VERMONT LEGAL AID

Elder Law Project
264 North Winooski Ave., Burlington, VT 05401
802-863-5620 ■ 800-747-5022
www.vtlawhelp.org ■ Fax: 802-863-7152

TO: Legislative Committee on Administrative Rules

FROM: Leah Burdick, Staff Attorney, Elder Law Project

SUBJECT: Department of Children and Families, Vermont Homelessness Response Continuum Emergency Rule 26-E03

DATE: October 29, 2026

Vermont Legal Aid (VLA) 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 and have testified about legislative changes to these programs and the applicability of rules on many occasions.

After the last LCAR meeting, VLA and other advocates met twice with the Commissioner and DCF staff regarding urgent implementation issues with the emergency rules. We have another meeting scheduled for November 10. We sincerely appreciate the Commissioner and the Department coming to the table to listen to our feedback, as well as their willingness to incorporate better processes and implementation solutions to the Continuum. We agree that some progress has been—and will continue to be--made within certain elements of the Continuum.

However, DCF did not commit to revising the emergency rules, nor did they submit revised rules to this committee before today. The Department is not reversing course on their decision to stop treating Level IV Continuum emergency housing appeals as expedited. They are also unwilling to treat a Hearing Officer's recommendation as binding on the Department before a Human Service Board's order, as they have done with General Assistance benefits for the last 40 years.

The following case of a Legal Aid client harmed by this change is a clear example of why these appeals need to be treated as expedited.

This is a client in his late 50s with serious medical conditions. He lost his emergency housing after DCF determined that he had exhausted his available days and denied his request for additional housing. DCF issued the denial notice the day before his housing ended.

The client appealed the denial a few days later and requested the Agency Record. He did not receive the record until a week later, the Friday evening before his hearing the next Monday.

The record was incomplete, as a critical document was missing that was partly the basis for the denial of additional housing.

After the hearing, DCF acknowledged that it had miscounted the client's 70 days and that he still had emergency housing days available. A second hearing was held three days later to address continued services. The client remained outside. He received no continued emergency housing during this appeal process, and still does not, even though the statute and rule provide that services must continue without interruption when a household appeals within 14 days of an adverse notice issued while the household is receiving services, subject to limited exceptions. 33 V.S.A. § 2215(d); VHRC Emergency Rule, Part 11, § 4.01.

At the second hearing, the hearing officer stated that they would not issue a recommendation in time for the Board's November 4 meeting. Because the next Board meeting is not scheduled until December, the client cannot receive a Board decision before then. As of today, more than two weeks after filing his appeal and nearly a month after losing housing, he remains without a decision and without the emergency housing that DCF now agrees he was eligible to receive.

This case illustrates why the existing appeal process does not provide meaningful review for an emergency benefit. Even though DCF acknowledges that its underlying decision was wrong, the client may remain outside for weeks or months while waiting for the hearing officer's recommendation and the next meeting of the Board.

DCF's decisions to no longer treat these appeals as expedited and not immediately implement a Hearing Officer's recommendation are arbitrary and against legislative intent of Act 143. The Committees of jurisdiction explained this in their memorandum to this committee. The legislature contemplated the same expedited process for Continuum fair hearings when they drafted the appeals language in Act 143, because that was the system that was in place when the law was written.

The rules as currently drafted do not comport with Act 143 and are against legislative intent. These rules must be revised. We ask LCAR to request that the Department clarify their timeline to submit revised emergency rules that do comply with legislative intent, especially regarding the fair hearing process. Thank you.