Since Rep. Mihaly forwarded you my letter -- actually a sign on to ACLU's letter -- my own comments to DCF this past summer (apropos Brenda Siegel's SOS about the draft emergency rule) are further below.

While excoriating DCF, I must add that Act 143 is deeply problematic in its restrictions. And that worse things are likely to be coming from HUD's Continuum of Care program [https://www.federalregister.gov/documents/2026/09/11/2026-18555/notice-of-research-justifying-additional-incentives-for-certain-activities-to-reduce-homelessness], summed up by one commenter as "HUD's proposal to shift federal resources and scoring incentives toward high-barrier transitional shelter, forced service participation, and law enforcement displacement at the expense of proven Permanent Supportive Housing". I've attached comments from the Disability Rights Education & Defense Fund concerning this.

Yours truly,

Laura Ziegler

Comment on Vermont Homeless Response Continuum draft emergency rules

Inbox

Laura Ziegler <zieweed@gmail.com> Mon, Jul 27, 2:39 PM

to AHS.DCFVHRCPublicComments

These comments are only a gesture in response to the draft emergency rule. Based on that draft I can't see the Department of Children and Families acting in good faith, or making substantial changes in reaction to public input — although there's a chance something meaningful might still come out of LCAR's limited review.

To put the draft rule, and the enactment it fails to comply with, in context:

"For years, official Vermont's response to our homelessness crisis has been, in a word, shameful. The Scott administration has been solely focused on cost — and on fashioning a system seemingly designed to frustrate the eligible and limit access. The Legislature has fought against the most miserly aspects of administration policy, but has consistently

tightened the spigot and forced thousands of Vermonters onto the streets and under the overpasses." -- John Walters, Vermont Political Observer

Personal background: I'm over 65, have multiple disabilities, was undomiciled for five years and, given my limited fixed income and Vermont's vacancy rates and rental housing market, consider myself currently housing-insecure. At Angus Chaney's request and as a formerly homeless person I served on the Vermont Council on Homelessness, and recommend that DCF consult the report issued by that body in late 2012

https://www.wvich.org/docs/VT%205-year-plan-to-end-homelessness.pdf — specifically the section "Practices to embrace."*

I no longer track what occurs at the Statehouse, but have attempted to review the draft rule in light of the text of Act 143. It does not appear to conform to that enactment, either in letter or in spirit. It does not indicate how a continuum of supports and services will be available and administered flexibly in a manner that provides a stable pathway to permanent housing and meets the specific needs of households experiencing homelessness. It invents a methodology of eligibility assessment and imposes draconian sanctions (most egregiously, twelve months of ineligibility) not found in the enactment.

The option of self attestation of disability is clearly provided for in the enactment:

"§ 2211 (b)(1) Proof of an eligible household's disability shall be verified by:

.....

(C) self-attestation by the eligible household, subject to verification by the State or community partner within 30 days when other documentation is not reasonably available at the time of application."

It is *not* provided for in the draft rule. What legitimate reason could conceivably account for this omission?

The time frame for public participation and the outreach to affected parties — homeless individuals, their advocates and service providers — is grossly inadequate. What efforts has DCF made to notify people who are in shelters, motels or connected with street outreach? To what extent does this draft reflect the concerns of knowledgeable advocates and providers of homeless services? What accommodated outreach has been made available for affected people with disabilities? What notice to their advocates?

I won't attempt to enumerate all the places where the law and the draft rule diverge. Vermont Legal Aid, ACLU Vermont, Disability Rights Vermont and other advocacy organizations will undoubtedly cover the particulars. But having followed rule making by

other AHS departments in the past I'm not surprised to see DCF's draft emergency rule marked by the same disregard for legislative mandates and avoidance of effective public participation as rules promulgated by the Department of Mental Health and the Department of Corrections.

The draft emergency rule casts applicants as presumed miscreants and constructs a system full of bureaucratic obstacles and opportunities for terminations. It seems designed to facilitate denials. Given the crisis situations the draft rule addresses, the vulnerable people it would affect, the abuses it would enable and the potentially lethal consequences, it's an unconscionable piece of work.

The rule gives lip service to accessibility but takes no cognizance of the landmark 1999 decision by the US Supreme Court in *Olmstead v. L.C.*, which found unjustified isolation and segregation of people with disabilities to be forms of discrimination. People with disabilities, including mental disabilities, are also presumed competent by law, and have the right to refuse unwanted services or service settings. This would include an "appropriate level of services" as determined by a third party. But the rule would allow withholding critical, life preserving assistance by making it contingent on waivers of that right, allowing terminations for twice refusing "suitable" placements or failing to engage with supportive services (Part 10, Sections 1.02 and 1.04). In doing so DCF would effectively create back door routes to institutionalization and forced treatment.

