| DEPARTMENT | RESPONSE |
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| DAIL | DAIL used the authority of Act 91 once, to support an out of state placement. Other flexibilities were implemented under the authority of federal regulation or state policy, as opposed to authorities for state regulation under Acts 91 and 140.<br><br>DAIL recommends that the legislature extend flexibilities in state regulation as broadly as possible. This would be consistent with what I believe is our approach to maintaining/extending associated flexibilities in federal Medicaid regulations as long as possible. |
| DMH | I do not believe we have waived or permitted variances. However, hospitals and residential facilities have promulgated new policies and practices based on VDH guidance to protect the health of the workforce (Sec. 3) is the closest. |
| VDH | The Department has promulgated two emergency rules in response to COVID, but none pursuant to authority under Act 91 (2020); it is unclear what falls within the ambit of "to protect access to health care services, long-term services and supports, and other human services under the Agency's jurisdiction." Those rules:<br><br>• Emergency Administrative Rules for Remote Hearings for the Board of Medical Practice."<br>• Hospital Licensing Rules<br><br>In the coming week, the Department will be filing emergency rules concerning communicable diseases and re-filing the hospital licensing rule.<br><br>It would be great if the legislature decided to extended all emergency rules related to |

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| | COVID be extended to three months after the pandemic ends as it would mean we would not have to re-file. 180 days actually would make more sense and be consistent with 3 V.S.A. § 844. |
| DCF | Act 140 flexibilities have been utilized by ESD for the GA, RU, and EP programs. Flexibilities cannot be used for SNAP or LIHEAP as those programs operate under federal rules.<br><br>Other programs were able to exercise discretion or flexibility through other mechanism (e.g., through policy/procedure changes or because federal partners issued flexibility guidance). |
| DVHA | Sec. 6., Medicaid and Health Insurers; Provider Enrollment and Credentialing: This language is problematic and has been for us from the beginning. Our flexibilities for provider enrollment are specifically tied to the federal COVID-19 public health emergency through the 1135 waiver – not Vermont's State of Emergency. We were unsuccessful in advocating for a separate section for Medicaid that makes this clear previously. In addition, the language should be permissive, i.e., "shall consider" or "may." Explanation: CMS has approved Vermont Medicaid's revalidation of providers during the PHE (to prevent against a backlog that could negatively impact provider participation with Vermont Medicaid in the future, thereby having the potential to negatively affect access to care for Vermont Medicaid members). However, while CMS has approved this, Vermont Medicaid recognizes that during the pandemic, we want to avoid any additional administrative burden for providers so providers can (and have) requested additional time/ceasing revalidation until a future time, etc.<br><br>Sec. 9., Prescription Drugs; Maintenance Medications; Early Refills: As BCBSVT indicated in testimony yesterday, this provision is currently effective through June 30, 2021, and DVHA recommends that it still terminate on June 30, 2021. This language is not permissive. While this |

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| | provision was very useful early in the PHE when everyone was more restricted to home, it appears from available information that use of this broad provision is now based more on the convenience of the pharmacist at this time. If this provision is not extended, DVHA does not anticipate an impact for Medicaid members, as Vermont Medicaid already has a policy for allowing an early refill for documented (justifiable) reasons. If a pharmacist needs an early refill override, they can call the Pharmacy Help Desk for authorization under existing policy. The 90-day supply mandatory maintenance requirement can be waived with documentation (justification) through a prior authorization.<br><br>Please note: It is our understanding that the recommendations for continued coverage of health care services delivery by audio-only telehealth will be addressed separately; Vermont Medicaid submitted its recommendations as part of the Act 140 (2020) report and so I have not include those recommendations in the above information as the section is not within the draft cited. |
| DOC | We do not believe these sections apply to Vermont DOC per statute.<br>1) No<br>2) No<br>3) Waived/permitted variances from AHS rules as authorized by Act 91, Sec. 3 DOC is following VDH guidance.<br>4) No |