

## Summary of Interim Final Rule and Final Rule Structure

*Summary:* The interim final rule provided a non-exhaustive list of enumerated eligible uses to respond to the negative economic impacts of the pandemic through assistance to households, as well as a standard for assessing whether uses of funds beyond those enumerated are eligible.

The interim final rule described enumerated eligible uses for assistance to households in several categories: (1) Assistance to unemployed workers, (2) state Unemployment Insurance Trust Funds, (3) assistance to households, and (4) expenses to improve the efficacy of economic relief. Note that the interim final rule posed several questions to the public on enumerated eligible uses for assistance to households; comments on these questions are addressed in the relevant subject matter section below.

In addition, in recognition that pre-existing health, economic, and social disparities contributed to disproportionate pandemic impacts in certain communities, the interim final rule also provided a broader list of enumerated eligible uses to respond to the pandemic in disproportionately impacted communities, specifically: (1) Building stronger communities through investments in housing and neighborhoods, (2) addressing educational disparities, and (3) promoting healthy childhood environments. In the interim final rule, under the Public Health section, recipients could also provide services to address health disparities and increase access to health and social services; these eligible uses have been re-organized into the Assistance to Households section to consolidate responses in disproportionately impacted communities and enhance clarity.

This section addresses enumerated eligible uses in the final rule to respond to negative economic impacts to households. As a reminder, recipients may presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low or moderate income experienced negative economic impacts resulting from the pandemic, and recipients may provide services to them that respond to these impacts, including these enumerated eligible uses.

For guidance on how to determine whether a particular use, beyond those enumerated, is eligible; further detail on

which households and communities are presumed eligible for services; and how to identify eligible households and communities beyond those presumed eligible, see section General Provisions: Structure and Standards.

*Reorganizations and Cross-References:* The final rule reorganizes all enumerated eligible uses for impacted and disproportionately impacted households into the section Assistance to Households, with the exception that expenses to improve the efficacy of economic relief has been re-categorized into a different section of the final rule for increased clarity; for discussion of that use category, see section General Provisions: Other.

Note that in conducting this reorganization, and based on further analysis and in response to comments, Treasury has determined that several enumerated uses included in the interim final rule for disproportionately impacted communities are directly responsive to negative economic impacts experienced by impacted households. In the final rule, these uses have been moved from “disproportionately impacted” to “impacted” households accordingly, making these services available to both disproportionately impacted and impacted households. These uses include assistance applying for public benefits or services; programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including childcare, early learning services, programs to provide home visits, and services for families involved in the child welfare system and foster youth; programs to address the impacts of lost instructional time for students;<sup>112</sup> and programs or services that address housing insecurity, lack of affordable housing, or homelessness.

The following activities remain enumerated eligible uses for disproportionately impacted households: Remediation of lead paint or other lead hazards; housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity; and programs or services that address educational disparities, including assistance to high-poverty school districts to advance equitable funding across districts and geographies and evidence-based services to address the academic, social, emotional, and mental health needs of students.

<sup>112</sup> For which recipients may presume that any student who did not have access to in-person instruction for a significant period of time was impacted by the pandemic.

## Enumerated Eligible Uses for Impacted Households

The interim final rule included several enumerated eligible uses to provide assistance to households or populations facing negative economic impacts due to COVID-19. Enumerated eligible uses included: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; cash assistance; or job training to address negative economic or public health impacts experienced due to a worker’s occupation or level of training. It also posed a question as to what other types of services or costs Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19.

This section addresses each of these enumerated eligible uses in turn, with the exception of job training, which has been re-categorized for increased clarity to the eligible use for “assistance to unemployed and underemployed workers.” In general, commenters supported inclusion of these enumerated eligible uses to address key economic needs among households due to the pandemic, and Treasury is maintaining these eligible uses in the final rule, in line with commenters’ recommendations.

**1. Food assistance.** The interim final rule included an enumerated eligible use for food assistance. Some commenters expressed support for this eligible use and emphasized the importance of aid to address food insecurity. Some commenters raised questions as to whether food assistance funds could be used to augment services provided through organizations like food banks, churches, and other food delivery services, or generally be sub-awarded to these organizations.

*Treasury Response:* Treasury is maintaining this enumerated eligible use without change. Recipients may, as was the case under the interim final rule, administer programs through a wide range of entities, including nonprofit and for-profit entities, to carry out eligible uses on behalf of the recipient government (see section Distinguishing Subrecipients versus Beneficiaries). Further, Treasury is clarifying that capital expenditures related to food banks and other facilities primarily dedicated to addressing food insecurity are eligible; recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General

Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

2. *Emergency housing assistance.* The interim final rule included an enumerated eligible use for rent, mortgage, or utility assistance and counseling and legal aid to prevent eviction or homelessness.

