

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Reach Up Eligibility Rules

/s/ Todd W. Daloz

(signature)

, on 5/31/23

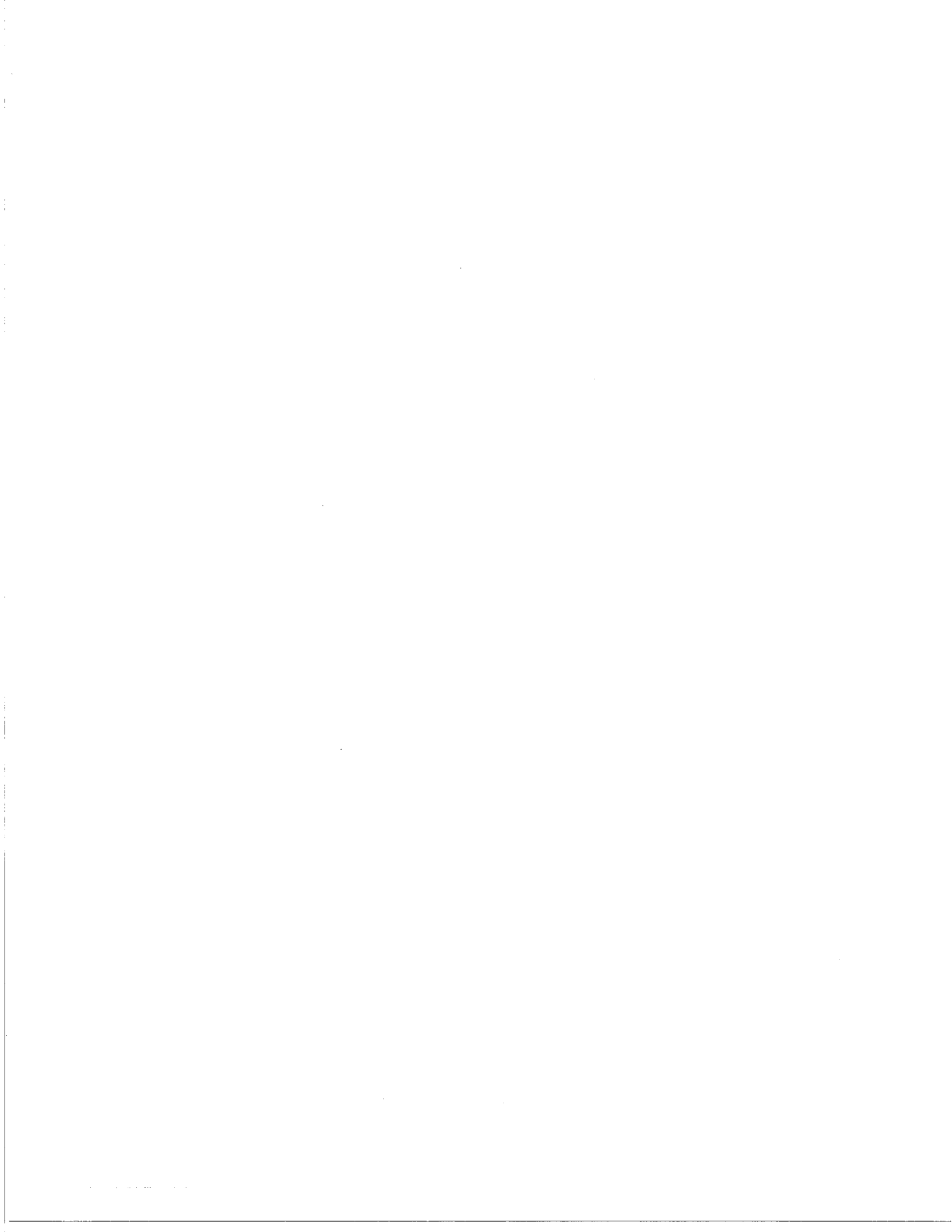
(date)

