

STATE OF VERMONT

SUPERIOR COURT
CHITTENDEN UNIT

CIVIL DIVISION
CASE NO.

GROUNDWORKS COLLABORATIVE, INC.;)
GOOD SAMARITAN HAVEN; END)
HOMELESSNESS VERMONT AND ITS FISCAL)
AGENT, PEACE AND JUSTICE CENTER;)
ANOTHER WAY, INC.;)
Plaintiffs,)

v.)

VERMONT AGENCY OF HUMAN SERVICES;)
VERMONT DEPARTMENT FOR CHILDREN)
AND FAMILIES;)
JENNEY SAMUELSON, Secretary of the Agency)
of Human Services;)
CHRIS WINTERS, Commissioner of the)
Department for Children and Families;)
Defendants.)

COMPLAINT

1. This is a civil action, pursuant to Rule 75 of the Rules of Civil Procedure, asking this Court to Order the Agency of Human Services (AHS) to comply with the requirements of the Budget Adjustment Act (BAA) regarding General Assistance Temporary Emergency Housing¹.
2. On March 15, 2024, AHS through the Department of Children and Families (DCF) is ending its Adverse Weather Conditions Policy (AWC)², that provided shelter in motels during the relevant

¹ The General Assistance program is administered by the Department of Children and Families. 33 V.S.A. §104(b)(1)(E). GA “provide[s] the necessities of life,” including shelter for those in need and found eligible. 33 V.S.A. §2101(4). The Commissioner of DCF is authorized to establish eligibility standards and regulations for the provision of assistance 33 V.S.A. §2103(b). §2104(b).

² The AWC stated that eligibility for temporary housing would be relaxed beginning November 15, 2023 through December 15, 2023 and March 15, 2024 through April 15, 2024. This relaxation of the rules was weather dependent. Eligibility for temporary housing from December 15, 2023 through March 15, 2024 was also relaxed independent of weather conditions. Generally, people who are experiencing homelessness and are without financial resources are eligible for shelter during AWC. All other rules about eligibility and time limits for shelter do not apply during this time.

period for approximately 1600 households that were experiencing homelessness. People housed under this program include families with children, people with disabilities, elderly people, and people who are low-income and unable to find housing in Vermont. Vermont has the second lowest vacancy rate³ in the country and the second highest rate of homelessness⁴ in the country.

3. Once non-weather dependent AWC ends, people experiencing homelessness will only have shelter in motels on a night-by-night basis, depending on weather, unless DCF determines that they are otherwise eligible for temporary housing pursuant to DCF's rules. It is anticipated that that there will not be weather-dependent AWC for the coming week based on the weather forecast.
4. The Department of Children and Families estimated that 458 households, or approximately 497 individuals, could potentially lose their motel vouchers on Friday March 15, 2024⁵.
5. The Legislature sought to avoid this humanitarian crisis when it passed the Budget Adjustment Act (BAA) H. 839⁶ on March 1, 2024. Section 89 of the BAA extended the Temporary Emergency Housing Assistance Program until June 30, 2024 for people who qualify as vulnerable or who have experienced a catastrophic life event (categorical eligibility) as defined by the DCF rules⁷. It also expanded eligibility to those who have a disability, even if they are not receiving Social Security or disability benefits, using DCF's Variance Request Form as a means of documenting a qualifying disability or health condition.
6. Although the BAA passed on March 1st, DCF failed to thoroughly assess everyone who is participating in the Temporary Emergency Housing Assistance Program under AWC to determine

³ <https://www.housingdata.org/node/54703>

⁴ <https://www.vhfa.org/news/blog/rate-homelessness-vermont-remains-2nd-highest-us-2023>

⁵ Testimony of Commissioner Chris Winters to House Human Services Committee March 13, 2024.

⁶ <https://legislature.vermont.gov/Documents/2024/Docs/BILLS/H-0839/H-0839%20As%20Passed%20by%20Both%20House%20and%20Senate%20Unofficial.pdf>

⁷ See the following starting at 2600 <https://dcf.vermont.gov/esd/laws-rules/current>

whether they qualify for extended housing before the end of non-weather dependent AWC on March 15, 2024. They also gave no notice to participants of the expanded eligibility for disability or health condition and the opportunity to demonstrate that using the Disability Variance Form cited in the BAA.

