

## THE BROOKINGS INSTITUTION

THE CURRENT: The eviction moratorium has been extended — for now. What comes next?

Friday, August 6, 2021

---

(MUSIC)

PITA: You're listening to The Current, part of the Brookings Podcast Network. I'm your host, Adrianna Pita.

In 2020, as the coronavirus pandemic spread and many Americans were unable to work, the federal govt as well as many state and local authorities passed eviction moratoriums to help renters stay in their homes and prevent the virus from spreading further. After the federal eviction moratorium expired at the end of July, the CDC has stepped in again, issuing an additional 60-day extension targeting the areas hardest hit by the latest COVID wave.

With us to talk about the scope of the potential eviction crisis problem and how to protect American renters as the pandemic still drags is on Jenny Schuetz, senior fellow with the Metropolitan Policy Program here at Brookings. Jenny, thanks for talking to us today.

SCHUETZ: Good to be here.

PITA: I'm wondering if you can start us off with some idea about the scale of the issue that we're looking at. How many people are potentially at risk of eviction?

SCHUETZ: That's a really good question and also one that points out some of our data limitations. We haven't typically collected great data on renters who are at risk. So, sort of cobbling together a variety of different sources and household surveys and reports from landlords, the best estimate at the moment is about 6 million households. Moody's thinks there are about 6 million households, and many of those are actually families with children, so probably 12 to 15 million people living in those households, who are currently behind on their rent and then could be at risk of eviction.

PITA: So some \$47 billion in rent aid was authorized by Congress last year in the first COVID relief bill, but as of this June, reportedly I believe it's less than 10% of it has reached either the tenants or the landlords that it's meant to be helping. What have been some of the hang-ups here? Why has it been so hard to get this money into the hands of people who need it?

SCHUETZ: This has really been a case of policy failures at a couple of levels. And the main hang-ups have changed a little bit over time. So, just at the beginning, we should say that this is not a typical kind of program. Most state and city governments have never done something like this. We have federal subsidies for long-term vouchers, but very few places typically run an emergency rental assistance program, which means that they don't have the infrastructure. So, things like a website and a way of getting information out to people or a standard application and a mechanism for evaluating it. So, the first round of relief that included this, we were really asking state and local governments to set up from nothing a brand new kind of program that they had never run before, didn't have experience with, and to do this in the middle of a pandemic when, by the way, cities and states were also dealing with public

health emergencies and shifting their workforce to work from home, so that was a lot to expect them to do at the beginning.

The more unfortunate part is that even as the year has gone on and we've had time to learn, some lessons have come out about how to do things, how not to do things; those haven't been transmitted equally to state and local governments. One of the biggest obstacles is just that the applications are too complicated and require too much documentation from renters who were behind. So you have to prove, for instance, that you had a low income in the year prior to the pandemic to qualify, that you lost your job due to the pandemic, and that you haven't been receiving other kinds of assistance like extended unemployment insurance benefits.

So, we're asking people to produce a lot of really complicated documentation, some of it very personal. These are low-income renters who often have a hard time kind of getting their hands on all the papers they need. And a lot of the programs asked people to upload this stuff onto a website, you have to scan and paper documents and then upload it. And a lot of renters don't have broadband internet access at their home, and so they can't access an online-only portal. So this has just been a logistical hassle that probably should have been thought through and, unfortunately, even after we started getting evidence that these were really complicated programs to access, the state and local governments haven't taken the necessary steps to simplify them and make them more accessible.

PITA: Yeah, it's a combination of inventing the wheel, while driving the car that's on fire and then asking a lot of people to prove a negative, it sounds like, to show that you haven't made any money.

SCHUETZ: Exactly.

PITA: That's rough. On top of all of this there have also been a lot of questions that have been raised as to the federal government's authority to authorize a ban on evictions, especially one that's been in place this long and one that's come through one of the executive branch agencies – this has mostly been done under the auspices of the CDC – rather than through legislation in Congress. As I mentioned at the top and as we've talked about, states and municipalities have passed their own eviction protections. And indeed, most of the time when we think about regulations on what tenants' rights are versus what property owners' rights are and the responsibilities of both, that's often a really local question down to the towns and the cities, even below the states. What has the role of the federal government been on this issue in the past and how has that changed during the pandemic?

