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POVERTY LAW PROJECT

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October 21, 2019

VERMONT POVERTY LAW FELLOWSHIP

Mental Health and Housing

FOURTH QUARTER REPORT

July 15, 2019 – October 21, 2019

1. Introduction

Jill's fellowship focuses on housing-related problems experienced by low-income clients with mental health concerns, ranging from eviction and access to subsidized housing, to the lack of supportive services that enable people to remain successfully housed, to reentry challenges related to housing.

Jill began her fellowship by speaking with a wide range of service providers involved at the intersection of mental health and housing, and hearing their concerns and recommendations for change. She also began representing individuals with a variety of legal problems which might become the focus of the fellowship, narrowing her practice over time to a few key areas, including access to community mental health services, subsidized and supportive housing, and long-term residential care.

This quarter, Jill's practice centered on negotiating reasonable accommodations, and litigating unlawfully denied requests, to preserve or restore rental assistance and prevent evictions. Jill prioritized representing clients with psychiatric disabilities who are engaging with community mental health services in an effort to learn more about the impact those services are having on stabilizing clients' tenancies.

During the third quarter, approximately 70% of Jill's time was spent on individual client casework; approximately 20% of her time was spent on legal and policy research and attending trainings; and approximately 10% of her time was spent communicating and meeting with stakeholders and partner agencies.

2. Community Consultations, Trainings, and Events

This quarter, Jill has continued meeting or consulting with stakeholders at:

- Howard Center (Chittenden)
- Washington County Mental Health Services ("WCMHS;" Washington)
- Northwestern Counseling and Support Services ("NCSS;" Franklin)
- Northeast Kingdom Human Services ("NKHS;" Caledonia, Essex, Orleans)

- Pathways Vermont (Statewide)
- Burlington Housing Authority Housing Retention Team (“BHA HRT;” Chittenden)
- Chittenden County Housing Alliance (“CCHA”)
- Champlain Valley Office of Economic Opportunity (“CVOEO”)
- Disability Rights VT (“DRVT”)
- Department of Disabilities, Aging, and Independent Living (“DAIL”)
- Human Rights Commission (“HRC”)

Jill has participated in events including:

- Co-delivered training to the NCSS Community Rehabilitation and Treatment (“CRT”) case manager team on supporting clients with psychiatric disabilities to be successful in their housing.
- Presented a Fellowship case snapshot at the VBA annual meeting.
- Published an article about my first year in the Fellowship in the Vermont Bar Journal.
- Presented as a subject matter expert on mental health and housing issues at SPEAK, a women’s public speaking program at Chittenden Regional Correctional Facility.
- Attended the Department of Mental Health listening tour in Burlington.

Jill has attended trainings including:

- VLA new attorney summer CLE series on various areas of civil practice.
- Substance Abuse and Mental Health Services Administration (“SAMHSA”) two day conference: The Way Home: A Virtual Summit on Homelessness, Serious Mental Illness, and Substance Use Disorders.

3. Legal Assistance & Representation

Statistics

During the third quarter, Jill worked as counsel or co-counsel for 12 clients, providing advice, advocacy, or representation in 13 cases, of which 4 were opened this quarter.

Issue	No. of cases
Eviction – Subsidized Housing	4
Fair Housing – Misc. Reasonable Accommodations	2
Benefits/Denial - Housing Subsidy	3
Benefits/Denial – Residential Care Home Discharge	2
Clinics – Rent Escrow	2
Total	13

County	No. of cases
ADDISON	0
BENNINGTON	0
CALEDONIA	0
CHITTENDEN	3
ESSEX	0
FRANKLIN	5
GRAND ISLE	0
LAMOILLE	0
ORANGE	0
ORLEANS	1
RUTLAND	0
WASHINGTON	1
WINDHAM	1
WINDSOR	2
Total	13

Case Snapshot

Jill is now one year into her mental health/housing fellowship, and the reason for her project focus is more apparent than ever. One client, identified as Lynn, articulated it best on a late night call, through tears: “With so much going on, problems with Medicaid, Social Security, the

Unemployment Center – with my entire Disability check going straight to my \$800 rent at the Champlain Housing Trust – I just can’t live without getting my Voucher back. Something’s gotta give.”

Lynn was engaged with community mental health services when a combination of anxiety, depression, substance use disorder, and domestic violence cost her a subsidized tenancy. She had been receiving about one hour of mental health case management per week, and was too anxious at the time to call Legal Aid for housing help.

While homeless, she started over with a new mental health agency in another county, again with about one hour of case management per week. The process of getting re-housed was slow. Over one year later, mostly through her own coordination of care and relationship-building, she was in recovery, was finally re-housed, and was ready to call VLA for help.