Printed Name and Title:

Todd W. Daloz, Deputy Secretary
Agency of Human Services

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary



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1. TITLE OF RULE FILING:

Reach Up Eligibility Rules

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

23P006

3. ADOPTING AGENCY:

Agency of Human Services

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Heidi Moreau

Agency: Agency of Human Services, Department for
Children and Families

Mailing Address: 280 State Drive, Waterbury, Vermont 05671-
1201

Telephone: 802-595-96 Fax:

E-Mail: heidi.moreau@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dcf.vermont.gov/esd/laws-rules/proposed>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Erin Oalican

Agency: Agency of Human Services, Department for Children
and Families, Economic Services Division

Mailing Address: 280 State Drive, Waterbury, Vermont 05671-
1201

Telephone: 802-585-4621 Fax:

E-Mail: erin.oalican@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

33 V.S.A. § 111

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

33 V.S.A. § 111 prohibits the disclosure of "names of

or information pertaining to applicants for or recipients of assistance or benefits, including information obtained under section 112 of this title...except for the purposes directly connected with the administration of the Department or when required by law."

7. **LEGAL AUTHORITY / ENABLING LEGISLATION:**

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

3 V.S.A. § 801(b)(11); 33 V.S.A. § 105(b)(2)

8. **EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

Reach Up is Vermont's Temporary Assistance for Needy Families (TANF) program. The Department for Children and Families (Department) is responsible for administering the State's federal TANF block grant and establishing eligibility criteria for the receipt of assistance.

9. **THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.**

10. **THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.**

11. **SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.**

12. **THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.**

13. **THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.**

14. **CONCISE SUMMARY (150 WORDS OR LESS):**

The Reach Up program provides cash assistance and support services to low income families. The Reach Up Eligibility rules govern the eligibility criteria for the Reach Up program. The proposed rule reorganizes and

renumbers the rules to conform to a standard outline format, updates terminology, updates statutory references, and replaces deficit-based language with strengths-based language (for example, using the term "engagement" instead of "compliance"). Substantive changes to the content of the rule include: (1) allowing temporary absences to be approved when a child is voluntarily placed outside of the home (rule 2228.2); (2) removing the requirement that participants with over 60 months of assistance must complete a two-week period of compliance before benefits are approved and eliminating the two-month break in benefits for such participants (rule 2234.2); and (3) allowing pregnant individuals with substance use disorders to qualify for benefits under the high-risk pregnancy criteria (rule 2235).

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The changes in the proposed rule are necessary to update outdated language, improve the readability of the rule, and increase opportunities for families to participate in the program in ways that align with the latest research and best practice in the field of public assistance.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The department relied on input from subject matter experts, Reach Up participants, and Reach Up case managers to develop the proposed rule. The changes in the proposed rule reflect best practices based on evidence-based research in the field of public assistance.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Families applying for or receiving Reach Up financial assistance; and

Department for Children and Families.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The Department does not anticipate any costs associated with the changes to the rule. While the Department does not anticipate any quantifiable savings associated with the rule, the rules will increase administrative efficiency in providing eligibility determination and case management services to Reach Up participants. The Department anticipates a positive economic impact for families who would have been subjected to a two-month break in benefits under the current rule.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 4/28/2023

Time: 01:00 PM

Street Address: St. Leo's Hall, 109 S Main St., Waterbury,
VT

Zip Code: 05676

URL for Virtual: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MmE1YmY0YzItNTg5ZC00OGNjLTlhYWMTZGM4MTdlMmJmZDky%40thread.v2/0?context=%7b%22Tid%22%3a%220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22a7972903-b22b-48ab-91f0-1282d59b4a10%22%7d

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

5/5/2023

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Reach Up

Reach Up Financial Assistance

Temporary Assistance for Needy Families

TANF



STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in black ink, appearing to be 'Jenney Samuelson', written over the 'FROM:' line.

