

**CENTERS FOR DISEASE CONTROL AND PREVENTION
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**ORDER UNDER SECTION 361
OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. 264)
AND 42 CODE OF FEDERAL REGULATIONS 70.2**

**TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO
PREVENT THE FURTHER SPREAD OF COVID-19**

SUMMARY

Subject to the limitations under “Applicability,” a landlord, owner of a residential property, or other person¹ with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

DEFINITIONS

“*Available government assistance*” means any governmental rental or housing payment benefits available to the individual or any household member.

“*Available housing*” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“*Covered person*”² means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action,³ a declaration under penalty of perjury indicating that:

¹ For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

² This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, *Soc Sci Res.* 2017;62:362-377. doi:10.1016/j.ssresearch.2016.08.017, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See *2019 San Francisco Homeless Count & Survey Comprehensive Report*, Applied Survey Research, at 22, https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf. (last viewed Mar. 24, 2021).

³ As used throughout this Order, this would include, without limitation, an agent or attorney acting on behalf of the landlord or the owner of the residential property.

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020, or expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return),⁴ (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check).^{5,6}

(3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary⁷ out-of-pocket medical expenses;

(4) The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) Eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“*Evict*” and “*Eviction*” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, to remove or cause the removal of a covered person from a residential property. This definition also does not prohibit foreclosure on a home mortgage.

⁴ According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two-bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See *Out of Reach: How Much do you Need to Earn to Afford a Modest Apartment in Your State?*, National Low Income Housing Coalition, <https://reports.nlihc.org/oor> (last visited Mar. 23, 2021). As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

⁵ “Stimulus check” includes payments made pursuant to Section 2201 of the CARES Act, to Section 9601 of the American Rescue Plan Act of 2021, or to any similar federally authorized payments made to individual natural persons in 2020 and 2021. Eligibility for the 2020 or 2021 stimulus checks has been based on an income that is equal to or lower than the income thresholds described above and does not change or expand who is a covered person under this Order since it was entered into on September 4, 2020.

⁶ A person is likely to qualify for protection under this Order if they receive the following benefits: a) Temporary Assistance for Needy Families (TANF); b) Supplemental Nutrition Assistance Program (SNAP); c) Supplemental Security Income (SSI); or d) Social Security Disability Income (SSDI) to the extent that income limits for these programs are less than or equal to the income limits for this Order. However, it is the individual's responsibility to verify that their income is within the income limits described.

⁷ Extraordinary expenses are defined as those that prevented you from paying some or all of your rent or providing for other basic necessities like food security. To qualify as an extraordinary medical expense, the unreimbursed medical expense is one that is likely to exceed 7.5% of one's adjusted gross income for the year.

“*Residential property*” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park,⁸ or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

“*State*” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“*U.S. territory*” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

STATEMENT OF INTENT

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within crowded, congregate or shared living settings, or through unsheltered homelessness;
- Mitigating the further spread of COVID-19 from one state or territory into any other state or territory;
- Mitigating the further spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent; and
- Supporting response efforts to COVID-19 at the federal, state, local, territorial, and tribal levels.

BACKGROUND

COVID-19 IN THE UNITED STATES

Since January 2020, the respiratory disease known as “COVID-19,” caused by a novel coronavirus (SARS-COV-2), has spread globally, including cases reported in all fifty states within the United States, plus the District of Columbia and U.S. territories. As of June 23, 2021, there have been over 179 million cases of COVID-19 globally, resulting in over 3,800,000 deaths.⁹ Over 33,300,000 cases have been identified in the United States, with new cases reported daily, and over 599,000 deaths due to the disease.¹⁰

The virus that causes COVID-19 spreads very easily and sustainably between people, particularly those who are in close contact with one another (within about 6 feet, but occasionally over longer distances), mainly through respiratory droplets produced when an infected person

⁸ Mobile home parks may also be referred to as manufactured housing communities.

⁹ *COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU)*, Johns Hopkins Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last updated June 23, 2021).