*Public Comment:* Several commenters supported the inclusion of eviction prevention activities as an eligible use given the high number of households behind on rent and potentially at risk of eviction. Following release of the interim final rule, Treasury had also received requests for elaboration on the types of eligible services in this category. Some commenters also recommended including assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, as an enumerated eligible use.

*Treasury Response:* In response to requests for elaboration on the types of eligible services for eviction prevention, Treasury has provided further guidance that these services include “housing stability services that enable eligible households to maintain or obtain housing, such as housing counseling, fair housing counseling, case management related to housing stability, outreach to households at risk of eviction or promotion of housing support programs, housing related services for survivors of domestic abuse or human trafficking, and specialized services for individuals with disabilities or seniors that support their ability to access or maintain housing,” as well as “legal aid such as legal services or attorney’s fees related to eviction proceedings and maintaining housing stability, court-based eviction prevention or eviction diversion programs, and other legal services that help households maintain or obtain housing.”<sup>113</sup> Treasury also emphasized that recipients may work with court systems, nonprofits, and a wide range of other organizations to implement strategies to support housing stability and prevent evictions.

In the final rule, Treasury is maintaining these enumerated eligible uses, including those described in the interim final rule and later guidance, in line with commenters’ recommendations. To enhance clarity, Treasury is also elaborating on some types of services included under this eligible use category; this remains a

non-exhaustive list of eligible services. For example, eligible services under this use category include: Rent, rental arrears, utility costs or arrears (e.g., electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil), reasonable accrued late fees (if not included in rental or utility arrears), mortgage payment assistance, financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default, mortgage principal reduction, facilitating mortgage interest rate reductions, counseling to prevent foreclosure or displacement, relocation expenses following eviction or foreclosure (e.g., rental security deposits, application or screening fees). Treasury is clarifying that assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, was permissible under the interim final rule and continues to be so under the final rule. In addition, Treasury is also clarifying that recipients may administer utility assistance or address arrears on behalf of households through direct or bulk payments to utility providers to facilitate utility assistance to multiple consumers at once, so long as the payments offset customer balances and therefore provide assistance to households.

This eligible use category also includes emergency assistance for individuals experiencing homelessness, either individual-level assistance (e.g., rapid rehousing services) or assistance for groups of individuals (e.g., master leases of hotels, motels, or similar facilities to expand available shelter).

Further, Treasury is clarifying that transitional shelters (e.g., temporary residences for people experiencing homelessness) are eligible capital expenditures. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

Note that this enumerated eligible use describes “emergency housing assistance,” or assistance for responses to the immediate or near-term negative economic impacts of the pandemic. The final rule also clarifies and expands the ability of recipients to use SLFRF funds to address the general lack of affordable housing and housing challenges underscored by the pandemic. For discussion of affordable housing eligible uses, including services that primarily increase access to affordable, high-quality housing and support stable

housing and homeownership over the long term, see the eligible use for “promoting long-term housing security: Affordable housing and homelessness.”

3. *Emergency assistance for pressing needs: Burials, home repairs, weatherization, or other needs.* The interim final rule included an enumerated eligible use for emergency assistance for burials, home repairs, weatherization, and other needs; these types of programs may provide emergency assistance for pressing and unavoidable household needs. Treasury did not receive comments on this eligible use and is maintaining it in the final rule.

*Background on Home Repairs and Weatherization:* The economic downturn has meant fewer households had the resources needed to make necessary home repairs and improvements. In May 2021, 28 percent of landlords reported deferring maintenance and 27 percent of tenants reported maintenance requests going unanswered.<sup>114</sup> While small and cosmetic repairs can often wait, deferring major repairs, such as plumbing needs, can result in unsafe and unhealthy living environments and, eventually, the need for more expensive repairs and fixes.

In addition to repairs, many homes are in need of weatherization. Weatherization assistance helps low- and moderate-income Americans save energy, reduce their utility bills, and keeps them and their homes safe. One in three households is energy insecure,<sup>115</sup> meaning they do not have the ability to meet their energy needs.<sup>116</sup> Weatherization efforts are particularly important for low- and moderate-income households. Households of color, renters, and households with low or moderate incomes are all more likely to report energy insecurity.<sup>117</sup> These

<sup>114</sup> Jung Hyun Choi, Laurie Goodman, and Daniel Pang, *The Pandemic Is Making It Difficult for Mom-and-Pop Landlords to Maintain Their Properties*, Urban Institute (July 23, 2021), <https://www.urban.org/urban-wire/pandemic-making-it-difficult-mom-and-pop-landlords-maintain-their-properties>.

