



vermont affordable housing coalition

August 7, 2014

By electronic transmission

Sen. Mark MacDonald, Chair
Legislative Committee on Administrative Rules
State House
Montpelier, VT 05602

RE: Proposed General Assistance Rule, B14-16E

Dear Senator McDonald and Committee Members,

The Vermont Affordable Housing Coalition (VAHC) appreciates the opportunity to comment on the above referenced proposed changes to the General Assistance Rules. Unfortunately a prior commitment prevents me from attending your meeting and testifying in person. Please accept this letter as our written comment.

Founded in 1985, the Coalition is a statewide membership organization dedicated solely to ensuring that *all* Vermonters have decent, safe and affordable housing. With over 80 organizational members, we represent Vermont's non-profit affordable housing developers, homeless shelters and service providers, housing authorities, planners, funding agencies, and others who support affordable housing. Together, our members provide housing and services to tens of thousands of low-income Vermonters. Many routinely assist Vermonters in their efforts to access General Assistance Emergency Housing.

We support the continuation of categorical eligibility for Emergency Housing Assistance for the four groups of vulnerable populations defined in the proposed rule, namely households with a member who is:

- 65 years or older,
- An SSI or SSDI recipient,
- A child six years old or younger, or
- A woman in her third trimester of pregnancy.

This definition is consistent with the legislative mandate expressed in the FY 2014 Appropriations Act, which specifically mentioned these criteria in directing the Department for Children and Families (DCF) to define eligibility based on “the physical health of and safety risks to vulnerable populations.” We were pleased that last summer the Shumlin Administration listened to the concerns of organizations that work with homeless Vermonters and changed the initial proposed rule to grant eligibility to these four categories of vulnerable people.

We support continuation of the four-point system to determine eligibility for other vulnerable Vermonters. Here too, we appreciated the revision from the originally proposed six-point system, which would have had the effect of excluding most vulnerable families and individuals. We recognize that reducing the “vulnerability” of families and individuals to a point system is inherently dehumanizing and does not do justice to the challenges that these Vermonters face. However, given concerns around

program cost and funding limitations, establishing a point system and four fixed categories of eligibility is a reasonable compromise.

We support the requirement that recipients pay up to 30% of their income for their Emergency Housing Assistance. This change implements the clear directive of Act 133 (H.699), which we supported as a reasonable compromise. We would rather see no co-payment required at all, since the first priority for a homeless individual or family needing Emergency Housing Assistance should be to stop the downward spiral of homelessness and secure permanent housing. Diverting even 30% of income to help pay for an emergency motel stay is a potential impediment to achieving that goal. We applaud DCF for recognizing this reality and not requiring people whose income is lower than the Reach Up basic need standard to make a co-payment. We note, however, that this may have the unintended consequence of reducing benefits for Reach Up participants by the amount of their Reach Up “housing allowance,” which is only included in their overall benefit payment when they have actual housing costs. We hope that DCF can find a way to avoid this clearly unfair and undesirable consequence, possibly by setting aside the amount of the housing allowance for costs associated with securing permanent housing, like a security deposit and first month’s rent. In testimony on H.699 during the legislative session, DCF talked about the possibility of establishing matched savings accounts for Emergency Housing recipients to help them save for start-up housing expenses. We hope DCF will return to the Legislature with such a proposal next winter.

All of that said, **we continue to have a number of concerns about the proposed rule**, all of which we provided to DCF in our comments last year. We recommend the following changes, some of which may require additional legislation:

1. **Families with children seven and older should be categorically eligible.** Is a seven, eight or nine year old child any less vulnerable than a six year old, any less negatively traumatized by homelessness? Homelessness poses equal risks to the health and safety of older children. Yet their families are unlikely to qualify for assistance unless they have additional vulnerabilities and qualify under the four-point system. These families should be categorically eligible.
2. **People with disabilities that do not receive SSI or SSDI should be categorically eligible.** Is a person with disabilities who does not receive SSI or SSDI any less vulnerable than someone on SSI or SSDI? Homelessness poses equal risks to the health and safety of people with disabilities who do *not* receive SSI or SSDI. If they are otherwise eligible for Emergency Housing, maybe because they have lost income due to a job loss and therefore lost their housing, they should be categorically eligible so long as they can demonstrate the functional equivalency of their disability to that of someone on SSI or SSDI.
3. **Create waiver authority for the Commissioner or designee.** Waiver authority is needed to address the needs of applicants whom any reasonable person would consider vulnerable and whose homelessness poses a clear risk to their physical health or safety, but who neither meet the strict criteria of the four eligible categories, nor become eligible under the four-point system. The previous two concerns provide good examples of vulnerable people who, if they otherwise qualified for Emergency Housing, should be able to get assistance by waiver of the Commissioner or designee.

