

**COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION**

**ON**

**DEPARTMENT OF PUBLIC WELFARE REGULATION NO. 14-440**

**GENERAL ELIGIBILITY; RESIDENCE; EMERGENCY ASSISTANCE**

**JULY 16, 1998**

We have reviewed this proposed regulation from the Department of Public Welfare (DPW) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to clarity and reasonableness. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

**1. Rescission of Chapter 289. Emergency Assistance. - Reasonableness, Fiscal Impact, and Clarity**

With the rescission of Chapter 289, the DPW will eliminate the existing Emergency Assistance Program. The DPW plans to transfer the funding for emergency shelter assistance to the Homeless Assistance Program (HAP) under the Office of Social Programs. It is appropriate to consolidate these programs for both policy reasons and because of statutory changes.

However, because there are no regulations governing the HAP, there will be no rules other than those contained in a guidance document for determining eligibility or to ensure that the program is being consistently applied. Furthermore, without HAP regulations, there is no formal opportunity for the public and the General Assembly to comment.

In order to resolve this dilemma, we urge the DPW to promulgate basic procedural requirements for the HAP. These regulations would prescribe the minimum requirements that the counties must meet, while still permitting the counties the flexibility to tailor their programs to respond to individual county needs. These basic requirements would include:

1. Client Eligibility – to clarify who qualifies for aid;
2. County Responsibilities – to specify compliance and reporting requirements and oversight of the service providers;
3. Provider Responsibilities – to ensure that clients are helped in a timely manner;
4. Funding Allocation Formulas – to provide the General Assembly with fiscal oversight;
5. Program Audits – to establish the frequency and the requirements for DPW's reviews;
6. Client Appeal Process – to provide procedural protections for the client's right to appeal.

## **2. Section 141.61. Policy. - Clarity**

Chapter 141 discusses the general provisions relating to AFDC (Aid to Families with Dependent Children). The DPW is replacing three references to AFDC in Section 141.61(a)(2) with references to TANF (Temporary Assistance for Needy Families). The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 replaced the AFDC program with the TANF program. However, the DPW has not yet promulgated a rulemaking that implements and defines TANF.

Because an explanation of TANF is not included in the provisions, the proposed amendment lacks clarity. In addition, the remainder of Chapter 141, which is not part of this amendment, contains numerous references to AFDC, which may confuse readers. We understand the DPW is promulgating comprehensive TANF regulations. We urge the DPW to coordinate the resubmission of this regulation with the forthcoming comprehensive rulemaking pertaining to TANF. References to AFDC then would be replaced with references to TANF throughout the DPW's regulations.