<sup>115</sup> U.S. Energy Information Administration, *Residential Energy Consumption Survey (2017)*, Retrieved from <https://www.eia.gov/consumption/residential/data/2015/hc/php/hc11.1.php>.

D. Hernández, *Understanding ‘energy insecurity’ and why it matters to health*, *Social Science & Medicine*, 167, 1–10 (2016), <https://doi.org/10.1016/j.socscimed.2016.08.029>.

<sup>116</sup> Hernández, D. (2016). *Understanding ‘energy insecurity’ and why it matters to health*. *Social Science & Medicine*, 167, 1–10. <https://doi.org/10.1016/j.socscimed.2016.08.029>.

<sup>117</sup> U.S. Energy Information Administration, *Residential Energy Consumption Survey (RECS)* <https://www.eia.gov/consumption/residential/data/2015/hc/php/hc11.1.php>. (last visited November 9, 2021)

<sup>113</sup> See FAQ 2.21. *Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions*, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

requested further clarification on their role.<sup>187</sup> Treasury is maintaining this eligible use in the final rule.

*b. Remediation of lead paint or other lead hazards.* The interim final rule included remediation of lead paint or other lead hazards as an enumerated eligible use to address health disparities.

*Public Comment:* Treasury received several comments asking for clarification on the eligibility of a particular use that would indirectly address lead pollution. For example, a commenter requested the ability to fund remedial actions, such as filtration and plumbing procedures to help address lead pollution. One commenter requested that private wells be eligible for funding to address contamination with substances such as lead. Other commenters requested that Treasury allow replacement of lead pipes as an eligible use of funds.

*Treasury Response:* Recipients may make a broad range of water infrastructure investments under section 602(c)(1)(d) and 603(c)(1)(d), which can include lead service line replacement and other activities to identify and remediate lead in water. These uses are discussed in greater detail in section Water and Sewer Infrastructure of this Supplemental Information.

Treasury has further determined that several of the services identified by commenters are appropriate responses to address health disparities in disproportionately impacted households. These services were eligible under the interim final rule and continue to be so under the final rule. These services include remediation to address lead-based public health risk factors, outside of lead in water, including evaluation and remediation of lead paint, dust, or soil hazards; testing for blood lead levels; public outreach and education; and emergency protection measures, like bottled water and water filters, in areas with an action level exceedance for lead in water in accordance with the Environmental Protection Agency's Lead and Copper Rule.<sup>188</sup>

Further, Treasury had determined that certain capital expenditures, including improvements to existing facilities to remediate lead contaminants (e.g., removal of lead paint), are eligible responses, although this does not

<sup>187</sup> See, e.g., Centers for Disease Control and Prevention, Community Health Worker (CHW) Toolkit, <https://www.cdc.gov/dhdsp/pubs/toolkits/chw-toolkit.htm> (last visited November 9, 2021).

<sup>188</sup> Environmental Protection Agency, 40 CFR 141.80(c)(1), <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-141/subpart-I/section-141.80>.

include construction of new facilities for the purpose of lead remediation. Recipients should make sure that all capital expenditures adhere to the standards and presumptions detailed in section Capital Expenditures in General Provisions: Other.

*c. Medical facilities.* Treasury received a few comments from recipients seeking to use SLFRF funds to build new medical facilities, such as hospitals or public health clinics, to serve disproportionately impacted communities. Given the central role of access to high-quality medical care in reducing health disparities and addressing the root causes that led to disproportionate impact COVID-19 health impacts in certain communities, the final rule recognizes that medical equipment and facilities designed to address disparities in public health outcomes are eligible capital expenditures. This includes primary care clinics, hospitals, or integrations of health services into other settings. Recipients should make sure that all capital expenditures adhere to the standards and presumptions detailed in section Capital Expenditures in General Provisions: Other.

*2. Housing vouchers and assistance relocating.* In addition to other housing services, the interim final rule permitted a variety of rental assistance approaches to support low-income households in securing stable, long-term housing, including housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents. Examples could include SLFRF-funded analogues to Section 8 Housing Choice vouchers; other kinds of rent subsidies, including shallow subsidies; and programs to help residents move to areas with higher levels of economic mobility.<sup>189</sup> Treasury did not receive public comments on these enumerated eligible uses.

*Treasury Response:* Treasury maintains the eligibility of vouchers and relocation assistance in the final rule.

