

# Justice Quarterly

a publication for advocates from the staff at  
Vermont Legal Aid, Inc.  
and our partner agency, Legal Services Law Line of Vermont, Inc.

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Winter 2006

Vol. I, No. 7

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## Health

Medicare Part D Prescription Drug Benefit –The federal Medicare Prescription Drug Benefit (Medicare Part D) began on January 1, 2006. For the 30,000 Vermonters who are on Medicare and Medicaid, or on Medicare and one of the state pharmacy programs (now all converted to a new state program, VPharm), the implementation of Medicare Part D created tremendous problems. Many of these beneficiaries were unable to get their prescriptions filled at the beginning of January. As a result of the many systemic problems, the Vermont Legislature quickly appropriated money so that pharmacists could get paid by the State as they were before Part D went into effect. This has allowed these 30,000 beneficiaries to continue to get their medications, but it is a temporary solution. At this point, the State will stop footing the bill on March 8, 2006. When the switch back to Part D takes place, it will be important for beneficiaries to have their Part D coverage in place. It will also be important for VPharm beneficiaries to continue to pay their premiums to the State. Advocates who want more information about Part D or VPharm, can contact the Office of Health Care Ombudsman at 1-800-917-7787.

## Housing

"No Cause" Evictions from Affordable Housing- Many affordable housing developments are created using funding from something called Low Income Housing Tax Credits (LIHTC). This funding creates a special protection for tenants. Unlike most tenants in Vermont, tenants in LIHTC housing cannot be evicted for "no cause." They can only be evicted if they violate the lease, and only if the landlord can prove in court that they violated the lease. Tenants who receive eviction notices for "no cause" and live in an affordable housing development should call VLA. We can research whether the development has LIHTC funding and whether the tenants are protected from this kind of eviction.

Become a Fair Housing Tester- Become part of our team and help us fight illegal housing discrimination by becoming one of our testers. Testing is a great way to give back to your community and your State. When a client comes to us concerned that they have been subjected to housing discrimination, our first priority is to investigate their claim. Our primary method of investigation is through fair housing testing. We need testers to help us investigate claims and develop cases. You can become directly involved in making the dream of equal housing choice available for everyone in your community. Becoming a tester is easy. Simply attend a two-hour training session and complete a practice test. When you're ready, we'll send you out in the field. Testing doesn't involve a huge time commitment. Most testers have full-time jobs. If you are interested in more information or in a schedule of tester training events in your area, please contact Laurie at (802) 863-5620 or Jerry at (802) 223-6377.

## **Public Benefits**

RUFA- Vermont Legal Aid is interested in representing more clients in RUFA benefits cases. The most obvious clients are those who have been sanctioned but we are also interested in hearing from clients who have problems with Emergency Assistance. Please advise clients who are being sanctioned to request a fair hearing and then contact us to get representation. Clients should call Vermont Legal Aid at 1-800-747-5022.

RUFA Transportation- It has come to our attention that DCF may not be providing Reach-Up recipients with funding for transportation to enable them to attend meetings with their case managers. We believe this is in direct conflict with Vermont statutes and regulations. The statute requires that DCF "provide services needed by participating families to improve the family's prospects for job placement and job retention, including the following:..." "transportation which will enable employment or participation in services indicated by the participating family's family development plan." Please refer any clients who have this issue to Vermont Legal Aid at 1-800-747-5022

Social Security and Fleeing Felons- In December 2005, the Second Circuit Court of Appeals (which covers Vermont, Connecticut and New York) issued a very favorable decision for SSI recipients who have had or will have their benefits terminated because they were so-called "fleeing felons." Under federal law, an individual is ineligible to receive SSI benefits during any month that s/he is "fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees for a crime, or an attempt to commit a crime, which is felony under the laws of the place from which the person flees." The SSA has been terminating anyone who had an outstanding warrant for their arrest on felony charges, basically assuming they had fled if they were in another state. The Second Circuit held that the SSA must prove an intent to flee (some indication that the person knows his/her apprehension is sought by law enforcement) and that there must be a warrant or court order based on a finding of flight from the jurisdiction, not just a general arrest warrant for the underlying crime. This is an extremely important case for SSI recipients. Please refer any clients who have this issue to Vermont Legal Aid at 1-800-747-5022.

