

18

WOMEN AGAINST ABUSE, INC.

ORIGINAL: 2224

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November 19, 2001

24 Hour Hotline

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SENT VIA FACSIMILIE AND U.S. MAIL

OFFICE OF PUBLIC WELFARE
Bureau of Policy

NOV 27 2001

Website

www.waasafe.org

Edward J. Zogby, Director
Bureau of Policy
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

REFERTO: *Copy Mail Willie*

RECEIVED
2001 NOV 29 AM 11:25
REVIEW COMMISSION

**Re: Department of Public Welfare (DPW) Proposed Regulations
Implementation of TANF/Act 35**

Dear Mr. Zogby:

I am writing to express several concerns about the Department of Public Welfare's proposed regulations implementing Temporary Assistance to Needy Families (TANF) and Act 35, which were published in the Pennsylvania Bulletin on October 20, 2001.

Over the course of our twenty-seven (27) year history, WAA has grown from a counseling and hotline program to a full-service agency that offers shelter, counseling, hotline services, transitional housing, and comprehensive legal services. The mere fact that our needs assessments directed us to implement these comprehensive programs suggests that the needs of battered women are also comprehensive. They need not only counseling, but affordable housing, education to lead to employment, and most of all, time to rebuild their lives, which state welfare programs frequently and unfortunately do not allow.

Our clients are largely of color, indigent and urban. They frequently face multiple challenges: (1) victimization by domestic violence; (2) homelessness; (3) poverty; (4) marginal education to illiteracy; and (5) marginal employment to unemployment. The proposed regulations to Temporary Assistance to Needy Families benefits are, therefore, clearly important to both our clients and our agency.

As more and more research studies are conducted on the welfare system and welfare reform, a stark correlation has emerged between the presence of current or past experience of domestic violence and/or past childhood physical or sexual abuse in female recipients of TANF benefits. This has prompted more research, making the connection between the experience of domestic violence and poverty quite apparent. Nearly all studies which have addressed the issue of poverty, welfare and domestic violence, conducted in cities and states throughout the United States, agree that well over half of the women receiving (at the time) AFDC benefits

The official registration and financial information of Women Against Abuse may be obtained from the PA Department of State by calling toll-free within Pennsylvania 1-800-732-0999. Registration does not imply endorsement.

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reported. that they had experienced physical abuse by an intimate male partner at some point during their adult lives, and most also reported physical and/or sexual abuse in childhood, with rates hovering at around sixty percent (60%). Department of Justice data also reveal that rates of domestic violence/intimate partner violence increase as household income decreases, with women in families with a household income of less than \$9,999 experiencing violence at a rate over five (5) times as high as women in families with incomes over \$30,000.

The reasons for this connection are many, and remain largely unstudied. Some, however, are clear. For example, one common form of control in an abusive intimate relationship is independence, frequently economic. An abusive partner therefore forbids or sabotages efforts at education, training and employment, and may also frequently harass the victim in the workplace and make her late to work or even miss work entirely. Statistics show that domestic violence creates quite a strain on our economy, and many large companies have high estimates for productivity lost due to intimate partner violence.

Having made clear the proven correlation between welfare recipients and domestic violence, I would like to explain in greater detail my concerns about the proposed regulations:

1. Length of Waivers

However, the Department of Public Welfare's regulations set expiration dates, placing victims at immediate risk for further acts of domestic violence. Shelter workers and advocates for survivors of domestic violence have long stated that many women are forced to return to an abusive partner because of economic constraints and lack of affordable housing. In light of this, the proposed time limits are also problematic. Also, the regulations do not provide any exceptions at all to the sixty month time limit. Federal law gives many options to extend time limit – Pennsylvania may exempt 20% of its TANF caseload, as well as battered women from the time limit using federal funds, and may extend the time limit to additional families using its own funds. We also need to consider the option that perhaps time limit regulations should be removed from this package of regulations altogether and reviewed at a later date as a whole. TANF benefits are a lifeline for women fleeing abusive relationships. Transitional housing is hard to come by, and one can only stay in an Emergency Shelter for a limited period of time due to funding constraints. As noted above, in the absence of benefits, many women and their children are forced to return to abusive situations. In recognition the untenable dilemma that battered women face, the regulations should take such situations into consideration and allow for exceptions.

2. Waiver Notification

The proposed regulations do not include provisions for both verbal as well as written notification of waivers. In order for waivers to be truly meaningful, it should be mandatory that those receiving TANF benefits be provided oral as well as written notification. When notice is provided only in written form, it does not recognize the level of challenges facing persons applying for welfare, including, but not limited to, literacy.

3. Work Requirement Compliance

Protections were in place to ensure that families do not lose their benefits when they are making all reasonable attempts to comply with work requirements, or when unable to comply due to illness, lack of childcare, or misunderstanding. The proposed regulations eliminate these protections, which are critical to the success of many women as they attempt to make the transition to a successful independent life free from the violence and turmoil of domestic violence. As noted above, research has shown that abusive relationships do not only affect a victim in the home, but also in the workplace. Research indicates that, for many victims of domestic violence, it can be almost impossible to get or keep a job when one is involved in an abusive relationship or immediately following the end of an abusive relationship. This challenge is further compounded by the frequently inadequate access to affordable child care.

4. Work Obligations

The proposed regulations attempt to impose more work obligations than the General Assembly required. Pennsylvania's welfare reform law provides for the Department of Public Welfare and parents to develop mutually agreed-upon plans for the parent to move toward self-sufficiency, assuming that the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement. Clearly, with such a wide variety of individuals, a one-size-fits-all approach will be unsuccessful and more of an attempt should be made to allow for a variety of plans and programs to assist the family based upon individual need.

5. Provisions for Education and Training

The proposed regulations do not include modifications to the Department of Public Welfare's work program, which was adopted to avoid legislation that would have allowed more education and training. When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority to make important changes in its work requirements to allow greater access to education and training. These changes, which are consistent with Act 35, should be included in the regulations. Education and job training are clearly indispensable as a route out of poverty, not only for survivors of domestic violence but for all who are attempting to build an economically independent life.

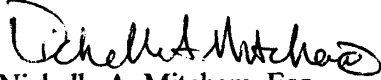
I am concerned that the regulations do not take into consideration, as it were, the specific state of being that is a battered single mother. This concern is exemplified in the limited recognition of the challenges posed for battered women living in poverty as it relates to: employment, work requirements, childcare, education and training, and the new time limits. As the abovementioned statistics and research show, survivors and victims of domestic violence are a large portion of those to be affected by these regulations. I strongly urge you to reconsider the proposed regulations in light of the population they will affect most severely.

I am certain that you will consider these comments before you approve the regulations. Should you have any questions or wish to speak to me further about the issues facing

survivors of domestic violence and low-income women with these impending regulations, please feel free to call me at (215) 386-1280, extension 15.

I look forward to further collaboration between social service agencies such as Women Against Abuse, Inc. and the Department of Public Welfare towards our common goal of improving the quality of life for battered women and their children.

Sincerely,

A handwritten signature in cursive script that reads "Nichelle A. Mitchem".

Nichelle A. Mitchem, Esq.
Executive Director

Cc: Secretary Feather Houstoun
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

15

PHILADELPHIA UNEMPLOYMENT PROJECT

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Office of Income Maintenance
Bureau of Policy

NOV 26 2001

~~REPLY TO:~~ Copy Mail
Willie

November 19, 2001

Edward J. Zogby, Director, Bureau of Policy
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

Re: DPW Proposed Regulations
Implementation of TANF/Act 35

NOV 27 PM 9:20

Dear Mr. Zogby and Members of the IRRC:

I am writing to urge changes to DPW's proposed regulations implementing TANF and Act 35, which were published in the Pennsylvania Bulletin on October 20, 2001. The proposed regulations' five-year time limit without any exceptions jeopardizes the income and well-being of the nearly 12,000 families that will be reaching the time limit beginning on March 3, 2002. These harmful changes are being considered at the very time when Pennsylvania's unemployment rate and TANF caseload are rising. I urge you to make changes to the proposed regulations to protect these vulnerable families.

Here are some of the most important problems:

- **The regulations don't provide any exceptions at all to the 60 month TANF time limit. DPW should consider all of its time limit policies together rather than piecemeal.**
The federal law gives states many options to extend the time limit beyond 60 months: Pennsylvania may exempt 20% of its TANF caseload as well as battered women from the time limit using federal funds, and may extend the time limit to additional families using its own funds. DPW has announced that it intends to use all of these options, through its "overtime" and "time out" policies. The "time out" program is already in effect, and DPW has said that it will be issuing "overtime" rules shortly. These proposed regulations, however, would not permit either of these programs, and could result in thousands of families losing their only source of income in a matter of months. Although DPW officials have said they intend to modify the time

limit rule in this set of regulations soon, they should not ask the public to “trust them” that they will fix this flawed regulation in the coming months. Instead, the Department should consider all of its time limit policies, including “overtime,” together in the later set of regulations. The time limit regulation should be removed from this package of regulations altogether.

- **The protections to prevent inappropriate sanctions have been gutted.** Important protections have been in place to ensure that families don't lose their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, child care problems, or misunderstanding. The regulations eliminate these protections. As a result, families could lose their benefits even though they are trying their best to comply with work requirements. The regulations should restore existing protections requiring conciliation sessions to work out problems a family may be facing, and reminding sanctioned individuals that they may start receiving benefits again.
- **The regulations don't include the compromise modifications to DPW's work program that DPW adopted to avoid legislation that would have allowed more education and training.** When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority to make important changes in its work requirements to allow greater access to education and training. These changes, which are consistent with Act 35, should be included in the regulations.
- **The regulations don't properly protect survivors of domestic violence.** Waivers of TANF child support cooperation requirements are crucial to protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. DPW's proposed regulations fail to provide adequate procedures to make waivers a true option for victims of domestic violence by not requiring full notification about the waiver possibility, by permitting arbitrary waiver deadlines instead of allowing the waiver to continue for so long as necessary, and by imposing documentary requirements for waivers that unnecessarily burden both domestic violence victims and domestic violence service providers.
- **The regulations attempt to impose more work obligations than the General Assembly required, and lessen parents' ability to design their own path off welfare.** Pennsylvania's welfare reform law provides for DPW and parents to develop mutually-agreed-upon plans for the parent to move toward self-sufficiency, assuming the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement.

In addition, Community Legal Services has prepared more extensive comments on these proposed regulations, which the Philadelphia Unemployment Project endorses.

Thank you for considering these comments. I hope that you will make sure these problems are fixed before approving final regulations.

Sincerely,

Sue Sierra
Researcher/Organizer

cc: Secretary Feather Houstoun
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

#17

ORIGINAL: 2224



Gloria Guard
EXECUTIVE DIRECTOR

Grant Rawdin, Esq.
PRESIDENT

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Office of Human Maintenance
Bureau of Policy

NOV 26 2001

REFER TO: Copy: Gaiba
Willie

November 19, 2001

Mr. Edward J. Zogby
Director, Bureau of Policy
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

Dear Mr. Zogby:

On behalf of People's Emergency Center (PEC), Pennsylvania's oldest and most comprehensive shelter for homeless women and children, **I urge the Department of Public Welfare to change the proposed regulations implementing TANF and Act 35**, which were published in the Pennsylvania Bulletin on October 20, 2001. As proposed, the regulations will have a serious negative impact upon homeless families striving to leave the welfare rolls.

At PEC, we have long understood that homeless mothers need to be able to make the difficult transition from welfare to work if they are to achieve independence and greater economic self-sufficiency. PEC launched its Job Opportunities and Business Skills in 1993, four years before the implementation of Welfare Reform. As part of the City's *Greater Philadelphia Works* program, JOBS serves homeless women living in shelters throughout West Philadelphia as well as those residing at PEC. JOBS provides specialized employment advising with low staff-to-client ratios, testing and assessment, workplace literacy and "soft skills" training, vocational training, externships, job placement and retention services. Since 1997, we have trained and placed 155 women formerly on TANF. More than half of these women remain employed for at least one year.

The proposed DPW regulations will **add** significant challenges to our clients' ability to make the transition from welfare to work. **The regulations do not provide any exceptions at all to the 60-month TANF time limit, although federal law allows states to exempt 20% of the TANF caseload from the 60-month time limit and to exempt domestic abuse survivors from the time limit altogether.** These regulations do not mention the "Time-Out" program that DPW implemented on July 1, 2001 or the "overtime" policy expected to be announced soon. Some families residing at PEC and enrolled in our JOBS program would be either eligible to go "off the clock" as part of "Time-Out" categories, or should be exempt as domestic abuse survivors. Further, the "good cause" waivers for the child support enforcement cooperation requirement should not have an expiration date and should last as long a family needs a waiver to ensure that their safety is not jeopardized. This is a serious concern for mothers – like many in PEC's programs – who have survived domestic abuse and are working to provide a stable, healthy future for their families.

