VERMONT

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MEMORANDUM

To: Rep. Trevor Squirrell, Chair, Legislative Committee on Administrative Rules
From: Stuart G. Schurr, General Counsel, Department of Disabilities, Aging, and Independent Living SGS
Re: **25P021** – Department of Disabilities, Aging, and Independent Living's *Response to Committee's Questions*
Date: March 24, 2026

During its consideration of the Department's Final Proposed Rule at its meeting on March 19, 2026, the Committee requested additional information from the Department. These questions and the Department's responses are below:

1. How did we get here (i.e., to the point where there is a desire/need to remove Choices for Care (CFC) services from the definition of "designated services")? More specifically,

   A) When did the home health agencies first express a hardship in providing the CFC services?

   - Home Health Agencies had been discussing workforce challenges for a number of years, but they first expressed a serious hardship in providing CFC services during the pandemic. At the beginning of the pandemic in 2020, this was not as much an issue, because AHS was only requiring that "essential services" be provided, so HHAs were able to triage with limited staffing. However, once that allowance ended in mid-2021, HHAs struggled to have enough staffing to provide all services as required.
   - Beginning in 2021, DAIL began providing individual agency waivers, as HHAs began requesting variances due to the workforce hardship.
   - Act 85 of 2022 allowed for a blanket waiver issued by the Secretary for all HHA agencies from October 2022 through March 2023. This waiver was then extended from April 2023 through December 2023.

   B) How, when, and by whom was the decision to issue variances made?

   - The HHA Designation Rules authorize agencies to request variances from the licensing agency, which may be granted under certain circumstances.
   - The first documented request for a variance due to workforce issues was in 2021.

- The decision to issue the variances was made by the licensing agency, which regulates HHAs, but the decision was agreed upon in collaboration with leadership in DAIL's Adult Services Division.
- DAIL created a form and reporting process for agencies to request variances and report on progress to address workforce shortage that was used by agencies from 2022 onward.

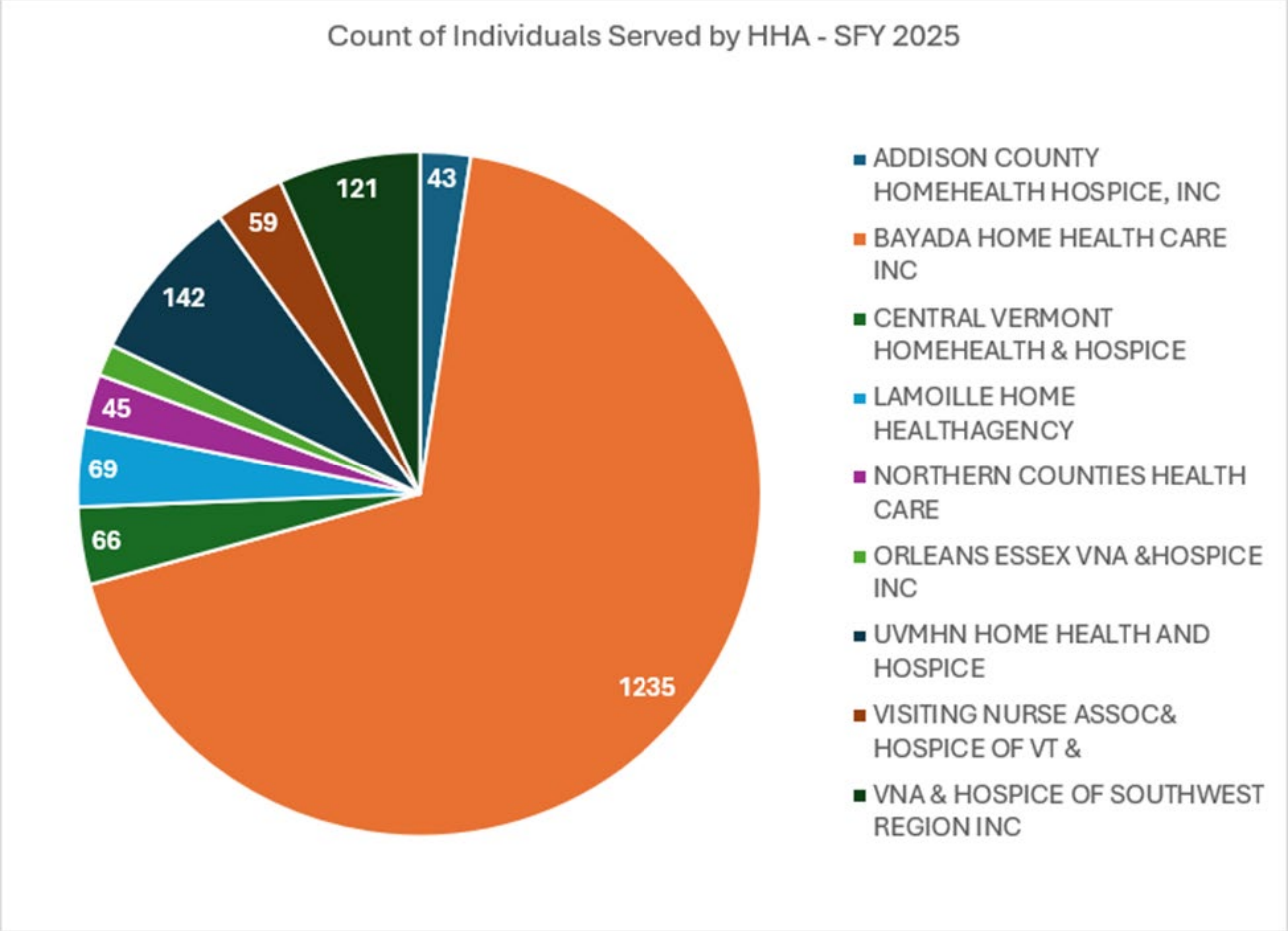
C) How, when, and by whom was the decision reached that issuing variances was not a viable long-term strategy and that a change to the definition of "designated services" was needed?

