

**Story of Nicole C.  
A Mother Trying to Reunite Her Family**

My name is Nicole. I have two children. My son "R." is four years old, and "N." is two. Currently, R. is in foster care, and I am trying my best to bring him home. N. lives with me. I receive a welfare grant for N. and me.

R. went into foster care in October, 2000. He fell down stairs and was injured. Family Court decided that I hadn't supervised him well enough and that my housing was overcrowded. I am very upset that R. is not with us, and I have been doing everything that I possibly can to bring R. home. The things that the Department of Human Services (DHS) makes me do as part of my Family Service Plan take up most of the time on my daily schedule.

In February, 2001, I started a parenting program called the Family School. The Court requires that I attend this program. I go every Tuesday and Thursday from 9:00 a.m. to 2:00 p.m. I must also travel a long distance to get to the program. Every Wednesday, I must take R. to his weekly therapy appointment and attend the family therapy part. I must pick him up from his foster home and return him to his day care program after the appointment, so I must block off the time of 9:00 a.m. to 1:00 p.m. on Wednesdays from my schedule for this appointment.

Every Friday and Sunday, I have court-ordered all-day visitation with R., which is sometimes monitored by agency social workers. On visitation days, I must return R. after 9:00 p.m., and sometimes after 10:00 p.m., because the foster mother does not come home until then. Then I have to get back home. This is a very long day and makes it hard to get up early the next morning. I still do get up, but I am very tired because of this schedule.

Mondays and Saturdays are the only days that I am not required by the Plan to do something. Often, I end up doing things for my family anyway on those days.

In September 2001 and again in early 2002, the welfare office tried to send me to a work program called Work Opportunities, for 30 hours a week of work and training. I could not possibly join that program, because its day-time hours were the same time as the activities in my Family Service Plan. My lawyer and my social workers asked that the welfare office let me out of the Work Opportunities program.

Luckily, the welfare office did let me out of the program. If they didn't, I don't know what I would have done. I needed the welfare to support N. and me, because I have no other income. But if I had gone to Work Opportunities instead of my parenting program and other activities, I would never have had a chance to get R. back.

I am making good progress in my Family Service Plan, and DHS has said that at the next court hearing they will ask the judge to let R. come home soon. I hope the judge will allow that to happen. But even after R. comes home, I know that DHS and the judge will expect me to keep attending Family School for 3 to 6 more months. They will also keep sending social workers to my home several times a week to see my family and make sure things are going well. And R. will still need to go to therapy.

Later, I hope to get training and go to work. I want to support my children. But for now, it is so important that I be able to focus on trying to get R. back. I could not do this if I was working full-time.

### Story of Theresa B.

#### Another Mother with a Special Needs Child

My name is Theresa. I am a 33 year old woman living in Philadelphia, Pennsylvania. I am the mother of three children aged 13, 10, and 8. I currently receive TANF for myself and my three children, and I am likely to reach my five year lifetime limit for TANF in March, 2003. My 10 year old son Chae suffers from Attention Deficit and Hyperactivity Disorder (ADHD) and major depression. His needs prevent me from working in a full-time job.

I participated in several work programs that my welfare caseworker sent me to, including a six month paid work experience program where I worked as a receptionist for the Security Department of a local university. I did not have a good experience at these programs, but I really wanted to find a way to get the experience that I needed to find a job that would support my family.

In June, 2000, I decided to close my TANF case and join the Army. I thought that the Army would provide me with training and job advancement that I did not get through the Welfare Department. While I was in the Army, my children were cared for by my relatives. But several months after I enlisted, Chae was diagnosed with ADHD and major depression. He was even hospitalized for some time due to his depression. He was hospitalized for two weeks in December, 2000, and then again from early February, 2001 until the end of March, 2001. Because of his illness and hospitalization, I was forced to get a leave of absence and later an Honorable Discharge from the Army in order to care for him.

I returned to Philadelphia and re-opened my TANF case for myself and my children. I am not eligible to enter another paid work experience program. I currently meet my work requirements for welfare by doing 20 hours per week of community service at the Philadelphia Unemployment Project, as well as an independent job search.

There is no way that I could work 40 hours per week, because of taking care of Chae's special needs. I spend a lot of time taking him to doctor's appointments every week. He has weekly appointments with his psychologist, as well as regular appointments with a psychiatrist to monitor the medication he takes. I also spend a great deal of time at school because of Chae's special education needs. He has a lot of behavior problems in his class, and the school often calls me to help deal with these problems. He needs a lot of help to complete his school assignments, because he cannot do his homework unless he has constant supervision.

I am afraid of working too much. Based on what happened when I was in the Army and not around for Chae, I am very scared that he could be hospitalized again if I do not spend enough time taking care of him. I very much want to find a job that will enable me to get off welfare and support my family. But I am also very concerned about my children's health and well-being. I feel that I am in a "lose-lose" situation.

**Story of Sandra H.**  
**A TANF Parent with Many Caregiving Responsibilities**

My name is Sandra. I am a 27 year old mother of three boys ages 12, 8, and 1. I currently live in Philadelphia, Pennsylvania. My children and I live with my mother, two of my mother's grandchildren, and my adult brother Billy, who is severely mentally retarded. I went to live with my mother when I left an abusive situation a year and a half ago. I have had many problems that keep me from working full-time, especially taking care of my disabled family members.