¹⁰ *COVID Data Tracker*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last updated June 22, 2021).

coughs, sneezes, or talks. Individuals without symptoms can also spread the virus.¹¹ Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions (e.g. cancer, obesity, serious heart conditions, or diabetes) are at increased risk for severe illness from COVID-19.¹²

COVID-19 vaccines are now widely available in the United States, and all people 12 years and older are recommended to be vaccinated against COVID-19. Three COVID-19 vaccines are currently authorized by the U.S. Food and Drug Administration (FDA) for emergency use: two mRNA vaccines (Pfizer-BioNTech, Moderna) and one viral vector vaccine (Johnson & Johnson/Janssen), each of which has been determined to be safe and effective against COVID-19. As of June 22, 2021, over 150.3 million people in the United States (more than 53% of the population 12 years or older) have been fully immunized.¹³ However, as with other transmissible diseases in densely populated congregate settings, the risk for SARS-CoV-2 infection is greater as long as there is continued community transmission of the virus. As vaccination coverage increases, phasing out prevention measures for fully vaccinated people, ideally those measures that are the most disruptive to individuals and society, will be increasingly feasible.¹⁴ However, the vaccination program is still underway; nearly half of the eligible population is not yet fully vaccinated; and children under age 12 are not yet eligible for vaccines. And, although rare, fully vaccinated people may become infected with COVID-19.¹⁵ Moreover, CDC recognizes the risk that even vaccinated people face in densely populated congregate settings. CDC therefore continues to recommend mask use by all people in areas like homeless shelters and other congregate settings.¹⁶

New variants of SARS-CoV-2 have emerged globally,¹⁷ several of which have been identified as variants of concern.¹⁸ Variants of concern, including the variants Alpha, Beta, Gamma, Delta, and Epsilon, are those for which there is evidence of an increase in transmissibility, more severe

¹¹ Kimball A, Hatfield KM, Arons M, et al. Asymptomatic and Presymptomatic SARS-CoV-2 Infections in Residents of a Long-Term Care Skilled Nursing Facility — King County, Washington, March 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:377–381. DOI: <http://dx.doi.org/10.15585/mmwr.mm6913e1>

¹² Razzaghi H, Wang Y, Lu H, et al. Estimated County-Level Prevalence of Selected Underlying Medical Conditions Associated with Increased Risk for Severe COVID-19 Illness — United States, 2018. *MMWR Morb Mortal Wkly Rep* 2020;69:945–950. DOI: <http://dx.doi.org/10.15585/mmwr.mm6929a1>.

¹³ *COVID-19 Vaccinations in the United States*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last updated June 22, 2021).

¹⁴ *Interim Public Health Recommendations for Fully Vaccinated People*. Centers for Disease Control and Prevention. <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (last updated May 28, 2021).

¹⁵ COVID-19 Vaccine Breakthrough Infections Reported to CDC — United States, January 1–April 30, 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:792–793. DOI: <http://dx.doi.org/10.15585/mmwr.mm7021e3>

¹⁶ *Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)*. Centers for Disease Control and Prevention. <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html> (last updated June 8, 2021).

¹⁷ Abdool Karim SS, de Oliveira T. New SARS-CoV-2 Variants - Clinical, Public Health, and Vaccine Implications [published online ahead of print, 2021 Mar 24]. *N Engl J Med*. 2021;10.1056/NEJMc2100362. doi:10.1056/NEJMc2100362

¹⁸ *Id.*

disease, reduction in neutralization by antibodies generated during previous infection or vaccination, reduced effectiveness of treatments or vaccines, or diagnostic detection failures.¹⁹ The Alpha variant has become the predominant SARS-CoV-2 strain circulating in the United States; however the proportion of Delta variant cases has increased recently.²⁰ Available evidence suggests the currently authorized mRNA COVID-19 vaccines (Pfizer-BioNTech and Moderna) provide significant protection against known variant strains.²¹ Other vaccines, particularly AstraZeneca, show reduced efficacy against infection with certain variants but may still protect against severe disease. Given the predominance of variant strains and the continued emergence of new variants, ongoing monitoring of vaccine effectiveness is needed to identify mutations that could render vaccines most commonly used in the U.S. less effective against more transmissible variants like the Delta variant, which now makes up almost 10 percent of U.S. cases, up from 2.7 percent in May.²²

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation and self-quarantine by people who become ill or who are at risk of transmitting COVID-19.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19 in March 2020. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020. The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and other local officials using emergency powers.

