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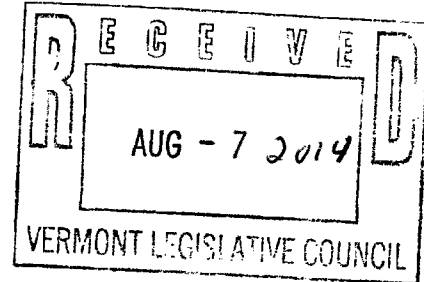
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August 7, 2014

Legislative Committee on Administrative Rules
Sen. Mark MacDonald, Chair
Statehouse
115 State Street
Montpelier, VT 05602



Re: 14-E-06 - Emergency Rule - General Assistance Emergency Housing for Vulnerable Populations

Dear Chairman MacDonald and Members of the Committee:

Thank you for the opportunity to provide testimony on proposed emergency rules relating to Vermont's General Assistance program, and in particular emergency housing for vulnerable Vermonters in need. Vermont Legal Aid represents low-income Vermonters in a wide variety of civil legal matters including assisting them with access to certain public benefits. As part of our work we routinely assist Vermonters seeking access to the General Assistance program, including its emergency housing assistance.

Vermont Legal Aid supports amendments to the portion of the proposed emergency rule (reflected in 14-E06) based on input from advocates and service providers who work with homeless Vermonters or General Assistance beneficiaries, and which reflect the legislature's identification of Vermonters who should be categorically eligible for the program.¹ We applaud the Shumlin Administration (through Secretary Racine and Commissioner Yacovone) for seeking input from organizations and agencies who work with General Assistance applicants and beneficiaries and amendments to the rule based on that input.

We also support expanded authorization for grants from 7 to 14 days. We generally oppose contribution of income for housing for homeless Vermonters accessing General Assistance. However, we applaud the legislature for reducing the amount of income contribution to a generally accepted housing standard of no more than 30% (down from 50%) for homeless Vermonters with income. Furthermore, we whole-heartedly support the Administration's interpretation of the statute to exempt homeless Vermonters with income at or below the Reach

¹ With proposal of one minor modification (see below).

Up standard from contribution. This is a major improvement to the rule that will protect the very lowest income Vermonters and may allow some to exit the program more quickly by allowing them to preserve their income and resources.

Background

The purpose of General Assistance is to “provide the necessities of life for the individual and for those whom he or she is legally obligated to support” for eligible Vermonters. 33 V.S.A. §2103(a). The program provides minimal cash assistance for personal needs, and direct assistance paid to providers for emergency housing, medical and dental care, and funeral costs (among others). Income eligibility restricts access to the poorest Vermonters.

As you know, homelessness continues to be a major problem in Vermont. The costs of homelessness include threats to the health and safety of those affected, economic and physical dislocation to Vermont families, negative outcomes for children, and difficulties obtaining employment among others. The General Assistance program is an essential tool to stabilize families in need and, with respect to the emergency housing provisions, to ensure a safe, habitable roof over the heads of Vermonters in need – especially during cold winter months.

Substantive Comments

Vermont Legal Aid Supports Categorical Eligibility for GA Emergency Housing

As you know, the legislature tasked the Department for Children and Families with implementing emergency rules with respect to “vulnerable” Vermonters on or before July 1, 2013. In the interim, the legislature identified four categories of applicants it deemed met the criteria of “vulnerable” for purposes of the program. These included: Vermonters age 65 or older; Families with children under the age of 6; disabled Vermonters receiving SSI or SSDI; women in the third trimester of pregnancy.

The emergency rule before you preserves the legislative language providing for categorical eligibility for “vulnerable Vermonters.”

We do propose that the language regarding categorical eligibility be clarified. Currently, the rule reads permissively:

“Applicants *may* qualify for emergency housing if the household has a member who is:

- (A) 65 years of age or older;
- (B) in receipt of SSI or SSDI;
- (C) a child under the age of 6;
- (D) in the third trimester of pregnancy.”

(emphasis added).

Vermont Legal Aid proposes the preamble to the categorically eligible be made

mandatory, as intended by the rule, and read as follows:

“Applicants *shall* qualify for emergency housing if all other eligibility criteria are met, and if the household has a member who is:...” (emphasis added).

We previously discussed this language with the Department believed the Department supported this clarification, although it is not reflected here. We hope the Administration will include this clarification in the final rule.