## Taxes

Tax season is here again. The VITA (Volunteer Income Tax Assistance) sites and AARP Tax Aid sites offer free tax preparation for low-income, disabled, and elder taxpayers. For a list of free tax preparation sites, visit our Tax page on [www.vtlawhelp.org](http://www.vtlawhelp.org).

IRS More Likely to Audit EIC Claimants- The IRS is more likely to audit a taxpayer who claims the Earned Income Credit (EIC) than it is to audit other taxpayers. In addition, the IRS often "freezes" an EIC filer's refund. A freeze means that instead of sending the refund and auditing the taxpayer later—often about two years later—the IRS audits the EIC return right away and doesn't send the taxpayer a refund. You may hear from taxpayers whose current year refunds have been frozen or who have received a notice from the IRS. Please refer these clients to Legal Aid.

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IRS More Likely to Audit Head of Household Filing Status- Another area that is frequently audited is Head of Household Filing Status. Head of Household is a very good filing status for those who are able to claim it. However, it can be a confusing status to claim and a difficult status to defend if the IRS audits the return. The IRS often initially denies this status. But we are often able to show that a client is eligible. Please refer clients who have received notices of audits from the IRS that deny their right to claim Head of Household filing status.

Please refer any clients who have a letter or notice from the IRS. A client may not know that they are being “audited.” IRS notices usually don’t use this term. Instead, the IRS notice or letter will say that the IRS has frozen the refund, is proposing changes, has examined the return, or other similar language.

Issues with the EIC and Head of Household arise regularly for our clients because information on eligibility to claim a child for these purposes is confusing and complicated. Many professional tax preparers do not understand the law and give clients incorrect advice. Please refer clients who have received an IRS notice or letter about their EIC or other tax issue to VLA’s Low Income Taxpayer Project at (800) 889-2047 or in Washington, Lamoille or Orange Counties to the Central Vermont Community Action Council’s Low Income Taxpayer Project at (800) 639-1053.

## **Online Help**

**New and Improved vtlawhelp.org-** Visit [www.vtlawhelp.org](http://www.vtlawhelp.org) and check out our new Search and Related Topics features. Search results now include places to get legal and other help as well as legal information. We’ve also added related topics links and other features to enhance usability.

Vtlawhelp provides information about Vermont law in an easy-to-read format. We also provide legal forms and instructions, information about where to get free legal help, and links to social services. Check us out on the web at [www.vtlawhelp.org](http://www.vtlawhelp.org). Vtlawhelp is a joint project of Legal Services Law Line of Vermont and Vermont Legal Aid.

## **New Content Coming Soon to vtlawhelp**

\_\_\_\_\_ Health Insurance and Bills  
\_\_\_\_\_ Medicare Part D  
\_\_\_\_\_ Subsidized Housing

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## Vermont Legal Aid, Inc.

264 North Winooski Avenue, P.O. Box 1367, Burlington VT 05402  
(802) 863-5620 (Voice and TTY) (802) 863-7152 (FAX)  
(800) 747-5022

### Projects

Poverty Law Project  
Senior Citizens Law Project

Disability Law Project  
Mental Health Law Project  
Medicare Advocacy Project

Health Care Ombudsman  
Long Term Care Ombudsman

### Offices

Burlington (800) 747-5022  
Montpelier (800) 789-4195

Rutland (800) 769-7459  
St Johnsbury (800) 769-6728

Springfield (800) 769-9164  
Waterbury (800) 265-0660

## Legal Services Law Line of Vermont, Inc.

30 Elmwood Avenue, Burlington VT 05401  
(800) 639-8857

(For free legal advice from Law Line, call Vermont Legal Aid at (800) 747-5022 for a referral.)

[www.vtlawhelp.org](http://www.vtlawhelp.org)