The regulations eliminate already established protections that prevent sanctions against families who are trying to comply with the work requirements of TANF, or when they have been unable to comply because of illness, child care problems, or an honest misunderstanding. If such regulations were enacted, participants in PEC's programs could lose their benefits even though they are trying their best to comply with work requirements. Further, the regulations do not include modifications to DPW's work program that DPW previously adopted to make important changes in its work requirements to allow greater access to education and training. Women in PEC's JOBS program need to have access to education and training in an effort to become more self-sufficient and secure family-sustaining jobs.

The regulations may impose additional work obligations on parents than required in the regulations set by the General Assembly. Pennsylvania's welfare reform law currently provides for DPW and parents to develop mutually agreed upon plans for the parent to move toward self-sufficiency, assuming the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement.



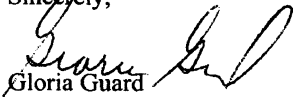
A United Way Agency

State law requires us to tell you that PEC is registered as a charitable organization with the Commonwealth. You can obtain a copy of our registration and financial information by calling toll free within Pennsylvania 1-800-732-0999. Registration does not imply endorsement.

Under the proposed regulations, **families eligible for Pennsylvania's General Assistance (GA) program would be barred from GA benefits if they have used up their 60 months of federally funded TANF.** Families that are no longer eligible for TANF should not be prevented from enrolling in the state's GA program if they meet GA criteria.

Thank you for taking the time to consider these comments in the days remaining for public comment. **Again, I urge you to change the Department of Public Welfare's (DPW) Regulations to take into consideration the negative impact upon families making the difficult transition from welfare to work.**

Sincerely,


Gloria Guard
Executive Director

cc: Feather O'Houston

IRRC

From: UCanXL@aol.com
Sent: Sunday, November 18, 2001 5:00 PM
To: IRRC
Cc: edcivic@libertynet.org
Subject: Formal Comments to the Commission

Original: 2224

Edward J. Zogby, Director, Bureau of Policy
 Department of Public Welfare
 Room 431, Health and Welfare Building
 Harrisburg, PA 17120

Independent Regulatory Review Commission
 333 Market St.
 Harrisburg, PA 17120

RECEIVED
 2001 NOV 19 AM 9:37
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

Re: DPW Proposed Regulations/Implementation of TANF/Act 35

Dear Mr. Zogby and Members of the IRRC:

I am writing to urge changes to DPW's proposed regulations implementing TANF and Act 35, which were published in the Pennsylvania Bulletin on October 20, 2001. The proposed regulations' five-year time limit without any exceptions jeopardizes the income and well-being of the nearly 12,000 families that will be reaching the time limit beginning on March 3, 2002. These regulations as written would also harm TANF recipients trying to move into the workforce and battered women. These harmful changes are being considered at the very time when Pennsylvania's unemployment rate and TANF caseload are rising. We urge you to make changes to the proposed regulations to protect these vulnerable families.

Here are some of the most important problems:

- **The regulations don't provide any exceptions at all to the 60 month TANF time limit. DPW should consider all of its time limit policies together rather than piecemeal.** The federal law gives states many options to extend the time limit beyond 60 months: Pennsylvania may exempt 20% of its TANF caseload as well as battered women from the time limit using federal funds, and may extend the time limit to additional families using its own funds. DPW has announced that it intends to use all of these options, through its "overtime" and "time out" policies. The "time out" program is already in effect, and DPW has said that it will be issuing "overtime" rules shortly. These proposed regulations, however, would not permit either of these programs, and could result in thousands of families losing their only source of income in a matter of months. Although DPW officials have said they intend to modify the time limit rule in this set of regulations soon, they should not ask the public to "trust them" that they will fix this flawed regulation in the coming months. Instead, the Department should consider all of its time limit policies, including "overtime," together in the later set of regulations. The time limit regulation should be removed from this package of regulations altogether.
- **The protections to prevent inappropriate sanctions have been gutted.** Important protections have been in place to ensure that families don't lose their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, child care problems, or misunderstanding. The regulations eliminate these protections. As a result, families could lose their benefits even though they are trying their best to comply with work requirements. The regulations should restore existing protections requiring conciliation sessions to work out problems a family may be facing, and reminding sanctioned individuals that they may start receiving benefits again.
- **The regulations don't include the compromise modifications to DPW's work program that DPW adopted to avoid legislation that would have allowed more education and training.** When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority to make important changes in its work requirements to allow greater access to education and training. These changes, which are consistent with Act 35, should be included in the regulations.

11/19/2001

- **The regulations don't properly protect survivors of domestic violence.** Waivers of TANF child support cooperation requirements are crucial to protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. DPW's proposed regulations fail to provide adequate procedures to make waivers a true option for victims of domestic violence by not requiring full notification about the waiver possibility, by permitting arbitrary waiver deadlines instead of allowing the waiver to continue for so long as necessary, and by imposing documentary requirements for waivers that unnecessarily burden both domestic violence victims and domestic violence service providers.
- **The regulations attempt to impose more work obligations than the General Assembly required, and lessen parents' ability to design their own path off welfare.** Pennsylvania's welfare reform law provides for DPW and parents to develop mutually-agreed-upon plans for the parent to move toward self-sufficiency, assuming the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement.

Thank you for considering these comments. I hope that you will make sure these problems are fixed before approving final regulations.

Sincerely,

Hannah Oakman Brown
Executive Director/Founder
Doors to Dignity
The SUSTAHS Network
A National e-mentoring program for women

cc: Secretary Feather Houstoun, Department of Public Welfare
Room 431, Health and Welfare Building, Harrisburg, PA 17120

*"Our lives begin to end the day we become silent about things that matter."
Rev. Dr. Martin Luther King, Jr.*

**Hannah Oakman Brown, Executive Director/Founder
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The SUSTAHS Network
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November 13, 2001

Original: 2224

Edward J. Zogby, Director, Bureau of Policy
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

- ✓ Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

NOV 15 10 59 00
11/15/01 10:59:00 AM

Re: DPW Proposed Regulations Implementation of TANF/Act 35

Dear Mr. Zogby and Members of the IRRC:

I am writing on behalf of Philadelphia Citizens for Children and Youth to urge changes to DPW's proposed regulations implementing TANF and Act 35, which were published in the Pennsylvania Bulletin on October 20, 2001. The proposed regulations' five-year time limit without any exceptions jeopardizes the income and well-being of the nearly 12,000 families that will be reaching the time limit beginning on March 3, 2002. These regulations as written would also harm TANF recipients trying to move into the workforce and battered women struggling to escape domestic violence. These harmful changes are being considered at the very time when Pennsylvania's unemployment rate and TANF caseload are rising. We urge you to make changes to the proposed regulations – changes that are absolutely necessary to protect our state's most vulnerable families.

The proposed regulations contain provisions that substantially alter current DPW policies. These changes will not only cause tremendous confusion for case workers but will also eliminate important protections, harming children and families. For example:

- **The proposed regulations do not provide any exceptions at all to the 60 month TANF time limit.** The federal law gives states many options to extend the time limit beyond 60 months. Pennsylvania may exempt 20% of its TANF caseload as well as battered women from the time limit using federal funds, and may extend the time limit to additional families using its own funds. DPW has announced that it intends to use all of these options, through its "overtime" and "time out" policies. The "time out" program is already in effect, and DPW has said that it will be issuing "overtime" rules shortly. The proposed regulations, however, omit these programs and could result in thousands of families losing their only source of income in a matter of months. Although DPW officials have said they intend to modify the time limit rule in this set of regulations soon, they should not ask the public to

“trust” that they will fix this flawed time limit regulation in the coming months. At the very least, the time limit rule should be removed from this package of regulations altogether.

- **The protections to prevent inappropriate sanctions have been gutted.** DPW has important protections in place to ensure that families do not lose their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, child care problems, or misunderstanding. The proposed regulations completely eliminate these protections. As a result, families could lose their benefits even though they are trying their best to comply with work requirements. The regulations should include protections that DPW has already implemented, such as those requiring conciliation sessions to work out problems a family may be facing, and reminding sanctioned individuals that they may start receiving benefits again after their sanction period is over.
- **The proposed regulations do not include modifications to DPW’s work program that DPW previously adopted in order to avoid legislation which would have allowed more education and training.** When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority by making changes in its work requirements to allow greater access to education and training. These changes, which are not only consistent with Act 35 but are one of the most effective ways to help families move toward self-sufficiency, should be included in the regulations.
- **The proposed regulations do not properly protect survivors of domestic violence.** Waivers of TANF child support cooperation requirements are crucial to protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. DPW’s proposed regulations fail to provide adequate procedures to make waivers a true option for victims of domestic violence by not requiring full notification about the waiver possibility, by permitting arbitrary waiver deadlines instead of allowing the waiver to continue for so long as necessary, and by imposing documentary requirements for waivers that unnecessarily burden both victims and service providers. The lack of protections for victims of domestic violence in the proposed regulations is inexcusable and contradicts DPW’s current, more protective, approach.

The proposed regulations must be remedied. The fact that they ignore current DPW policies and will soon require modifications is both illogical and inefficient. In addition, the proposed regulations contain numerous other flaws, including:

- **The proposed regulations attempt to impose more work obligations than the General Assembly required, and lessen parents’ ability to design their own path off welfare.** Pennsylvania’s welfare reform law provides for DPW and parents to develop *mutually-agreed-upon* plans for the parent to move toward self-sufficiency, so long as the parent is meeting the law’s work requirements. The proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent’s involvement or regard for his/her compliance with the law.
- **The proposed regulations ignore the mandates of the Americans with Disabilities Act.** According to the ADA regulations, where necessary to avoid disability discrimination, DPW is required to make reasonable modifications in policies, practices and/or procedures, unless

these changes would fundamentally alter the nature of the program. The proposed regulations do not require provisions of assistance that are necessary for persons with disabilities to successfully participate in the TANF program, nor do they require the modification of rules so that persons with disabilities may fully benefit from DPW programs. The regulations must be modified to ensure that DPW is not violating federal law.

Thank you for considering these comments. I hope that you will make sure that the final regulations include protections for children and families that DPW has already adopted, and that they comprehensively address DPW's current and soon-to-be released time limit policies.

Sincerely,



Kathleen M. Fisher
Watching Out Project Coordinator
Philadelphia Citizens for Children and Youth

cc: Senator Harold F. Mowery, Jr., Chair, Public Health & Welfare Committee
Senator Vincent J. Hughes, Minority Chair, Public Health & Welfare Committee
Representative Dennis O'Brien, Chair, Health & Human Services Committee
Representative Frank Oliver, Minority Chair, Health & Human Services Committee
Secretary Feather Houstoun

Maternity Care Coalition

Strengthening families, one baby at a time

November 16, 2001

2001 NOV 19 AM 10:42



Mr. Edward J. Zogby, Director
Bureau of Policy
Department of Public Welfare
Room 431
Health and Welfare Building
Harrisburg, PA 17120

Original: 2224

2000 Hamilton Street
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Philadelphia, PA 19130
Tel: 215. 972. 0700
Fax: 215. 972. 8266
www.momobile.org

Dear Mr. Zogby:

Thank you for the opportunity to respond to DPW's pending TANF regulations. Maternity Care Coalition (MCC) provides health promotion education and family support services to low income pregnant women and families with young children in the greater Philadelphia area. Last year, MCC served over 3,000 families in Philadelphia, Montgomery and Delaware counties. Over half of these families participate in TANF's RESET program, and all of them are (or soon will be) parents of infants or toddlers.

Through our program *Making TANF Work for Mothers and Babies*, we help parents negotiate the TANF/RESET program, supporting them in enrolling in and sticking with education and training or receiving appropriate work exemptions when necessary. MCC's Community Health Workers help parents find jobs, locate quality child care and comply with the complex reporting regulations governing the TANF program. Participating families have taught us what works and what does not work, and we would like to share this knowledge with you.

As you know, Pennsylvania's TANF/RESET program is built on a system of incentives and sanctions (or carrots and sticks as some have described it). In the proposed regulations, it appears that DPW plans to do away with most of the carrots and vastly increase its arsenal of sticks. We strongly urge you to reconsider this approach—not only because it will markedly increase the hardships imposed on affected families—but also because this unnecessarily harsh approach will limit the success the program will have in helping families advance toward self-sufficiency.

Naturally we are concerned about the families who will begin to face the end of their cash assistance beginning in March of next year. As proposed, the regulations will impose the 60 month TANF time limit without any exceptions. Does DPW really intend to **eliminate** the safety net for Pennsylvania's most vulnerable families? Please reconsider such an ill-advised option.



A United Way Agency

Two incentive programs, the *Time Out Program* and the *Maximizing Participation Project* (MPP) initiated this past July are not included in the proposed regulations. Their elimination is a grave mistake. When implemented properly, *Time Out* encourages early engagement in work and rewards full time work combined with efforts to enhance skills that lead to higher wages. It also buys additional time for working families whose earnings do not cover their family's most basic needs.