DATE: January 31, 2023

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3. V.S.A § 801 et seq.

Cc: Todd W. Daloz

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Reach Up Eligibility Rules

2. ADOPTING AGENCY:

Agency of Human Services

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS Log #18-018, Reach Up, May 8, 2018.



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: Wednesday, February 22, 2023, virtually via Microsoft Teams

Members Present: Chair Sean Brown, Brendan Atwood, Jared Adler, Jennifer Mojo, John Kessler, Diane Sherman, Michael Obuchowski, Donna Russo-Savage and Nicole Dubuque

Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome, and introductions – including new Committee member Nicole Dubuque.
- Review and approval of minutes from the January 9, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-6 to follow.
 1. 2022 Vermont Residential Rental Housing Health & Safety Code, Department of Public Safety, Division of Fire Safety, page 2
 2. Inflation Adjustment for Private Non-Medical Institutions, Agency of Human Services, Department of Vermont Health Access, page 3
 3. District Quality Standards, Agency of Education, page 4
 4. Reach Up Eligibility Rules, Agency of Human Services, Department for Children and Families, page 5
 5. Reach Up Services Rules, Agency of Human Services, Department for Children and Families, page 6
- Next scheduled meeting is Monday, March 13, 2023 at 2:00 p.m.
- 3:35 p.m. meeting adjourned.

Presented By: Heidi Moreau

Motion made to accept the rule by John Kessler, seconded by Mike Obuchowski, and passed unanimously except for Brendan Atwood who abstained, with the following recommendations:

1. Proposed Filing – Coversheet:
 - a. #8: Correct ‘Eligibility’ spelling. Include an initial statement that explains what the rule does. Explain what Reach Up covers.
 - b. #10: Respond to the three criteria as defined in the statute referenced:
 - i. Is it based in fact?
 - ii. Is it rationally connected to those facts?
 - iii. Is it sensible to a reasonable person?
 - c. #12: Include information from #3 of the Economic Impact Analysis. Change ‘determinative’ to ‘determination’.
2. Public Input Maximization Plan:
 - a. #3 and #4: List community partners in #4 and reference them in #3.
 - b. #3: Clarify ‘members of the public’.

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Reach Up Eligibility Rules

2. ADOPTING AGENCY:

Agency of Human Services

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Families receiving Reach Up financial assistance -

There are no anticipated costs. The Department anticipates a positive economic impact for families who would have been subjected to a fiscal sanction in benefits under the current rule.

The Department - Other than the costs associated with filing a rule, there are no anticipated costs. The Department anticipates additional fiscal benefits associated with reduced administrative burdens on eligibility and case management staff.

4. **IMPACT ON SCHOOLS:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No impact.

5. **ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.**

Not applicable.

6. **IMPACT ON SMALL BUSINESSES:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

No impact.

7. **SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.**

Not applicable.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

If the proposed changes were not adopted, the Department would not benefit from the administrative efficiencies resulting from better use of eligibility and case management resources.

9. **SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.**

Other than the costs associated with the adoption and publication of a new rule, the rule will not

impose quantifiable costs or savings on affected parties.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Reach Up Eligibility Rules

2. ADOPTING AGENCY:

Agency of Human Services

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
No impact.

7. *CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact.

8. *OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None.

9. *SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The rule does not impact any of the areas listed above, and therefore, this analysis sufficiently captures that there will be no environmental impact.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Reach Up Eligibility Rules

2. ADOPTING AGENCY:

Agency of Human Services

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Department will hold a public hearing; publish the proposed rule on its website; and notify community partners, including Vermont Legal Aid, Vermont Network Against Domestic and Sexual Violence, and Designated Agencies, and subscribers of the Department's electronic rules notifications of the proposed rule.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Reach Up staff, Reach Up participants, and community partners, including Vermont Legal Aid, Vermont Network Against Domestic and Sexual Violence, and Designated Agencies.