7. On Tuesday, March 12, 2024, the Department for Children and Families sent a memo to community partners including most Plaintiffs, telling GA emergency housing participants that the AWC period was ending on Friday, March 15, 2024, and that they should be prepared to leave. It did not say anything about other ways that they might show eligibility. Exhibit 1.
8. On Wednesday March 13, 2024, DCF sent a memo to community partners including most Plaintiffs, asking for assistance with reaching Vermonters in GA emergency housing motels to inform them about the new disability and health condition criteria and provide them with the Disability Variance Form. This was two days before AWC was scheduled to end. Exhibit 2.
9. Since receiving the memos, Plaintiffs have been trying to reach everyone in GA emergency housing in their area, to inform them about the change and ensure that they have the variance form.
10. Even though Plaintiffs have devoted substantial time to reaching out to participants, there is not enough time for everyone to be screened for categorical eligibility, nor time to document disabilities for purposes of a variance.
11. Commissioner Winters acknowledged in his testimony before House Human Services on Wednesday, March 13, 2024 that his staff had not had sufficient time to ensure that everyone in emergency housing had notice and opportunity to show that they were in fact categorically eligible or to submit a Disability Variance Form before the end of AWC on March 15, 2024.

12. DCF's Disability Variance Form requires documentation of a disability from a health care provider. Program participants have not been timely notified⁸ of this requirement and will not have time to obtain documentation. Therefore, it is likely that many participants with disabilities who are not receiving SSI or SSDI will lose their motel vouchers.
13. DCF has indicated that it will open four mass homeless shelters within the next few days that will provide temporary overnight shelter for up to seven days for people who lose their motel vouchers. The shelters will be open overnight only.⁹
14. At a Vermont Disabilities Aging and Independent Living Board meeting on March 13, 2024, DCF indicated that the mass shelters will only be open from 7pm to 7am. There are no plans for warming shelters during the day and no meals will be provided.
15. Program participants who were miscategorized, people who have not yet been evaluated to determine if they are categorically eligible, and people with disabilities who are awaiting documentation of a disability will be unsheltered during the day and may even lose overnight shelter after seven days if they do not get screened for categorical eligibility or receive their variance documentation in time.
16. The BAA requires the Commissioner for Children and Families to "ensure that temporary emergency housing is provided through June 30, 2024" to households that meet the criteria set out in the BAA, subject only to the availability of such housing.
17. DCF has failed to ensure that temporary emergency housing is provided through June 30, 2024 for all those who are eligible. It failed to evaluate program participants to determine whether they met categorical eligibility and failed to notify people that they may need to document their

⁸ Participants may have received a flyer dated March 13, 2024 about the end of AWC and stating that they will have to move if they do not meet eligibility criteria.

⁹ Testimony of Commissioner Chris Winters to House Human Services Committee March 13, 2024.

disability for a variance prior to the end of AWC on March 15, 2024. As a result, hundreds of households face unsheltered homelessness.

18. Rules governing all programs of the Economic Services Division (“ESD”) of DCF, including GA, provide that prompt action must be taken on applications for benefits and applicants must be notified in writing of the Department’s decision on the application. *See All Programs Rules 2000(G)(2)*.
19. DCF failed to promptly evaluate program participants to determine whether they met the BAA criteria for continued temporary housing and failed to provide participants with notice in writing about their decision prior to the end of AWC on March 15, 2024.
20. Program participants are confused and terrified about becoming suddenly unsheltered.
21. Plaintiffs are swamped with calls from program participants who have not been notified by DCF about their eligibility and may be facing sudden unsheltered homelessness.
22. The AWC policy is solely a creation of DCF. It is not mandated by rule or statute. DCF has control over whether and when the non-weather dependent AWC ends. Therefore, DCF could extend the AWC to avoid the looming crisis.
23. Counsel for Plaintiffs have urged DCF to continue the non-weather dependent AWC until April 15 to give DCF staff time to evaluate all program participants to determine whether they meet categorical eligibility and give participants time to document their disabilities.
24. Extension of the AWC would allow DCF time to comply with the BAA mandate to “ensure that temporary emergency housing is provided through June 30, 2024” to households that meet the criteria in the BAA.
25. To date, DCF has failed to extend the non-weather dependent AWC.

26. At a House Human Services Committee Hearing on March 13, 2024, Chair Theresa Wood stated that DCF's failures were "unacceptable". She ordered that DCF provide an update on its progress later that day and by noon and close of business on March 14, 2024.
27. Groundworks Collaborative, Inc. is a non-profit corporation with its principal place of business in Brattleboro, Vermont
28. Groundworks works with people and systems creating solutions to end hunger and homelessness for all people in the region. Groundworks operates a drop-in center and two shelters to provide a safe place where neighbors experiencing homelessness can come in out of the weather and access services such as email, telephones, laundry, showers, a mailing address, coffee and snacks, and a kitchen to prepare a meal. Groundworks also operates the region's largest and busiest food shelf program and actively engage agencies and officials to help achieve systemic change.
29. Since passage of the BAA, Groundworks has had to divert resources away from its current activities due to the Commissioner's position that the Department will not ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program.
30. The Commissioner's position that the Department will not ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program has had a material impact on the core activities of Groundworks.
31. Another Way, Inc is a non-profit corporation with its principal place of business in Montpelier, Vermont.