It's notable that the Department of Mental Health is required by 18 V.S.A. § 7251 to "ensure that individuals with a mental condition or psychiatric disability receive care in the most integrated and least restrictive settings available." DCF and its contracted service providers should be subject to the same requirement. It's also notable that Vermont lacks a current Olmsted plan.**

On December 12, 1988, the coldest night I spent outdoors during my five years without a home, the temperature went down to five degrees. I was at a homeless protest encampment in New York's City Hall park, and it was cold enough that a rat climbed onto me, presumably for body heat. I took no harm other than inability to feel one of my toes for a few hours the next morning. But I was less than half my present age. And that same morning, a man in his late fifties named Edmund Rutter was found dead from the same cold on a park bench further uptown.

https://www.nytimes.com/1988/12/13/us/in-bitter-cold-some-of-homeless-resist-shelters-they-often-fear.html#:~:text=Rutter's%20death.,in%20which%20a%20fire%20smoldered.

https://www.upi.com/amp/Archives/1988/12/12/A-deadly-cold-wave-Monday-gripped-a-wide-area/7122597906000/

Vermont is considerably colder than New York City and has far fewer accessible indoor or sheltered public spaces for unhoused people to retreat to. Legislative intent notwithstanding, the draft rule would put the power of life or death in the hands of bureaucrats and line workers who will not be held accountable if their arbitrary decisions and denials prove lethal.

The draft rule permits immeasurable suffering. Some of it is baked in by caps on the number of beds — a purposeful avoidance of funding to meet actual need — and by this enacted definition:

(10) "Emergency cold-weather shelter" means publicly funded shelter beds made available to households during periods when the National Weather Service is forecasting temperatures at or below 10 degrees Fahrenheit including windchill for the majority of the State.

But this does not excuse DCF abusing its discretion and increasing the foundational inhumanity.

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* **Practices to embrace**

Vermont has a long history of providing leadership in innovative, person-centered housing and service options.

As it looks to continue to address homelessness in the state, it must continue to work to address the following concepts to ensure that its existing and new programs are exemplary.

* Adopt an overarching goal to not re-traumatize people or exacerbate an already stressful situation. This includes the idea that "benefit cliffs" should be eliminated so that households working toward self-sufficiency are not penalized or forced to make untenable choices.

* Be respectful in language and practice so that all programs and policies are designed to minimize unnecessary disruptions to the lives of the households being served. This includes:

o A genuine desire to respect the choices of people who are (or were) homeless;

o Solicit and respond to the needs and suggestions of people who are homeless, at risk of homelessness, or were formerly homeless.

o Encourage the development and/or evaluation of more programs by people who are/were homeless; and

o Create a clear delineation of roles between any housing and support staff that fosters an ongoing commitment to positive relationships, respectful communication, and plans that are informed and directed by the person who is homeless.

* Provide the necessary financial resources so that programs can operate to their fullest capacity to achieve desired outcomes. This includes the efficient use of limited funding and adapting programs and policies to changing needs locally. Typically the main sources of funding are federal and state resources, but funding from private and local funds can be a critical component as well.

* Embrace the concept of continuous improvement which requires the ability to self evaluate. This need for transparency and being open to performance review based on accurate data is crucial for programs and policies to adapt to changing trends and effective outcomes.

* Coordinate efforts with other resources within the continuum's spectrum of programs in a community. By working in cooperation with the existing framework of housing and service options available, there are opportunities for innovative partnerships and ensuring that no one falls through the cracks.

* Support regionally targeted housing and service options best suited to local needs while at the same time ensuring some consistency statewide so that no one region of the state is unduly burdened with unmet need

** from a 2024 submission by Senior Policy Analyst and Planner Susan Aranoff for the Vermont Developmental Disabilities Council , to House Committee on Human Services:

"Vermont is Failing to Honor its Olmstead Obligations

Twenty-five years ago, the U.S. Supreme Court issued the landmark decision in Olmstead v. L.C. affirming that people with disabilities have a right to live in the most integrated setting appropriate to their needs, and that the failure to realize such integration is a violation of the Americans with Disabilities Act.

After the Olmstead decision, states were mandated to develop enough community programming to avoid the unnecessary use of psychiatric and other institutions. While Vermont asserts that it aspires to develop a quality community-based system of care, its focus remains on building more inpatient capacity - more hospital beds and nursing homes – rather than investing its limited resources to fill the huge gaps currently existing in community services.

Vermont's Olmstead Plan has not been Updated Since 2006

Vermont needs a current and effective Olmstead plan. Such a plan would include policies and procedures to systematically prevent unnecessary institutionalization. The plan must include a financially sound road map for the creation of an adequate community-based system of care."

https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Human%20Services/Bills/S.192/Witness%20Documents/S.192~Susan%20Aranoff~Testimony%20on%20behalf%20of%20the%20Vermont%20Developmental%20Disabilities%20Council~4-10-2024.pdf

I am writing today to ask you to object to Act 143 Emergency Rules governing Vermont's new Homelessness Response Continuum. Our community is at a breaking point in our homelessness crisis, and we need legislative oversight to ensure that our response system functions as intended.

As written, the rules ignore legislative intent and are directly in conflict with state and federal laws. The rules violate disability protections that impact over half of the people in need of services. They restrict the rights of participants and create unnecessarily burdensome administrative hurdles - leaving eligible people without shelter.

The people impacted by these restrictive rules include families with children who risk living outside if shelter access is denied. This includes people who rely on oxygen machines and wheelchairs, and people who have late-stage cancer - putting them at immediate risk of hospitalization - as well as older Vermonters and those fleeing violence. We owe our most vulnerable neighbors a system that catches them when they fall into extreme hardship. We owe them not only a lifeline for immediate survival, but a pathway to long-term stability

Sincerely,

Laura Ziegler