Department for Children and Families
Commissioner's Office
280 State Drive – HC 1 North
Waterbury, VT 05671-1080
www.dcf.vt.gov

[phone] 802-241-0929
[fax] 802-241-0950

Agency of Human Services

To: Legislative Committee on Administrative Rulemaking (LCAR); Secretary of State
From: Department for Children and Families
Re: 23P006 — Reach Up Eligibility Rules
Date: May 17, 2023

The Department for Children (DCF) filed the proposed Reach Up Eligibility rules with the Secretary of State on March 24, 2023. A public hearing was held on April 28, 2023. DCF accepted public comments through May 5, 2023.

In response to comments, DCF has made the following changes to the proposed rule:

- Proposed rule 2221 – removed subsection (l): “Children placed in foster homes, at State expense, are not eligible for Reach Up benefits.”
- Proposed rule 2232.3(b) – removed the child support waiver requirement that potential harm must be serious or rise to the level that a parent is unable to adequately care for their child.
- Proposed rule 2246.5 – replaced “Children placed in foster homes, at State expense, are not eligible for Reach Up benefits” with “Foster parents who receive payments for the care of a child in the custody of the Department are not eligible for Reach Up benefits on behalf of that child.”
- Proposed rule 2253 – added a subsection (32) excluding Vermont and federal Child Tax Credits as income.
- Proposed rule 2257 – added a subsection (16) excluding Vermont and federal Child Tax Credits as a resource for a period of 12 months from receipt.

In addition to these changes, DCF has revised the language in proposed rule 2257(15) to allow Vermont and Federal Earned Income Tax Credits to be excluded as a resource for a period of 12 months from receipt to align with 24 U.S.C. § 6409. DCF corrected a typographical error in the numbering of proposed rule 2253(22)(i). Subsection (22)(i) was renumbered as subsection (23) and all subsequent subsections were renumbered accordingly.

Summary of Comments and DCF's Response

Comments were submitted by Voices for Vermont's Children and Vermont Legal Aid.

Copies of written comments are attached. Below is a summary of each comment and DCF's response.

Comment: The commenters recommend that the Reach Up eligibility rules be revised to state that DCF will update the basic needs standard, housing allowance, and ratable reduction on an annual basis.

Response: Consistent with 33 V.S.A. §101(4), the basic needs standard, housing allowance, and ratable reduction are calculated based on funds appropriated to the Reach Up program. Currently, DCF uses the basic needs standard from 2019 and a housing allowance from 2001 to determine benefit amounts. Each year DCF reports a comparison between the existing basic needs standard (2019) and the housing allowance (2001), and the current basic needs standard and housing allowance. DCF makes the current cost-of-living increase calculation by running the basic needs standard and housing allowance through a computer program that recalculates these numbers based on changes in the Consumer Price Index (CPI) and housing costs reported by families participating in the Reach Up program living inside and outside Chittenden County. The revised needs standard and housing allowance are run through a simulation of the Reach Up population to estimate the fiscal impact of making cost-of-living adjustments using current basic needs and housing allowance. The simulation is run against the amount budgeted for Reach Up to determine the percentage of total needs DCF can pay with existing funds.

Comment: The commenter expresses concern that the language in proposed rules 2221(l) and 2246.5 - "Children placed in foster homes, at State expense, are not eligible for Reach Up benefits" - reduces the assistance available to parents who are working toward reunification with their children. The commenter also recommended that DCF look for opportunities to expand assistance beyond the provisions in the temporary absence rule in order to support family reunification.

Response: The current rule prohibits dual receipt of a foster care stipend under Title IV-E and Reach Up payments on behalf of a foster child: "Payments for Reach Up children who qualify for Reach Up foster care shall be provided by the Family Services Division through Title IV-E of the Social Security Act, as amended." The proposed language was intended to simplify the language in this rule. DCF did not intend to restrict a non-custodial parent's eligibility for Reach Up benefits under the temporary absence rule. DCF has removed this language from proposed rule 2221(l) and amended the language in proposed rule 2246.5 as follows to clarify this intent: "Foster parents who receive payments for the care of a child in the custody of the Department are not eligible for Reach Up benefits on behalf of that child." Consistent with funds available to the program and federal law, DCF will continue to explore ways in which the Reach Up program can support family reunification.