SCHUETZ: Yeah, we've really seen a window on how different the role of the federal government is in regulating rental markets versus homeownership markets so traditionally the federal government plays very little role in rental markets. Landlord-tenant law is generally set at the state level. Things like the eviction process are carried out through court systems, which are, by and large counties. Cities are the ones that primarily provide things like rental assistance to low income households. So most rental market activity and regulation subsidies is happening at the local level, some of the state level. And the federal government, other than providing some cash, doesn't really do very much.

One of the weaknesses of this system is that the federal government, it's not clear whether they have the authority to write something like a nationwide eviction moratorium. We've never had something like this before. And so, the fact that this came through the CDC, it was authorized because of the public health risks. So, the CDC has pretty broad latitude to tell people what to do when there's a public health emergency like COVID, and so they pointed out that when an eviction happens, a family has to move out

of their current residence into another residence, often they double up with family and friends and, of course, when contagious diseases around, that that movement actually increases the possibility that people get sick. So that was the public health rationale for the CDC being the one to authorize this rather than having something come through, for instance, HUD, because it wasn't actually clear that HUD had the authority to do this.

But now we've seen also this football go back and forth between the White House and Congress. Should the White House have stepped in earlier to order the CDC to extend the moratorium? Should Congress have taken action to authorize it? But, again, both of these are reactions to the fact that the federal government doesn't have clear tools to access the private rental market.

And if we compare this to, for instance, how the federal government has stepped into owner occupied housing, most mortgages are backed by federal agencies. Fannie Mae and Freddie Mac are regulated by the federal housing finance agency. And so, FHA was able to just say, you know what, for a year, homeowners don't have to pay the mortgage. And at the end of the year, whatever they still owe gets rolled into the balance of their mortgage and they can pay it down over the next 15 or 20 years. It's a totally different approach with mortgages because there is this established federal framework. And so really what this is highlighting is the U.S. has chosen not to have federal authority in rental markets under normal circumstances, and that means their hands are kind of tied when we get to an emergency like this. Other countries around the world have a much more active federal role in rental markets during normal circumstances and that makes it much easier to step in and provide assistance when they need to.

PITA: So, with that in mind, what are some of the potential solutions here, either whether it's a question of how to get the money out the door faster or what other protections are possible to help people stay in their homes?

SCHUETZ: The best possible outcome in the short run would be for state and local governments to fix the kinks in their programs and get cash into people's pockets as quickly as possible. Even with the current CDC extension it's not clear whether that's going to be upheld by the Supreme Court, so the eviction moratorium may go away at some point. Some states and cities have moratoriums that go beyond that, but even those are going to be temporary, will expire at some point so really, the answer is get cash into the hands of renters, allow them to pay off their back rent debt, or if they have to move, provide them with security deposit first month's rent to move into a new place. That kind of stabilizes people in the short run.

I think in the long run, this raises some really big questions about, should the federal government have a better infrastructure for regulating and supporting rental markets? That might look like something like having a state level or even federal rental database, so a listing of tenants, so that you could provide information to people quickly and kind of monitor this and contact either landlords or renters or both. Could you build in something like automatic stabilizers for housing assistance? So if, say, the local unemployment rate goes up then additional vouchers become available without Congress having to authorize it. And at the city and state level also, what kind of infrastructure could be put in place so that we don't have to reinvent the wheel, so that it's just feasible to get cash to people when they need, to make sure people understand more consistently what the rights are of both renters and landlords, and to smooth out some of the process of eviction, which, it just it varies enormously across cities and county lines. Landlords and tenants don't know what they're allowed to do and what they're not allowed to do and

having somewhat more consistent framework would create less confusion and make it easier for people at least to know what their rights are.

PITA: Alright. Well we'll stay tuned to see what happens in the coming months. And Jenny, thank you very much for talking to us today.

SCHUETZ: Thank you.