*3. Building strong, healthy communities through investments in neighborhoods.* While the interim final rule included a category of enumerated eligible uses for "building stronger communities through investments in housing and neighborhoods," the examples of services provided generally focused on housing uses. In response to questions following release of the interim final rule, Treasury issued

<sup>189</sup> See, e.g., Opportunity Insights, Creating Moves To Opportunity (August 2019), <https://opportunityinsights.org/policy/cmto/>.

further guidance clarifying that "investments in parks, public plazas, and other public outdoor recreation spaces may be responsive to the needs of disproportionately impacted communities by promoting healthier living environments."

*Public Comment: General:* A significant theme across many public comments was the importance of neighborhood environment to health and economic outcomes and the potential connections between residence in an underserved neighborhood and disproportionate impacts from the pandemic. Many commenters highlighted the connection between neighborhoods and health outcomes, including citing public health research linking neighborhood traits to health outcomes. For example, the CDC states that "neighborhoods people live in have a major impact on their health and well-being."<sup>190</sup> As such, CDC identifies "neighborhoods and built environment" as one of five key social determinants of health<sup>191</sup> and includes "creat[ing] neighborhoods and environments that promote health and safety" as one of the agency's goals for social determinants of health outcomes.

*a. Neighborhood features that promote improved health and safety outcomes.*

*Public Comment:* Commenters argued that neighborhoods impact physical health outcomes in several ways. First, some commenters reasoned that the physical environment and amenities in a community<sup>192</sup> influence a person's level of physical activity, with features like parks, recreation facilities, and safe sidewalks promoting increased physical activity that improves health outcomes. Conversely, commenters argued that a lack of these features in a neighborhood could dampen physical activity and contribute to health conditions like obesity that are risk factors for more severe COVID-19 health outcomes.

**Second, some commenters also suggested that access to healthy food in a neighborhood impacts health outcomes. These commenters reasoned**

<sup>190</sup> U.S. Department of Health and Human Services, Neighborhood and Built Environment, <https://health.gov/healthypeople/objectives-and-data/browse-objectives/neighborhood-and-built-environment#cit1> (last visited November 9, 2021).

<sup>191</sup> Social determinants of health are "the conditions in the places where people live, learn, work, and play that affect a wide range of health risks and outcomes." Centers for Disease Control and Prevention, About Social Determinants of Health (SDOH), <https://www.cdc.gov/social-determinants/about.html> (last visited November 9, 2021).

<sup>192</sup> In public health, this is referred to as "built environment," or the man-made physical aspects of a community (e.g., homes, buildings, streets, open spaces, and infrastructure).



that lacking adequate access to affordable, healthy food or living in a “food desert” may contribute to disparities in diet that influence health outcomes, including contributing to pre-existing conditions that increased risk for severe COVID-19 outcomes. These commenters cited public health research finding “clear evidence for disparities in food access in the United States by income and race.”<sup>193</sup>

Some commenters also suggested that neighborhood environment is connected to other public health outcomes, like mental health and public safety. For example, some research suggests that living in neighborhoods with green space and tree cover correlates with improved mental health outcomes.<sup>194</sup> Finally, some commenters argued that activities like installing streetlights, greening or cleanup of public spaces or land, and other efforts to revitalize public spaces would support improved public safety.<sup>195 196</sup>

These commenters recommended that Treasury include as an enumerated eligible use in disproportionately impacted communities projects to develop neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces.

*Background:* Investments in neighborhood features, including parks, recreation facilities, sidewalks, and healthy food access, can work to improve physical and mental health outcomes. Allowing people access to nature, including parks, has been connected to decreased levels of

mortality and illness and increased well-being.<sup>197</sup> Urban park use during the COVID-19 pandemic may have declined among lower-income individuals.<sup>198</sup> Encouraging physical activity can also play a role in health outcomes, as a sedentary lifestyle is a risk factor for chronic diseases and more severe COVID-19 outcomes.<sup>199</sup> Parks, recreation facilities, and sidewalks can promote healthier living environments by allowing for safe and socially distanced recreation during the COVID-19 pandemic.

Additionally, food insecurity rates, which are higher among lower-income households and households of color, doubled among all households and tripled among households with children during the onset of COVID-19 from February 2020 to May 2020.<sup>200</sup> Improving healthy food access supports public health, particularly among lower-income households and households of color that face disproportionate outcomes.

*Treasury Response:* Treasury recognizes the connection between neighborhood built environment and physical health outcomes as discussed in the research and analysis provided by commenters, including risk factors that may have contributed to disproportionate COVID-19 health impacts in low-income communities. The final rule also recognizes that the public health impacts of the pandemic are broader than just the COVID-19 disease itself and include substantial impacts on mental health and public safety challenges like rates of violent crime, which are correlated with a neighborhood’s built environment and features. As such, neighborhood features that promote improved health and safety outcomes respond to the pre-existing disparities that contributed to COVID-19’s disproportionate impacts on low-income communities.