The *Maximizing Participation Project* has already shown some early promise in rapidly moving parents who cannot work into more appropriate and permanent programs of long term support through Social Security. These disabled parents need the personalized approach that MPP provides in order to be appropriately diagnosed. The *Time Out Program* promotes DPW's goal of "making work pay," while the MPP program helps to insure that when appropriate, the federal government will pay for the support of disabled individuals who require long term assistance. **Both programs should be included in the ongoing TANF program.**

We are further alarmed by the fact that the proposed regulations do not include any reference to the exemption of 20% of the TANF caseload from the 60 month time limit as allowed by federal law. In fact, there is no reference to the *Overtime Program* proposed earlier by DPW or any mention of overtime of any sort.

As you know, most of the (approximately 12,000) families who will reach their 60 month benchmark beginning in March of 2001 will have no other means of support if eliminated from TANF. **MCC strongly urges DPW to utilize all of the options at its disposal to establish overtime whereby specified TANF participants may continue to receive cash assistance beyond the 60-month limit.** The Commonwealth should utilize the hardship exceptions authorized by federal law, federal "non-assistance" and state-funded General Assistance to insure that an adequate safety net is maintained.

Our experience with the sanction review process has been positive. On several occasions, we have worked collaboratively with administrative staff at the local CAO's to help parents comply with RESET requirements and avoid proposed sanctions. The review process allowed our staff sufficient time to assist clients to successfully take the steps necessary for RESET compliance without facing the serious hardships inherent in the loss of income. **Elimination of the sanction review process will lead to hungry children, and create an additional barrier for families trying to comply with RESET.** We urge you to include the sanction review process in the TANF program.

Finally, MCC urges DPW to consider greater flexibility in the implementation of RESET. We find that because of the difficulty in interpreting such a complex set of rules, caseworkers and career development counselors rarely have sufficient flexibility to allow for client choice, even though technically the rules allow for such choice. For example, following the birth of a child, many women in our program who do not have high school degrees would benefit by participating in education toward that goal. Although RESET allows them to participate in education or training as an exempt volunteer while utilizing their young child work exemption, this opportunity is rarely utilized. Young women

continue to use most of this lifetime exemption on a first child without taking advantage of training or educational opportunities simply because they are either not told that they have this opportunity or mistakenly denied it.

At MCC, we see many young women who are eager to seek education, training and employment. They want to work and only need *temporary* assistance. Others require skills-based training (and a good economy) to move into an entry-level job. Despite leaving their family in need of supplemental assistance, such a job can be a first step toward self-sufficiency.

However, for families facing additional barriers to self-sufficiency (including large family size, behavioral health problems of adult family members or children, domestic violence— to name just a few), longer term, specialized help is needed but may still not be sufficient for these families to achieve self-sufficiency. The well-being of the children in these families is our mutual responsibility. As guardian of public welfare for the Commonwealth, DPW must make sure that these families do not fall through the gaping hole in the safety net created by the regulations proposed on October 20th. We urge you to carefully reconsider all available options.

Thank you for your attention to this response.

Very truly yours,



Natalie S. Sondheimer, MSS
Public Benefits Coordinator

cc: Secretary Feather O. Houstoun
Independent Regulatory Review Commission
Governor Mark Schweiker

Maternity Care Coalition

Strengthening families, one baby at a time

Fax

2000 Hamilton Street
Suite 205
Philadelphia, PA 19130
Tel: 215.972.0700
Fax: 215.972.8266
www.momobile.org

1.800.572.4642

Date: 11/19/01
Attention: IRRC
Fax Number: 2664
From: 717-783-~~1122~~
Natalie Sandheim

Pages Being Transmitted (Including this page): 4

NOV 19 AM 10:42
FAX TRANSMISSION

Message:

Please find our concerns about the TANF regulations published Oct 30, 2001. We have sent a hard copy, but wanted to make sure the arrives prior to 5:00 pm today

Natalie Sandheim
Public Benefits Coord





2040 LINGLESTOWN ROAD, SUITE 109
HARRISBURG, PENNSYLVANIA 17110
(717) 651-1725
FAX (717) 651-1729

Friday, November 16, 2001

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

Original: 2224

Re: DPW Proposed Regulations: Implementation of TANF/Act 35

Dear Members of the IRRC:

The Pennsylvania Council of Children, Youth and Family Services (PCCYFS) appreciates the opportunity to comment on the Department of Public Welfare's Proposed Regulations regarding the Implementation of TANF/Act 35. We also commend the Department of Public Welfare (DPW) for its efforts to develop a regulatory foundation for TANF in Pennsylvania and to develop programs to meet the unusual and special circumstances experienced by significant numbers of TANF recipients. It is with these special populations in mind, that we share our concerns about the proposed regulations and urge your reconsideration of implementation as written. Our concerns are outlined below.

- The regulations fail to outline any exceptions to the 60-month time limit for cash benefits. PCCYFS appreciates that the regulatory inclusion of the current Pennsylvania programs addressing special circumstances may limit future flexibility in relation to economic changes. However, making no mention of general categories for exemption, even those authorized by the Federal government, fails to create any accountability measure for meeting the needs of families. For example, federal law allows states to exempt 20% of its TANF caseload as well as domestic violence victims from the time limit using federal funds. States may also extend the time limit to additional families using its own funds. While DPW has announced intentions to utilize these options as well as to modify the time limit rule, under these regulations such accommodations need never be made. Thus PCCYFS recommends that the 60-month time limit be withdrawn from the regulations until special exemptions can be addressed appropriately within the regulations.

- Important protections designed to avoid inappropriate sanctions have been eliminated from the regulations. These protections ensure that families maintain their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, childcare problems, or misunderstanding. Existing protections require conciliation sessions to work out problems a family may be facing and remind sanctioned individuals that they may start receiving benefits again. With these protections eliminated, families who are trying their best to comply with work requirements, could lose their benefits. PCCYFS recommends inclusion of the current protections.
- The regulations do not include program modifications that were agreed upon to avoid legislative action. When House Bill 1266 was pending, the Department of Public Welfare agreed to make important changes in its work requirements to allow greater access to education and training, consistent with Act 35. PCCYFS recommends that these agreed upon changes be included in the regulations.
- The proposed regulations fail to provide adequate protection for victims of domestic violence. Waivers of TANF child support cooperation requirements protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. The regulations, however, fall short of making waivers a truly viable option. In order to do so, the regulations should require full notification about the waiver possibility, prohibit arbitrary waiver deadlines, allowing the waiver to continue for so long as necessary, and eliminate documentary requirements for waivers that unnecessarily burden both domestic violence victims and service providers.

In March, 2002, 12,000 families will reach the 60 month time limit for their TANF benefits, and this in a time of economic uncertainty and increasing unemployment. Given the gravity of these circumstances, we urge your reconsideration of the regulations as written. Thank you for your consideration of these comments.

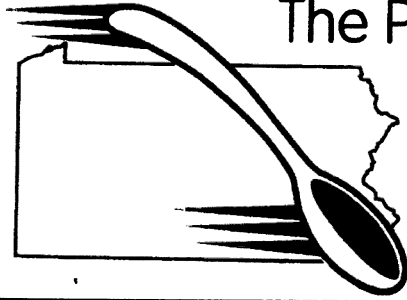
Sincerely,



Wendy S. Hoke Witmer
Program Specialist



Bernadette M. Bianchi
Executive Director



The Pennsylvania Hunger Action Center

formerly the Pennsylvania Coalition on Food and Nutrition

208 North Third Street, Suite 200
Harrisburg, Pennsylvania 17101

• Telephone: 717/233-6705 • Fax: 717/231-4085 • E-Mail: pahunger@paonline.com • www.pahunger.org

Original: 2224

November 9, 2001

Edward J. Zogby, Director
Office of Income Maintenance - Bureau of Policy
PA Department of Public Welfare
431 Health and Welfare Building
Harrisburg, PA 17120

RE: Proposed Regulations
TANF and General Assistance Programs

RECEIVED
2001 NOV 16 PM 8:55
DEPARTMENT OF
PUBLIC WELFARE

Dear Mr. Zogby:

We have reviewed the regulations proposed by the Department and published in the October 20th edition of the Pennsylvania Bulletin. Based on our review and upon our experience of working with low-income families and community-based service providers, we submit the following recommendations for your consideration.

A. The proposed regulation fails to provide guidance on important matters of public policy.

During the past five years the Department has engaged in a vigorous campaign to communicate the time limit aspect of federal law. A steady stream of written and verbal messages to low-income families and to community-based agencies has repeated the phrase "an adult may receive cash assistance for only five years in a lifetime". This message has been accepted by much of the public as the simple truth.

In fact, an accurate description of the matter is considerably more complicated. While the federal lifetime limit applies to many of the families that received cash assistance over the past 57 months, it does not apply to all such families. Some needy families that reach the 60-month limit will be eligible to receive continued cash support with federal TANF funds (the so-called hardship exceptions). Others will be eligible to continue to receive such support via the General Assistance Program that is funded with the Commonwealth's general revenue.

As we approach the five-year anniversary of welfare reform in Pennsylvania, the public interest requires that the Department fully and accurately communicate time limit policy to the public.

because food isn't enough...

Berry Friesen to Edward J. Zogby
November 9, 2001
Page #2

During the past five years the Department has invested a great deal of effort designing policies and procedures to help a large number of families move to self-sufficiency through employment. Now, as the federal time limit requires the Department to stop TANF-based cash assistance to some families, it must design policies and procedures for a smaller number of families that will continue to qualify for cash support. The public interest requires that the Department disclose how it will determine which families continue to be eligible for cash support after 60 months of TANF, and which families do not.

After reviewing the regulation as proposed, we believe the Department has not met these two obligations. As a result, we anticipate the following:

- During a deepening economic recession, needy families will drop out of the TANF program due to the mistaken fear that there is no publicly funded help available to them.
- In the absence of public disclosure of the Department's plans, community-based organization (such as Hunger Action) that have an obligation to provide accurate information to the public about the pending transition, will feel compelled to "fill in the blanks" left by the Department. Insofar as such efforts are inaccurate, widespread confusion will ensue.
- Litigation, rather than rulemaking, is likely to be the process through which these important decisions are made.

Act 35, the foundation on which these regulations must be built, doesn't refer to TANF at all. Instead it speaks generally of "assistance" and directs the Department to promote the self-sufficiency of needy persons through coordinated administration of available resources. Federal resources are to be exhausted first; state resources are to be used thereafter.

The Preamble to the proposed regulation, with its references to "a complete and integrated Cash and MA Program for families" and the need "to make cash assistance regulations integrated and cohesive", acknowledges Act 35's emphasis on coordinated administration. But the proposed regulation itself doesn't deliver; it fails to describe how the Department will deal with families that lose eligibility under one part of the Department's cash program but remain eligible under another.

Before seeking final adoption of these regulations, we recommend that the Department include material that:

1. Describes those families that will qualify for extended federally-funded cash assistance under the 20 percent "hardship criteria"; and

2. In regard to families that have reached the federal 60-month limit, confirms the duty of Department staff to review eligibility for a hardship extension and General Assistance before taking any action to terminate cash assistance.

B. The proposed regulation illogically extends the 60-month time limit to kinship caregivers.

Federal law does not put a time limit on federal money being used to support needy children who are living with a non-parent kinship caregiver (such as a grandmother or aunt) who is not herself seeking support.

Section 141.42 of the proposed regulations, by its definition of the term "family", would impose such a time limit since it would consider the relative to be part of the "family" whether or not she is part of the assistance unit receiving support.

The effect of this approach will be to discourage needy kinship caregivers from requesting financial help from the Department due to fear that their receipt of such help will eventually harm the children. In the case of a household consisting of a needy grandparent and her grandchildren (for example), the fact that the grandmother is not receiving help *will cause harm to the grandchildren* since all members of the household share together for good or ill.

There is nothing in Act 35 that requires the Department to extend time limits in this way. Indeed, insofar as this regulation would deny federally funded cash support to needy families, this regulation is inconsistent with Act 35's requirement that the Department maximize use of federal funds. In addition, at least among kinship caregivers who are well-informed, the eventual impact of the Department's regulation will be to shift these families to General Assistance where there is no time limit for children and no time limit for kinship caregivers with children under age 13.

Before seeking final adoption of these regulations, we recommend that the Department revise the definition of "family" contained in Section 141.42.

C. The proposed regulation claims authority for the Department that is not authorized by law.

Section 5 of Act 35 clearly identifies eligibility conditions that must be met by individuals seeking assistance from the Commonwealth of Pennsylvania: (a) they must seek employment, accept any offer of employment, and maintain employment ("preferably in the private sector"); and (b) those not employed at least 20 hours a week must participate in a work-related activity. After receiving cash assistance for 24 months, the *de facto* hourly requirement for those who do not have private sector employment is 30 hours per week since all of the Department's subsidized activities require 30 hours and only Department-subsidized activities are acceptable to the Department.

