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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.