Two of my children have medical problems which I must deal with. Shawn, my 8 year old son, has Attention Deficit and Hyperactivity Disorder (ADHD). I must make sure that he takes medication. I take him to therapy each week. Mark, my baby, was hospitalized for several weeks when he was born with a severe respiratory infection and seizures. He is still sickly and has many doctors appointments. Because my brother is profoundly mentally retarded, he cannot take care of himself. My mother is in poor health herself, suffering from high blood pressure, anxiety, and other health problems. She needs my help to take care of Billy. I cook food for him, help feed him, change his clothes, and help him with bathing and other personal care. My mother is often too tired and sick to do these things, and Billy cannot do them for himself.

I am not against working. I have worked for most of my adult life at various jobs, including as a waitress, as a telemarketer, and as an usher at a movie theater. I have had learning disabilities throughout my life, which have made it hard to keep a job. Also, I miss so much work to take care of my family that I get into trouble for attendance.

I have participated in the Welfare Department's work programs, which have been useful for me. But I could not attend regularly because of my family responsibilities. Also, my abusive partner caused me trouble in these programs. Although I got a Protection from Abuse order, I had to leave my programs on many occasions when he would show up and harass me there.

I wish I could work steady and support my family. But these problems often cause me to miss work, and I don't see that changing in the future.

**Story of Alice W.****A Mother of a Child with Sickle Cell Anemia**

My name is Alice. I am a 33 year old mother of 4 children: a 16 year old son, and three daughters ages 9,8, and 6. I currently get TANF my family, and I have received TANF on and off for several years. In recent years, I have also worked at various jobs, including the night shift at UPS.

But as hard as I try, I have had a hard time keeping a job, because of the health of my 8 year old daughter, who has both sickle cell anemia and an eating disorder. Sickle cell anemia is a chronic blood disease which causes both anemia and frequent pain. People who have sickle cell anemia are much more likely to get infection and illness than other people, often needing blood transfusions and hospitalizations. Sickle cell anemia can flare-up at any time. It is not uncommon for a person with sickle cell anemia to feel absolutely fine for several weeks or even months, and then suddenly get an infection requiring hospitalization.

In addition to the sickle cell anemia, my daughter's eating disorder has required several hospitalizations and many doctor's visits. She has previously had a feeding tube put in, which I had to take care of. In any given month, I might have to take my daughter to see various doctors, psychologists, and nutritionists. These visits happen more often if she has a flare-up. My daughter has also been needing blood transfusions every few months, requiring that she miss 3-5 days of school. I also recently found out that my 6 year old daughter is suffering from asthma, and she will need a number of medical visits, as well.

I have participated in several education and work programs as required by my welfare caseworker. But I often could not complete the programs because I needed to care for my daughter. She misses a lot of school due to her illness, and child care is often unavailable. I do not know anyone who is able and willing to care for her when she is sick.

## **Appendix**

### **Mandatory Appointments for Homeless TANF Mothers**

**Prepared by People's Emergency Center  
325 North 39<sup>th</sup> St., Philadelphia, PA 19104  
April, 2002**

#### **IDENTIFICATION**

If a client has all of her documentation, actual social security cards and birth certificates, she can make and keep each of the appointments below. If she doesn't have the documents, she will have to go in person to the Social Security office for card replacement. This process takes about a day. Birth certificate replacement can be done by mail.

#### **TANF**

Any time that a mother goes to the welfare office it can take from 90 minutes to a full day, even when there is a previous appointment scheduled and kept. We know that no one can count on being seen on time.

Mandatory visits include:

- Initial appointment for eligibility.
- Child Support. All parents must seek child support for their children. Filing takes place at court and requires at least a half day. Failure to apply for child support can result in loss of benefits and subsidized childcare. Currently 48% of our caseload has some kind of court involvement, mostly for child support enforcement.
- Re-determination visits which are mandated every 6 months – 90 minutes.
- Follow-up appointments to the above when women are asked to bring more and/or other pieces of identification, address verification, birth certificates, school documents, etc.
- Cut-off appointments and/or rescheduled appointments/appeals from being cut-off and replacement of loss or damaged Access Card are frequent. Due to the new and higher level of compliance measures, clients are being cut-off more frequently and then routinely get their cut-off notices a day or two after the scheduled appointment. This means that they must get to the office immediately before the actual check is stopped. When they make an emergency appointment of this nature, they typically spend the whole day waiting in the office.

#### **HOMELESS/SHELTER SYSTEM**

- Newly homeless families are given only one night of shelter at a time for the first few weeks of homelessness. Women must report to the city shelter office daily for placement.
- Once in a "permanent" shelter, each shelter has its own requirements. Our trainees often miss

time due to mandatory meetings of various kinds – such as drug and alcohol groups, "teaming meetings" where the client is publicly chastised for bad behavior, house meetings, etc.

- Meetings with Shelter Case Manager and City homeless worker for those not at PEC.

## HOUSING

All these are with the Philadelphia Housing Authority (PHA) unless otherwise noted.

