



**Elder Law Project**

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**TO:** Legislative Committee on Administrative Rules

**FROM:** Leah Burdick, Staff Attorney, Elder Law Project

**SUBJECT:** 24-E06 - Department for Children and Families/General Assistance Emergency Housing Assistance Emergency Rules

**DATE:** July 22, 2024

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Vermont Legal Aid has a long history of advocacy throughout Vermont on behalf of low-income individuals, individuals with disabilities, and individuals aged 60 and older, including on the issue of emergency housing assistance. We represent individuals experiencing homelessness as part of these programs and have testified about legislative changes to these programs and the applicability of rules on many occasions. We have serious concerns about the Department's administration of the General Assistance Emergency Housing Program as modified by Act 113 Budget Act and as implemented by the adoption of these emergency rules.

The core principle in Act 113 is a requirement that the Department "ensure" that emergency housing is provided for those individuals that are eligible under Act 113, for up to a maximum of 80 days. We are concerned that these emergency rules fail to fulfill this legislative mandate.

Additionally, the Department asserts in their Economic and Environmental Impact Analyses that this rule set will have no effect on schools or the environment. This does not seem accurate. Once the 80-day grant period in the rule has run out, families with children will be forced into unsheltered homelessness. Children attempting to attend school without adequate shelter to sleep, eat, and do their homework will almost certainly impact the functioning of schools. There will also be environmental degradation from people camping in areas without adequate sanitation, like in recreational parks and near bodies of water.

### **Rule 2652.2 f. Fails to Provide Adequate Notice and Due Process.**

The Notice provisions do not require the Department to send written notices when granting an application for benefits. The Department only sends written notice of the award if the participant asks for one. Because of the rolling re-authorization periods, we repeatedly hear from clients and community partners that participants do not know the specific details of their benefit and when it may end. The Department and the Economic Services Division routinely send approval notices for multiple types of other public benefits, including Medicaid, 3SquaresVT, and fuel assistance. It is unclear what makes GA Housing any different, nor is it clear why the Department can send notices upon request but not as a matter of routine.

The rule states that the denial notice must include the specific reason for the denial. However, the rare denial notices our clients receive are simply a long list of checkboxes with vague references to rule numbers that include very little—or even no information at all—as to why the benefit is denied or terminated. These notices do not comport with due process. The rules should be revised to explicitly require a notice, written in plain language setting out the factual and legal basis for the decision, for all approvals, re-authorizations, denials, terminations, and impositions of a Period of Ineligibility (POI).

### **Rule 2652.2 g. 1. vi. Resource Exhaustion Means Households Cannot Successfully Transition Out of the Program.**

The emergency rule requires exhaustion of all available resources before a person will qualify for emergency housing. This requirement is contrary to the intent of Act 113, and it is not good public policy. The Legislature tasked the General Assistance Emergency Housing Task Force, also created through Act 113, with examining and providing recommendations on “a process to enable participating households to place a percentage of the household’s gross income into savings, which shall be returned to the household for permanent housing expenses when the household exits the General Assistance Emergency Housing.” Requiring a household to spend everything they have before granting shelter assistance makes it extremely unlikely for a household to get back on its feet and into new housing, especially if it has zero resources for a security deposit and the first month’s rent.

We suggest instead that the Department implement a resource limit, like certain Medicaid programs or eligibility for Supplemental Security Income. A

resource limit, instead of exhaustion, would preserve people's ability to transition out of the program when an appropriate alternative placement became available. A resource limit would also balance the fiscal health of the program with helping those in the most need. The GA program already has an established resource limit in GA Rule 2610, "Non-Catastrophic Eligibility," Section 5.ii:

Single individuals age 62 or over, or in receipt of SSI/AABD or social security based on blindness or disability, may have up to \$1,500 of available resources disregarded. Up to \$2,250 of the households available resources may be disregarded if the individual lives with a spouse or civil union partner.

A similar resource limit should be applied to GA Housing to assist participants in transitioning out of the program and into permanent housing.

**Rule 2652.2 c. 2. Definitions and Rule 2652.2 i. "Alternative Housing Placement" May Improperly Terminate Participants for Refusing Inappropriate Placements.**

In July 2023, we raised the concern with LCAR that individuals could be offered alternative housing placements in institutional settings that are not appropriate to meet their needs, and potentially be terminated from the GA program if they refuse an inappropriate placement. We suggested the word "appropriate" be added to the definition of "alternative housing placement," and we reiterate that suggestion for these emergency rules.

Previous emergency rules for the Emergency Housing Transition Benefit (EH-100) allowed a participant time to notify the Department within 24 hours that an alternative housing placement poses a previously unidentified health or safety risk, and thus refuse the alternative placement without risking their eligibility for their current shelter. The current rule has no such clarification or vetting period for alternative placement, and in fact requires the Department to terminate a household's authorization for emergency housing assistance effective the date an alternative housing placement becomes available. Without enough time to vet the placement, participants will lose their shelter if they are required to leave their motel room without adequate time to determine whether the congregate shelter or institution is appropriate for their needs.

Similarly, this rule applies to placements in available shelter beds, and allows no grace period before loss of their motel room for a person to indicate that they have a disability or health condition that would make a shelter bed inappropriate or harmful for them.

The current rule and definition of “alternative housing placement” should be revised to incorporate a requirement that the alternative placement is “appropriate” to the needs of the individual, including placement in institutional settings as well as congregate shelters. This would give participants, housing service providers, and ESD staff much-needed clarity and avoid terminations when an alternative housing placement is not safe or appropriate for the participant.