<sup>197</sup> See, e.g., American Public Health Association, *Improving Health and Wellness through Access to Nature* (November 5, 2013), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/08/09/18/improving-health-and-wellness-through-access-to-nature>.

<sup>198</sup> LR Larson et al., *Urban Park Use During the COVID-19 Pandemic: Are Socially Vulnerable Communities Disproportionately Impacted?*, *Front. Sustain. Cities* 3:710243 (2021), <https://doi.org/10.3389/frsc.2021.710243>.

<sup>199</sup> JP Despre’s, *Severe COVID-19 outcomes—the role of physical activity*, *Nat Rev Endocrinol* 17, 451–452 (2021), <https://doi.org/10.1038/s41574-021-00521-1>.

<sup>200</sup> Caroline George and Adie Tomer, *Beyond ‘food deserts’: America needs a new approach to mapping food*, *Brookings Institution* (August 17, 2021), <https://www.brookings.edu/research/beyond-food-deserts-america-needs-a-new-approach-to-mapping-food-insecurity/>.

The final rule includes enumerated eligible uses in disproportionately impacted communities for developing neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks,<sup>201</sup> projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces. Recipients seeking to use funds for capital expenditures should refer to the section *Capital Expenditures in General Provisions: Other*, which describes additional eligibility standards that apply to uses of funds for capital expenditures.

*b. Vacant or abandoned properties.*

As discussed above, the interim final rule included enumerated eligible uses for building stronger communities through investments in housing and neighborhoods in disproportionately impacted communities. The interim final rule also posed a question of whether other potential uses in this category, specifically “rehabilitation of blighted properties or demolition of abandoned or vacant properties,” address the public health or economic impacts of the pandemic.

*Public Comment:* Several commenters argued that programs or services to address vacant or abandoned property would respond to the public health and negative economic impacts of the pandemic in disproportionately impacted communities. Some commenters cited research suggesting that living near such property is correlated with worse physical health and mental health outcomes, noted that such properties pose an environmental hazard, or argued that such properties present a barrier to economic recovery. These commenters suggested that renovation or demolition of vacant or abandoned property could benefit community health and raise property values. Other commenters recommended that Treasury include an enumerated eligible use for the operation of land banks that redevelop or renew vacant properties and land.

*Treasury Response:* As noted throughout the final rule, the pandemic underscored the importance of safe, affordable housing and healthy

<sup>201</sup> However, Treasury cautions recipients that general infrastructure development, including street or road construction, remains a generally ineligible use of funds under the final rule. Sidewalks and pedestrian safety should be the predominant component of uses of funds in this category. While projects may include ancillary construction needed to execute the predominant component, a project that predominantly involves street construction or repair to benefit vehicular traffic would be ineligible.

<sup>193</sup> J Beaulac, E Kristjansson, S Cummins, A systematic review of food deserts, 1966–2007, *Prev Chronic Dis* 2009;6(3):A105, [http://www.cdc.gov/pcd/issues/2009/jul/08\\_0163.htm](http://www.cdc.gov/pcd/issues/2009/jul/08_0163.htm).

<sup>194</sup> See, e.g., Yijun Zhang et al. *The Association between Green Space and Adolescents’ Mental Well-Being: A Systematic Review*. *International journal of environmental research and public health* vol. 17,18 6640 (Sep. 11 2020), doi:10.3390/ijerph17186640; EC South, BC Hohl, MC Kondo, JM MacDonald, CC Branas, *Effect of Greening Vacant Land on Mental Health of Community-Dwelling Adults: A Cluster Randomized Trial*, *JAMA Netw Open*. 2018;1(3):e180298 (2018), available at: doi:10.1001/jamanetworkopen.2018.0298.

<sup>195</sup> See, e.g., Yanqing Xu, Cong Fu, Eugene

Kennedy, Shanhe Jiang, Samuel Owusu-Agyemang, *The impact of street lights on spatial-temporal patterns of crime in Detroit, Michigan, Cities*, Volume 79, Pages 45–52, ISSN 0264–2751 (2018), <https://doi.org/10.1016/j.cities.2018.02.021>.

<sup>196</sup> A. Chalfin, B. Hansen, J. Lerner et al., *Reducing Crime Through Environmental Design: Evidence from a Randomized Experiment of Street Lighting in New York City*, *Journal of Quantitative Criminology* (2021), <https://doi.org/10.1007/s10940-020-09490-6>.