

23E05



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Agency of Human Services

**To: Legislative Committee on Administrative Rulemaking
(LCAR)**
**From: Shayla Livingston, Director of Policy, Agency of Human
Services (AHS)**
**Re: 23-E05, Pandemic-Era General Assistance Emergency
Housing Transition**
Date: September 15, 2023

In its August 10, 2023 memo regarding emergency rule 23-E05, LCAR requested a written update on the Department for Children and Families' (DCF) efforts related to the emergency housing transition benefit.

In the time since DCF presented the emergency rule to LCAR, AHS and DCF staff have met several times with legislators to discuss concerns related to the definition of "misconduct" and the need for guidance on alternative housing placements. As a result of these discussions, DCF has adopted procedures (attached) addressing these concerns. DCF intends to file a second emergency rule incorporating these procedures and separating the emergency housing transition benefit from the General Assistance rules by October 15, 2023.

Definition of Misconduct

Act 81 requires that a household's continued eligibility for the emergency housing transition benefit terminate if the household is asked to leave the hotel or motel housing due to misconduct. Act 81 does not define "misconduct." The emergency rule defines "misconduct" as a violation of the rules of the hotel or motel provider resulting in the hotel or motel provider exiting the household from the hotel or motel. In response to the concern noted in LCAR's letter that "beneficiaries receiving this benefit at different hotels or motels may receive inconsistent treatment for the same behavior depending on the rules of a participating hotel or motel," the procedure specifies that households will not lose eligibility for the Act 81 emergency housing transition benefit simply for violating the rules of the hotel or motel provider. Instead, DCF will determine whether the behavior that caused the household to be exited falls into one of the following categories:

- Violent criminal behavior;

- Non-violent criminal behavior that jeopardizes the health or safety of other guests or motel staff (for example: the sale, distribution, or manufacturing of illegal substances); or
- Repeated non-violent criminal behavior (for example: theft or disorderly conduct).

DCF will rehouse households that are exited from a hotel or motel for behavior that does not fall into one of the above categories if there is an available room.

Alternative Housing Placement

Act 81 requires that a household's continued eligibility for the emergency housing transition benefit end when the household declines an alternative housing placement, or the household moves into the offered housing placement. Act 81 lists examples of alternative housing placements, but LCAR's letter noted there is insufficient guidance "on what is an appropriate alternative placement for purposes of a household no longer being eligible to participate in the emergency housing transition benefit after declining an alternative placement." As DCF explained in its July 27, 2023 testimony on 23-E05, housing service providers work with households to determine suitable alternative housing placements and AHS expects housing service providers to only offer appropriate alternative housing placements. If an alternative housing placement poses a previously unidentified health or safety risk to a member of the household, the emergency rule allows a household to decline the placement. The procedures further clarify that the following placements will not be considered "alternative housing placements" for the purpose of terminating continued eligibility for the emergency housing transition benefit:

- hospital level of care for any reason (physical, mental health, substance use, etc.) for any amount of time
- residential level of care for any reason (physical rehab, mental health, substance use) for 14 days or fewer

Finally, under 3 V.S.A. § 3091, households have the right to request a fair hearing with the Human Services Board if they disagree with any decision regarding their emergency housing transition benefit.

Act 81 Emergency Housing Transition Benefit Procedures (6/30 Cohort)

Termination of Eligibility for the Act 81 Emergency Housing Transition Benefit - Misconduct

If a hotel or motel provider exits a household, the household will be exited from the cohort IF the household was exited from the hotel or motel for actions constituting misconduct as follows:

- Violent criminal behavior;
- Non-violent criminal behavior that jeopardizes the health or safety of other guests or motel staff (for example: the sale, distribution, or manufacturing of illegal substances); or
- Repeated non-violent criminal behavior (for example: theft or disorderly conduct).

Hotel/motel rule violations resulting from actions that do not fall within the categories of misconduct listed above will not cause a household to be exited from the cohort. **The household will remain in the June 30 cohort.**

When a household is exited from a hotel/motel for rule violations, the hotel/motel will provide a Notice to Vacate (NTV) to ESD.

If an NTV is received from a hotel/motel, check to see if the household is in the 6/30 cohort.

If the household is in the 6/30 cohort, send the NTV to AHS.DCFESDGAAops@vermont.gov.

Loss of Housing Placement – Continued Eligibility for the Act 81 Emergency Housing Transition Benefit for Certain Populations

A recipient of housing who enters hospital level of care for any reason (physical, mental health, substance use, etc.) for any amount of time is eligible for continued housing upon leaving the hospital if no other alternative housing placement is available. **The household will remain in the June 30 cohort.**

A recipient of housing who enters residential level of care for any reason (physical rehab, mental health, substance use) for 14 days or fewer is eligible for continued housing upon leaving residential care if no other alternative housing placement is available. **The household will remain in the June 30 cohort.**

If the household remains in residential care (physical rehab, mental health, substance use) for more than 14 days, they will be exited from the cohort. **The household will be removed from the June 30 cohort.**

NOTICE TO VACATE HOTEL/MOTEL WHERE YOU ARE STAYING

Dear Guest:

You are being asked to leave the motel for:

- Violent criminal behavior
- Non-violent criminal behavior that jeopardizes the health or safety of other guests or motel staff (for example: the sale, distribution, or manufacturing of illegal substances);
- Repeated non-violent criminal behavior (for example: theft or disorderly conduct); or
- Other violation of hotel rules or policy (for example: arguing with hotel staff, unauthorized guests, smoking in nonsmoking areas)—explain below.

What happened (this is a mandatory field):

The behavior checked above violates Emergency Housing rule 2652.3 and 2652.5 (D) (Termination (2023 Acts and Resolves No.81, § 6(a)(2)).

Instruction to Motels:

If you are asking a guest to leave your motel, please:

- Complete this form.
- Provide a copy of your completed form to the guest.
- Send a by email to AHS.DCFESDGAHManagement@vermont.gov as soon as possible.

Need help finding treatment for drug or alcohol addiction? Find resources online at <https://www.healthvermont.gov/alcohol-drug-abuse/how-get-help/find-treatment> or call 2-1-1.

RIGHT TO A FAIR HEARING:

If you disagree with this decision, you may:

- Ask the Human Services Board for a fair hearing. *You'll get to tell your side of the story. And you can have a person you trust help you.*
- Ask to be housed in another hotel/motel while waiting for the fair hearing decision.
- Call 1-800-889-2047 to see if you qualify for free help from Vermont Legal Aid.

To request a fair hearing, call ESD at 1-800-479-6151. If you ask for a fair hearing, one will be scheduled within 10 days. Before the hearing, ESD will produce for you or your representative a copy of the evidence we will be presenting. If the hearing officer agrees with our decision, the POI will begin right away. If you don't show up to the hearing, ESD will not continue to house you and your POI will begin right away.

If you ask to be rehoused and you do not ask for a fair hearing within three days, your POI will begin.

RIGHTS OF PEOPLE WITH DISABILITIES:

Please let ESD know if you have a physical, mental, or learning disability that:

- Makes it hard for you to follow the rules at the motel/hotel, or
- Makes it hard for you to participate at a fair hearing.

You may be entitled to ask for a reasonable accommodation. This could include changing how the program is administered to give you an equal opportunity to participate.

Name of hotel: _____ Date(s) at hotel: _____

Name of authorized guest(s): _____

Name of person completing this form: _____

Signature: _____

Date: _____