Jill submitted a reasonable accommodation request to reinstate her rental assistance. What made this request “reasonable” under the ADA and fair housing laws was that she’s participating in treatment and supports that make her past program violations unlikely to reoccur. We substantiated this through letters from her psychiatrist, PCP, Turning Point center director, employer, and her landlord, an affordable housing provider.

Last week, the Public Housing Authority granted the request – a big and unusual victory – but included a caveat that Lynn shows proof of a good faith payment toward the judgment she still owes her old landlord. Lynn was prepared to take this step, until, that same week, she found out she was being let go of her retail job due to cutbacks. For this population, it’s always something.

Jill’s and Lynn’s next steps will be to try and negotiate a payment plan offer with the landlord that will satisfy the rental assistance provider. With all of the hard work Lynn has put in to get to this point of recovery, she is hopeful she can overcome this very last hurdle in the way of stable housing.

4. Conclusions

Takeaways from this quarter

Jill observes wide gaps between clients’ urgent housing and mental health care needs and the available legal solutions.

Her housed clients often experience difficult relationships with landlords and neighbors, as they struggle to keep up with unaffordable rent, maintain their apartments, and address disability-related behaviors in old, dense, and sometimes segregated settings. Often, clients are not able to invoke their rights to reasonable accommodations, which could resolve issues with their tenancies, until they are already facing adverse action. Clients with subsidized housing often forgo colorable counterclaims to stop their subsidy termination or eviction in favor of move-out agreements so that they can maintain rental assistance and neutral rental histories. However, Vermont is small and with every move, clients’ housing search becomes more difficult.

Housing search is even more impossible for those newly experiencing homelessness. Compromised health makes housing search, including emergency housing search, all the more difficult. This, in turn, increases clients' risk of hospitalization or incarceration—the most financially and socially expensive (and harmful) shelter/care settings—costs borne by individuals and communities as well as the state.

Some shelter and community action organizations provide housing navigation services, as do community mental health agency case managers. However, one-to-one mental health case management is often only available to those who have already experienced significant periods of institutional care. This means that many low-income Vermonters experiencing mental illness have not yet been institutionalized 'enough' or are not yet homeless 'enough' or have not decompensated 'enough' to have become eligible for supports that they need to become and remain stably housed. At the same time, clients who have access to community mental health services are working with case managers who juggle heavy caseloads, tight schedules, low wages, and high turnover.

The most common reasonable accommodation Jill requests for clients is a “second chance,” or another opportunity, to increase community mental health and housing supports that are reasonably likely to remediate tenancy issues. If the client has access to case management, Jill closely collaborates with the client and her support staff to augment the client's care plan. If the client does not have access to case management, Jill investigates the client's health records for arguments that they meet eligibility criteria.

In either scenario, Jill is finding that the available avenues do not do enough to help clients with serious psychiatric disabilities reach their identified goals of being healthy and housed. When a client presents with a goal of getting a “second chance” to stay housed, the bulk of the work to make that accommodation legally reasonable rests with the client and her case manager. Service enrollment, relationship building, motivational interviewing, case planning, and treatment implementation is nuanced and time-consuming work, and it takes longer to meaningfully remediate problematic disability-related behaviors than landlord/tenant, fair housing, and anti-discrimination laws can allow.

Anticipated work for next quarter

Next quarter, Jill plans to provide limited representation or advice for clients with mental health disabilities who need reasonable accommodations to prevent their eviction or to access rental assistance—particularly clients in project-based housing and the Shelter Plus Care and Subsidy Plus Care programs. She plans to reach out to the designated mental health agencies, DRVVT, and Legal Services Vermont to continue building her intake.

Jill also plans to continue representing clients facing mental disability discrimination in the Long Term Care system, and to continue supporting VLA's systemic work to improve access to justice for this population.

Jill plans to reserve significant time to complete research on the legal and financial structures underpinning Vermont's community mental health system. She plans to identify how the

Department of Mental Health (“DMH”) is empowered and funded to provide community mental health care to Vermonters, and how the DMH empowers and funds designated and specialized service agencies to actually deliver services. She plans to contrast this landscape with that of the developmental disability service system. Her goal is to establish a clear picture of the legislative, regulatory, and contractual framework for Community Rehabilitation and Treatment (“CRT”), the highest available form of community mental health services in Vermont, which might become the focus of her second year.

Jill also plans to continue reaching out to community mental health and case management agencies to offer training on supporting tenants with disabilities to be successful in their tenancies. Jill will co-deliver the training at the Guen Gifford Advocates Training, at which she will also lead the plenary session and a lunchtime roundtable discussion. She hopes this will help build capacity as well as garner referrals.