Researchers estimated that this temporary federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.²³ The CARES act also provided funding streams for emergency rental assistance; surveys estimate that this assistance became available to the public through rental assistance programs by July 2020.

The federal moratorium provided by the CARES Act, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were instead protected under state and local moratoria. In early March, 2021, the Census Household Pulse Survey estimated that 6.4

¹⁹ *SARS-CoV-2 Variant Classifications and Definitions*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/variants/variant-info.html#Concern> (last updated June 22, 2021).

²⁰ *Id.*

²¹ *Science Brief: COVID-19 Vaccines and Vaccination*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html> (last updated May 27, 2021).

²² According to data with an end collection date of June 5, 2021. *Variant Proportions*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> (last updated June 22, 2021).

²³ Laurie Goodman, Karan Kaul, and Michael Neal. *The CARES Act Eviction Moratorium Covers All Federally Financed Rentals—That's One in Four US Rental Units*. The Urban Institute. April 2, 2020. <https://www.urban.org/urban-wire/cares-act-eviction-moratorium-covers-all-federally-financed-rentals-thats-one-four-us-rental-units>

million households were behind on rent, and just under half fear imminent eviction.²⁴ In 2016, research showed that there were 3.6 million eviction filings and 1.5 million eviction judgments over the span of a whole year,²⁵ meaning that a wave of evictions on the scale feared by households would be unprecedented in modern times. A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus becoming at higher risk of COVID-19.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021, and approved the Order as an exercise of the CDC's authority under Section 361 of the Public Health Service Act (42 U.S.C. 264). With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. On March 28, 2021, the CDC Director modified and extended the Order until June 30, 2021. This Order further extends the prior Eviction Moratoria for what is currently intended to be a final 30 day-period, until July 31, 2021, for the reasons described herein. Although this Order is subject to revision based on the changing public health landscape, absent an unexpected change in the trajectory of the pandemic, CDC does not plan to extend the Order further. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

Researchers estimate that, in 2020, Federal, state, and local eviction moratoria led to over one million fewer evictions than the previous year.²⁶ Additional research shows that, despite the CDC eviction moratorium leading to an estimated 50% decrease in eviction filings compared to the historical average, there have still been over 100,000 eviction filings since September just within approximately 35 cities and states with more readily available data, suggesting high demand and likelihood of mass evictions.²⁷

EVICTION, CROWDING, AND INTERSTATE TRANSMISSION OF COVID-19

By February 10, 2021, the U.S. Department of the Treasury had paid all of the \$25 billion made available by the Consolidated Appropriations Act of 2021 to states, territories, localities and

²⁴ *Census Household Pulse Survey: Key Phase 3 Housing Payment Findings*. Office of Policy Development and Research, HUDUser (April 26, 2021). <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-042621.html>

²⁵ Ashley Gromis. *Eviction: Intersection of Poverty, Inequality, and Housing*. Eviction Lab, Princeton University (May 2019). https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS_Ashley_Paper.pdf

²⁶ Hepburn P, Louis R, Fish J, et al. U.S. Eviction Filing Patterns in 2020. *Socius*. January 2021. doi:10.1177/23780231211009983.