Finally, Legal Aid remains concerned about the arbitrary nature of some of the categorically protected groups. We hope the legislature will re-examine the rationale behind excluding some children (those over the age of 6) from categorical protection. Legal Aid’s position is that all families with minor children are “vulnerable” and should meet the criteria. Similarly, Vermonters with a disability who may present with a cognizable disability, but who have yet to apply for SSI or SSDI are, in fact, “vulnerable,” yet the rule does not recognize those individuals. It should. There may be other vulnerable Vermonters who are likewise excluded, yet who are homeless and in need of shelter. We hope the legislature will continue to work towards reasonable and humane policies that ensure all Vermonters have access to safe, affordable housing options.

We have no basis on which to oppose the Department’s most recent filing. We recognize the fiscal constraints the legislature has issued for this program. While not agreeing with reduced appropriations for essential programs and services like General Assistance – and emergency housing in particular – we therefore support those aspects of the Department’s revised rule with respect to categorical eligibility and a modified point system (reducing the number of points required to achieve eligibility to 4 points) to better reflect public comment and legislative intent.

Vermont Legal Aid Supports Excluding Families at or Below the Reach Up Standard from Contribution of Income

The revised rule, responding to a new legislative mandate, establishes that applicant households shall furnish no more than 30% of gross monthly income toward shelter expense. Vermont Legal Aid has consistently opposed requirements of contribution from homeless Vermonters. However, the new statute and rule do signal a significant improvement over the old (50% contribution) policy.

Additionally, the Department’s interpretation of the rule excluding families at or below the Reach Up income standard effectively holds harmless the very lowest income families. We absolutely support this interpretation of the statute and applaud the Department for including this interpretation in the emergency rule. Because the rule before you comports with the statute and the statute represents a significant improvement over the old policy we have no basis on which to oppose it.

Vermont Legal Aid Supports Expansion of Authorization Period from 7- to 14-days.

The Department proposes modification of the existing rule which limits authorization to a

maximum of seven (7) days. The emergency rule expands authorization to 14 days. We support this change. The current policy of up to four (4) re-applications within a one-month period is burdensome for both applicants and state employees. In fact, on faith and belief, Legal Aid heard some testimony or comments to the extent that the average length of stay at motels is 26 days. If that is the average, then essentially that means that when homeless Vermonters are issued the benefit they use almost all of it up.

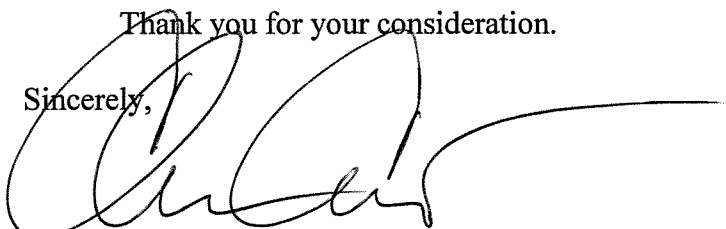
This is a short-term benefit lasting for the most part (excluding catastrophic eligibility) 28 days. We hope policymakers will consider saving everyone the time and expense of multiple re-applications by simply authorizing one application for continuous users. Obviously, for those applicants who come and go well before the time is up because they have alternative housing, a new application weeks or months later would be required if they have not exhausted the benefit. But, when there is no question related to eligibility it is entirely appropriate to modify this rule in order to eliminate paperwork, duplication of effort, and unnecessary bureaucracy – for all parties. So, ultimately, we would like to see one application and one approval for the benefit for continuous beneficiaries. In the meantime, we support the Department’s initiative to amend this rule in order to provide up to fourteen (14) days of authorized eligibility prior to further Department review. This change fits within the emergency rulemaking provisions of the Administrative Procedures Act because the additional days address the potential for homelessness among vulnerable persons thereby implicating their health and safety. Accordingly, it meets the “imminent peril” test set out in statute pursuant to the APA.

Conclusion

Vermont Legal Aid wishes to thank Secretary Racine and Commissioner Yacovone for engaging in a public process related to these emergency rules. We hope our comments are helpful to the committee. In general, we support the revised categorical eligibility standards set out in the most recent emergency rule as articulated by the legislature, the reduction in contribution - and exemption of families at or below the Reach Up income standard, and a more realistic provision regarding the number of days prior to required reauthorization of the benefit.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Curtis', with a long horizontal flourish extending to the right.

Christopher J. Curtis
Staff Attorney

cc: David Yacovone, Commissioner, Vermont Department for Children and Families
Rep. Ann Pugh, Chair, House Human Services Committee
Sen. Claire Ayer, Chair, Senate Health and Welfare Committee