- In 2023, while HHAs were under the blanket variance per Act 85, the VNAs of Vermont and DAIL began conversations about amending the Designation Rules. Because the workforce shortage was not expected to decrease, it was determined that issuing short-term, one-off variances was not a viable long-term strategy. It was administratively burdensome for both the HHAs and DAIL and did not actually solve the workforce problem.
- DAIL and HHAs did report on a plan to try to address workforce issues in 2023, per the Act 85 memo requirement, and, while many strategies were undertaken to increase workforce, it became clear that the shortage would be a chronic challenge.
- In 2023, DAIL used FMAP funds to contract with Flint Springs to conduct an Access Study of CFC services to better understand the gap between authorized services and delivered services and to understand the feasibility of adding non-medical home care providers to CFC: CFC Access Study Final Report.pdf. This study confirmed that due to the chronic workforce shortage at HHAs, many CFC participants were not receiving services they needed.
- In response to these conversations, coupled with survey results, DAIL leadership proposed to the AHS Secretary in the fall of 2023 to work towards amending the HHA Designation Rules, by removing the non-medical CFC services from the definition of "designated services," while simultaneously adding non-medical home care providers to CFC.
- DAIL and AHS made this determination in recognition of the importance of ensuring that the HHAs can focus its resources on the provision of skilled home health services, which are essential to prevent hospitalization and the need for care in more restrictive settings. With the identification of five established non-medical home care agencies interested in enrolling as Vermont Medicaid providers and delivering the unskilled Choices for Care services that the home health agencies had been relieved from providing for years, both AHS and DAIL concluded that now is the time to adopt the amended Designation Rule. Doing so serves to eliminate the need for the use of variances, which, in turn, eliminates the uncertainty among the home health agencies that the licensing agency may deny a variance and cite

the agency for noncompliance with the Rule, while authorizing home health agencies to continue to provide the CFC services as they are able.

- The certainty provided by this change increases the likelihood that HHAs will continue to provide the services to the extent they are able to do so and will not elect to stop providing the designated service in its entirety.

2. What Choices for Care services have the home health agencies been asked to provide and at what rates have those services been paid?



CFC HCBS Service	SFY2020 Hourly Rate	SFY2021 Hourly Rate	SFY2022 Hourly Rate	SFY2023 Hourly Rate	SFY2024 Hourly Rate	SFY2025 Hourly Rate	SFY2026 Hourly Rate	% Increase SFY2020 to SFY2026
Home Health Personal Care	$ 29.96	$30.84	$30.84	$33.32	$38.32	$39.48	$51.40	72%
Home Health Respite/Companion	$ 24.00	$24.72	$24.72	$26.72	$30.72	$31.64	$51.40	114%
Home Health Homemaker	$ 21.52	$22.16	$22.16	$33.32	$38.32	$39.48	$51.40	139%