administrative costs. DCAA shall reserve for its administrative expenses of the program no more than 5 percent of the state's apportioned amount.

23.3(3) Poverty-level population. The state shall use the most recent decennial census statistics available to determine the poverty-level population in each CAA area. The state may revise the allocation formula as new census figures become available.

23.3(4) Unawarded funds. Funds remaining unawarded due to the failure of prospective grantees to meet program or fiscal requirements will be reprogrammed by the administrator of the DCAA to further benefit homeless individuals and families within the state of Iowa. The administrator of the DCAA shall give prospective grantees a maximum of 45 days from the receipt by the DCAA of the prospective grantee's application for EHP funds to provide the DCAA with satisfactory evidence of the prospective grantee's willingness and ability to meet program and fiscal requirements prior to reprogramming funds.

427—23.4(PL100-77) Eligible applicants. Community action agencies are eligible to receive EHP funds.

427—23.5(PL100-77) Eligible use of funds. As defined by PL100-77, as amended by PL100-628 and PL101-645, EHP funds may only be used for the following purposes:

23.5(1) Self-sufficiency development. At least 50 percent of each eligible entity's EHP funds shall be used for the expansion of comprehensive services to homeless individuals to provide follow-up and long-term services to enable homeless individuals and families to make the transition out of poverty. Such programs shall include each of the following components:

- a. A written description of the priorities and processes used to select the homeless individuals and families to receive these comprehensive services,
- b. The conduct of a comprehensive assessment with selected individuals/families,
- c. The development of a written plan toward self-support for each individual/family enrolled,
- d. The execution of a written agreement between the client and worker which specifies the actions for which each is responsible during the self-sufficiency development process, and
- e. The coordination of all available resources to support the client's self-sufficiency development.

These activities may also be conducted with funds budgeted in this cost category: provision of, or referral to, violence counseling for homeless children and individuals; and the provision of violence counseling training to individuals who work with homeless children and individuals.

23.5(2) Renovation. Funds may be used for the renovation of buildings to provide comprehensive services as addressed in subrule 23.5(1) except that not more than 50 percent of each subgrantee's EHP funds may be used for such purpose and must comply with the following:

- a. All procedures required under the National Historic Preservation Act must be followed; and
- b. Subgrantee renovation plans must be received by the division of community action agencies by December 1 for consideration of inclusion in the next year's funding cycle.
- c. The division of community action agencies reserves the right to secure assistance of other state agencies in reviewing renovation plans and will cooperate with these agencies in an effort to maximize program funding.
- d. Subgrantees planning renovation are encouraged to contact the division of community action agencies for planning assistance.

23.5(3) Obtaining income support. Funds may be used to provide assistance to homeless individuals and families in obtaining social and maintenance services and income support services.

23.5(4) Promotion/coordination. Funds may be used to promote private sector and other assistance to homeless individuals and families in the community served. Such activities may include, but are not limited to, assessing homeless needs, performing community planning pertaining to homeless problems and coordinating community level response(s) to the problems of homeless persons.

23.5(5) Administrative costs. No more than 12 percent of the EHP funds expended by an eligible entity shall be used for administrative costs.

23.5(6) Direct financial assistance. Funds may be used for the provision of direct financial assistance such as cash or vouchers to meet the emergency housing or shelter needs of qualifying individuals.

a. For the near-homeless, this assistance would be limited to mortgage, rental or utility payments (including deposits and reconnect fees) for individuals who have received a notice of foreclosure or eviction. Financial assistance for a near-homeless individual is allowable if:

(1) The inability of the individual to make a mortgage or rental payment is due to a sudden reduction in income;

(2) The assistance is necessary to avoid foreclosure or eviction; and

(3) There is a reasonable prospect that the individual will be able to resume the payments within a reasonable period of time.

b. For the homeless, this assistance would be limited to the payment of housing or shelter costs for an individual who is living on the street, in an abandoned building, house, tent, car, etc., living in an emergency shelter, or living in substantially similar conditions. The payment of utility payments, including deposits and reconnect fees, and other housing deposits is an allowable use of funds, provided that other program requirements are met.

427—23.6(PL100-77) Ineligible use of funds. Ineligible activities and costs include:

23.6(1) Rescinded IAB 5/31/89, effective 7/5/89.

23.6(2) *Supplanting.* The use of EHP funds to supplant other programs for homeless individuals administered by the state.

23.6(3) *Political activities.* Rescinded 2/1/95, effective 3/8/95.

427—23.7(PL100-77) Eligible individuals.

23.7(1) *Income eligibility.* Rescinded IAB 4/1/92, effective 7/1/92.

23.7(2) *Emphasized subgroups.* To the degree practicable, eligible entities shall place special emphasis on assisting homeless who are elderly persons, handicapped persons, families with children, native Americans and veterans.

23.7(3) *Degree of need.* Each eligible entity shall maintain and utilize a plan for serving those homeless individuals with the greatest degree of need first. This provision does not pertain to funds set aside to serve the near-homeless per subrule 23.7(4).