We understand that the Administration has raised concerns about the precedent setting nature of granting eligibility under a waiver. Last year, Vermont Legal Aid suggested that such waiver authority could be limited by rule and certainly has precedents elsewhere in both State and federal assistance programs. Waiver authority could be based on an applicant meeting the functional equivalent of one of the four eligible categories, or otherwise meeting the requirement that homelessness pose a risk to the health and safety of a vulnerable household

member. Vermont Legal Aid has also suggested, as an alternative, including a process for “Commissioner Review.” We would support either of these approaches.

4. **Revise the proposed language denying assistance to someone who has “caused their own loss of housing within the past 6 months.”** This language is overly broad, subjective and judgment-laden and should be reworded. Likewise, the wording of the examples for causing one’s own loss of housing that follow are problematic, as is the prohibition against receipt of Temporary Housing Assistance for 30 days after being denied further accommodations at a motel for allegedly not following the rules. The “lookback” period of six months is also too long. We suggest a comprehensive re-write, as follows:

“Applicant households that have been responsible for their eviction within the past three months due to circumstances over which they had control shall not be eligible for temporary housing. Examples of eviction due to circumstances over which the applicant has control include, but are not limited to:

** Court-ordered eviction, as set forth in rule 2621 (D), including but not limited to eviction resulting from:*

- Intentional, serious property damage caused by the applicant, other household members, or their guests;

- Repeated instances of raucous and illegal behavior that seriously infringed on the rights of the landlord or other tenants of the landlord;

- Intentional and serious violation of a tenant agreement; or

- Nonpayment of rent if the tenant had sufficient income to pay the rent and did not use that income to cover other basic necessities or withhold the rent pursuant to efforts to correct substandard housing; or

**Denial of further accommodations at a shelter for not following the rules of the establishment.”*

This language substantially adopts some of the clearer, less value-laden and less open-ended wording the Legislature used in the FY 2014 Appropriations Act specifying who should be denied assistance. It also parallels existing language already in rule at 2621 (D). It makes clear that an applicant should be denied only if evicted due to circumstances beyond their control, in which case they should be considered for eligibility (assuming they meet the other criteria). For instance, this would clarify that someone should be considered eligible for assistance if they had been evicted for non-payment of rent because they lost their job as a result of a lay-off, or perhaps as a result of simply having insufficient income to pay rent while spending their income only on other basic necessities. Under the proposed language, however, these applicants would likely be considered to have “caused their own loss of housing” and would thus not qualify. In public meetings Department staff have affirmed that loss of a job, for example, would be considered good cause for eligibility. We ask that this consideration be spelled out in rule.

Our proposed substitute language also removes the very broad provision denying assistance to someone for “Voluntarily leaving one’s housing,” which could include someone who has been couch surfing, or doubling up with family or friends, and that situation has become untenable, causing them to leave “voluntarily.”

Finally, our proposed language removes denial of further accommodations at motels and similar establishments for not following the rules as a reason for denial of assistance. Motel owners or managers may ask someone to leave for a host of reasons, some of which may be purely arbitrary, discriminatory or even wholly unjustified – and should not necessarily lead to a denial of further assistance. These situations should be reviewed on a case by case basis by DCF before

further assistance is denied.

Thank you again for the opportunity to comment on the proposed regulations. We hope that you will give due consideration to our comments and ask DCF to address them in the final rule. We ask that the General Assembly address those recommendations that may require further legislation during the next biennium. Again, I regret not being present for your meeting, but if you have questions or concerns, please contact me at 802-660-9484 or erhardm@vtaffordablehousing.org.

Sincerely,

A handwritten signature in cursive script that reads "Erhard Mahnke".

Erhard Mahnke
Coordinator