



**VERMONT
LEGAL
AID**

177 Western Avenue Suite 1, St Johnsbury, VT 05819
(802)7488721 ■ 800-769-6728
www.vtlawhelp.org ■ Fax: (802)7484610

TO: Chair Wood and the House Committee on Human Services
FROM: Maryellen Griffin, Staff Attorney, Vermont Legal Aid, Inc.
DATE: April 2, 2025
SUBJECT: Comments on H. 92

Thank you for considering ways to support and improve the work of the Human Services Board (HSB) to protect the rights of Vermonters.

The Need for Legal Assistance

The recently completed Legal Needs Survey by Legal Services Vermont, along with our own data and community listening sessions, underscores the critical need for increased legal assistance for people experiencing homelessness. In 2022 and 2023, we received 708 calls regarding emergency housing and 3,278 website page views for homelessness information. We can only accept a fraction of those seeking representation.

In 2024, Legal Aid closed 63 emergency housing cases, including 13 administrative agency decisions and 8 negotiated settlements.

In addition, Vermont Legal Aid and Legal Services Vermont represent people before the HSB in appeals across various benefit programs, including food stamps and Medicaid. Annually, we estimate representing approximately 20 people through the entire fair hearing process and another 15-20 in cases resolved beforehand.

Improving Access for Self-Represented Individuals

We strongly support improving access to the HSB for self-represented individuals. While we aim to increase representation at the HSB, we expect to lose resources due to the cuts at the federal level. We support the Committee's suggestion for regular meetings between Legal Aid and the HSB to improve the process, as well

as H. 92's requirement for hearing officers and agency attorneys to use plain language.

We remain concerned, however, that the Human Services Board hearings are still a pretty formal, multi-step process. Even as a lawyer, I found it confusing at first. So, we recommend that the HSB provide more comprehensive, plain-language instructions for appellants on process and hearing preparation. The existing Fair Hearing Summary document should be reorganized for clarity and expanded to explain key steps and terminology (e.g., status conference, discovery, hearing, recommended decision, challenging findings, HSB meeting).

Recommendations:

- Retain the bill's provision requiring plain language from hearing officers and agency attorneys.
- Develop more comprehensive plain-language instructions for appellants.

Expedited Appeals Process for Emergency Housing

We ask this committee to add to this bill a procedure for expediting appeals of denials of emergency housing. In practice, emergency housing appeals are expedited now. And there is a 1986 Interpretive Memo which requires expedited procedure for Emergency Housing, but some of its procedures (e.g., district director review) are no longer followed. H. 92 should establish a statutory expedited appeals procedure, including a requirement for same- or next-day supervisor review.

In our experience, the major source of delay in these appeals is obtaining records from the Department. This can take up to a week. We often only get the records shortly before the hearing. This is unfair to appellants and delays resolution of cases by agreement. So we ask that the expedited process include immediate record transmission.

Furthermore, while hearing officers issue decisions promptly, it often takes weeks or months to receive a final decision from the HSB. The Department's current

practice and rule is to implement hearing officer decisions immediately. These practices should be formalized in statute, requiring hearing officer decisions within five days of an emergency housing denial appeal and immediate implementation of favorable decisions.

Recommendation: Incorporate an expedited appeal process with these requirements:

- Same- or next-day supervisor review based on a prepared packet of documents (application, decision notice, verification documents, notes).
- Simultaneous transmission of the packet to the HSB, the appellant, and their representative (if any).
- Hearing officer decision within five days.
- Immediate implementation of favorable decisions by the Department.

Final Decisions in Emergency Housing Appeals

Under the present system, we never get final HSB decisions that are favorable to appellants in emergency housing cases. That is because all favorable decisions are dismissed as moot before they reach the HSB.

When a hearing officer issues a favorable preliminary decision, the Department implements it, and the case is dismissed as moot. This prevents hearing officer findings from being reported to or approved by the Board, and no final decisions explaining wrongful denials are published on the HSB website.

The Supreme Court recently ruled that this practice is legal, *In re S.S.*, 2024 VT 87. But it is not fair to appellants, and it prevents patterns of wrongful denials from surfacing and delays necessary policy changes. It breaks the feedback loop that should be part of the impact of the HSB process, beyond the individual case.

Recommendation: Add the following language to H. 92:

- "In appeals regarding Emergency Housing, the Department shall put an expedited recommendation of the Human Services Board hearing officer into effect in the same manner as an order of the Human Services Board."

- "Unless either party objects or requests correction of the recommended decision, the recommended decision, even one favorable to the appellant, shall be approved by the Human Services Board."

Conclusion

Thank you for considering these comments on House Bill 92. We are committed to collaborating with you to advance this important legislation

Emergency Housing Rules 2652.2(p)

p. Appeal Rights

1. If a household disagrees with a Department decision, the household may request a fair hearing in accordance with Human Services Board, Fair Hearing Rules (CVR 13 020 002).
2. The Department shall follow All Programs Procedures P-2127, Fair Hearing Procedures, when a household requests a fair hearing.
3. Notwithstanding any provision of the Fair Hearing Rules to the contrary, the Department shall put an expedited recommendation of the Human Services Board hearing officer into effect in the same manner as an order of the Human Services Board.
4. Housing in a hotel or motel shall not be provided while a fair hearing is pending unless ordered by the hearing officer.

INTERPRETIVE MEMO

General Assistance Rule Interpretation

Procedure Interpretation

This interpretive memo remains effective statewide until it is specifically superseded—either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2606 Date of this Memo 07/01/1986 Page 1 of 1

This Memo: is New Replaces one dated _____

Notice — Expedited Fair Hearing

An expedited fair hearing process is available to denied applicants, but it must be preceded by review and approval of the denial by the District Director, or designee in the event of the District Director's absence. Workers will advise applicants that they may request review of a denial by the District Director. The District Director may consult with the Income Maintenance Director concerning the denial.

If the District Director informs the applicant that the application is denied, the applicant is to be furnished with written notice of appeal rights for an expedited fair hearing. The applicant should be made aware of the availability of Human Services Board rules concerning fair hearing and that a copy will be made for him or her upon requests.

If a hearing is requested, the District Director shall, that same day, contact the Human Services Board and advise the Board of the request. The Board will schedule a hearing as soon as possible, usually within 10 days.

Because the hearing may be scheduled as soon as a few days from the date of request, it will be necessary to contact the Assistant Attorneys General by phone to advise them of the facts involved in the case. The hearing will be conducted under regular fair hearing rules by one of the Hearing Officers. The Hearing Officer will advise the Department, either orally or in writing, of the recommendation and the Department will put the recommendation into effect in the same manner as an Order of the Human Services Board. In the event the Board subsequently rejects the Hearing Officer's recommendation, the Department will consider any benefits paid overpayment subject to recoupment.