- The initial application is completed at the shelter, at night.
- PHA complete application face-to-face visit -- birth certificates must be taken in along with SS cards. In theory, this appointment should be the comprehensive single intake appointment and it typically takes as long as half a day or slightly more each trip. Unfortunately, many mothers must repeat this visit because PHA often loses copies of source documents.
- Fingerprints -- for anyone with an "indicated" police check, they must go in to give their fingerprints to the housing office detective which may take a full day. They may also have to return if they did not have adequate identification at the time of the fingerprints being taken. This takes a half day.
- Housing search -- typically this totals about a full 3-5 days due to having to accommodate each landlord's schedule. Because most landlords do not accept Section 8, those that do are able to be very demanding about scheduling times to view the apartment. Once found, the mother then gives her packet to the landlord, who fills it out and submits it to PHA. Two-three weeks pass typically before the first inspection, which at least 60% of the apartments fail the first time. PHA then schedules a 2<sup>nd</sup> inspection, usually a week or so later. The client does not need to be there for the inspections, however, this may necessitate the client looking for other apartments, as her 60 day clock for Section 8 is running out (extensions are harder to get now than in the past).
- House Inspection -- from one hour to a half day depending on whether or not PHA is on time and whether the landlord is cooperative. This must happen before move in.
- Utilities -- To get the telephone, electric and gas turned on, clients must go in person to each utility office and present photo identification and lease to get these turned on. This means three full days especially if they have problems with the utilities, such as back bills, disputed bills, someone else using their name on bill, etc.
- The lease-up date with the landlord can be largely at the mother's convenience, unless it is towards the end of the month, when the landlord is much more anxious to collect his/her money. This takes a few hours.
- Move in. Hopefully most clients can schedule their move around work.
- Bi-annual re-determination. The client will have to return to PHA twice a year to present her income information for re-determination of eligibility and rent. These appointments take only 1-2 hours, but are usually arbitrary -- the client does not get to choose the time.

## **CHILD WELFARE**

About a third of the homeless families we see have active child welfare involvement with their children (called DHS – Department of Human Services). Each of these mothers needs to be in court at least once every 90 days for the entire duration of DHS involvement (by law). These court appointments take a full day. As much as possible, DHS tries to schedule other appointments such as child visitation outside of work hours.

## **EDUCATION**

Teachers or the school attendance office can call any day and demand that the Mother come pick up her child for disciplinary or health problems. Elementary school children cannot be sent home without being accompanied by a parent. This can be a full or partial day, depending on the time of day the child got sick or in trouble. Suspensions average 3 days, and this is happening more and more routinely with elementary school children, resulting in immediate childcare problems. Plus, each parent must personally take her child back to school the day the suspension is lifted which can result in missing a morning or at least being late that day.

In addition to the "regular" holidays, schools close down for 3 teacher in-service days and for long periods at Christmas (5-6 days) and Easter (5 days) and Jewish holidays (3 days).

Distribution of reports cards usually result in a shortened school day. Parents need to be able to pick-up the child's report card and meet with the teacher. Usually the report card conferences are during the school day. The school day usually ends around 3:30 P.M.

## **MENTAL HEALTH and/or SUBSTANCE ABUSE – Mothers and Children**

A significant portion of the homeless mothers and children served by PEC have mental health and/or substance abuse problems. Leaving these problems unattended will undoubtedly yield eventual serious loss of work and crises for the family. The public sector behavioral health system is open for appointments during business hours with extremely limited weekend/evening hours. Typically the intake appointment takes weeks to make and months before actually happening. PEC clients are told to keep these appointments and not to miss them since rescheduling can be almost impossible.

Slightly more than 15 percent of the Mothers residing at PEC have significant problems with substance abuse.

At least 25 percent have chronic behavioral and/or emotional problems resulting from physical and child sexual abuse that occurred when they were children themselves. These issues are characterized by an inability to communicate appropriately, emotional instability (angry or crying for no apparent reason), chronic depression, and a predisposition to abuse their own children.

Twenty-five percent of the elementary school children at PEC have chronic behavioral and/or developmental problems such as aggressive and violent acts, sexual acting out, and/or speech delays stemming from histories of family abuse/neglect.

#### **BEREAVEMENT**

Approximately 10% of the PEC residents experience a death, murder or suicide in their immediate family each year. We believe that mothers should be allowed to be with their families to make funeral arrangements and grieve during the immediate period after death.

#### **HEALTH CARE**

A recent survey of the PEC employment program showed that 10% of the moms have chronic medical issues (examples: HIV, cervical cancer), 12% of the moms have had an episodic health problem since they have been with us (example: pregnancy-related hospitalization), and 18% have children with chronic medical issues (example: asthma requiring hospitalization).





1424 Chestnut Street, Philadelphia, PA 19102-2505  
Phone: 215.981.3700, Fax: 215.981.0434  
Web Address: www.clsphila.org

August 29, 2002

Original: 2244

Independent Regulatory Review Commission  
333 Market Street  
Harrisburg, PA 171  
Attention: Jim Smith

RECEIVED  
AUG 29 11 50 AM '02  
COMMUNITY LEGAL SERVICES

Dear Commissioners,

We have been asked to elaborate on the ability of individuals, particularly low-income individuals, to obtain medical records in order to demonstrate their possible disability and barriers to employment. This is in addition to obtaining a brief statement of disability, recipients of TANF are already required to do (you may recall that we objected to DPW's changing the regulation dealing with the responsibility of the recipient to provide that documentation and changing the regulation so that it only stated that DPW "may provide assistance" in obtaining such documentation. In that recently approved set of regulations, DPW assured the IRRC that the use of the permissive language did not imply that DPW retreating from its commitment to help people obtain verification. Now, despite the fact that medical records are much more difficult to get than a mere statement from a doctor, DPW is seeking to make it the recipient's responsibility to obtain medical records.