Section 5 of Act 35 also specifies how the relationship between a parent and the Department be structured through an Agreement of Mutual Responsibility (AMR). This Agreement details what

Berry Friesen to Edward J. Zogby
November 9, 2001
Page #4

the parent must do as part of her plan to move toward self-sufficiency. If she fails to meet these requirements, the law requires that the eligibility of the parent and her family be reviewed. The purpose of this review is to help the parent get back on track or, if the failure is willful, to impose sanctions under Section 6 of the Act.

The proposed regulations that implement these aspects of Act 35 appear to overreach at several points. To be specific:

- Section 165.31 of the proposed regulation, which describes RESET requirements, fails to recognize that a parent may meet the statutory requirement through participation in work-related activities of the parent's choosing. Act 35 does not give the Department authority to veto a parent's work-related choices during the first 24 months that she receives assistance.
- In that same section, the proposed regulation fails to acknowledge existing policy (which was adopted by the Department after consultation with legislative leaders) that permits, under strictly defined circumstances, post-24-month parents to complete an education or training program in lieu of meeting the 20-hour per week work requirement.
- Section 165.61, which describes sanctions, fails to acknowledge the central role of the AMR in defining responsibilities. It suggests that parents (and families) may be sanctioned for a long list of "failures", without regard to whether the actions that the parent failed to take were part of the AMR.
- Section 165.61 adds duties not found in Act 35 that the parent must meet under threat of sanction (e.g., "maximize employment").

Before seeking final adoption of these regulations, we recommend that the Department remove material such as we have described herein, all of which tends to dilute the collaborative aspect of the effort to achieve self-sufficiency.

D. The Department should not discriminate against two-parent families.

We are surprised to see that the Department plans to extend old eligibility requirements from the AFDC Program that deny services to two-parent families unless they fit within narrow exceptions related to "work record" or "incapacity".

The TANF Program, with its strong array of work support and training opportunities, is evolving into an effective resource for families struggling to achieve self-sufficiency. Why would the Department want to deny this resource to intact families? Why would the Department adopt a policy that offers its services to such families only if the parents first separate?

Berry Friesen to Edward J. Zogby
November 9, 2001
Page #5

This is wrongheaded and an anachronism. Before seeking final adoption of these regulations, we recommend that the Department remove all regulatory material that discriminates among families on the basis of whether or not both parents are present.

Thank you for your consideration of these recommendations.

Sincerely,



Berry Friesen
Executive Director

Cc: Senator Harold F. Mowery
Senate Public Health and Welfare
169 Main Capitol Building

Senator Vincent J. Hughes
Senate Public Health and Welfare
543 Main Capitol Building

Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17120

Representative Dennis M. O'Brien
House Health and Human Services
100 Main Capitol Building

Representative Frank L. Oliver
House Health and Human Services
34 Main Capitol East Wing

IRRC

From: Ed Schwartz [edcivic@libertynet.org]
Sent: Friday, November 16, 2001 2:34 PM
To: IRRC
Subject: Response to Proposed TANF Regulations, 31 Pa. Bulletin 5875

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

Re: DPW Proposed Regulations
Implementation of TANF/Act 35

2011/16 PM 2:37
INDEPENDENT REGULATORY REVIEW COMMISSION

Dear Members of the IRRC:

I am writing to urge changes to DPW's proposed regulations implementing TANF and Act 35, which were published in the Pennsylvania Bulletin on October 20, 2001. The proposed regulations' five-year time limit without any exceptions jeopardizes the income and well-being of the nearly 12,000 families that will be reaching the time limit beginning on March 3, 2002. These regulations as written would also harm TANF recipients trying to move into the workforce and battered women. These harmful changes are being considered at the very time when Pennsylvania's unemployment rate and TANF caseload are rising. We urge you to make changes to the proposed regulations to protect these vulnerable families.

Here are some of the most important problems:

- **The regulations don't provide *any exceptions at all* to the 60 month TANF time limit. DPW should consider all of its time limit policies together rather than piecemeal.**

The federal law gives states many options to extend the time limit beyond 60 months: Pennsylvania may exempt 20% of its TANF caseload as well as battered women from the time limit using federal funds, and may extend the time limit to additional families using its own funds. DPW has announced that it intends to use all of these options, through its "overtime" and "time out" policies. The "time out" program is already in effect, and DPW has said that it will be issuing "overtime" rules shortly. These proposed regulations, however, would not permit either of these programs, and could result in thousands of families losing their only source of income in a matter of months. Although DPW officials have said they intend to modify the time limit rule in this set of regulations soon, they should not ask the public to "trust them" that they will fix this flawed regulation in the coming months. Instead, the Department should consider all of its time limit policies, including "overtime," together in the later set of regulations. The time limit

regulation should be removed from this package of regulations altogether.

- **The protections to prevent inappropriate sanctions have been gutted.** Important protections have been in place to ensure that families don't lose their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, child care problems, or misunderstanding. The regulations eliminate these protections. As a result, families could lose their benefits even though they are trying their best to comply with work requirements. The regulations should restore existing protections requiring conciliation sessions to work out problems a family may be facing, and reminding sanctioned individuals that they may start receiving benefits again.
- **The regulations don't include the compromise modifications to DPW's work program that DPW adopted to avoid legislation that would have allowed more education and training.** When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority to make important changes in its work requirements to allow greater access to education and training. These changes, which are consistent with Act 35, should be included in the regulations.
- **The regulations don't properly protect survivors of domestic violence.** Waivers of TANF child support cooperation requirements are crucial to protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. DPW's proposed regulations fail to provide adequate procedures to make waivers a true option for victims of domestic violence by not requiring full notification about the waiver possibility, by permitting arbitrary waiver deadlines instead of allowing the waiver to continue for so long as necessary, and by imposing documentary requirements for waivers that unnecessarily burden both domestic violence victims and domestic violence service providers.
- **The regulations attempt to impose more work obligations than the General Assembly required, and lessen parents' ability to design their own path off welfare.** Pennsylvania's welfare reform law provides for DPW and parents to develop mutually-agreed-upon plans for the parent to move toward self-sufficiency, assuming the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement.

Thank you for considering these comments. I hope that you will make sure these problems are fixed before approving final regulations.

Sincerely,

Edward A. Schwartz
President, Institute for the Study of Civic

Values

1218 Chestnut St., RM. 702
Philadelphia, Pa. 19107
215-238-1434; fax: 215-238-0530
edcivic@libertynet.org



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HARRISBURG, PENNSYLVANIA 17110
(717) 651-1725
FAX (717) 651-1729

Friday, November 16, 2001

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

Original: 2224

Re: DPW Proposed Regulations: Implementation of TANF/Act 35

Dear Members of the IRRC:

The Pennsylvania Council of Children, Youth and Family Services (PCCYFS) appreciates the opportunity to comment on the Department of Public Welfare's Proposed Regulations regarding the Implementation of TANF/Act 35. We also commend the Department of Public Welfare (DPW) for its efforts to develop a regulatory foundation for TANF in Pennsylvania and to develop programs to meet the unusual and special circumstances experienced by significant numbers of TANF recipients. It is with these special populations in mind, that we share our concerns about the proposed regulations and urge your reconsideration of implementation as written. Our concerns are outlined below.

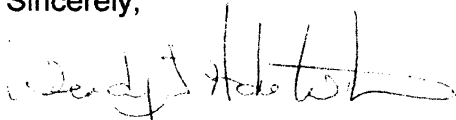
- The regulations fail to outline any exceptions to the 60-month time limit for cash benefits. PCCYFS appreciates that the regulatory inclusion of the current Pennsylvania programs addressing special circumstances may limit future flexibility in relation to economic changes. However, making no mention of general categories for exemption, even those authorized by the Federal government, fails to create any accountability measure for meeting the needs of families. For example, federal law allows states to exempt 20% of its TANF caseload as well as domestic violence victims from the time limit using federal funds. States may also extend the time limit to additional families using its own funds. While DPW has announced intentions to utilize these options as well as to modify the time limit rule, under these regulations such accommodations need never be made. Thus PCCYFS recommends that the 60-month time limit be withdrawn from the regulations until special exemptions can be addressed appropriately within the regulations.

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INDEPENDENT REGULATORY REVIEW COMMISSION

- Important protections designed to avoid inappropriate sanctions have been eliminated from the regulations. These protections ensure that families maintain their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, childcare problems, or misunderstanding. Existing protections require conciliation sessions to work out problems a family may be facing and remind sanctioned individuals that they may start receiving benefits again. With these protections eliminated, families who are trying their best to comply with work requirements, could lose their benefits. PCCYFS recommends inclusion of the current protections.
- The regulations do not include program modifications that were agreed upon to avoid legislative action. When House Bill 1266 was pending, the Department of Public Welfare agreed to make important changes in its work requirements to allow greater access to education and training, consistent with Act 35. PCCYFS recommends that these agreed upon changes be included in the regulations.
- The proposed regulations fail to provide adequate protection for victims of domestic violence. Waivers of TANF child support cooperation requirements protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. The regulations, however, fall short of making waivers a truly viable option. In order to do so, the regulations should require full notification about the waiver possibility, prohibit arbitrary waiver deadlines, allowing the waiver to continue for so long as necessary, and eliminate documentary requirements for waivers that unnecessarily burden both domestic violence victims and service providers.

In March, 2002, 12,000 families will reach the 60 month time limit for their TANF benefits, and this in a time of economic uncertainty and increasing unemployment. Given the gravity of these circumstances, we urge your reconsideration of the regulations as written. Thank you for your consideration of these comments.

Sincerely,



Wendy S. Hoke Witmer
Program Specialist



Bernadette M. Bianchi
Executive Director

INTERIM

HOUSE

RECEIVED

2001 NOV 19 AM 9:41

INDEPENDENT REGULATORY REVIEW COMMISSION

November 15, 2001

Original: 2224

333 West Upsal Street
Philadelphia, PA
19119-4010
215-849-4606
215-849-3776 (fax)

Edward J. Zogby, Director, Bureau of Policy
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

Re: DPW Proposed Regulations
Implementation of TANF/Act 35

Dear Mr. Zogby and Members of the IRRRC:

We are writing to urge crucial changes to DPW's proposed regulations implementing TANF and Act 35, which were published in the Pennsylvania Bulletin on October 20, 2001. Interim House is a women's drug and alcohol treatment program. We were one of the first women's treatment programs in the country, and we have several decades of experience helping women recover from drug and alcohol addiction. The women in our residential, intensive outpatient and outpatient programs are all extremely low-income. We also run a residential drug and alcohol treatment program for women and their young children, Interim House West. The families at Interim House West are also extremely low-income. The women in all the programs run by Interim House and Interim House West are struggling to rebuild their lives, with histories of surviving often horrific physical and sexual abuse, homelessness, and mental and physical illness in addition to their drug and alcohol problems. Many arrive at our facility with nothing but the clothes on their backs, and have no financial resources or assets whatsoever.

The intensity of the treatment we provide generally precludes employment for the women in our treatment programs, and during the time they are in treatment with us, their only source of income is usually public assistance. Most of the women we serve have work histories, but in low-wage, temporary jobs. They have very limited educations, and limited job skills. They want to work, but need drug & alcohol treatment, medical treatment, and education and training in order

to get and keep jobs. In the meantime, they need cash assistance in order to survive and to take care of their children.



A subsidiary of the
Philadelphia Health
Management
Corporation



A United Way
Agency

We have many concerns about the proposed regulations. The proposed regulations' five-year time limit without any exceptions jeopardizes the income and well-being of the nearly 12,000 families that will be reaching the time limit beginning on March 3, 2002. These regulations as written would also harm TANF recipients trying to move into the workforce and battered women. These harmful changes are being considered at the very time when Pennsylvania's unemployment rate and TANF caseload are rising. We urge you to make changes to the proposed regulations to protect these vulnerable families.

Here are some of the most important problems:

- I **The regulations don't provide any exceptions at all to the 60 month TANF time limit. DPW should consider all of its time limit policies together rather than piecemeal.**

The federal law gives states many options to extend the time limit beyond 60 months: Pennsylvania may exempt 20% of its TANF caseload as well as battered women from the time limit using federal funds, and may extend the time limit to additional families using its own funds. DPW has announced that it intends to use all of these options, through its "overtime" and "time out" policies. The "time out" program is already in effect, and DPW has said that it will be issuing "overtime" rules shortly. **These proposed regulations, however, would not permit either of these programs, and could result in thousands of families losing their only source of income in a matter of months.** Although DPW officials have said they intend to modify the time limit rule in this set of regulations soon, they should not ask the public to "trust them" that they will fix this flawed regulation in the coming months. Instead, the Department should consider all of its time limit policies, including "overtime," together in the later set of regulations. **The time limit regulation should be removed from this package of regulations altogether.**

- I **The protections to prevent inappropriate sanctions have been gutted.**

Important protections have been in place to ensure that families don't lose their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, child care problems, or misunderstanding. The regulations eliminate these protections. As a result, families could lose their benefits even though they are trying their best to comply with work requirements. **The regulations should restore existing protections requiring conciliation sessions to work out problems a family may be facing, and reminding sanctioned individuals that they may start receiving benefits again.** The women we serve frequently have difficulty reaching their welfare caseworkers, rescheduling appointments, or getting "verification," and we see first hand how important the conciliation process is in preventing wrongful terminations of benefits.