²⁷ Peter Hepburn and Renee Louis. *Preliminary Analysis: Six Months of the CDC Eviction Moratorium* (March 8, 2021). <https://evictionlab.org/six-months-cdc/>

tribes for the purpose of providing emergency rental assistance to eligible households in their jurisdictions. Additionally, as directed in the Act, Treasury has also made available 40 percent—more than \$8.6 billion—of the additional funding to states, territories and localities for emergency rental assistance provided in the American Rescue Plan. Based on data collected from grantees, Treasury reports that over 630,000 households had already applied for emergency rental assistance by the end of March—when many state and local programs had not yet opened for applications. Though there are indications that emergency rental assistance has started to reach increasing numbers of families over recent months, state and local agencies likely have hundreds of thousands of applications for assistance that currently remain outstanding as programs accelerate their activity. According to Treasury, more households—over 96,000—were served in April than in the entire first quarter. Assistance accelerated in May, with over a fifty percent increase in households served compared to the previous month. The level of assistance provided to low income households is expected to continue increasing because some states started accepting rental assistance applications in late May, including as late as June 1st and now all states are operating programs. Based on analysis of grantee reporting, Treasury believes that state and local emergency rental assistance programs will collectively deploy more rental assistance in July than in any previous month. In addition to Emergency Rental Assistance, there are coordinated efforts across federal agencies to – in partnership with states and localities – promote eviction prevention strategies.

An unprecedented and avoidable surge of evictions is likely to occur if the national moratorium were to conclude on June 30. Recent data from the U.S. Census Household Pulse Survey demonstrates that an increased percentage of households behind on rent believe that an eviction is likely in the next two months.²⁸ A surge in evictions could lead to the immediate and significant movement of large numbers of persons from lower density to higher density housing. This potential for a mass movement of persons would occur at precisely the same time that our nation is actively engaged in a widespread vaccination effort. This vaccination effort has a slower rate of penetration among the populations most likely to experience eviction, and such a mass movement would place increased stress on the homeless service system.²⁹ In combination with the continued underlying COVID-19 spread, and the overlapping factors described above, this would create considerable risk for rapid transmission of COVID-19 in high risk settings. Allowing additional time for rent relief to reach renters and to further increase vaccination rates through the end of July 2021 could decrease the numbers of likely evictions and avert the potential of COVID-19 resurgence among people who experience eviction, their communities, and other regions of the country affected by the resulting transmission.

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. These moves may require crossing state borders. According to the Census

²⁸ Household Pulse Survey Interactive Tool. U.S. Census Bureau. <https://www.census.gov/data-tools/demo/hhp/#/> (last visited June 23, 2021).

²⁹ Barry V, Dasgupta S, Weller DL, et al. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity — United States, December 14, 2020–May 1, 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:818–824. DOI: <http://dx.doi.org/10.15585/mmwr.mm7022e1>

Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding. Studies show that COVID-19 transmission occurs readily within households. The secondary attack rate in households has been estimated to be 17%, and household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts.³⁰ A study of pregnant women in New York City showed that women in large households (greater number of residents per household) were three times as likely to test positive for SARS-CoV-2 than those in smaller households, and those in neighborhoods with greater household crowding (>1 resident per room) were twice as likely to test positive.³¹ Throughout the United States, counties with the highest proportion of crowded households have experienced COVID-19 mortality rates 2.6 times those of counties with the lowest proportion of crowded households.

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, chronic health conditions, cognitive decline, or limited access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms. Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Modeling studies and preliminary observational data from the pre-vaccine phase of the COVID-19 pandemic comparing incidence between states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 30% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction.³² Compared to a scenario where no evictions occurred, the models also predicted a 4%-40% increased risk of infection, even for those who did not share housing, as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.

³⁰ Qin-Long Jing, et al. Household secondary attack rate of COVID-19 and associated determinants in Guangzhou, China: a retrospective cohort study. *The Lancet*. 2020 June 17; vol. 20.10; doi: [https://doi.org/10.1016/S1473-3099\(20\)30471-0](https://doi.org/10.1016/S1473-3099(20)30471-0).

³¹ Ukachi N. Emeruwa, et al. Associations Between Built Environment, Neighborhood Socioeconomic Status, and SARS-CoV-2 Infection Among Pregnant Women in New York City. *JAMA*. 2020;324(4):390-392. doi:10.1001/jama.2020.11370.