We have considerable experience in obtaining medical records because of the volume of disability cases we handle, mostly for people attempting to establish their eligibility for the Supplemental Security Income (SSI) program. Every year we handle thousands of such cases for clients in the city of Philadelphia. I personally have successfully represented hundreds of claimants in the 25 years I have worked at CLS, and I have lectured to other lawyers including the National Organization of Social Security Claimant's Representatives and social service agencies about the disability process. I have also been recently elected to the National Academy of Social Insurance, which advises the Social Security Administration on a variety of issues.

Obtaining such records is a difficult and time-consuming process. Some health care providers keep all their records, both in-patient and out-patient, at one central location, while others have decentralized some or all of their records. Some health care providers insist that requests for records be made on a form specific to their institution, while others will accept any form, as long as it has the appropriate identifying information. Different procedures are often in effect for mental health services, drug and alcohol services, medical services and services involving the treatment of patients with HIV infection. In short, it can take a long time, especially for the uninitiated, but even for those who do it regularly, to cut through the red tape and asking in the right fashion for particular medical records. Most health care providers view such requests as a distraction from their central mission and do not make compliance with such requests a priority. Many public health

entities are under-funded and do not have the resources to respond to such requests quickly or efficiently. Oftentimes we will make two or three written requests to a provider over the course of several weeks, only to have to follow-up with faxes, emails and phone calls. Most law firms that do this kind of work have paralegals on their staff who do nothing else all day, every day.

The Social Security Administration is charged with developing the files of people who apply for benefits. Although they ask claimants to attempt to obtain such records, the law is clear that the ultimate responsibility for developing the record lies with SSA. They make thousands of frequent and repeated requests for such records with only fair compliance. Indeed, one of the primary reasons for retaining a lawyer to help with such claims is that the lawyer can often succeed in obtaining those records when the client and the SSA have failed. More than 10 years ago, we worked with the Department of Public Welfare to set up a Disability Advocacy Program (DAP) within DPW to assist public assistance recipients, primarily, but not exclusively, GA recipients, to apply for SSI. That overworked program has proven successful in helping thousands of individuals qualify for benefits who would not otherwise do so. The very existence of the program is a reflection of the fact that individuals who receive public assistance need help to establish their eligibility and qualify for disability benefits.

In addition, virtually all medical providers charge a fee for providing copies of records. Indeed, some hospitals now contract out this function to private entities who maintain the records and make copies on request; part of the profits that these companies make is based on their ability to charge a fee for copying records. Indeed, fees for such records were growing so high that, several years ago, the General Assembly passed a law that limited health care providers to a reasonable fee for cases where the records were being requested for SSI purposes. That statutorily set fee would not protect individuals who were seeking their records for the TANF program. 42 Purdon's Stat. §6152.1. Even the fee set by statute, currently about \$21, would be prohibitive for most TANF families; many providers charge even more when they believe the statutory fee does not pertain.

Even if the lay person could somehow make their way through the maze of red tape, arcane procedures, special releases, delay and uncooperativeness and could somehow pay or avoid the fees normally charged, they are likely to encounter health care providers who never or almost never provide copies of medical records. Our office knows of scores of doctors who never, or almost never, provide records under any circumstances. Still others will provide records only when they are subpoenaed by a court or administrative agency such as SSA. A recent experience I had was instructive

In the case of Joseph F., I represented a recovering alcoholic with mental health problems that he forcefully maintained prevented him from working. Most of his mental health treatment was being given by an agency that specialized in the treatment of substance abusers. The agency maintained that it was precluded by state law and state health department regulations from releasing any information about their patient's treatment, even at his request. The agency produced opinion letters from counsel and guidance from the state Health Department so stating. At the SSA hearing we requested a

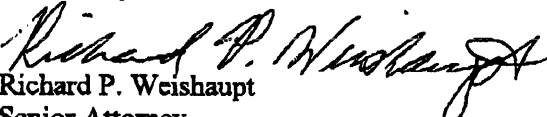
subpoena, which was issued. Again, the agency refused. We moved in federal court for enforcement of the administrative subpoena and got the office of the U.S. Attorney involved. After another 6 months we informed the agency that the U.S. Attorney was contemplating a contempt motion. After another 6 months or so, we finally got the records, more than a year after we began seeking them. No lay person could have gotten these records.

Similarly, several of our clients see Dr. P., who is unusual in that he speaks Vietnamese. This particular doctor tells all his patients that he never provides medical records or even notes. While several protracted legal battles have convinced him to provide us with such records, he still does so only after delays of as long as a year and only after we call and write him repeatedly. In all the years I have been representing disability claimants, I have never seen any patient successfully obtain records from this doctor.

In addition, many low-income individuals have gotten medical care at a variety of places—public clinics, Emergency Rooms, hospital clinics with a rotating set of residents—and will need to get medical records from a series of providers, all in different locations, all with different procedures. Getting medical records from multiple sources will be very difficult for clients—it isn't just a question of getting medical records from a current doctor, or of getting records from an office with which the client has an ongoing relationship.

In short, obtaining medical records is extremely difficult and often requires legal representation. DPW knows this and SSA's experience supports this. Putting the responsibility to obtain such documents on the client is unfair and could lead to disastrous consequences, especially for the uneducated, unsophisticated, disabled and those whose first language is other than English.