- I **The regulations don't include the compromise modifications to DPW's work program that DPW adopted to avoid legislation that would have allowed more education and training.**

When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority to make important changes in its work requirements to allow greater access to education and training. These changes, which are consistent with Act 35, should be included in the regulations. Education is incredibly important as a route out of poverty, and DPW should be encouraging education and meaningful job training in every possible context.

- **The regulations don't properly protect survivors of domestic violence**

Waivers of TANF child support cooperation requirements are crucial to protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. **DPW's proposed regulations fail to provide adequate procedures to make waivers a true option for victims of domestic violence by not requiring full notification about the waiver possibility, by permitting arbitrary waiver deadlines instead of allowing the waiver to continue for so long as necessary, and by imposing documentary requirements for waivers that unnecessarily burden both domestic violence victims and domestic violence service providers.**

Most of the women we work with are survivors of physical and sexual abuse, and it is extremely important to their recovery from alcohol or drug addiction (as well as to their physical and emotional safety) that the welfare department not do anything that would place them or their children in jeopardy of further abuse.

- **The regulations attempt to impose more work obligations than the General Assembly required, and lessen parents' ability to design their own path off welfare.**

Pennsylvania's welfare reform law provides for DPW and parents to develop mutually-agreed-upon plans for the parent to move toward self-sufficiency, assuming the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement.

The women we serve have multiple barriers to employment, and are juggling multiple demands from the welfare department, from the criminal justice system, from the child welfare system, from their needs for drug and alcohol treatment and from their children's needs. They suffer from low self-esteem and from a lack of control in their lives. We should be treating them with respect, and allowing them to make as many decisions as possible about the well-being of their families, not setting them up to fail by imposing obligations they cannot meet.

Thank you for considering these comments. I hope that you will make sure these problems are fixed before approving final regulations.

Sincerely,



Kathy Weilbank
Program Director

cc: Secretary Feather Houstoun
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

16



2001 NOV 27 11 31 20
RECEIVED

November 15, 2001

333 West Upsal Street
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215-849-3776 (fax)

Edward J. Zogby, Director, Bureau of Policy
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

Re: DPW Proposed Regulations
Implementation of TANF/Act 35

Dear Mr. Zogby and Members of the IRRC:

We are writing to urge crucial changes to DPW's proposed regulations implementing TANF and Act 35, which were published in the Pennsylvania Bulletin on October 20, 2001. Interim House is a women's drug and alcohol treatment program. We were one of the first women's treatment programs in the country, and we have several decades of experience helping women recover from drug and alcohol addiction. The women in our residential, intensive outpatient and outpatient programs are all extremely low-income. We also run a residential drug and alcohol treatment program for women and their young children, Interim House West. The families at Interim House West are also extremely low-income. The women in all the programs run by Interim House and Interim House West are struggling to rebuild their lives, with histories of surviving often horrific physical and sexual abuse, homelessness, and mental and physical illness in addition to their drug and alcohol problems. Many arrive at our facility with nothing but the clothes on their backs, and have no financial resources or assets whatsoever.

The intensity of the treatment we provide generally precludes employment for the women in our treatment programs, and during the time they are in treatment with us, their only source of income is usually public assistance. Most of the women we serve have work histories, but in low-wage, temporary jobs. They have very limited educations, and limited job skills. They want to work, but need drug & alcohol treatment, medical treatment, and education and training in order

to get and keep jobs. In the meantime, they need cash assistance in order to survive and to take care of their children.



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Philadelphia Health
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Bureau of Policy

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A United Way
Agency



We have many concerns about the proposed regulations. The proposed regulations' five-year time limit without any exceptions jeopardizes the income and well-being of the nearly 12,000 families that will be reaching the time limit beginning on March 3, 2002. These regulations as written would also harm TANF recipients trying to move into the workforce and battered women. These harmful changes are being considered at the very time when Pennsylvania's unemployment rate and TANF caseload are rising. We urge you to make changes to the proposed regulations to protect these vulnerable families.

Here are some of the most important problems:

- | **The regulations don't provide *any exceptions at all* to the 60 month TANF time limit. DPW should consider all of its time limit policies together rather than piecemeal.**

The federal law gives states many options to extend the time limit beyond 60 months: Pennsylvania may exempt 20% of its TANF caseload as well as battered women from the time limit using federal funds, and may extend the time limit to additional families using its own funds. DPW has announced that it intends to use all of these options, through its "overtime" and "time out" policies. The "time out" program is already in effect, and DPW has said that it will be issuing "overtime" rules shortly. **These proposed regulations, however, would not permit either of these programs**, and could result in thousands of families losing their only source of income in a matter of months. Although DPW officials have said they intend to modify the time limit rule in this set of regulations soon, they should not ask the public to "trust them" that they will fix this flawed regulation in the coming months. Instead, the Department should consider all of its time limit policies, including "overtime," together in the later set of regulations. **The time limit regulation should be removed from this package of regulations altogether.**

- | **The protections to prevent inappropriate sanctions have been gutted.**

Important protections have been in place to ensure that families don't lose their benefits when they are trying to comply with work requirements, or when they have been unable to comply because of illness, child care problems, or misunderstanding. The regulations eliminate these protections. As a result, families could lose their benefits even though they are trying their best to comply with work requirements. **The regulations should restore existing protections requiring conciliation sessions to work out problems a family may be facing, and reminding sanctioned individuals that they may start receiving benefits again.** The women we serve frequently have difficulty reaching their welfare caseworkers, rescheduling appointments, or getting "verification," and we see first hand how important the conciliation process is in preventing wrongful terminations of benefits.

- | **The regulations don't include the compromise modifications to DPW's work program that DPW adopted to avoid legislation that would have allowed more education and training.**

When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority to make important changes in its work requirements to allow greater access to education and training. These changes, which are consistent with Act 35, should be included in the regulations. Education is incredibly important as a route out of poverty, and DPW should be encouraging education and meaningful job training in every possible context.

- **The regulations don't properly protect survivors of domestic violence**

Waivers of TANF child support cooperation requirements are crucial to protect victims of domestic violence from danger that arises when support papers inform a batterer where the woman lives, provoke retaliatory violence, and place the woman in direct contact with batterer in court. **DPW's proposed regulations fail to provide adequate procedures to make waivers a true option for victims of domestic violence by not requiring full notification about the waiver possibility, by permitting arbitrary waiver deadlines instead of allowing the waiver to continue for so long as necessary, and by imposing documentary requirements for waivers that unnecessarily burden both domestic violence victims and domestic violence service providers.**

Most of the women we work with are survivors of physical and sexual abuse, and it is extremely important to their recovery from alcohol or drug addiction (as well as to their physical and emotional safety) that the welfare department not do anything that would place them or their children in jeopardy of further abuse.

- **The regulations attempt to impose more work obligations than the General Assembly required, and lessen parents' ability to design their own path off welfare.**

Pennsylvania's welfare reform law provides for DPW and parents to develop mutually-agreed-upon plans for the parent to move toward self-sufficiency, assuming the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement.

The women we serve have multiple barriers to employment, and are juggling multiple demands from the welfare department, from the criminal justice system, from the child welfare system, from their needs for drug and alcohol treatment and from their children's needs. They suffer from low self-esteem and from a lack of control in their lives. We should be treating them with respect, and allowing them to make as many decisions as possible about the well-being of their families, not setting them up to fail by imposing obligations they cannot meet.

Thank you for considering these comments. I hope that you will make sure these problems are fixed before approving final regulations.

Sincerely,



Kathy Wellbank
Program Director

cc: Secretary Feather Houstoun
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120



Idyll Development Foundation • 415 Jasper Street • Media, PA 19063

November 6, 2001

Edward J. Zogby, Director, Bureau of Policy
Department of Public Welfare
Room 431, Health and Welfare Building
Harrisburg, PA 17120

Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

Re: DPW Proposed Regulations
Implementation of TANF/Act 35

Dear Mr. Zogby and Members of the IRRC:

As president of an economic development foundation working hard to make sure Pennsylvania residents – especially in the Delaware Valley – have sustainable employment and income, I am concerned about the changes to DPW's proposed regulations implementing TANF and Act 35. The proposed regulations' five-year time limit without any exceptions jeopardizes the income and well-being of the nearly 12,000 families that will be reaching the time limit beginning on March 3, 2002. These regulations as written would also harm TANF recipients trying to move into the workforce. These harmful changes are being considered at the very time when Pennsylvania's unemployment rate is rising. I urge you to make changes to the proposed regulations to protect these vulnerable families.

I am primarily concerned that the regulations don't include the compromise modifications to DPW's work program, which DPW adopted to avoid legislation that would have allowed more education and training. When House Bill 1266 was pending, DPW agreed to exercise its discretionary authority to make important changes in its work requirements to allow greater access to education and training. These changes, which are consistent with Act 35, should be included in the regulations.

Also, the proposed regulations attempt to impose more work obligations than the General Assembly required, and lessen parents' ability to design their own path off welfare. Pennsylvania's welfare reform law provides for DPW and parents to develop mutually-agreed-upon plans for the parent to move toward self-sufficiency, assuming the parent is meeting the law's work requirements. These proposed regulations, however, would allow DPW to impose more obligations on parents than the law envisions, without the parent's involvement.

Thank you for considering these comments. I hope that you will make sure these problems are fixed before approving final regulations.

Sincerely,



Hal Taussig
President
Idyll Development Foundation

Hal Taussig
President

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REVIEW COMMISSION

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Original: 2224

November 13, 2001

Department of Public Welfare
Edward J. Zogby, Director, Bureau of Policy
Room 431, Health and Welfare Building
Harrisburg, PA 17120

Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17120

Re: Comments on DPW's Proposed TANF Regulations
31 Pa. Bull. 5875 (October 20, 2001)
IRRC No. 2224 14-472

To The Department of Public Welfare and Independent Regulatory
Review Commission:

On October 20, 2001, the Department of Public Welfare published for public comment proposed regulations implementing the TANF program. These comments focus on those portions of the proposed regulations that affect victims of domestic violence. Our interest in the impact of these regulations on victims of domestic violence derives from Pennsylvania's election of the federal Family Violence Option and our participation in the Domestic Violence/TANF Task Force, which was appointed by the Department of Public Welfare to assist it in developing policy and procedures to implement the Family Violence Option (FVO).

The Family Violence Option

The Family Violence Option was incorporated into the 1996 federal welfare reform law to address research findings regarding two important aspects of the relationship between domestic violence and welfare. First, researchers had found that a majority of women receiving welfare have experienced abuse, and that victims of abuse look to public assistance as a safety net to assist them in escaping the abuse. Secondly, however, research also showed that abuse interferes with compliance with welfare requirements, placing women in danger of losing needed benefits,

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A Womens Way Agency

and that, in fact, welfare requirements, themselves, can place families at risk of further abuse. For example, batterers who try to prevent victims from gaining independence by interfering in efforts to engage in work and education will interfere with the victim's compliance with work requirements. Support requirements which result in the filing of a support action, disclosure of a woman's address to the batterer, and contact in proceedings to obtain support, often result in, or even facilitate, retaliatory abuse against the woman. The Family Violence Option thus permitted states to adopt procedures to identify victims of abuse in the TANF population, while maintaining confidentiality, provide referrals to community services, and waive, for as long as necessary, program requirements that would harm or penalize battered women and their families. 42 U.S.C. § 602(a)(7). Pennsylvania demonstrated its commitment to addressing domestic violence when it adopted the Family Violence Option in the state plan submitted to HHS in January, 1997 and reaffirmed this commitment in its 1999 state plan.

Domestic Violence/TANF Task Force

To assist in implementing the Family Violence Option, DPW appointed the Domestic Violence/TANF Task Force. Under the leadership of Carolyn Chester, Director, Bureau of Social Services, the Task Force is made up of representatives of DPW's Office of Income Maintenance, Bureau of Child Support Enforcement, Operations, and Training as well as representatives of County Assistance Offices. Advocates knowledgeable about domestic violence and welfare also participate, including the Pennsylvania Coalition Against Domestic Violence, Women's Law Project, Community Legal Services, Community Justice Project, and domestic violence service providers. In operation since April, 1997, the Task Force has worked diligently to develop procedures for notifying TANF recipients about the Family Violence Option, protecting the confidentiality of domestic violence victims, providing referrals to services, and waiving work, child support, and time limit requirements. DPW reached agreement with the Task Force on a number of policies and procedures; those most relevant to the recently proposed regulations concern waivers of support cooperation requirements. Other areas of work are in progress but remain unfinished; the unfinished business relevant to these regulations relates to time limits.

Waivers of Support Cooperation Requirements.