³² Nande A, Sheen J, Walters EL, Klein B, Chinazzi M, Gheorghe AH, Adlam B, Shinnick J, Tejeda MF, Scarpino SV, Vespignani A, Greenlee AJ, Schneider D, Levy MZ, Hill AL. The effect of eviction moratoria on the transmission of SARS-CoV-2. *Nat Commun*. 2021 Apr 15;12(1):2274. doi: 10.1038/s41467-021-22521-5. PMID: 33859196; PMCID: PMC8050248.

An analysis of observational data from state-based eviction moratoria in 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2-3 months after eviction moratoria were lifted (pre-peer review). Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with the rates in states that maintained their moratoria. In these models, the authors accounted for time-varying indicators of each state's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at ≥ 16 weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at ≥ 16 weeks (CI 3.1, 9.3). The authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting state moratoria.³³

Although data are limited, available evidence suggests evictions lead to interstate spread of COVID-19 in two ways. First, an eviction may lead the evicted members of a household to move across state lines. Of the 35 million people in America who move each year, 15% move to a new state. Second, even if a particular eviction, standing alone, would not always result in interstate displacement, the mass evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. This Order cannot effectively mitigate interstate transmission of COVID-19 without covering intrastate evictions (evictions occurring within the boundaries of a state or territory), as the level of spread of SARS-CoV-2 resulting from these evictions can lead to SARS-CoV-2 transmission across state borders.

Moreover, intrastate spread facilitates interstate spread in the context of communicable disease spread, given the nature of infectious disease. In the aggregate, the mass-scale evictions that will likely occur in the absence of this Order will inevitably increase interstate spread of COVID-19.

EVICTION, HOMELESSNESS, AND COVID-19 TRANSMISSION

Evicted individuals without access to support or other assistance options may become homeless, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population. In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.³⁴ Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Data collection

³³ Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality (November 30, 2020). Available at SSRN:

<https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

³⁴ *Count Us In 2020*. KCRHA (July 2020). https://kcrha.org/wp-content/uploads/2020/07/Count-Us_In-2020-Final_7.29.2020.pdf

by an emergency shelter in Columbus, Ohio, showed that 35.4% of families and 11.4% of single adults reported an eviction as the primary or secondary reason for their seeking shelter.³⁵

Extensive outbreaks of COVID-19 have been identified in homeless shelters. In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members. In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents. COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested). Data from 557 universal diagnostic testing events at homeless shelters in 21 states show an average of 6% positivity among shelter clients. Data comparing the incidence or severity of COVID-19 among people experiencing homelessness directly to the general population are limited. However, during the 15-day period of the outbreak in Boston, MA, researchers estimated a cumulative incidence of 46.3 cases of COVID-19 per 1000 persons experiencing homelessness, as compared to 1.9 cases per 1000 among Massachusetts adults (pre-print).

CDC guidance recommends increasing physical distance between beds in homeless shelters, which is likely to decrease capacity, while community transmission of COVID-19 is occurring. These guidelines are similar to other guidance issued for other congregate settings such as prisons and jails. To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

PERSONS AT HIGHER RISK OF EVICTION MAY ALSO BE AT HIGHER RISK OF BEING UNVACCINATED

At this time, communities with high rates of eviction may currently have lower coverage of COVID-19 vaccination – a focus for current vaccination campaigns. In the spring of 2021, counties with high social vulnerability (i.e., social and structural factors associated with adverse health outcome inclusive of socioeconomic indicators related to risk of eviction) were shown to have lower levels of COVID-19 vaccination.³⁶

CDC EVICTION MORATORIUM

The Department of the Treasury continues to distribute emergency rental assistance funds that may help mitigate spikes in COVID-19 transmission due to increases in evictions. These funds are expected to make a meaningful difference for hundreds of thousands of people who are

³⁵ Chester Hartman and David Robinson. “Evictions: The Hidden Housing Problem” in *Housing Policy Debate*. 2003.

