



COALITION ON HUMAN NEEDS

March 8, 2006

Re: Interim Final Regulations Related to TANF Work Activities

Secretary Mike Leavitt
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

cc. Assistant Secretary for Children and Families Wade Horn, Ph.D.

Dear Secretary Leavitt:

As the Department of Health and Human Services prepares interim final regulations required by the legislation reauthorizing Temporary Assistance for Needy Families (TANF), the undersigned organizations strongly urge you to draft regulations that encourage states to provide effective supports that enable parents to find and keep jobs, while discouraging states from pushing needy families off the rolls.

The choices HHS makes in designing the new regulations are likely to have serious consequences for low-income families with children. We understand that it is hoped that the new requirements will push states to do more to provide employment services to help poor families get jobs. But there is a risk that rigid rules could encourage states to go in the opposite direction, restricting assistance and services as a strategy for meeting the requirements. Thus, as you write regulations, it is essential to be mindful of the goal of ensuring that the program reaches and helps families in need.

After TANF was first enacted in 1996, an unintended consequence was the severe drop-off in participation in the Food Stamp Program by eligible households. According to the U.S. Department of Agriculture, the proportion of eligible people receiving food stamps dropped a startling 5 percentage points in TANF's first year. Congress made changes in law and USDA took steps to reach out to those families and to make it easier for them to apply. USDA deserves credit for its efforts to ensure that needy families had access to the program. But unnecessary hardships were experienced because needy families did without assistance. You have the opportunity to learn from this experience and avoid making changes in TANF that will have the effect of driving more families in need away from assistance.

Many very poor families are going unserved in TANF. HHS data show that TANF income assistance programs serve *fewer than half* of families who are eligible for that assistance under (very low) state eligibility criteria. TANF served fewer children in 2004 than in 2000 despite the fact that the number of children living below half the poverty line rose by nearly three-quarters of a million over that same time period. In our view, the new TANF law provides

states with new incentives to deny aid to families that need both income assistance and employment services to help them secure employment. Once again, the law grants states credit toward its work participation requirements when caseloads fall, regardless of whether those declines are the result of falling need or restrictive policies that restrict access to assistance. HHS needs to take care that its regulations do not exacerbate these negative incentives and should ensure that the regulations and other departmental actions send a strong signal to states that they should strive to meet new work requirements by providing meaningful employment-related services to poor families. HHS should remind states of the current law's protections requiring that states do not impose sanctions when parents are unable to participate due to a lack of child care. Simply turning more poor families away from the TANF program will not help them to progress to economic security.

More specifically, we urge that the regulations:

Allow States to Provide a Broad Range of Work Activities: The legislation authorizes HHS to define which activities can count toward the federally listed work activities. It is important that the regulations provide broad definitions of allowable activities, to enable states to use their best judgments about what provides the most effective preparation for work. Research indicates that the most successful programs offer a mix of activities, such as education, training, English language instruction, job search, and work. The regulations should allow states to get credit for a broad array of activities and should not micromanage state programs by narrowly construing the statutory terms. Further, the law does allow credit for vocational and certain other educational activities – regulations should not make it harder for states to make use of these activities, since more education is linked to higher wages.

Regulations Should Ensure that TANF Programs Can Effectively Serve Individuals With Disabilities: Many TANF families include parents, children, or other family members with disabilities. The regulations must give states broader flexibility in the set of activities that count toward the participation rate for individuals with disabilities. Without this broader flexibility, states are in a bind – place parents in activities that are appropriate based on their families' circumstances and risk not meeting the federal participation requirements, or require parents to participate in activities that are inappropriate based on their circumstances and, at best, waste time and resources and, at worst, watch families fail and get sanctioned off the program. States have important responsibilities under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act to provide real access to meaningful employment services and to ensure that requirements are reasonable in light of a parent or family member's disability. The regulations need to recognize these important responsibilities and give states credit when an individual with a disability participates in employment programs that reflect their needs and capabilities. Further, the regulations should not prevent states from counting hours of care of a family member with a disability as a means of community service, bearing in mind the high cost to the community if appropriate care for individuals with disabilities is not provided or if all of that care must be purchased.