Comment: The commenter recommends that DCF remove the requirement in proposed rule 2232.3(b) that potential harm must be "serious" or rise to the level that a parent is unable to adequately care for their child to qualify for a child support waiver.

Response: DCF agrees that these criteria are not in a child's best interest. DCF has changed the proposed rule as recommended.

Comment: The commenter recommends that the disqualification period for the receipt of a lump sum payment in proposed rule 2248.1 should be recalculated when a household uses the payment to cover an immediate need and day-to-day operating expenses for a vehicle.

Response: DCF will evaluate the economic and administrative impact of making these changes and consider the feasibility of amending the lump sum payment requirements when DCF initiates rulemaking to implement statutory changes to the Reach Up program taking effect January 1, 2024.

Comment: The commenter recommends that proposed rules 2253 and 2257 include Child Tax Credits as excluded income and resource and that DCF exclude income received through a “guaranteed income” project or pilot aimed at reducing poverty.

Response: Consistent with 26 U.S.C. § 6409 and 32 V.S.A. § 5830f(c), DCF currently excludes Vermont and Federal Child Tax Credits as income and as a resource for a period of 12 months from receipt. DCF has amended the language in proposed rule 2253 and 2257 to reflect this practice.

DCF will evaluate the economic and administrative impact of excluding income received through guaranteed income pilots and consider the feasibility of excluding such payments when DCF initiates rulemaking to implement statutory changes to the Reach Up program taking effect January 1, 2024.

VERMONT LEGAL AID, INC.

264 NORTH WINOOSKI AVE.
BURLINGTON, VERMONT 05401
(802) 863-5620 (VOICE AND TTY)
FAX (802) 863-7152
(800) 747-5022

OFFICES:

BURLINGTON
RUTLAND
ST. JOHNSBURY

OFFICES:

MONTPELIER
SPRINGFIELD

May 5, 2023

Heidi Moreau, General Counsel
Department for Children and Families
280 State Drive, HC1 North
Waterbury, VT 05671-1080
Heidi.Moreau@vermont.gov

RE: Proposed Rules: B23-04 - Reach Up Eligibility; B23-06 - Reach Up Services

Dear General Counsel Moreau:

Thank you for the opportunity to comment on the proposed changes to the Reach Up Eligibility and Services rules.

Vermont Legal Aid, Inc., (VLA) is a non-profit law firm that strives to fight poverty and advance justice in the civil legal system. We provide legal information and advice and advocate for systemic change on behalf of low-income and vulnerable Vermonters. Many of our clients are applicants to or participants in the Reach Up program, which provides critical financial support.

We are grateful for the Department's substantial efforts to clarify these rules and reframe the interactions between the Department and program participants. In particular, we appreciate the removal of outdated language like "failure" and "self-sufficiency" and the adjustments that reflect a more collaborative model of engagement.

In addition to the changes reflected in these proposed rules, we have a few suggestions based on concerns we hear most frequently from our clients.

- a. The harm threshold for "good cause" under Proposed Rule 2232.3 should be lowered.**

We appreciate the Department broadening the definition of domestic violence in Proposed Rule 2201 to align with the federal definition. We also support changes that lower the barriers to verifying domestic violence or good cause, including the updates to Proposed Rules 2232.3, 2232.4, and 2232.5.