³⁶ Barry V, Dasgupta S, Weller DL, Kriss JL, Cadwell BL, Rose C, Pingali C, Musial T, Sharpe JD, Flores SA, Greenlund KJ, Patel A, Stewart A, Qualters JR, Harris L, Barbour KE, Black CL. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity - United States, December 14, 2020-May 1, 2021. *MMWR Morb Mortal Wkly Rep*. 2021 Jun 4;70(22):818-824. doi: 10.15585/mmwr.mm7022e1. PMID: 34081685; PMCID: PMC8174677.

expected to receive the rental assistance in the 30-day horizon of this Order, alongside other federal and state efforts to prevent evictions.³⁷

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. On March 28, the CDC Director renewed the Order until June 30, 2021. This Order further extends the prior Eviction Moratorium until July 31, 2021, for the reasons described herein, while the Department of the Treasury disburses the remaining ERA funds to state and local jurisdictions, and those grantees continue to accelerate efforts to deploy rental assistance on behalf of tenants. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

APPLICABILITY

This Order does not apply in any state, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order or to the extent its application is prohibited by federal court order. In accordance with 42 U.S.C. 264(e), this Order does not preclude state, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents;³⁸ (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety;

³⁷ *Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey*. National Low Income Housing Coalition. June 2021. https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_2021_6-22_FINAL_v2.pdf

³⁸ Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See *What to Do if You are Sick*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html> (last updated Mar. 17, 2021).

or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

Any evictions for nonpayment of rent initiated prior to September 4, 2020, but not yet completed, are subject to this Order. Any tenant, lessee, or resident of a residential property who qualifies as a “Covered Person” and is still present in a rental unit is entitled to protections under this Order. Any eviction that was completed prior to September 4, 2020, is not subject to this Order.

Under this Order, covered persons may be evicted for engaging in criminal activity while on the premises. But covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar state-law offense) where the underlying activity is a covered person remaining in a residential property for nonpayment of rent. Permitting such evictions would result in substantially more evictions overall, thus increasing the risk of disease transmission as otherwise covered persons move into congregate settings or experience homelessness. This result would be contrary to the stated objectives of this Order, and therefore would diminish their effectiveness. Moreover, to the extent such criminal trespass laws are invoked to establish criminal activity solely based on a tenant, lessee, or resident of a residential property remaining in a residential property despite the nonpayment of rent, such invocation conflicts with this Order and is preempted pursuant to 42 U.S.C. 264(e).

Individuals who are confirmed to have, who have been exposed to, or who might have COVID-19 and take reasonable precautions to not spread the disease may not be evicted on grounds that they may pose a health or safety threat to other residents.

The Order is extended through July 31, 2021, based on the current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States. This 30-day extension, intended to be the final iteration, will allow the assessment of natural changes to COVID-19 incidence, the influences of new variants, additional distribution of emergency rental assistance funds, and the expansion of COVID-19 vaccine uptake.

DECLARATION FORMS

To qualify for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “Covered person” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. To assist tenants and landlords, the CDC created a standardized declaration form that can be downloaded here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

Tenants, lessees, and residents of residential property are not obligated to use the CDC form. Any written document that an eligible tenant, lessee, or residents of residential property presents to their landlord will comply with this Order, as long as it contains the required elements of “Covered person” as described in this Order. In addition, tenants, lessees, and residents of residential property are allowed to declare in writing that they meet the elements of covered person in other languages.

All declarations, regardless of form used, must be signed, and must include a statement that the tenant, lessee, or resident of a residential property understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration. This Order does not preclude a landlord challenging the truthfulness of a tenant's, lessee's, or resident's declaration in court, as permitted under state or local law.

In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of the other adult residents party to the lease, rental agreement, or housing contract. The declaration may be signed and transmitted either electronically or by hard copy.

As long as the information in a previously signed declaration submitted under a previous order remains truthful and accurate, covered persons do not need to submit a new declaration under this Order.