Yours truly,

  
Richard P. Weishaupt  
Senior Attorney

cc: John A. Kane, Esq.  
Office of Legal Counsel  
Dept. of Public Welfare  
Health and Welfare Bldg.  
Harrisburg, PA 17101



1424 Chestnut Street, Philadelphia, PA 19102-2505  
Phone: 215.981.3700  
Web Address: www.clsphila.org

**FAX TRANSMITTAL COVER SHEET**  
**FAX NUMBER: 215.981.0436**

DATE: 8/29/02 Original: 2244  
TO: Jim Smith  
FAX NUMBER: 717 783 2664  
ORGANIZATION: IRRC  
FROM: R. Weisaupt  
DIRECT DIAL: 215 981 3773

TOTAL NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 4  
MESSAGE: there is the letter you

requested. Amy Hirsau is sending  
you a separate letter in response to  
your conversation.

Please call the direct dial number above if there are any problems with this transmission. The information contained in this fax transmittal is legally privileged and confidential and intended only for the use of the individual or organization named above. If you receive this message but are not the intended recipient, please destroy the fax transmittal and notify the sender at the above direct dial number. Thank you for your cooperation.

**TO BE COMPLETED AFTER FAX HAS BEEN TRANSMITTED:**

DATE OF TRANSMISSION: \_\_\_\_\_ TIME: \_\_\_\_\_

OPERATOR: \_\_\_\_\_

RECEIVED  
2002 AUG 29 PM 3:50  
COMMUNITY LEGAL SERVICES, INC.



Original: 2244

Law Center North Central  
3638 North Broad Street, Philadelphia, PA 19140  
Phone: 215.227.2400, Fax: 215.227.2435  
Web Address: www.clsphila.org

Amy E. Hirsch  
Supervising Attorney, 227-2400 ext. 2415  
E-Mail: ahirsch@clsphila.org

August 23, 2002

BY FAX: (717) 787-1229

Feather O. Houstoun, Secretary  
Department of Public Welfare  
Room 333-Health & Welfare Building  
Harrisburg, PA 17105

Re: Extended TANF regulations

Dear Secretary Houstoun:

We are very pleased that the Department of Public Welfare has issued final Extended TANF regulations that reflect significant revisions in response to the comments on the proposed regulations. We appreciate the careful consideration given to many of our suggestions, and feel that the final regulations are much improved. Among other things, we are pleased that the final regulations provide for:

- child care, transportation, and other special allowances for people to comply with their Extended TANF service plans or AMRs;
- the new deferred referral process, which will make it easier for people with temporary barriers to get Extended TANF;
- more flexibility on the number of hours that people in the Work Plus Program must participate if they have good cause to limit their hours;
- more protections in the Work Capacity Assessment for people with disabilities.

We also recognize that there are a number of issues on which we and our clients strongly disagree with the Department, and which will not be resolved in the context of this rule-making proceeding.<sup>1</sup> However there are also a limited number of issues on which we think there are

<sup>1</sup>These issues include (but are not limited to) paid work experience rather than workfare, the imposition of a 30 hour/week work requirement, denial of benefits to the full family when an individual fails to comply with non-work requirements, the lack of a grievance procedure for displaced workers, and short-term non-assistance.

2002 AUG 23 AM 10:24  
FEDERAL COMMUNICATIONS COMMISSION

drafting errors, or a need for clarification, before approval of the Extended TANF regulations by the IRRC. We know that you are eager to get the regulations in place in as quickly as possible, but also as accurately, and with as much clarity as possible.

**Therefore, while we are generally pleased with the final form regulations, we are asking that you consider tolling the regulations to make the following changes. In making this request, we are not seeking to delay issuance of the final regulations, which we believe are helpful overall.**

1. There appear to be several drafting errors in the Domestic Violence provisions at section 141.53 (pages 20-24 of the regulations), including an incorrect citation to existing regulations, and the need to make the wording of section 141.53(a)(2)(ii) consistent with the wording of section 141.53(a). Enclosed is a suggested revision to those provisions, which we believe is wholly consistent with the Department's intent and the understanding of the Domestic Violence Task Force, as well as tracking the language of the federal law. (Attachment 1). We recognize that other changes will be made in the context of a future proposed rulemaking on the Family Violence Option, but feel that the attached corrections are extremely important for the interim.

2. At section 141.41 (pages 6-9 of the regulations), we believe the words "federally-funded" should be inserted before "TANF" in a number of places, so as to be consistent with section 141.51(b) and with both state and federal law, including the Time-Out program. A suggested revision of section 141.41 is attached (Attachment 2), which we believe is wholly consistent with the Department's intent.

3. At section 141.54(b)(4)(iii) (page 33 of the regulations), we would like clarification that the second opinion WCA is to be done de novo, not as a confirming opinion. Our experience in other contexts is that the second physician provides a more thoughtful & thorough (and therefore more useful) evaluation if asked simply to provide an evaluation, rather than if asked to confirm another physician's judgement. A suggested revision of section 141.54(b)(4)(iii) is attached (Attachment 3). We are hopeful that this is the Department's intent, although we do not recall specific discussion of this issue.