We ask that the Department consider further revising Proposed Rule 2232.3(b)'s good cause criteria to ensure that all applicants at risk of harm can access a child support waiver. Federal law gives state agencies discretion to define good cause criteria as long as they "take into account the best interests of the child." 24 U.S.C. § 654(29). Because no degree of harm to a child or to their parent is in a child's best interest, we suggest that Rule 2232.3(b) should state:

- b. Good cause exists when the Department determines that cooperation is not in the best interest of the child because it may result in any one of the following:
 - 1. Physical or emotional harm to the child;
 - 2. Physical or emotional harm to the parent/caretaker; or
 - 3. At least one of the following circumstances exists:
 - i. The child was conceived as a result of incest or rape;
 - ii. Legal proceedings for the adoption of the child are pending; or
 - iii. The parent/caretaker is determining an adoption plan.

We are concerned that the current requirement that potential harm must be "serious" or rise to the level that a parent is unable to adequately care for their child unnecessarily deters eligible survivors from applying for a waiver. This modification could encourage more survivors of domestic violence to apply for necessary support for their children.

b. Needs Standards should be updated annually to account for current cost of living.

We recommend that the Reach Up eligibility rules be revised to state that the Department will update the basic needs standard, housing allowance, and ratable reduction on an annual basis. Needs totals should be updated to reflect current-year data about the cost of food, fuel, utilities, clothing, personal needs and incidentals, household-related chores, special needs, and housing.

The Department's proposed rules formalize the 2019 basic needs standards in Proposed Rule 2244.1 and do not change the maximum Housing Allowance amount in Proposed Rule 2246 or the Special Housing Needs in Proposed Rule 2244.3. The rules do not currently state that these numbers should be regularly reviewed.

Especially in recent years, when the cost of living has skyrocketed, these adjustments are meaningful. Low-income families are on tight budgets and cannot absorb expense increases when there is no margin to begin with. The inputs to the grant calculation should reflect the reality of what these goods and services cost in Vermont.

c. The disqualification period for the receipt of a lump sum payment should be recalculated when a household uses the payment to cover an immediate need.

Many Reach Up participants who receive a lump sum will need to use the funds for a essentials other than the approved expenses for which the Department will recalculate the disqualification period. These households then face a period without critical Reach Up benefits. We ask that the Department revise Proposed Rule 2248.1(e)(4) to:

- include day-to-day operating expenses for a vehicle, removing the exclusion in Proposed Rule 2248.1(e)(4)(v)(B); and
- include “use of lump sum to address an immediate basic need or emergency” as an additional circumstance under which lump sum income would be considered unavailable.

Other states, like Maine and Oregon, have included similar provisions in their rules. See, e.g., 10-144 M.C.R. ch. 331 (considering funds unavailable when “used to meet essential needs such as housing, utilities, food, clothing, furnishings and other necessities required for the health and safety of the family.”); O.A.R. 461-140-0120 (considering funds unavailable when the recipient “[s]pends the lump-sum income on an immediate basic need or emergency.”).

Particularly when benefits cannot fully cover participants’ basic needs, program rules should recognize that any “extra” income is likely needed to cover daily necessities like food, gas, and clothing. We ask that the Department further amend this rule to reflect that, when lump sums are used on immediate basic needs, those funds become unavailable to the household.

d. Child Tax Credits and Guaranteed Income Pilot funds should be excluded for the purpose of determining Reach Up eligibility.

As agencies and community organizations explore tools to reduce poverty and support basic needs, we recommend that the following sources of income also be listed as excluded income under Proposed Rule 2253:

- Income received through a “guaranteed income” project or pilot aimed at reducing poverty; and
- Vermont and Federal Child Tax Credits (CTC), whether received periodically or as a refund, including lump sum.

It is our understanding that the CTCs are already excluded for Reach Up purposes, but we suggest that they be listed in this rule and in Proposed Rule 2257, Excluded Resources, for clarity. Excluding funds from guaranteed income pilots would allow for continued study on the effectiveness of such programs without displacing existing benefits.

We thank you again for your efforts to revise these rules and for the opportunity to submit these comments.

Sincerely,



Olivia Graffeo-Cohen
Staff Attorney
Vermont Legal Aid