FINDINGS AND ACTION

DETERMINATION

For the reasons described herein, I am extending the September 4, 2020 Order, as extended by section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 and further extended and modified by the January 29, 2021 and March 28, 2021 Orders. I have determined based on the information below that extending the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.

State and local jurisdictions continue to distribute emergency rental assistance funds, provided by the Department of Treasury, that will help avert a spate of evictions and thus mitigate corresponding spikes in COVID-19 transmission. Although trends have improved dramatically since January 2021, there continues to be ongoing transmission of approximately 10,000 cases per day in the United States.³⁹

Congress has appropriated approximately \$46 billion—of which almost three-quarters is currently available to state and local grantees—to help pay rent and rental arrears for tenants who may otherwise be at high risk of eviction. According to estimates based on the U.S. Census Household Pulse Survey, approximately 6.4 million renter households are behind on their rent as of March 29, 2021. The successful delivery of those funds by states and localities should greatly reduce the incidence of eviction that would occur in the absence of that support. However, many states and localities are still ramping up the collection and processing of applications and the delivery of assistance and putting in place other eviction prevention strategies. It was only in the beginning of June that all state-run emergency rental assistance programs had opened for applications. If the moratorium expires on June 30, a wave of evictions, on the order of hundreds

³⁹ COVID Data Tracker, Centers for Disease Control and Prevention, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last updated June 22, 2021).

of thousands, could occur this summer and early fall, exacerbating the spread of COVID-19 among the significant percentage of the population that remains unvaccinated. In appropriating these emergency rental assistance funds, Congress intended that the funding would work in concert with the eviction moratorium, providing time for rental assistance to reach eligible tenants and landlords to sustainably reduce the threat of an eviction wave after an eviction moratorium was no longer in effect. While the pace of assistance is continuing to increase, without additional time for states and localities to deliver this needed relief and engage in other efforts to prevent evictions, a surge of evictions would occur upon the conclusion of the national moratorium. A surge in evictions would lead to immediate movement, crowding, and increased stress on the homeless service system. In combination with ongoing COVID-19 transmission, and the overlapping factors described above, this would create considerable risk for the rapid transmission of COVID-19 in high-risk settings. Allowing additional time for rent relief to reach renters – alongside other Federal and state actions to prevent evictions – by an extension through the month of July 2021 can decrease the numbers of likely evictions and avert the potential of COVID-19 resurgence among people who experience eviction, their communities, and other regions of the country affected by the resulting transmission.

Based on the convergence of these issues, I have determined that extending the temporary halt on evictions is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, the September 4, 2020 Order, as extended and modified by the January 29, 2021 and March 28, 2021 Orders, is hereby extended through July 31, 2021.

Accordingly, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any state or U.S. territory where there are documented cases of COVID-19 and the state or U.S. territory has provided a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (APA) but rather an emergency action taken under the existing authority of 42 C.F.R § 70.2. The purpose of section 70.2, which was promulgated through notice-and-comment rulemaking, is to enable CDC to take swift steps to prevent contagion without having to seek a second round of public comments and without a delay in effective date.⁴⁰

GOOD CAUSE

In the event this Order qualifies as a rule under the APA, there is good cause to dispense with prior public notice and comment and a delay in effective date. See 5 U.S.C. 553(b)(B), (d)(3). Good cause exists, in sum, because the public health emergency caused by the COVID-19 pandemic and the unpredictability of the trajectory of the pandemic make it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

⁴⁰ *Chambless Enters., LLC v. Redfield*, No. 20-1455, 2020 WL 7588849 (W.D. La. 2020).

In the September 4, 2020 Order, the previous CDC Director determined that good cause existed because the public health emergency caused by COVID-19 made it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of the Order. The previous Director also found that a delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that would have potentially significant consequences. For these reasons, the previous Director concluded that the delay in the effective date of the Order would defeat the purpose of the Order and endanger the public health and, therefore, determined that immediate action was necessary. As a result, the previous Director issued the Order without prior notice and comment and without a delay in the effective date. I made similar findings in the January 29, 2021 and March 28, 2021 Orders, and similar findings, as described herein, continue to exist.