4. At section 141.58 (page 44 of the regulations), we would like clarification that individuals have notice and appeal rights concerning a referral to MPP or WPP, or the denial of a request for a deferred referral, or in the event of a dispute concerning the content of a service plan, or the denial of a request for "good cause" or other disputes that could arise in the Extended TANF context. We believe that the existing regulation at 55 Pa. Code §275.1 clearly covers these situations (as well due process requiring the opportunity for appeal on these issues), and simply want to avoid any confusion. The Department's comments in the preamble also confirm that "recipients are entitled to the full scope of appeal and fair hearing rights...under Chapter 275." (page 63 of the preamble). A suggested revision of section 141.58 is attached (Attachment 4) which we believe is consistent with the Department's intent.

5. At section 141.54(b)(3)(iii)(A) (page 31 of the regulations), we would like clarification that the Department will routinely assist individuals in getting copies of existing medical records. Unlike other types of verification, there is almost always a charge for getting medical records, and welfare recipients cannot afford and should not have to pay those charges. In addition, it is often difficult to get medical care providers to provide copies of medical records—advocates often have to make multiple phone calls and repeated requests to get them. Individuals with disabilities are particularly likely to have difficulty obtaining medical records without assistance. The Department has acknowledged the need to provide assistance in getting medical records in the preamble, in the paperwork requirements section, which specifies that forms were created to request the medical records and to reimburse for the costs of photocopying medical records (WCA 2 & WCA3, page 96 of the preamble). A suggested revision of section 141.54(b)(3)(iii)(A) is attached (Attachment 5).

6. At section 141.52, in the definition of WPP (page 20 of the regulations) and in several places in 141.55 (pages 34-39 of the regulations), we would like clarification that individuals who are employed or participating either an average of 30 hours per week or who are generally in compliance with a 30 hour per week schedule will be considered in compliance. As you know, there are many circumstances beyond an individual's control (including the closure of work places & community service & other work activity placements during holidays, variable work schedules, etc.) which can result in individuals who generally are working or otherwise participating in work related activities 30 hours per week not being able to get 30 hours of work or work related activities in a particular week. This issue was discussed at length in the implementation of the work Time Out, with the ultimate understanding that a person generally in compliance with the 30 hour requirement would continue to be eligible, even if he or she did not reach the 30 hour goal every week. A suggested revision of these sections is attached (Attachment 6).

7. At section 141.55(b) (page 38 of the regulations) we would like clarification that participants in WPP will have a service or activities plan based on the vocational assessment of that individual, similar to the service plan provided for participants in MPP. The regulations currently require a vocational assessment, but do not specify what should happen as a result of that assessment. It is clear in the regulations and the preamble that the Department's intent is that WPP will consist of a variety of activities, and that the particular activities and combination of activities will be different for different individuals, depending "on his needs, abilities, limitations and available work sites." (page 94 of the preamble). We would also suggest that the regulations include vocational education, GED classes and job search among the work-related activities. We believe that providing a service plan for WPP participants specifying what that individual's WPP activities will consist of, and ensuring that those activities reflect the results of the vocational assessment is appropriate, and consistent with the Department's intent. A suggested revision of section 141.55(b) is attached (Attachment 7).

8. At section 141.54(b)(3)(i)(E) (page 30 of the regulations) we would like clarification that the WCA is to be considered by the MPP team, but does not control the outcome of the MPP

process. Although the preamble clearly states that the WCA is to be considered in combination with other available information, and "informs, rather than controls" the MPP team (preamble page 84), and is "not determinative of eligibility for Extended TANF" (preamble page 85) the regulations do not state this clearly. A suggested revision of section 141.54(b)(3)(i)(E) is attached (Attachment 8). We believe this is wholly consistent with the Department's intent.

9. At sections 151.54(a) (pages 24-25 of the regulations) and 141.55 (b)(2) (page 38 of the regulations), we would like clarification that severe language barriers are a functional limitation which may be a basis for referral to MPP, and that individuals with limited English proficiency who participate in WPP and who have not previously had the opportunity to participate in language accessible vocational training should be permitted to engage in vocational training and intensive ESL as their principal activities. As you know, the Office for Civil Rights of the Department of Health and Human Services recently found "major deficiencies" in services available to people with limited English proficiency at DPW's county assistance offices and is now investigating problems in the lack of services offered by DPW's welfare to work contractors for people with limited English proficiency. While we recognize that the Department is currently making efforts to improve its services to these individuals, there are still very serious problems. For example, a recent survey of welfare to work contractors in Philadelphia demonstrates the severe lack of services for people with limited English proficiency. A summary of those survey results is attached (Attachment 9). Moreover, even if the Department moves quickly to improve those services, there is a population of people with limited English proficiency who are now hitting the time limit who have not had the same opportunities to participate in meaningful educational and vocational training programs offered to English speakers, as required by Title VI of the Civil Rights Act of 1964. They are therefore entitled to an opportunity to do so now, as a remedy for the Department's past failure to provide them with equal access to services. A suggested revision of sections 151.54(a) and 141.55 (b)(2) is attached (Attachment 10).

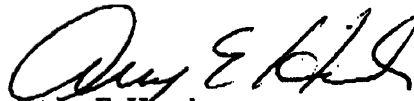
We also believe that there are a host of legal and policy issues that will arise during implementation of Extended TANF. We wanted to suggest that we engage in ongoing discussions with Jack Kane, as was done during the implementation of the 24 month requirements in 1999, to see if we can jointly resolve issues without the need for litigation. For example, we have concerns about the content of notices that will be sent to individuals assigning them to WPP or to MPP, or denying them a deferral. We are also concerned about the need to ensure that individuals with impairments are given Lind-type protections during their transition to Extended TANF. We also believe that there are a number of serious issues concerning the services available to, and the Department's treatment of, persons with limited English proficiency, and assume that our discussions on those issues with Jean Graybill will continue.