32. The primary mission of Another Way is to provide voluntary peer-run alternatives for people who avoid conventional mental health services. Another Way operates a center offering peer support, community, information, resources and advocacy for psychiatric survivors and people currently or formerly at serious risk of psychiatric intervention.
33. Since passage of the BAA, Another Way has had to divert resources away from its current activities due to the Commissioner's taking the position that the Department will not ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program.
34. The Commissioner's position that the Department will not ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program has had a material impact on the core activities of Another Way.
35. End Homelessness Vermont is an organization that operates under the Peace and Justice Center's 501 (c)(3) status. The Peace and Justice Center is the fiscal agent for End Homelessness Vermont. The Peace and Justice Center, Inc. has a principal place of business in Burlington, Vermont.
36. End Homelessness Vermont works to assist people who are experiencing unsheltered and sheltered homelessness in Vermont with resources, direct aid and more, with a specialty in working with people with complex medical needs and disabilities. End Homelessness Vermont also provides support through the initial voucher and renewal process when people are having a problem getting renewed or are wrongfully denied.
37. Since passage of the BAA, End Homelessness Vermont has had to divert resources away from its current activities due to the Commissioner's taking the position that the Department will not

ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program.

38. The Commissioner's position that the Department will not ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program has had a material impact on the core activities of End Homelessness Vermont.
39. The Good Samaritan Haven is a non-profit corporation with its principal place of business in Barre, Vermont.
40. The primary mission of Good Samaritan Haven is to provide emergency shelter and support services, and offer stability, safety, and hope for people experiencing homelessness.
41. Since passage of the BAA, Good Samaritan Haven has had to divert resources away from its current activities due to the Commissioner's taking the position that the Department will not ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program.
42. The Commissioner's position that the Department will not ensure that, to the extent emergency housing is available, temporary emergency housing is provided through June 30, 2024 to households eligible for the General Assistance Emergency Housing Program has had a material impact on the core activities of Good Samaritan Haven.

CLAIM FOR RELIEF

Count 1

REQUEST FOR RELIEF PURSUANT TO VERMONT RULE OF CIVIL PROCEDURE 75

43. The BAA, H. 839, states that Defendants must “ensure that temporary emergency housing is provided through June 30, 2024” to households that meet the criteria set out in the BAA, subject only to the availability of such housing.
44. Nonetheless, Defendants failed to ensure that households that meet the criteria will continue to receive temporary emergency housing through June 30, 2024. Instead, many face unsheltered homelessness on March 15, 2024, Defendant’s manufactured deadline for the non-weather dependent AWC.
45. Defendants’ failure to ensure that households that meet the criteria will continue to receive temporary emergency housing through June 30, 2024, is an arbitrary abuse of power that amounts to failure to comply with the BAA.
46. Defendants’ failure to ensure that households that meet the criteria continue to receive temporary emergency housing through June 30, 2024, has had a material impact on the core activities of Plaintiffs because they serve people experiencing homelessness.
47. Defendants failed to provide participants notice of their decision about whether they met the criteria of the BAA or could qualify for a disability variance prior to losing their temporary housing.

48. Failure to provide individualized notice about admission or denial of continued temporary housing violated the rules of the program and is an arbitrary abuse of power.
49. Failure to provide individualized notice about admission or denial of temporary housing materially impacted the core activities of Plaintiffs because they serve people experiencing homelessness.
50. There is no legal mechanism available for Plaintiffs to seek review of Defendants' failure to evaluate program participants for continued participation in the program prior to the loss of their motel vouchers on March 15, 2024.
51. There is no legal mechanism for Plaintiffs to seek review of Defendants' failure to provide individualized notice about continued eligibility for the program.
52. Plaintiffs seek relief in the nature of mandamus, requiring Defendants to comply with the BAA by extending temporary emergency housing for all participants until Defendants can ensure that eligible households will remain housed and providing individualized written notice to participants about eligibility.

WHEREFORE, Plaintiffs respectfully ask this Court to:

- a. Issue a declaratory judgment that Defendants' failure to ensure that eligible households remain housed violated plaintiffs' rights under the laws of Vermont;
- b. Issue a declaratory judgment that Defendants' failure to provide participants with individualized notice about eligibility violated plaintiffs' rights under the laws of Vermont;

- c. Issue injunctive relief ordering defendants to continue to give people the benefit of the Emergency Housing program, until Defendants are able to ensure that eligible households will remain housed;
- d. Grant such other relief as this Court deems just.

Dated in Montpelier, Vermont this 15th day of March 2024.

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