Follow-Up Testimony to the Legislative Committee on Administrative Rules

Vermont Homelessness Response Continuum Emergency Rules (Act 143)

Brenda Siegel, Executive Director, End Homelessness Vermont · October 29, 2026

For the record, I am Brenda Siegel, the Executive Director of End Homelessness Vermont. At our organization, we are charged with the mission of working primarily with people with complex needs and disabilities at the intersection of homelessness and housing insecurity. All of our staff are people with lived experience of homelessness or housing insecurity, who also live with or have lived experience of disability. We represent hundreds of people in fair hearings as non-attorney advocates, and we were in the room every day while this Legislature wrote Act 143.

When I last testified, I asked the Committee to object to these emergency rules under 3 V.S.A. § 844(e)(1). As a reminder, these rules meet every ground the Committee may object on: they are beyond the authority of the agency, contrary to the intent of the Legislature, arbitrary, and not necessitated by an imminent peril, and they continue to, in fact, cause imminent peril.

This Committee directed DCF to work meaningfully with the advocates and providers who had brought these concerns. I was hoping, and had given a heads up, that I would be sitting here with mostly positive news and a request for more time.

I will begin with the good news. The advocates and DCF have sat down together three times, and a fourth meeting is scheduled for November 12. These have mostly been good discussions that we all thought were leading to progress, and we carry hope that they still will. We have not yet reached every topic on the list brought by the advocates and the legislators, and we hope to reach the rest at the next meeting. Most importantly, we hope that at that meeting we will begin to agree on changes to the rules that reflect the discussions we are having. It is possible that will take more than one more meeting. However, we are all still at the table, and the advocates, including End Homelessness Vermont, have been firm in that commitment. We hope that DCF is also firm in that commitment.

Now for the unfortunate and less positive update. Throughout these meetings, we made some interim agreements, or understandings, so that we all felt comfortable asking for more time, considering the life or death nature of these rules. Yesterday, when our organization went to put one of them into practice, we learned we had made zero

progress on it. Because of this, our clients, the ones we told you about two weeks ago, still have no access to the program. Finding a way to ensure people were not harmed because of their disability was a condition for our organization. There is no way that we can or will support lip service over progress when it will lead to catastrophic outcomes for our clients, including losing their limbs or their lives.

I will briefly touch on the three areas that are giving us concern today: a paper assessment we understood had been agreed to still cannot be submitted, we are experiencing a significant unwillingness to accommodate disability, and the Department will not move on the appeals process. Each goes to the heart of why these rules are beyond the authority of the agency, contrary to the intent of the Legislature, and arbitrary. And again, these rules are not necessitated by an imminent peril. They are creating one.

1. The Needs Assessment

The statute allows only “a brief, standardized initial assessment form that may be completed by hand, electronically, or by telephone” (§2216(5); see also §2204(1)). The statute gives the Department absolutely no authority to create another eligibility criterion. And I have multiple people outside because of this unlawful requirement. In addition, the Department requires this assessment to be done by phone. That excludes anyone with a disability who needs support in communication, who cannot fully understand the questions they are being asked, or who lives with any of a myriad of other disabilities. And again, the request to accommodate their disability has been cruelly and arbitrarily denied.

We thought there had been an agreement to give us the assessment in paper form. When it was handed to me, I was told I still cannot submit the paper form. A form we are not allowed to submit is not an accommodation, and the statute itself says the form may be completed by hand.

Our client in Burlington has neuropathy, and his psychiatric disabilities are so severe he cannot hold a conversation long enough to complete the assessment. As of today, he has been hospitalized six times since September 4. He is being hospitalized *only* because of catastrophic outcomes from sleeping outside. Now it is getting colder.

He is eligible. He is still outside, even after we were handed the paper form, because we were told that we would still have to do the interview over the phone. And an assessment the Department does not need in order to learn of his risk is being used as a barrier to shelter. He is high on my list of people at risk of losing their lives because of this barrier. This **violates the statute** and is **arbitrary**.

It is hard for me to ask for more time today, because I am afraid that he won't make it until next time.

2. An unwillingness to accommodate disability

Act 143 built protection for people with disabilities into every section of the statute. The Legislature wrote it in again and again:

- **A broad definition.** Disability includes physical, sensory, cognitive, developmental, and mental health conditions and substance use disorder, including chronic or episodic conditions, whether or not the person receives disability benefits (§2201(7)).
- **Reasonable modification.** The Office and community partners must comply with the ADA and Section 504 "for the purposes of providing reasonable modifications, effective communication, and accessible placements," and "Program rules and case management requirements shall be reasonably modified, including with the use of plain language" (§2211(c)).
- **Accommodation at every level.** Intake, highly structured shelter, and low-barrier shelter must each be provided "in a manner that accommodates an eligible household's disability" (§2204(1); §2205(a)(2); §2205(b)(2)).
- **Participation to the extent of ability.** The statute says it four times, for highly structured shelter, specialized shelter, hotels and motels, and permanent supportive housing (§2205(a)(2); §2206(2); §2207(3); §2208).
- **Prioritization.** A household member who "has a disability" is one of the six priority groups the Legislature chose (§2211(a)(2)).
- **Self-attestation.** Disability may be verified by self-attestation when other documentation is not reasonably available, and a lifelong disability is never redetermined (§2211(b)(1)(C); §2211(b)(2)).
- **A brief assessment.** The only assessment allowed is brief and standardized, and may be completed by hand, electronically, or by telephone (§2204(1); §2216(5)).
- **Extensions.** Three of the four extension grounds are about health and disability: medical necessity, lack of reasonable alternative accessible placements for a member with a disability, and imminent risk to health or safety. "Including for" sets a minimum, not a limit (§2212(b)).
- **Protection from termination.** A household cannot be terminated for refusing placements without documented suitability assessments and reasonable