Finally, as the Department moves to implement Extended TANF, we want to urge you to make an investment in WPP commensurate with MPP, especially because many people will spend many hours a month in the work-related activities. We are very concerned that these activities should be of high quality and provide a meaningful avenue towards skill development and access to living-wage jobs.



Thank you for giving this your attention. We would very much like to discuss these proposed revisions with you or your staff at your earliest convenience. If you have any questions, Amy can be reached at (215) 227-2400 ext. 2415, and Sharon can be reached at (215) 981-3719. We appreciate the Department's consideration of our comments on these regulations.

Sincerely,



Amy E. Hirsch  
Sharon Dietrich  
for the CLS Public Benefits Unit

Larry Norton  
Peter Zurflieh  
Community Justice Project

Terry Fromson  
Women's Law Project

cc: Jack Kane, DPW  
Linda Hicks, DPW  
Ed Zogby, DPW  
Dave Florey, DPW  
Senator Harold Mowery, Jr.  
Senator Vincent J. Hughes  
Representative George Kenney, Jr.  
Representative Frank Oliver  
Jim Smith, IRRC  
Terry Fromson, WLP  
Louise Brookins, PWRO  
John Dodds, PUP  
Cheri Honkala, KWRU  
Sandy Kolenda, MVUC  
Samien Nol, SEAMAAC.  
Pennsylvania Welfare Coalition  
Philadelphia Welfare Coalition

**Suggested Revision to Section 141.53**  
**(pages 20-24 of the regulations)**

**§ 141.53. ELIGIBILITY BASED ON DOMESTIC VIOLENCE.**

(a) *ELIGIBILITY.* A FAMILY MAY RECEIVE EXTENDED TANF IF THE INDIVIDUAL OR OTHER FAMILY MEMBER IS OR HAS BEEN A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN § 187.22 (RELATING TO DEFINITIONS) OR IS AT RISK OF FURTHER DOMESTIC VIOLENCE. ELIGIBILITY FOR EXTENDED TANF UNDER THIS SECTION IS SUBJECT TO THE FOLLOWING:

(1) *VERIFICATION OF DOMESTIC VIOLENCE NOT REQUIRED.* NO FURTHER VERIFICATION OF DOMESTIC VIOLENCE IS REQUIRED IF THE INDIVIDUAL OR OTHER FAMILY MEMBER HAS:

(i) A CURRENT OR PAST GOOD CAUSE WAIVER OF CHILD SUPPORT COOPERATION REQUIREMENTS;

(ii) A CURRENT OR PAST WAIVER OF RESET REQUIREMENTS UNDER CHAPTER 165 (RELATING TO ROAD TO ECONOMIC SELF-SUFFICIENCY THROUGH EMPLOYMENT AND TRAINING (RESET)); OR

**(iii) RECEIVED TIME-OUT BENEFITS UNDER CHAPTER 281 (RELATING TO TIME-OUT BENEFITS) BASED ON DOMESTIC VIOLENCE.**

**(2) VERIFICATION OR SELF-AFFIRMATION OF DOMESTIC VIOLENCE REQUIRED. IF THE INDIVIDUAL IS NOT EXCUSED FROM PROVIDING VERIFICATION OF DOMESTIC VIOLENCE UNDER PARAGRAPH (a)(1), THE INDIVIDUAL SHALL:**

**(i) PROVIDE ONE OF THE TYPES OF VERIFICATION SPECIFIED IN § 187.27(b)(1)(iv)-(vi) (RELATING TO WAIVER OF COOPERATION FOR GOOD CAUSE); OR**

**(ii) AFFIRM IN WRITING THAT THE INDIVIDUAL OR OTHER FAMILY MEMBER IS or has been a victim of domestic violence as defined in 187.22 or is AT RISK OF further DOMESTIC VIOLENCE AND UNABLE TO SAFELY OBTAIN OTHER EVIDENCE.**

**(3) COMPLETION OF FORM. THE CAO AND THE INDIVIDUAL SHALL COMPLETE THE DOMESTIC VIOLENCE VERIFICATION FORM UNDER § 187.27(b)(vii), EXCEPT THAT THE 6-MONTH LIMITATION IN § 187.27(b)(1)(vii)(C) SHALL NOT APPLY. THE PERPETRATOR OR ALLEGED**

**PERPETRATOR OF THE DOMESTIC VIOLENCE IS PROHIBITED FROM COMPLETING THE DOMESTIC VIOLENCE VERIFICATION FORM.**

**(b) *DOMESTIC VIOLENCE SERVICES PLAN.* THE INDIVIDUAL SHALL HAVE A DOMESTIC VIOLENCE SERVICES PLAN THAT MEETS THE REQUIREMENTS OF 45 CFR § 260.55(c) (RELATING TO WHAT ARE THE ADDITIONAL REQUIREMENTS FOR FEDERAL RECOGNITION OF GOOD CAUSE DOMESTIC VIOLENCE WAIVERS).**

**(c) *DURATION.* IF OTHERWISE ELIGIBLE, A FAMILY MAY RECEIVE EXTENDED TANF BASED ON DOMESTIC VIOLENCE FOR SO LONG AS NECESSARY.**