The procedures developed by the Task Force and approved by DPW were designed to allow domestic violence victims to obtain waivers of support requirements where cooperation would place them in danger. Integral to accomplishing this goal were procedures to provide effective communication of waiver options to TANF recipients; new, streamlined procedures for obtaining waivers to replace the former, burdensome ones; and provisions permitting the waiver to last as long as necessary. Thus, it was agreed that caseworkers would provide notice of the Family Violence Option both in writing **and orally** at the time of application and whenever requirements were being discussed. Proof requirements were designed to allow women to obtain waivers even if

they lacked documentary or third party proof, in recognition that: (1) domestic violence takes place in private and there are often no witnesses; (2) seeking police or medical assistance might place a woman in danger and therefore records of help seeking activities might not be available, and (3) if a woman has fled, she may have left papers under the batterer's control and would risk further violence if she returned to obtain them. It was further agreed that, while waivers would be reviewed every six months, consistent with federal law and usual redetermination procedures, women would not be burdened with unnecessary documentation requirements at that time and the waiver would last as long as necessary. No provision for the expiration of the waiver was adopted or even discussed.

The failure of the support regulations as proposed by DPW is not that notice and domestic violence waivers are entirely lacking. Rather, DPW has removed agreed upon protections and added requirements and other provisions never even discussed with the Task Force, undermining the very goals which the Task Force agreements sought to achieve. In summary, the support regulations on the domestic violence waivers contain: (1) inadequate notice requirements; (2) burdensome verification requirements, exceeding those agreed upon with the Task Force and already implemented administratively by DPW; and (3) arbitrary expirations of the waivers. These failures are not small, marginally important details. To the contrary, they could expose women to extraordinary harm.

As mentioned above, support cooperation is not a mere inconvenience for domestic violence victims, but a highly risky undertaking. In and of itself, the filing of a support petition against an abuser is extremely likely to enrage him, and his anger may cause him to repeat his prior violent behavior against his former partner. Moreover, if not handled appropriately, the petition could alert the batterer to his former partner's whereabouts. Even if he does not learn where she is living, the abuser may see his partner in court at the support hearing, putting her in close proximity to him at a time he is particularly angry.

For these reasons, the details of the domestic violence waivers from the cooperation requirements are crucial. Given that the possible consequences include physical and mental harm, and even death, the stakes are much too high to tolerate anything less than exacting implementation of the waivers.

Concern for the safety of domestic violence victims and the need for precision in the details were at the core of policy and procedure recommendations submitted by the Domestic Violence/TANF Task Force and approved by DPW. The deficiencies outlined below are all inconsistent with the policies and procedures to which DPW agreed during the Task Force implementation process. Marked-up copies of the relevant regulations are attached reflecting the remedies discussed below. (Exhibit A).

Inadequate notification to the applicant or recipient

Section 187.25 Notification of waiver

Proposed § 187.25(a) provides that the CAO will provide oral and written notification to an applicant or recipient of the right to claim a good cause exemption from the cooperation requirements. However, it provides that only the written notice must state the details required by subsection (a), which includes circumstances constituting good cause, proof of good cause, and the procedure for the good cause determination.

The reason for requiring oral notification of the right to claim good cause is manifest: the danger of domestic violence is too significant to trust to paper notification. If notification is only written, women may miss reading it in the raft of paper that accompanies the welfare process, or limited reading comprehension may prevent them from understanding the written notice.

Oral as well as written explanation of good cause was recommended by the Domestic Violence Task Force, agreed to by DPW, and published in DPW's June 30, 2000 Operations Memorandum, No. 00-06-10 (Exhibit B). It must also be required in the regulation.

Remedy: Add the words "oral and" before the word "written" in § 187.25(a).

Burdensome documentary requirements

Section 187.27(b) Proof of good cause

First, § 187.27(b), which governs proof of good cause, repeatedly uses the words "corroboration" and "corroborative evidence." These words suggest that evidence in addition to the woman's self-affirmation of her abuse is needed, when in fact DPW agreed in its Operations Memorandum that self-affirmation can in some cases be sufficient.

Remedy: The words "corroboration" and "corroborative evidence" should be replaced by the word "verification."

Section 187.27(b)(1)(iv) Evidence of good cause

Second, § 187.27(b)(1)(iv) includes specific details regarding medical verification that are burdensome and inconsistent with the verification procedures set forth in subsection (vii) and the Verification form described therein, which were developed by DPW to establish verification for domestic violence waivers.

Remedy: Subsection (iv) should be deleted and the remaining subsections renumbered.

Section 187.27(b)(1)(v) Evidence of good cause

Third, § 187.27(b)(1)(v) does not set forth the full scope of good cause circumstances, as set forth in § 187.27(a)(4).

Remedy: Delete the phrase “indicate that the putative father, noncustodial parent or absent spouse might inflict harm on the individual or family member as specified under subsection (a)(4)””; replace it with “verify domestic violence as defined at subsection (a)(4).”

Section 187.27(b)(1)(vi) Prohibition on contacting abuser

Fourth, the last sentence of § 187.27(b)(1)(vi) is a critical statement that is misplaced. That sentence is, “The CAO may not contact the putative father or noncustodial parent to verify good cause in a domestic violence situation.” Rather than being included in this list of possible verification, the sentence should be included in § 187.27(b)(2), which describes the CAO’s role in assisting with verification.

Remedy: Move the last sentence of § 187.27(b)(1)(vi) to the end of § 187.27(b)(2),

Section 187.27(b)(1)(vii) Person completing waiver application

Fifth, § 187.27(b)(1)(vii) provides that “the person with domestic violence training” (i.e., domestic violence prevention agencies) and the recipient will complete the good cause form. This is a burden that should not be placed on such providers; moreover, by involving a third party, the requirement may delay or prevent processing of the request. The Task Force and DPW had agreed that the form would be completed by the CAO, working with the recipient.

Remedy: Replace the words “the person with domestic violence training” in § 187.27(b)(1)(vii) with “the County Assistance Office.”

Inappropriate end of waivers

Sections 187.27(c)(3) and 187.23(d)(4) Expiration of waivers

Section 187.27(c)(3) provides that the CAO, court of common pleas, or DRS approving a waiver will establish the expiration of the waiver. Section 187.23(d)(4) also makes references to “expiration” of the waiver. However, the notion of expirations at an arbitrary date conflicts with the Family Violence Option incorporated in TANF and adopted by DPW, which provides for waivers “so long as necessary.” 42 U.S.C. § 602(7)(A)(iii). Also, expiration of waivers was not even discussed by the Domestic Violence Task Force, which recommended — and DPW agreed — that waivers should

last as long as needed, subject to review every six months. The Operations Memorandum (Exhibit B) provides for six month reviews, but does not include the establishment of an expiration date.

Setting expiration dates for these waivers is extraordinarily problematic. There is no reason to think that domestic violence is susceptible to being resolved by a date certain. If a waiver were to expire and a support action begun by DPW before a woman could seek to re-establish it (which could happen for a multitude of reasons, such as she was not aware of its expiration or she is too busy dealing with her problems to attend to it), the woman could be in as much danger as she was at the time that the waiver was granted. The provision for six-month review better protects these vulnerable families while satisfying DPW's interest that waivers not be permanent where not required by the circumstances of a particular case.

Remedy: In § 187.23(d)(4), change the phrase "until the good cause waiver expires" to "as long as the good cause exists." In § 187.27(c)(3), eliminate the phrase, ""the DRS will establish the expiration of the waiver and...."

Section 187.27(c)(4) Period for review of good cause

Moreover, § 187.27(c)(4) provides that a review of good cause may be earlier than six months. Reviews in less than six months was never discussed with the Task Force, much less agreed upon.

Remedy: Delete the last sentence of § 187.27(c)(4).

Other support provisions

Section 187.22 Definition of budget group

We object to the requirement that all siblings be included in the budget group, including children for whom support is being paid. The federal requirement that these children be included in the budget group was repealed when AFDC was replaced by TANF in 1996. DPW can and should permit parents to leave children receiving support out of the budget group if they so choose, promoting self-sufficiency and encouraging non-custodial parents to support the children.

Sections 187.23(b)(6) and 187.23(c)(6) Paying support to DPW after assignment

These provisions require that a parent who receives support payments directly from an absent parent after an assignment of support is made to pay these funds over to DPW. We note that in the initial month of application for TANF any support received or anticipated to be received by the TANF parent is counted in determining the family's TANF payment, subject to a \$50 disregard. These provisions should be modified to

reflect the fact that support received directly from the absent parent is not always required to be paid over to DPW.

Time Limits

Time limit extensions are extremely important for victims of domestic violence. It is implicit in the federal Family Violence Option that the TANF program serves as a safe haven for families fleeing from or suffering the effects of domestic violence. Recognizing that escaping domestic violence and overcoming its effects can be exceedingly difficult for families --and can take time -- the TANF statute and its implementing regulations permit, and indeed encourage, states to provide relief from the 60 month lifetime limit on receipt of TANF benefits to victims of domestic violence. These provisions permit victims to use time while they are on TANF to secure subsistence benefits that will afford them a measure of economic independence from batterers; take steps to ensure their personal safety and the safety of family or household members; and begin to address barriers to eventual self-sufficiency --- and to do so without having to worry about running out of time-limited benefits.

Thus, HHS regulations provide that states may grant time limit relief for "so long as necessary"¹ in order for families to "overcome the effects of abuse."² In fact, HHS strongly encourages states to "assure" victims, that they will not be cut off of assistance when they reach the time limit if they still need assistance and that they can return for assistance if the need recurs.³ "Such assurances are important," HHS explains, "because they will alleviate pressure on victims to take steps that might jeopardize their personal or their family's safety."⁴ In recognition of the importance of the FVO, the federal regulations provide that time limit waivers for victims of domestic violence **will not count towards the 20% that a state may exempt from time limits.**⁵

Failure to Include Time-Limit Relief

Although DPW has included the 60-month time-limit in the proposed regulations currently under review, it has not included any provision for time limit relief. DPW has not done so, even though it already implemented one program in July, 2001 -- the "time-out" program -- that provides 12 months off the TANF clock on state funded benefits, and has stated that it is working on a regulatory package to address time-limit extensions. DPW has already included domestic violence as a basis for time-out and has informed the Task Force that domestic violence will be a basis for a time-limit extension, although it has not shared the details or responded to a comprehensive time-limit proposal submitted by the Task Force.

¹ 45 C.F.R. §§260.52(c),260.55(b).

² 54 Fed. Reg., No. 69, April 12, 1999, p. 17746.

³ Id.


⁴ Id.


⁵ 45 C.F.R. §260.59(a)(2)(ii).

Adopting regulations that implement the time-limit without including the bases and procedures for obtaining time-limit relief will place domestic violence victims at serious risk. Battered women facing the 60 month time limit with no recourse for additional time due to the hardships of domestic violence will be prevented from giving due consideration to safety when making decisions about program requirement waivers; the pressure of the 60 month clock may lead them to cooperate when it is actually unsafe to do so. As the time-limit approaches and no relief is available, they will be forced to make other choices to address their families safety which they might not otherwise have to. The time-limit policy should therefore be implemented in one comprehensive regulatory package, so that it accurately reflects what DPW is doing and what it plans to do, and so the public can respond appropriately.

Thank you for your consideration of these comments. If we can be of further assistance, please feel free to contact either or both of us.

Very truly yours,


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Terry Fromson
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cc: Senate Public Health and Welfare Committee Members
House Health and Human Services Committee Members

ORIGINAL: 2224

EXHIBIT A

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[31 Pa.B. 5875]

[Continued from previous Web Page]

(1) [*General.* The following will constitute the general requirements for securing support from a spouse and the method used for determining the financial ability of the spouse to support:] Identifying the parents of an unemancipated minor child for whom assistance is sought or received, including appearing for scheduled genetic testing with the child and submitting to the testing.

(i) [The client will be required, as a condition of eligibility for assistance, to provide sufficient information about the location of the spouse. The client will be expected to assist in locating a missing LRR to permit a determination of the ability of the spouse to provide support or court action as provided in § 187.24(h) (relating to procedures).] Failure of the mother to identify by name the father of an unemancipated minor child shall create a presumption of noncooperation which may be rebutted only by clear and convincing evidence. ^{with that good cause}

(ii) [Further steps to seek support will not be required whenever the information provided indicates that the spouse is either of the following:] If the applicant or recipient provides the names of two putative fathers subsequently excluded from paternity by genetic testing, the second exclusion shall create a presumption of noncooperation, which may be rebutted only by clear and convincing evidence.

[(A) Receiving assistance, including SSI or SBP.

(B) Mentally or emotionally unstable and the evidence clearly indicates that further efforts to obtain support would expose the client to danger or injury. The Executive Director or his delegate must approve this decision.]

(2) [*Providing information about the spouse's financial circumstances.* Information about the financial circumstances of the spouse will conform with the following:] Keeping scheduled appointments with the Department or the DRS.

(i) The client may be able to provide the information himself or obtain it directly from the spouse. The County Assistance Office will help the client secure the information when necessary.

(ii) If the spouse refuses to provide the information and it cannot be obtained in any other way, court action is required, as set forth in § 187.24(h).