The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat. This necessarily involves assessing evolving conditions that inform CDC's determinations. And although the pandemic is showing positive trends, the fundamental public health threat that existed on September 4, 2020, January 29, 2021, and March 28, 2021—the risk of large numbers of residential evictions contributing to the spread of COVID-19 throughout the United States—continues to exist. Without this Order, there is every reason to expect that evictions will increase. It is imperative that public health authorities act quickly to mitigate such an increase of evictions, which could increase the likelihood of new spikes in SARS-CoV-2 transmission even as COVID-19 morbidity and mortality may be waning. Such mass evictions and the attendant public-health consequences could unravel positive trends, and would be very difficult to reverse.

For all of these reasons, I hereby conclude that immediate action is again necessary and that notice-and-comment rulemaking and a delay in effective date would be impracticable and contrary to the public interest.

MISCELLANEOUS

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs (OIRA) has determined that it would be an economically significant regulatory action pursuant to Executive Order 12866 and a major rule under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (the Congressional Review Act or CRA), 5 U.S.C. 804(2). Thus, this action has been reviewed by OIRA. CDC has determined that for the same reasons given above, there would be good cause under the CRA to make the requirements herein effective immediately. 5 U.S.C. 808(2).

If any provision of this Order, or the application of any provision to any persons, entities, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any persons, entities, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

This Order shall be enforced by federal authorities and cooperating state and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall

not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

CRIMINAL PENALTIES

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 or one year in jail, or both, if the violation does not result in a death, or a fine of no more than \$250,000 or one year in jail, or both if the violation results in a death, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.

NOTICE TO COOPERATING STATE AND LOCAL OFFICIALS

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid state and local authorities in the enforcement of their quarantine and other health regulations and to accept state and local assistance in the enforcement of federal quarantine rules and regulations, including in the enforcement of this Order.

NOTICE OF AVAILABLE FEDERAL RESOURCES

While this Order to prevent eviction is effectuated to protect the public health, the states and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD), the Department of Agriculture, and the Department of the Treasury have informed CDC that unprecedented emergency resources have been appropriated through various Federal agencies that assist renters and landlords during the pandemic, including \$46.55 billion to the Treasury through the Consolidated Appropriations Act of 2021 and the American Rescue Plan (ARP). Furthermore, in 2020 44 states and 310 local jurisdictions allocated about \$3.9 billion toward emergency rental assistance, largely from funds appropriated to HUD from the Coronavirus Aid, Relief, and Economic Security (CARES).⁴¹ These three rounds of federal appropriations also provided substantial resources for homeless services, homeowner assistance, and supplemental stimulus and unemployment benefits that low-income renters used to pay rent.

Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information about the Coronavirus Relief Fund and <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program> for more information about the Emergency Rental Assistance Program. Relevant agencies have informed CDC that forbearance policies for

⁴¹ Vincent Reina et al, *COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs*, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

mortgages backed by the federal government provide many landlords, especially smaller landlords, with temporary relief as new emergency rental assistance programs are deployed.

Treasury, HUD, and USDA grantees and partners play a critical role in prioritizing efforts to support this goal. All communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

Treasury, HUD, and USDA stand at the ready to support American communities in taking these steps to reduce the spread of COVID-19 and maintain economic prosperity.

For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, state and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties. Furthermore, tenants can visit consumerfinance.gov/housing for up-to-date information on rent relief options, protections, and key deadlines.

EFFECTIVE DATE

This Order is effective on July 1, 2021, and will remain in effect through July 31, 2021, subject to revision based on the changing public health landscape.

In testimony whereof, the Director, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, has hereunto set her hand at Atlanta, Georgia, this 24th day of June 2021.



Rochelle P. Walensky, MD, MPH
Director,
Centers for Disease Control and Prevention