Prevent Paperwork Roadblocks to Assistance: The legislation gives the Department regulatory authority over how states should verify hours of work and how to determine who is a work-eligible individual. It is extremely important that the regulations avoid excessive

verification requirements and rigid reporting rules. Such requirements can be a backdoor means of denying assistance to needy families. As in the Food Stamp example, we know that additional documentation requests become too burdensome for poor families. Those who are most deeply poor, or struggling with disabilities, have the hardest time getting to welfare offices to meet paperwork requirements. In addition, requirements that create extra work for employers of TANF participants may mean they are less likely to hire parents trying to leave welfare, which would be contrary to TANF's intent. HHS can seek a uniform approach among states without dictating burdensome verification rules. Finally, significant new paperwork requirements can divert limited resources of human service agencies and welfare-to-work programs away from the important job of helping parents find jobs toward fulfilling federal bureaucratic rules.

Do Not Reward Restrictive Policies: We are concerned that the precipitously increased work participation rate in the new law gives states new incentives to avoid penalties by reducing the caseload. We urge you to make it very plain that the law still prohibits states from receiving the Caseload Reduction Credit by making restrictive eligibility changes in their TANF program, and that you will not give credit for caseload reductions achieved in this way. It is worth remembering that members of Congress and many analysts have characterized the caseload reduction credit as a "loophole" that allows states to reduce their obligation to engage TANF participants in meaningful activities. HHS should minimize the credit's use as a strategy by states to avoid activities that help prepare parents for work.

Ensure that States are Able to Provide Needed Services for Victims of Domestic Violence: Victims of domestic violence are also disproportionately present in the TANF caseload. TANF serves as a protection offered by the community to enable victims to escape a violent situation. The original TANF legislation recognized this by including a Family Violence Option to encourage states to provide protection and services. States should be able to provide counseling and other services for victims of domestic violence, with those activities counted towards the work requirements. Sometimes the most important first steps on the path to employment are for a family to cope with its safety issues, securing safe housing, coping with the mental and physical health issues that domestic violence can bring, and taking necessary legal steps to ensure the family's safety. States should be encouraged to help families through these steps when they are needed, as a parent asked to participate in 30 hours of work programs who does not have a safe place for her children or herself to sleep at night is unlikely to succeed.

Do Not Encourage States to Adopt Full-Family Sanctions: Regulations should not be written in a way that encourages states to adopt full-family sanctions. When a parent is sanctioned, there are frequently reasons of disability or other barriers that have prevented participation in the first place. Rebecca Blank and Robert Schoeni concluded in 2005 that data including the early 2000s showed "...little evidence that any group of states does markedly better or worse than any other, when grouped by penalty work incentives." On the other hand, there is evidence that sanctions have been disproportionately imposed on minorities and that families experiencing sanctions are more likely to suffer from multiple serious health problems and other work barriers. Research has shown that the existence of a sanction predicts hardships such as utility shut-offs. (A. Kalil, K.S. Seefeldt, and H. Wang, 2003. "Sanctions and Material Hardship Under TANF." *Social Services Review* 76(4):642-662.)

Allow States to Transition to the New Rules in a Reasonable Manner: The legislation requires HHS to publish its regulations by June 30. States are directed to establish procedures for implementing the new rules by September 30, and to begin implementing these procedures starting October 1, 2006. In some states, the legislature will not be in session during the period in which the procedures must be established, although in some states, legislative changes may be necessary. HHS should exercise its regulatory authority to slow the timetable for implementation of regulatory changes and for the institution of penalties when states fail to meet sharply increased effective participation rates in a matter of only a few months. States need time to change their laws, program rules, contracts, and computer systems if they are going to do so in a thoughtful, effective manner. No one is served by precipitous policy-making, and we believe undue haste will result in states adopting measures designed to reduce the caseload, rather than undertaking the hard work of helping parents secure employment that can support their families.