(iii) If the client refuses to provide the information or to take specific steps that appear

(3) Providing truthful and accurate information and documents requested by the Department or the DRS.

(i) When the whereabouts of a spouse are unknown, the applicant or recipient will be required to take whatever steps are appropriate to the individual circumstances to locate the missing spouse. This may include contacting relatives and friends for information about the whereabouts of the spouse or giving consent to the CAO to contact other agencies, relatives and other individuals or possible employers and similar resources.

(ii) The CAO will provide whatever help is appropriate to the individual circumstances of the applicant/recipient to assist in locating the missing spouse and supplement the efforts of the applicant/ recipient by checking appropriate governmental records.

(iii) Together, the CAO staff and the applicant/ recipient will plan and agree on the specific steps to be taken to locate the missing spouse. Assistance will be authorized or continued on the agreement of the applicant/recipient to take the specific steps within the time set for doing so.

(4) Signing and returning any forms requested by the Department or the DRS.

(5) Appearing as a witness and providing testimony at judicial and other hearings as requested by the DRS.

(6) Paying to the Department any support payment received directly from an absent spouse after an assignment of support has been made.

(d) Cooperation prior to authorization. Except as provided in paragraphs (3) and (4), every applicant or recipient of cash assistance shall cooperate in establishing paternity and obtaining support. The applicant or recipient shall:

(1) Appear before the DRS or other applicable division of the court of common pleas and provide to the CAO certification from the DRS of cooperation by the applicant or recipient of cash assistance in establishing paternity and in obtaining support.

(2) Cooperate with the procedures established for the county when a waiver of the personal appearance requirement is in place. The Secretary is authorized to waive the personal appearance requirement under paragraph (1) if another procedure would be as effective and efficient and a family court or DRS requests a waiver.

(3) In the case of a newborn, cooperate with the requirements under § 133.23(b)(4)(v) (relating to requirements).

(4) File a good cause claim. The cooperation requirements are waived from the time a good cause claim is filed until the CAO, court of common pleas or DRS makes a determination on the claim. If the CAO, court of common pleas or DRS determines that good cause exists, the cooperation requirements are waived ~~until~~ the good cause waiver expires. continues. as long as

§ 187.25. Notification to the applicant or recipient.

(a) *Cash assistance sought or received for an unemancipated minor child.* Before requiring cooperation under § 187.23(b) (relating to requirements), the CAO will provide oral and written notice of the cooperation requirements to the applicant or recipient. The ^{oral} and written notice shall advise the applicant or recipient of the following:

(1) The potential benefits that the unemancipated minor child may derive from the cooperation of the applicant or recipient in establishing paternity and obtaining support.

(2) Cooperation is a condition of eligibility.

(3) Failure to cooperate without good cause will result in the reduction of the cash assistance allowance by 25%.

(4) The right to claim good cause, good cause circumstances, proving the good cause claim, and the good cause determination under § 187.27 (relating to waiver of cooperation for good cause).

(5) The CAO will waive the cooperation requirements when the CAO, the court of common pleas or the DRS determine that good cause exists.

(6) A finding of noncooperation of an applicant or recipient does not affect the LRR's duty to pay support.

(b) *Cash assistance sought or received for a spouse.* Before requiring cooperation under § 187.23(c), the CAO will provide oral and written notice to the applicant/recipient of the cooperation requirements and the right to claim good cause. The written notice shall advise the applicant/recipient of all the information set forth under subsection (a).

§ 187.26. Noncooperation.

(a) *Determination of noncooperation by the CAO, court of common pleas or DRS.* The CAO, court or DRS may make the determination of whether an applicant/recipient refused to cooperate without good cause. The court of common pleas of each county shall have the option of hearing appeals from any determination of its DRS that an applicant/recipient has not cooperated in accordance with § 187.23 (relating to requirements). If the court declines to exercise the option to hold hearings on the appeals, the procedures in subsection (b) apply. If the CAO determines noncooperation without good cause, the procedures in subsection (c) apply. Subsection (c)(1) applies to applicants. Subsection (c)(2) applies to recipients. The procedures in subsection (c)(1) or (2) also apply when the court declines to hold the noncooperation hearing. If the court, after notice and an opportunity to be heard, determines that the applicant/recipient refused to cooperate without good cause, the Department will implement the court's order as set forth in subsection (d).

(b) If the court or the DRS determines that the applicant/recipient has failed to cooperate without good cause with § 187.23, the court or the DRS will provide notice of

any noncooperation determination to the CAO along with notice of its decision to opt not to hold a hearing on noncooperation. Appropriate court personnel shall be made available to provide testimonial evidence by telephone testimony at the time and location set by the Department for the Departmental appeal hearing. Upon receipt of the notice from the court or the DRS, the CAO shall proceed in accordance with subsection (c)(1) or (2) depending upon whether the individual is an applicant for or recipient of assistance.

(c) If the CAO determines that the applicant/recipient has failed to cooperate, without good cause, with § 187.23, or upon receipt of a notice of a noncooperation determination by the court or DRS under subsection (b), the CAO will:

(1) In the case of an applicant:

(i) Provide notice to the applicant of the noncooperation determination, the basis for the noncooperation determination and the reduction of the cash assistance allowance by 25% effective upon authorization of assistance.

(ii) Provide notice to the applicant of the right to appeal to the Department's office of hearings and appeals under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(iii) Authorize the cash assistance allowance reduced by 25% effective upon authorization of assistance.

(iv) Authorize the full cash assistance allowance if so ordered as a result of a decision rendered by the Bureau of Hearings and Appeals, as a result of a good cause claim initiated by the applicant, or as a result of the applicant cooperating with the support requirements.

(2) In the case of a recipient:

(i) Provide notice to the recipient of the noncooperation determination, the basis for the noncooperation determination, and the reduction of the cash assistance allowance by 25% 10 days after the date of the notice.

(ii) Provide notice to the applicant of the right to appeal to the Department's Bureau of Hearings and Appeals under Chapter 275.

(iii) Authorize the reduction of the cash assistance allowance by 25% effective 10 days after the date of the notice, unless the recipient has invoked his right to a hearing and has filed an appeal within the 10-day period. If the recipient has invoked his right to a fair hearing, cash assistance will not be reduced pending a decision in the hearing.

(iv) ^{If the DPW action is sustained} Initiate recovery of the assistance granted pending the fair hearing ~~if the Department action is sustained.~~ ^{which was}

(d) *Determination of noncooperation by the court.* A hearing or appeal with respect to the recommendation order of noncooperation directed by the court or DRS will be conducted by the court in accordance with the Pennsylvania Rules of Civil Procedure.

(1) Upon receipt of a court order issued by a court of common pleas, the CAO will implement the order within 10 days of receipt. The CAO will:

(i) Provide notice to the applicant or recipient of the court order and the cash assistance allowance reduction by 25%.

(ii) Provide notice to the applicant or recipient of the right to appeal to the Department's Bureau of Hearings and Appeals under Chapter 275 and that the right of appeal to the Department's Bureau of Hearings and Appeals does not include appeal of a court order in which noncooperation has been determined by the court. The right to appeal in this instance to the Department's Bureau of Hearings and Appeals under Chapter 275 is restricted to the calculation of the assistance allowance.

(iii) For an applicant, authorize the cash assistance allowance reduced by 25% effective upon authorization of assistance. For a recipient, the CAO will reduce the cash assistance allowance by 25% effective 10 days after the date of the notice, unless the recipient has invoked his right to a hearing and has filed an appeal within the 10-day period. If the recipient has invoked his right to a fair hearing, the cash assistance allowance will not be reduced pending a decision in the hearing.

(2) If the court order directs the Department to rescind the sanction for noncooperation, the Department will implement the order immediately upon receipt.

§ 187.27. Waiver of cooperation for good cause.

(a) *Good cause circumstances.* Cooperation requirements may be waived for good cause. Good cause circumstances include the following:

(1) The child was conceived as a result of incest or rape.

(2) Legal proceedings for the adoption of the child are pending before a court.

(3) The applicant or recipient of cash assistance is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption and the discussions have not progressed for more than 3 months.

(4) Action to establish paternity or obtain child or spousal support would make it more difficult for the individual or family member to escape domestic violence, or unfairly penalize the individual who has been victimized by the violence, or who is at risk of further violence. Domestic violence is defined as one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker/relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(b) *Proving the good cause claim.* The applicant or recipient of cash assistance shall provide relevant ~~conclusive evidence.~~
verification.

(1) A good cause claim may be ~~concluded~~ verified with the following types of evidence:

(i) A birth certificate or medical or law enforcement records which indicate that the child was conceived as the result of incest or rape.

(ii) Court documents or other records which indicate that legal proceedings for adoption are pending.

(iii) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to relinquish the child for adoption.

~~(iv) Medical records which indicate emotional health history and present emotional health status of the applicant or recipient or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the applicant or recipient or the child for whom support would be sought. Supportive evidence submitted from a mental health professional will be defined as statements written by persons who have obtained licensure or certification, if applicable, or have received a degree in defined areas of mental health including psychiatry, social work, psychology, nursing, occupational therapy or recreational therapy.~~

(iv) ~~(v)~~ Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the putative father, noncustodial parent or absent spouse might inflict harm on the individual or family member as specified under subsection (a)(4).
verify domestic violence as defined at section 187.27(a)(4).

(v) ~~(vi)~~ Statements from individuals other than the applicant or recipient with knowledge of the good cause circumstances, including a domestic violence service provider, a medical, psychological or social service provider, a law enforcement professional, a legal representative, an acquaintance, friend, relative or neighbor of the claimant or other person. [The CAO may not contact the putative father or noncustodial parent to verify good cause in a domestic violence situation.] Move [] to section 187.27(b)(2).

(vi) ~~(vii)~~ "Verification of Good Cause Based on Domestic Violence." The ~~person with~~ CAO and applicant or recipient will complete this form for all good domestic violence training

cause claims based on domestic violence in accordance with one of the following circumstances:

(A) To accompany acceptable verification as specified in subparagraph (iv) ^{or} (v) ~~(vi)~~ that an applicant or recipient has provided.

(B) To ~~authorize~~ ^{grant good cause upon} written consent of the applicant or recipient ~~that a third party may provide verification/confirmation~~ ^{based upon} of the good cause claim ~~provided by a third party on the form.~~ ^{provided by a third party on the form.}

(C) To grant good cause for up to 6 months when an applicant or recipient ~~affirms~~ ^{she is at risk of} ~~is~~ ^{domestic violence} unable to safely obtain ^{other} evidence to verify the claim of domestic violence within the established time frames for providing verification. ^{and}

(2) When the applicant or recipient of cash assistance initiates a claim of good cause, the CAO, court or the DRS may provide assistance with obtaining ~~corroborative evidence~~ ^{verification}. If requested by the applicant or recipient, the CAO, court or DRS will provide assistance in securing the needed evidence by advising how to obtain specific documents that may be available and by undertaking to obtain specific documents the applicant or recipient is not able to obtain.

(3) An applicant or recipient shall provide verification of the good cause claim ^{as provided under subsection (i)(iv)-(vi)} within 30 days from the date the claim is made ~~except when the applicant or recipient cannot otherwise provide verification of the good cause claim as specified in paragraph (1)(ii)(c).~~

(i) In the case of an applicant, assistance will be authorized no later than 30 days following application when the applicant is claiming good cause and verification is not readily available or pending from a third party.

(ii) In the case of a recipient, the CAO will continue assistance if verification is not provided within 30 days and the delay is due to a third party.

(c) *Good cause determination.* The CAO, court or the DRS will make a determination within 45 days from the day the claim was initiated by the applicant or recipient of cash assistance. The CAO, court, or the DRS may approve additional days for the determination to be completed.

(1) If the CAO makes a determination on a good cause claim, the CAO will notify the applicant or recipient of cash assistance in writing of the final determination regarding the claim of good cause and the basis therefor and of the right to appeal under Chapter 275. If the good cause claim is denied, neither the Department nor the Bureau of Child Support Enforcement will attempt to establish paternity or obtain support for at least 30 days after the client has been informed orally and in writing of the denial of the good cause claim.

(2) If the court of common pleas or DRS makes a determination on a good cause claim, the DRS will notify the applicant or recipient of cash assistance and the CAO of the final determination and the basis therefor and of the right to appeal under Chapter 275.

(3) When the CAO, court of common pleas or the DRS approve a waiver of the cooperation requirement based on a claim of good cause, the CAO, court of common pleas

or the DRS will ~~establish the expiration of the waiver and the DRS will not attempt to establish paternity or obtain support.~~

(4) When good cause is determined to exist, the CAO will review the circumstances upon which the good cause determination is based, at least every 6 months. ~~The review may be earlier if the circumstances warranting the good cause waiver change or the waiver was granted for a lesser period.~~

(i) If the good cause claim was granted based on corroborative evidence, no additional corroborative evidence is required if circumstances have not changed since approval of the initial waiver. ~~The recipient shall establish that continuation of the good cause waiver is necessary by providing a verification of good cause based on domestic violence form completed by a person with domestic violence training.~~

(ii) If the good cause claim was granted based on the recipient's affirmation, ^{under subsection (b)(1)(vi)(c)} and she is unable to provide verification as specified in subsection (b)(1)(iv)–(vi), ^{(A) and (B)} the CAO will make a determination of good cause based on a current assessment of the recipient's circumstances. This assessment will be completed by a person with domestic violence training and substantiated by completion of the verification of good cause based on the domestic violence form under subsection (b)(1)(vii).

