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IRRC

From: Nia Wilson
Sent: Friday, December 07, 2001 5:51 PM
To: ezogby@dpw.state.pa.us
Cc: IRRC
Subject: Comments on DPW's Proposed TANF Regulations



DPW TANF Reg Key
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Attached are comments submitted by Rep. Frank L. Oliver,
Democratic
Chairman of the House Health and Human Services Committee, on the
Department of Public Welfare's Proposed TANF Regulation, 14-472.

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HEALTH COMMISSION

**Comments by Rep. Frank L. Oliver, Democratic Chairman,
House Health & Human Services Committee
On The Key Oversight Issues Raised By
DPW TANF Proposed Regulation 14-472**

- In implementing provisions of the state and federal welfare reform laws, DPW has two responsibilities, to submit a state plan and amendments to the federal government and to promulgate state regulations. By failing to include the “overtime” and “time out” state plan amendments to extend the time limit beyond 60 months, the sanction conciliation process and the work program changes allowing more education and training in this proposed regulation the Department has, again, failed to comply with, if not the letter of the Commonwealth Documents Law and the Regulatory Review Act, the intent of those laws. In addition, the Department lacks the statutory authority to impose a five-month time limit, not included in Act 35 of 1996, as they have through this act of omission. And by failing to fully adopt in state law these and other program options, all of which are currently part of the TANF program, the Department again misses the difference in legal obligation between policy and law. With the five year time limit approaching and the threat of permanent loss of benefits it brings, it is more important than ever that applicants and recipients make a good faith effort to comply with TANF program rules. Yet, the Department in this proposed regulation has failed to make the requirements, which at this point in welfare reform are most important for applicants and recipients to comply with, part of the actual rule. DPW must clearly establish the rules, with which welfare applicants and recipients are being asked to comply, in regulatory law. Failure to do so is a blatant violation of the basic principle of fairness and of the intent of the statutory laws.

- Although DPW has stated they intend to adopt the 20% exemption, that extremely important provision is also absent from this regulation. A recent report by the Center on Law and Social Policy cites numerous studies showing that a “high percentage” of TANF applicants and recipients have one or more serious physical or mental impairment and; the report states that many people with disabilities either have not yet successfully applied, appealed or do not qualify for SSI. People with disabilities are at higher risk of sanctions for non-compliance with work or other requirements and for reaching the five-year time limit because they have greater difficulties navigating the process of transitioning to work and complying with program rules. PRWORA specifically provides that federal civil rights laws, including the Americans with Disabilities Act of 1990, apply to TANF programs. The U.S. Department of Health and Human Services issued guidance to states identifying essential requirements of ADA/Section 504 compliant TANF programs. In their final TANF regulations USDHHS states that the penalty for not properly applying sanctions applies to both a state’s failure to sanction when it should and when sanctions should not be imposed. For the same reasons, exemptions from and extensions of time limits for people with disabilities are necessary and appropriate, in some circumstances, to comply with

federal civil rights laws. DPW can and should include their plan for compliance with the federal civil rights laws in this proposed regulation. And, for reasons mentioned above, adoption of the 20% exemption in the regulation is an integral component of compliance and, as such, should be included in this regulation.

- The Department's failure to include key components of the TANF program as it has been implemented under Act 35, PWRORA and the BBA in this proposed regulation are not in the public interest and constitute fatal flaws. The regulation should be withdrawn and resubmitted to the Committees and the IRRC to include all components of the TANF program as it has been implemented and as it will be operated as TANF families attempt to comply with requirements of the law to avoid sanctions and time limits. The fact that the first of these families are within 12 weeks of reaching the five-year time limit is even more reason to promulgate one complete regulation containing all provisions of the TANF program with which those families need to comply in order to continue to be eligible for the program; rather than justification for continuing with this incomplete version with the promise of adding key provisions of the rule later as separate regulations. The rule must be complete, unambiguous and clear. Since this incompleteness is more than sufficient reason for the Department to withdraw this regulation, it is not necessary at this time to address other ways in which the proposed regulation fails under regulatory review, including the following: language that makes the lack of child care, AMR and domestic violence provisions inconsistent with state and federal law; the change in policy on grandparents and; the failure to change policies destructive to the preservation of two parent families. These failures and others are included in the public comments submitted by Community Legal Services and the Women's Law Project and, we concur with those comments.

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