accommodations, and misconduct related to a disability is not grounds for immediate termination (§2210(c); §2210(d)(2)).

- **No isolation.** Population-specific placements are allowed only to the extent those populations are not isolated from the wider community served through the Program (§2207(2)(B)).

The rule does not carry these protections into the needs assessment, verification, extensions, or notices. In these rules, and in practice, that protection is almost completely absent.

Our client with insulin-dependent diabetes that we told you about last time could not complete the needs assessment due to a psychiatric disability that he also lives with. Without access to his insulin, he developed an infection in his legs so severe that he has been warned he is at risk of losing them. Since we were last here, the infection in his legs has gotten much worse. He is going from using walking crutches and sometimes a wheelchair to being fitted for a wheelchair he will use more consistently, with the looming risk of losing his legs. He needs an extension to his 70 days. He was denied an extension because he could not complete the assessment.

We were told at our last meeting with the Commissioner that reliance on insulin and wheelchair use are both almost guaranteed to get an extension. But his psychiatric disability, the Department's refusal to make an accommodation, and an unlawful assessment are all keeping him outside. The Department does not need the assessment to know that he is insulin dependent, has an infection, and uses a wheelchair. What is happening to him and so many others is inhumane.

What we are experiencing now is a significant unwillingness to accommodate disability. That is true for my clients, and frankly, it is true for me. I was informed yesterday that the Department does not believe it has an obligation to accommodate my disability as an authorized representative, a provider, and a resident of this state. The Department is a place of public accommodation. If I can't get support, imagine our clients who are losing their lives and limbs outside. This **violates the statute** and is **arbitrary**.

3. Appeals

Section 2215(d) requires services to continue "without interruption" when a household appeals within 14 days, in all but two narrow circumstances. The Department is largely not continuing shelter while people appeal. In fair hearings, it argues that each level of the continuum is a separate benefit, to cut off continued services. Act 143 created one

program, not a set of separate benefits. Hearing officers at the Human Services Board believe they can no longer order housing while an appeal is pending, and the Board meets once a month.

Our client with insulin-dependent diabetes is eligible, is in the appeals process, and is not accused of fraud or a safety risk. Under the statute, he should be receiving continued benefits until his hearing is decided. He is outside, and there is no way to get him inside before the Board rules, which now will not be until December.

Legislators made their decisions with an assurance that the Department would change nothing about the appeals process. But the Department removed a memo that had been in place for 40 years, and by doing so, essentially removed due process and meaningful access to justice. The *only* reason to remove it was to remove that meaningful access. This ties the hands of hearing officers and leaves eligible people in the cold.

From 2024 through September 2026, we won or resolved in our clients' favor 100% of our hearings, because the Department got accommodation and the law wrong. Before that, we never needed that many hearings. The reaction to losing before an authoritative body cannot be stripping justice from marginalized people. That rings uncomfortably similar to what is happening in our federal government. That cannot happen here.

The Legislature did not intend to change anything in the appeals process beyond what it named in the statute. The chairs of the committees of jurisdiction raised the appeals process as a concern in their letter to the Department. The Department has not been willing to budge. When the chairs of the committees that wrote the statute put their concern in writing, legislative intent is not in question. This **violates the statute** and is **contrary to legislative intent**.

Closing

In closing, despite all of this, we want to keep working. Despite what we feel is the Department not following through on its commitments, we are willing and ready to remain at the table. That is why we are asking for more time. But more time cannot mean more time outside for the people we serve. It is almost November. Our clients with disabilities are outside tonight, and the protections the Legislature wrote for them are not reaching them.

I am asking the Committee to keep these rules before it and give this process more time. I am also asking the Committee to make three things clear to the Department:

1. The expectation is that these conversations will result in an amended emergency rule that the parties can all live with.
2. The expectation is that the appeals issue the committee chairs raised in their letter is part of these conversations in a meaningful way.
3. And that it was the intent of the Legislature to meet the needs of people living with disabilities, and to accommodate those needs where necessary.

If these issues are not resolved, we will be back asking the Committee to object. There needs to be a clear message that these rules, and this practice, must comport with the statute. I am deeply saddened that how I had planned to present to this Committee today was not possible. Thank you all for your time and commitment to carrying out the statute as it was intended.