23.7(4) *Near-homeless set-aside.* Each eligible entity may provide services to income eligible near-homeless individuals. The amount of funds which may be expended for this target group may not exceed 25 percent of the total EHP funds expended by the eligible entity.

These rules are intended to implement Public Law 100-77, Emergency Community Services Homeless Grant Program, Subtitle D, as amended by Public Law 100-628, Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

427—23.8(PL100-77) Application submission and approval. All eligible entities shall utilize the EHP combined application and work program packet as provided by DCAA for the purpose of making application for funds.

23.8(1) *Timing.* Eligible entities shall be informed in writing of the due date for application by the DCAA.

23.8(2) *Application forms.* Application instructions shall be provided along with the application packet which shall be sent to all eligible entities. Further information concerning application requirements and format may be obtained by writing to the Bureau of Community Services, Division of Community Action Agencies, Department of Human Rights, Capitol Complex, Des Moines, Iowa 50319, or by calling (515)281-3951.

23.8(3) *Compliance review.* All applications for funding will be reviewed by DCAA personnel for:

a. The number of persons to be served and level of service provided;

b. Compliance with the requirements outlined in Iowa Administrative Code 427—Chapter 23;

c. Inclusion and proper completion of all forms and information required in the application packet; and

d. Compliance with the EHP state plan.

23.8(4) Performance review. Approval of applications is dependent on the satisfactory performance of the applicant in past funding year(s) in related program areas. The minimum standards include: timely and adequate expenditure report submission, program report submission, prudent management of funds, conformance with state and federal laws relative to the restrictions in the use of funds, and adequate record keeping: Additionally, available records, audits and determinations from the Office of Community Services — Department of Health and Human Services, department of management, division of community action agencies, Iowa department of public health and other relevant state and federal agencies shall be utilized to the extent possible. Unresolved audit questions and past-due audits shall be a basis for conditional approval or disapproval of an application.

427—23.9(PL100-77) Program reports. Grantees shall submit program performance reports to DCAA as prescribed in the program contract.

427—23.10(PL100-77) Expenditure reports. Grantees shall submit a quarterly combined expenditure report and request for funds in the manner and on the forms prescribed by DCAA.

23.10(1) Receipt of federal funds. All payments shall be subject to the receipt of federal grant funds by DCAA. The termination, reduction or delay of federal grant funds to the DCAA shall, at their option, be reflected in a corresponding modification to grants already made.

23.10(2) Reserved.

427—23.11(PL100-77) Amendments. Following are requirements pertaining to grant amendments.

23.11(1) Budget. Any expenditure of funds on a line item which will exceed that line item budgeted amount by more than 10 percent must be approved by an amendment to the program contract. At least 50 percent of each program contract's funds must be spent for the purpose defined in subrule 23.5(1). The total amount of the budget shall not be exceeded and any amounts above the budget total shall not be reimbursable by DCAA unless an amendment has been granted to increase the total. All requests for budget amendments must be approved in writing by the governing board and requested by the chairperson. Budget amendments requested that would have an impact on the approved work program must be accompanied by a corresponding work program amendment request.

23.11(2) Work program. Any change in scope or emphasis among the activities funded with EHP funds must be reflected through a work program amendment. All requests for work program amendments must be approved in writing by the governing board and requested by the chairperson. Work program amendment requests shall provide the reason(s) for the proposed change in adequate detail to facilitate review by DCAA. A reduction in scope shall be evaluated by the DCAA to determine what reduction in funds, if any, shall be required.

23.11(3) Recapture of funds. If at any time during the program year it becomes apparent that the amount allocated to any entity is not being utilized at a rate sufficient to expend their available program funds, the agency may require that the entity amend their grant to release the excess funds. The funds may then be distributed by DCAA to those entities demonstrating the need and ability to appropriately expend the funds or returned to the U.S. Treasury as timing permits.

23.11(4) Other requests. Requests for amendments other than those addressed in this rule shall be considered on a case-by-case basis in conformance with applicable state and federal laws.

427—23.12(PL100-77) Audits and records. Each recipient shall be responsible for the maintenance of appropriate accounting records necessary for the protection of program funds and shall arrange and pay for an annual audit of each grant made under this program, to be submitted within 90 days of the end of the recipient's fiscal year. Audits shall be performed in accordance with generally accepted auditing standards including the standards published by the general accounting office, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions." Audit procedures shall conform to OMB Circular A-128, "Audits of State and Local Governments." In addition, DCAA may request more frequent audits or examinations of financial records of the recipient in order to ensure adequate financial controls are in place and operating.

427—23.13(PL100-77) Compliance with applicable federal and state laws and regulations. Each grantee shall adhere to all applicable federal and state guidelines, laws and regulations pertaining to the EHP program. In addition to other requirements which may apply to grantees, grantees must comply with the following requirements:

23.13(1) OMB circulars. The requirements of OMB Circulars A-110 and A-122 as they relate to the use of EHP funds by private nonprofit organizations. The requirements of OMB Circulars A-87 and A-102 as they relate to the use of EHP funds by local governments.

23.13(2) Civil rights provisions. The state and federal requirements pertaining to nondiscrimination and equal opportunity as specified in the program contract.