We hope that the regulations developed by the Department of Health and Human Services will reduce the incentives to deny aid and will instead encourage states to provide the services and protections that families need.

Sincerely,

9to5, National Association of Working Women
 AFL-CIO
 American Association of People with Disabilities
 American Federation of State, County and
 Municipal Employees
 American Friends Service Committee
 Arc of the United States
 Arkansas Hunger Coalition
 Association for Children of New Jersey
 Blount County Children's Home, Tennessee
 California Association of Food Banks
 California Partnership
 Center for Civil Justice, Michigan
 Center for Law and Social Policy
 Center for Public Policy Priorities, Texas
 CFED
 Child Welfare League of America
 Children's Defense Fund
 Citizen Action/Illinois
 Coalition on Human Needs
 Community Action Project of Tulsa County,
 Oklahoma
 Connecticut Citizen Action Group
 Division of Early Childhood, Council for
 Exceptional Children
 Emergency Food & Shelter Program, NYC
 Federation of Protestant Welfare Agencies
 First Church of the Brethren-Chicago
 Florida Fiscal Policy Project
 Fremont Public Association, Washington
 Generations United

Heartland Alliance for Human Needs & Human
 Rights
 Housing Opportunity Commission, Maryland
 Holy Family Home and Shelter, Inc.
 Human Services Council of New York City
 Hunger Action Network of NYS
 IDEA Infant Toddlers Coordinators Association
 Indiana Coalition on Housing and Homeless
 Issues
 Iowa Citizen Action Network
 Just Harvest, Pennsylvania
 Kentucky Task Force on Hunger
 Legal Action Center
 Legal Assistance Resource Center of
 Connecticut
 Legal Momentum
 Legal Services of Southern Piedmont, North
 Carolina
 Maine Children's Alliance
 Maine Equal Justice Partners
 MANNA, Tennessee
 Michigan League for Human Services
 National Association of Social Workers - Rhode
 Island Chapter
 National Coalition for the Homeless
 National Council of Churches USA
 National Partnership for Women & Families
 National Puerto Rican Coalition, Inc.
 National WIC Association
 National Women's Law Center

NETWORK, A National Catholic Social Justice
 Lobby
 New Mexico Center on Law and Poverty
 Norfolk Department of Human Services, Virginia
 New York State Coalition Against Domestic
 Violence
 Oregon Center for Public Policy
 Oregon Law Center
 Project IRENE, Illinois
 Public Justice Center, Maryland
 RESULTS
 Sargent Shriver National Center on Poverty Law
 South Dakota Peace & Justice Center
 Service Employees International Union (SEIU)
 Society of St. Vincent de Paul
 Solutions to Issues of Concern to Knoxvillians,
 Tennessee
 South Carolina Fair Share
 South Dakota Voices for Children
 Southern Good Faith Fund, Arkansas
 St Mary, New Jersey
 Tennessee Health Care Campaign
 Tennessee Justice Center

The Exchange Club Family Center
 Partnership for the Homeless, New York
 Tennessee Conference on Social Welfare
 United Auto Workers
 United Way of America
 University of Hawaii-Bridge to Hope
 Vermont Legal Aid, Inc.
 Virginia Poverty Law Center
 Voices for America's Children
 Voices for Utah Children
 Washington Legal Clinic for the Homeless
 Welfare Law Center
 Welfare Reform Network
 Welfare Rights Initiative
 Welfare Rights Organizing Coalition
 Western Center on Law and Poverty
 Wider Opportunities for Women
 Willimantic Housing Authority, Connecticut
 Women Work! The National Network for
 Women's Employment
 Women's City Club of New York
 The Workforce Alliance
 YWCA USA