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[31 Pa.B. 5924]

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EXHIBIT B

Operations Memorandum - Cash Assistance
OPS000610

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6/30/00

SUBJECT: The Family Violence Option: Revised Child/Spousal Support Good Cause Requirements/Procedures

TO: Executive Directors

FROM: Sherri Z. Heller, Deputy Secretary for Income Maintenance

Purpose

1. To provide information and procedures associated with the Family Violence Option (FVO).
2. To provide instructions for implementing revised requirements/procedures when a person claims good cause based on domestic violence for not cooperating with paternity and child/spousal support requirements.
3. To introduce the "Verification of Good Cause Based on Domestic Violence" form (PA/CS 1747) with completion instructions.

Background

Pennsylvania has adopted the FVO, which authorizes the Department of Public Welfare (DPW) to screen and identify victims of domestic violence, refer those individuals to counseling and supportive services, and waive certain program requirements for good cause where compliance would make it more difficult to escape domestic violence or penalize individuals who are or have been at risk of domestic violence. This includes waivers of support cooperation requirements.

Consequently, DPW has developed new standards and procedures for processing claims of good cause for noncooperation with support requirements based on domestic violence. The provisions of the Cash Assistance Handbook (CAH) Chapter 131, Support, relating to good cause for physical or emotional harm, no longer apply to good cause claims based on domestic violence as defined in this memorandum. Only claims of good cause based on rape, incest and adoption will be handled under the standards in the current Chapter 131 of the CAH. The legal basis for implementation of the FVO is found at 42 U.S.C.A. §§602(a)(7)(A) and 608(a)(7)(C)(iii) and 45

CFR §§260.50 - 260.59.

Discussion

The following changes to the good cause procedures for victims of domestic violence are effective July 3, 2000. These changes apply to child and spousal support requirements in the Temporary Assistance for Needy Families (TANF) and General Assistance (GA) Programs.

1. Notice of the FVO and Identification of Victims of Domestic Violence

DPW will use two methods to inform applicants and recipients of the FVO and identify victims of domestic violence: universal notification and individual notice.

Universal Notification

The County Assistance Office (CAO) will screen and identify victims of domestic violence using the following forms available through Automated Inventory Requisitioning System (AIRS):

- > Domestic Violence - You Have a Right to be Safe CM 305
- > Domestic Violence Palm Card PUB 388

Both publications contain information on domestic violence and include phone numbers of local domestic violence shelters in each county.

Individual Notice

Individual notice of the right to claim good cause based on domestic violence should be given orally and in writing in a timely manner whenever compliance with welfare requirements is at issue.

The FVO, including child/spousal support cooperation requirements, the right to claim good cause and confidentiality protections, must be explained to applicants prior to the application interview and prior to referral to the Domestic Relations Section (DRS).

Explain and have the applicant/recipient sign the PA/CS 173-WP, Notice of Requirement to Cooperate and Right to Claim Good Cause for Refusal to Cooperate in Child Support Enforcement.

2. Confidentiality

DPW will keep all client information confidential. Confidentiality applies to collecting, using, and safeguarding client information for all assistance programs.

The CAO will NOT disclose the address of or the amount of benefits received by a victim of domestic violence to an individual making:

- > a personal request using the Form PA 163, Request for Address and/or Amount of Assistance; or
- > a telephone request.

NOTE: The PA 4, Authorization for Information, should not be construed to be the client's consent to release personal information about domestic violence.

Alternate Address

A victim of domestic violence may use an alternate address for receipt of mail. The caseworker should ask any applicant/recipient who self-identifies as a victim of domestic violence whether it is safe to send mail to the home address or whether it would be safer to mail it to an alternate address. If the individual wants to use an alternate address, record the alternate address in the case record and in the Client Information System (CIS) and inform her that she must regularly check that address for mail. The applicant/recipient may use the CAO address if she wishes. If the applicant/recipient chooses to use an alternate address, the CAO must record the home address in the case notes.

To ensure that the applicant or recipient receives mail generated by the CAO, the worker will:

- > generate system notices which will be sent to the alternate address;
- > generate manual notices when the CAO is the alternate address.

Do not forward mail to applicant's/recipient's home address.

Agreement of Mutual Responsibility (AMR)

To ensure confidentiality, specific information about domestic violence must not be recorded on the AMR. Record the phrase "Referred for supportive services" in the Plan for Self-Sufficiency block on the AMR.

Though it may be important for contractors to know of the potential for problems to occur at the training/employment site, it is the client's decision whether or not to share this information.

A detailed discussion of relevant facts regarding the domestic violence should be included in the case notes.

Family Violence Indicator

Currently, CIS does not have a Family Violence Indicator (FVI). DRS does have an FVI that ensures an applicant's/recipient's address is kept confidential. When activated, the DRS FVI ensures that the applicant's/recipient's address is not printed on any DRS notices and identifying information is not sent to the Federal Case Registry of other states.

3. The Standard for Establishing Good Cause

Good cause based on domestic violence is established if cooperation with support requirements may result in, and the individual, household or family member, has been subjected to:

- > physical acts that resulted in, or threatened to result in, physical injury to the individual;
- > mental abuse;
- > sexual abuse;
- > sexual activity involving a dependent child;
- > being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities;
- > threats of, or attempts at, physical or sexual abuse; or
- > neglect or deprivation of medical care.

Good cause may also be established if cooperation would:

- > make it more difficult for individuals receiving TANF or GA to escape domestic violence; or
- > unfairly penalize individuals receiving assistance who have been victimized by domestic violence or who are at risk of further domestic violence.

NOTE: The harm need not be serious or reduce the individual's capacity to care for the child adequately to establish good cause due to domestic violence. These requirements have been removed.

4. Establishment of Good Cause Based on Domestic Violence

To establish good cause based on domestic violence, the Verification of Good Cause Based on Domestic Violence form (PA/CS 1747 attached) must be completed. An applicant/recipient who wishes to claim good cause must do one of the following:

- > Provide any type of documentation listed on the Verification of Good Cause Based on Domestic Violence form under Section 2, including law enforcement records, court records, medical/treatment records, social service records, child protective service records, or other records that document the domestic violence.
- > Obtain third party verification of the domestic violence by any of the entities or persons listed in Section 3 with personal knowledge of the alleged domestic violence, which includes a domestic violence service provider, a medical, psychological, or social service provider, a law enforcement professional, a legal representative, an acquaintance, friend, relative, neighbor of the claimant, or other person. Section 3 of the form serves as an authorization to release information as well as the verification.
- > If the recipient is unable to safely obtain any of the items of evidence described in Sections 2 and 3 of the form, the applicant/recipient may affirm that domestic violence is the basis for the good cause claim under Section 4 of the form. The applicant's/recipient's affirmation establishes good cause for up to six months.

NOTE: A third party statement need not be sworn. All that is necessary is that the third party complete and sign Section 3 of the Verification form and that the source appears credible and valid.

The caseworker should provide whatever assistance the applicant/recipient needs in completing the verification form.

NOTE: There is no longer a procedure for investigation of a good cause claim. Do not refer for investigation.

Do not under any circumstances contact the putative father or non-custodial father regarding good cause when good cause based on domestic violence is claimed. Such contact could endanger the safety of a victim, her family or household.

5. CAO Determination and Notice of Good Cause

After a determination has been made, provide the applicant/recipient with notice of the determination via the PA 162, Notice to Applicant/Recipient.

If the claim is denied, the Notice must include:

- > The right to appeal and request a fair hearing.
- > What additional evidence or information is needed to substantiate the good cause claim and the timeframes in which the information must be provided.
- > The option to withdraw the application for assistance.
- > The option to request that assistance be closed.
- > The option to cooperate in establishing paternity and obtaining support.

NOTE: The CAO no longer is required to send the Form 173-GC, Good Cause Determination, to the Bureau of Child Support Enforcement (BCSE) for a recommendation. The final determination of good cause is made by the CAO for all good cause claims, including good cause based on rape, incest or adoption when the good cause claim originated with the CAO.

6. Eligibility Requirements/Procedures After the Six-Month Waiver for an Applicant/Recipient Who Established Good Cause Based on Domestic Violence by Completing Section 4 of the Verification Form Affirming Domestic Violence

Good cause waivers must be reviewed no less often than every six months. An applicant/recipient who provided her written affirmation of good cause for the first six months and who continues to claim good cause may establish that claim by providing acceptable verification as listed in number 4 of this memorandum.

If the individual remains unable to provide verification in addition to the affirmation, the CAO will make a determination of good cause based on the credibility of the recipient and the validity of other supporting or conflicting evidence, giving strong consideration to the following factors:

- > Domestic violence takes place in private - often with no witnesses and no documentation - making it difficult for victims to produce evidence of the domestic violence;
- > Many ways of securing documentation - such as reporting the abuse to the police or attempting to return to the victim's former residence to obtain documents - can place victims in further danger;
- > The applicant or recipient should be given the benefit of the doubt unless the CAO has a reasonable basis for finding the applicant or recipient not credible. All pertinent information in the decision of credibility should be noted in detail in the case record and on the PA 162, Notice to Applicant.

7. Time Frame for Authorizing Assistance When Good Cause is Claimed

Authorize assistance as soon as the Verification of Good Cause Based on Domestic Violence form is completed by the applicant/recipient and a determination is made by the CAO.

Where the applicant claims good cause due to domestic violence and verification is not readily available or is pending from a third party, authorize assistance no later than 30 days following application. This is consistent with the manner in which other applicants are treated when

certain eligibility factors are not readily available or pending from a third party.

8. Time Frame for Support/Paternity Action after Denial/Expiration of Good Cause Claim

Neither DPW nor BCSE will attempt to establish paternity or obtain support for at least 30 days after the client has been informed orally and in writing of the denial of the good cause claim.

9. Review of Good Cause Waiver at Redetermination

CAH Section 176.2 requires the CAO to review the circumstances of the good cause waiver at each eligibility review but no less often than every six months.

Based on implementation of the FVO, a recipient who provided corroborative evidence of the good cause claim does not have to provide additional corroborative evidence upon reassessment of good cause if circumstances have not changed since the initial waiver was approved.

Next Steps

1. Share this information with all appropriate staff.
2. Implement the changes outlined in this memorandum effective July 3, 2000, as they apply to victims of domestic violence.
3. Copy the attached PA/CS 1747, Verification of Good Cause Based on Domestic Violence, until the form is available for order through AIRS.
4. Direct all questions to your Area Manager.
5. This Operations Memorandum will become obsolete upon issuance of Cash Assistance Handbook Chapter 108, Family Violence Option.

Attachment - PA/CS 1747 Verification of Good Cause Based on Domestic Violence

Last modified: Wednesday, July 05, 2000

VERIFICATION OF GOOD CAUSE BASED ON DOMESTIC VIOLENCE

PLEASE READ THESE INSTRUCTIONS CAREFULLY.

Block One – Completed for all Good Cause claimants

Block Two – Completed only if records are available

Block Three – Completed if statements are needed from Third Party.

Block Four – Completed if no evidence/statements available.

1. Good Cause Claim

I, _____, claim good cause for not cooperating with child support cooperation requirements because of domestic violence. I have been asked to provide verification to support my claim. I have/will cooperate in providing verification below.

2. Records

■ I submit ONE of the following, if available:

law enforcement records

social service records

court records

child protective services records

medical/treatment records

other (specify) _____

3. Authorization/Verification by a Third Party

■ I authorize _____ to complete the verification below and to provide it to the Department of Public Welfare, _____ County Assistance Office for the purpose of verifying my good cause.

Date: _____ Signature: _____

This statement is submitted by:

(Name)
(Title)
(Organizational Affiliation)
(Address)

■ I am: (Check One)

A domestic violence service provider

A legal representative

A medical, psychological or social service provider

An acquaintance/friend/relative/neighbor of the claimant

A law enforcement professional

Other (specify) _____

A County Children and Youth Representative

I have knowledge of the claimant's experience with and/or steps to escape domestic violence and submit this statement to verify that _____ is unable to cooperate with child support cooperation requirements because of domestic violence. I believe cooperating with child support requirements may place the victim and/or children at risk of domestic violence and/or make it more difficult for the victim and/or children to escape domestic violence.

Date: _____ Signature: _____

4. Affirmation

■ I affirm that cooperating with paternity establishment or child support requirements will place me and/or my children at risk of domestic violence, make it more difficult for us to escape violence, and/or penalize us because of domestic violence. I do not have and am unable to safely obtain evidence to verify the domestic violence.

Date: _____ Signature: _____