23.13(3) Coordination. Grantees shall coordinate all activities with all agencies administering homeless services in their target area.

23.13(4) State plan. Grantee EHP activities will be conducted in conformance with the approved EHP state plan.

427—23.14(PL100-77) Suspension of EHP funding.

23.14(1) Suspension in general. The division administrator of DCAA may suspend EHP funds to an eligible entity if monitoring, evaluations, or audits reveal significant noncompliance with established state or federal policies, contract requirements, DCAA directives, fiscal procedures, program performance targets, or other willful or negligent failure on the part of the eligible entity to perform its responsibilities. Action to suspend funding will only be taken after less drastic remedies have been tried unless DCAA determines that immediate action is necessary due to the seriousness of the violation or is necessary to protect EHP funds or property. Serious violations would include, but would not necessarily be limited to, evidence of fraud, embezzlement or gross mismanagement.

23.14(2) Written notification of suspension. DCAA shall provide a written “notification of suspension” by certified mail to the chairperson of the governing board of the eligible entity to effectuate the process of suspension. The “notification of suspension” shall specify the reason(s) for the suspension and the effective date of the suspension. In all but extreme cases, eligible entities will be given a reasonable period of time, but in no case more than 60 days, to make the necessary improvements, whereupon funding may resume. In extreme cases, when the division administrator of DCAA has determined termination of EHP funding is appropriate in accordance with rule 22.14(216A), the “notification of suspension” shall be accompanied by a “notification of intent to terminate” as described in rule 23.15(PL100-77).

427—23.15(PL100-77) Termination of EHP funding.

23.15(1) Termination in general. The division administrator of DCAA may terminate EHP funds to an eligible entity after suspension of EHP funding in any of the following instances:

a. The division administrator determines that the governing board of the eligible entity cannot or will not take the necessary action to bring the eligible entity into compliance within the time allowed by DCAA.

b. The division administrator determines that the nature or extent of noncompliance is extreme and warrants immediate termination of EHP funding.

c. The eligible entity is no longer officially recognized as a CAA by DCAA as a result of termination of affiliation procedures described in rule 427—22.11(216A).

23.15(2) Written notification of intent to terminate. DCAA shall provide a written “notification of intent to terminate” by certified mail to the chairperson of the governing board of the eligible entity to effectuate the termination of EHP funding. The “notification of intent to terminate” shall include:

a. The reason(s) for the termination;

b. A notice of a hearing to be held to consider the intended termination including:

(1) A statement of the date, time, place, nature, and manner of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) Reference to the particular sections of the statutes, rules or regulations involved;

(4) A short, plain statement of the matters asserted. If the state is unable to recite the matters in detail at the time the notice is given, the notice may be limited to a statement of the issues involved;

(5) A statement informing all parties of their opportunity at a hearing:

1. To request rescheduling of the hearing for good cause;
2. To be represented by an attorney or other representative of their choice;
3. To introduce into the record documentary evidence and bring witnesses to the hearing;
4. To have records or documents relevant to the issues produced by their custodian when the records or documents are kept by or for the state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the presiding officer;
5. To question any witnesses or parties; and
6. A final written decision provided by the division administrator of DCAA within 30 days of the hearing.

23.15(3) *Prehearing subpoena and discovery rights and procedures.* The presiding officer shall, upon request, issue subpoenas in accordance with the provisions of Iowa Code section 17A.13.

23.15(4) *Conduct of hearing.*

- a. The hearing shall be held within 30 days of the date of the “notification of intent to terminate.”
- b. The hearing may be conducted in whole or in part by telephone. When it is impractical for the state to conduct an in-person hearing, unless either party objects, a telephone hearing may be scheduled.
- c. After the presiding officer has called the hearing to order, the parties may be given an opportunity to present opening statements; thereafter the parties shall present their evidence in sequence determined by the presiding officer.
- d. When a witness is introduced to provide testimony or evidence in a contested case hearing, the witness shall, prior to testifying, be identified by name and address and shall take an oath or affirmation administered by the presiding officer.

e. The rules of evidence and the contents of the record shall be as allowed under Iowa Code sections 17A.12(7) and 17A.14.

23.15(5) *Decision.* The decision shall conform to the following requirements:

- a. The presiding officer shall within 20 days following the hearing provide the division administrator of DCAA with a proposed decision.
- b. The division administrator of DCAA shall within 30 days following the hearing issue a final decision on behalf of the state.
- c. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record and, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. Each conclusion of law shall be supported by cited authority or by reasoned opinion.

These rules are intended to implement Public Law 100-77 in 1987 as amended by Public Law 100-628 in 1988 and Public Law 101-645 in 1990.

[Filed emergency 11/13/87—published 12/2/87, effective 11/13/87]

[Filed 5/12/89, Notice 4/5/89—published 5/31/89, effective 7/5/89]

[Filed 3/10/92, Notice 2/5/92—published 4/1/92, effective 7/1/92]

[Filed 4/22/93, Notice 3/17/93—published 5/12/93, effective 6/16/93]

[Filed 1/11/95, Notice 12/7/94—published 2/1/95, effective 3/8/95]