



STATE OF VERMONT

MEMORANDUM

To: Legislative Committee on Administrative Rules
From: Sen. Kitchel, Chair of the Senate Committee on Appropriations
Rep. Lanpher, Chair of the House Committee on Appropriations
Sen. Lyons, Chair of the Senate Committee on Health and Welfare
Rep. Wood, Chair of the House Committee on Human Services
Cc: Sen. Baruth, President Pro Tempore
Rep. Krowinski, Speaker of the House
Rep. Kornheiser, Chair of the House Committee on Ways and Means
Date: July 22, 2023
Subject: 23-E05; Emergency Housing Transition Benefit

As the chairs of the subject matter and money committees involved in developing the emergency housing transition benefit enacted in [2023 Acts and Resolves No. 81, Secs. 5–10](#), we are writing, collectively, to assist the Legislative Committee on Administrative Rules assess whether [23-E05](#) is consistent with legislative intent. Our concerns are detailed below.

In 23-E05, the Department for Children and Families amends the Department’s existing permanent General Assistance Rules to include the emergency housing transition benefit established in 2023 Acts and Resolves No. 81, Secs. 5–10. *See* 23-E05 (emergency rule amendments to General Assistance Rules, Sec. 2652.5). Act 81 makes clear that the emergency housing transition benefit is provided on a time-limited basis through April 1, 2024, for a very specific population that was already being housed in a hotel or motel on June 30, 2023, through the pandemic-era General Assistance Emergency Housing Program. *See* 2023 Acts and Resolves No. 81, Sec. 6(a) (“Except as provided in subdivision (2) of this subsection, the Agency shall continue to provide temporary hotel or motel housing to a household that was housed in a hotel or motel through the pandemic-era General Assistance Emergency Housing Program as of June 30, 2023 until such time as the Agency offers the household an alternative housing placement or the household secures its own housing placement, but in no event later than April 1, 2024.”). Conversely, General Assistance is an ongoing program serving a much broader population. By including the Act 81 emergency housing transition benefit as part of the General Assistance Rules, the Department conflates the benefit with the General Assistance program, which is separate and distinct. As such, there is a strong argument that 23-E05 is contrary to the intent of the General Assembly.

Due to its status as an emergency rule, 23-E05 is already in effect but can only remain in effect until December 28, 2023 (180 days), *see* [3 V.S.A. § 844\(a\) and \(b\)](#), which is

insufficient to reach the April 1, 2024, termination date of the emergency housing transition benefit established in Act 81. Consequently, the Department will need to adopt a second emergency rule to take effect once this initial emergency rule expires.

It is our recommendation that the Legislative Committee on Administrative Rules neither object nor approve the rule but instead send a memorandum to the Department for Children and Families and the Secretary of State indicating that (1) 23-E05 is contrary to the intent of the General Assembly because the emergency housing transition benefit is to be provided on a time-limited basis for a very specific population separate from the General Assistance program; (2) the Legislative Committee on Administrative Rules' failure to object to 23-E05 "is not an implied legislative authorization of [the emergency rule's] substantive or procedural lawfulness" pursuant to 3 V.S.A. § 844(e)(2); and (3) the Legislative Committee on Administrative Rules expects that, consistent with the intent of the General Assembly, the second iteration of the emergency rule will bifurcate the Act 81 emergency housing transition benefit from the permanent General Assistance program.

It is our further recommendation that the Legislative Committee on Administrative Rules object to the anticipated second emergency rule if the applicable rules continue to intertwine the temporary emergency housing transition benefit with the General Assistance program.