

SEN. MARK A. MACDONALD, VICE CHAIR
SEN. CHRISTOPHER BRAY
SEN. VIRGINIA "GINNY" LYONS
SEN. DAVID WEEKS



REP. TREVOR SQUIRRELL, CHAIR
REP. SETH BONGARTZ
REP. MARK HIGLEY
REP. CAROL ODE

STATE OF VERMONT

Legislative Committee on Administrative Rules (LCAR)

MEMO TO: Hon. Sarah Copeland Hanzas, Secretary of State
Todd W. Daloz, Deputy Secretary, Agency of Human Services
Heidi Moreau, Policy Analyst, Department for Children and Families

CC: Sen. Kitchel, Chair of the Senate Committee on Appropriations
Rep. Lanpher, Chair of the House Committee on Appropriations
Sen. Lyons, Chair of the Senate Committee on Health and Welfare
Rep. Wood, Chair of the House Committee on Human Services
Louise Corliss, Administrative Services/APA Manager I, Vermont State
Archives & Records Administration

FROM: Legislative Committee on Administrative Rules

DATE: October 31, 2024

SUBJECT: 24-E06, General Assistance Emergency Housing Assistance Emergency Rules

The Legislative Committee on Administrative Rules (LCAR) reviewed emergency rule 24-E06, General Assistance Emergency Housing Assistance Emergency Rules, at LCAR's September 5, 2024, and September 19, 2024, meetings and unanimously voted to neither approve nor object to the rule at the September 19 meeting. LCAR based this vote, in part, on oral testimony from Heidi Moreau, Policy Analyst, Department for Children and Families, and Nicole Tousignant, Senior Policy and Operations Director, Department for Children and Families; oral and written testimony from Leah Burdick, Staff Attorney, Elder Law Unit, Vermont Legal Aid; and oral testimony from Brenda Siegel, Executive Director, End Homelessness Vermont. *See* [Memorandum from Leah Burdick, July 22, 2024](#); [September 5, 2024 LCAR Meeting](#); [September 19, 2024, LCAR Meeting](#).

This memorandum explains LCAR's concerns with 24-E06 to the Department for Children and Families ("Department"). It is LCAR's hope that the Department addresses these concerns with the emergency rules during the ongoing rulemaking process for permanent General Assistance Emergency Housing rules.

In 24-E06, the Department amends its existing General Assistance Rules related to emergency housing assistance. *See* 24-E06 (emergency rule amendments to emergency housing rules). Emergency rulemaking was required by the General Assembly pursuant to subsection (f) of [2024 Acts and Resolves, No. 113, Sec. E.321](#).

Testimony presented to LCAR regarding the impact of subdivision 2652.2(g)(1)(vi) of the emergency rule, which provides that to be eligible for assistance a household must “have exhausted all available resources.” Under the prior rules, this requirement only applied to households served under “Temporary Housing in Catastrophic Situations” pursuant to the former section 2653.2¹ and not to households served under “Temporary Housing for Vulnerable Populations” pursuant to the former section 2652.3.² As required pursuant to 2024 Acts and Resolves, No. 113, Sec. E.321, the emergency rule amendments eliminate these two categories and now provide emergency housing assistance to both groups under the same terms, including the application of the requirement to exhaust all available resources. LCAR is particularly concerned that (1) requiring a household to spend down its resources can prevent that household from saving sufficient funds to transition into new or permanent housing, and that (2) requiring that households served under “Temporary Housing for Vulnerable Populations” must exhaust their resources to qualify for emergency housing assistance is confusing to both applicants and participants and denies housing assistance to those households in a manner that may be contrary to the intent of the General Assembly. The issue of whether to require households to exhaust their available resources to become eligible for emergency housing assistance was not specifically contemplated in legislative negotiations over the provisions of 2024 Acts and Resolves, No. 113, Sec. E.321. Because of that, LCAR believes that the provisions of subdivision 2652.2(g)(1)(vi) of the emergency rule, which imposes such a requirement on all applicants for emergency housing assistance is potentially contrary to the intent of the General Assembly. However, LCAR is choosing not to object to 24-E06 on this ground; pursuant to the Administrative Procedure Act, LCAR’s decision not to object should not be considered “an implied legislative authorization of [the emergency rule’s] substantive or procedural lawfulness.” [3 V.S.A. § 844\(e\)\(2\)](#).

LCAR appreciates that the Department has provided a guidance document to its staff for use in determining eligibility for emergency housing assistance that permits staff to disregard funds that a household has saved for a necessary expense, such as car repairs or childcare, from the requirement to exhaust resources. However, based on the testimony related to the emergency rule, LCAR is concerned that that information is not being effectively communicated to households seeking emergency housing assistance. Because of that, it is LCAR’s expectation that the Department will endeavor to provide applicants and participants with additional information and clarity regarding the current requirements for resource exhaustion and the ability of households to save resources for certain necessary expenses. LCAR would appreciate an update on the measures that the Department has taken with respect to providing that additional information and clarity to applicants and participants when the Department submits its permanent rule for General Assistance Emergency Housing Assistance to LCAR.

¹ “Temporary Housing in Catastrophic Situations” formerly served households that were without housing through no fault of their own because of the death of a spouse or child; an emergency medical need; a natural disaster; a court-ordered or constructive eviction; or domestic or sexual violence or other dangerous or life-threatening conditions. According to the Department, the catastrophic category has historically comprised approximately 65% of the recipients of emergency housing assistance.

² “Temporary Housing for Vulnerable Populations” formerly served households in which at least one member of the household was 65 years of age or older; a recipient of SSI or SSDI benefits; a child 19 years of age or younger; or in the third trimester of pregnancy. According to the Department, the vulnerable category has historically comprised about 35% of the recipients of emergency housing assistance.