**(d) *REVIEW OF ELIGIBILITY.***

**(1) *REVIEW OF ELIGIBILITY.* THE CAO WILL REVIEW ELIGIBILITY FOR EXTENDED TANF BASED ON DOMESTIC VIOLENCE AT LEAST EVERY 6 MONTHS.**

**(2) *ADDITIONAL VERIFICATION.* NO ADDITIONAL VERIFICATION OF DOMESTIC VIOLENCE IS REQUIRED IF CIRCUMSTANCES HAVE NOT CHANGED.**

(e) **INELIGIBILITY.** IF THE INDIVIDUAL FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE FAMILY IS INELIGIBLE FOR EXTENDED TANF UNDER THIS SECTION UNTIL THE INDIVIDUAL COMPLIES.

(f) **OTHER BASES FOR ELIGIBILITY.** A FAMILY INELIGIBLE FOR EXTENDED TANF BASED ON DOMESTIC VIOLENCE MAY BE ELIGIBLE FOR EXTENDED TANF UNDER §§ 141.54 (RELATING TO MAXIMIZING PARTICIPATION PROJECT), 141.55 (RELATING TO MANDATORY RESET PARTICIPANTS) OR 141.56 (RELATING TO DEFERRED REFERRAL).

(g) **AS USED IN THIS SECTION, THE FOLLOWING WORD SHALL HAVE THE MEANING GIVEN IN THIS SUBSECTION:**

**INDIVIDUAL – ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD.**

**Suggested Revision to Section 141.41  
(pages 6-9 of the regulations)**

§141.41 POLICY

\*\*\*\*\*

(d) *TIME LIMITS.* AN ELIGIBLE FAMILY MAY RECEIVE FEDERALLY-FUNDED TANF ASSISTANCE FOR A MAXIMUM OF 60 MONTHS SUBJECT TO THE FOLLOWING CONDITIONS AND EXCEPTIONS:

(1) A FAMILY IS INELIGIBLE FOR FEDERALLY-FUNDED TANF ASSISTANCE IF IT INCLUDES AN ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD WHO HAS RECEIVED 60 MONTHS OF FEDERALLY-FUNDED TANF ASSISTANCE.

(2) UNDER THIS SUBSECTION, A FAMILY DOES NOT INCLUDE A SPECIFIED RELATIVE WHO IS NOT INCLUDED IN THE TANF MANDATORY FILING UNIT AS SPECIFIED IN § 171.21 (RELATING TO POLICY) AND IS SEEKING TANF ASSISTANCE ONLY FOR THE MINOR CHILD.

(3) TANF ASSISTANCE RECEIVED AS A MINOR CHILD DOES NOT COUNT TOWARDS THE FEDERAL 60 MONTH LIMIT EXCEPT FEDERALLY-FUNDED TANF RECEIVED AS A MINOR CHILD HEAD OF HOUSEHOLD OR AS A MINOR CHILD MARRIED TO THE HEAD OF HOUSEHOLD.

(4) PERIODS DURING WHICH TANF ASSISTANCE IS RECEIVED NEED NOT BE CONSECUTIVE TO COUNT TOWARDS THE FEDERAL 60-MONTH LIMIT.

(5) NOTHING IN THIS SUBSECTION SHALL PRECLUDE THE DEPARTMENT FROM PROVIDING TANF ASSISTANCE TO A FAMILY WHICH DOES

NOT COUNT TOWARDS OR MAY EXTEND BEYOND THE FEDERAL 60-MONTH TIME  
LIMIT.

(6) THE FOLLOWING ARE NOT CONSIDERED TANF "ASSISTANCE  
RECEIVED" IN CALCULATING AN INDIVIDUAL'S 60 MONTHS OF FEDERALLY-  
FUNDED TANF ELIGIBILITY:

(i) A PERIOD OF ZERO CASH ISSUANCE.

(ii) ASSISTANCE WHICH HAS BEEN FULLY REIMBURSED.

(iii) ASSISTANCE REPAID DUE TO COLLECTION OF AN  
OVERPAYMENT.

(iv) BENEFITS ISSUED BUT NOT RECEIVED BY THE INDIVIDUAL  
AND THE BENEFITS ARE NOT REPLACED.

(v) A PERIOD WHEN AN INDIVIDUAL OR BUDGET GROUP IS  
UNDER SANCTION AND, AS A RESULT, NO ASSISTANCE BENEFITS ARE ISSUED.

(vi) AN EMERGENCY SHELTER ALLOWANCE (ESA) PAYMENT.

(vii) A PERIOD OF INTERIM BENEFITS RECEIVED UNDER  
§275.4(d) (RELATING TO PROCEDURES) WHEN A FINAL DECISION HAS NOT BEEN  
HANDLED DOWN BY THE BUREAU OF HEARINGS AND APPEALS WITHIN THE  
APPROPRIATE TIME LIMIT AND THE BUDGET GROUP'S APPEAL IS EVENTUALLY  
DENIED.

(7) NOTHING IN THIS SUBSECTION WILL BE INTERPRETED AS  
REQUIRING THE DEPARTMENT TO PROVIDE OR CONTINUE TO PROVIDE TANF  
ASSISTANCE WHICH DOES NOT COUNT TOWARD OR MAY EXTEND BEYOND THE  
FEDERAL 60-MONTH LIMIT.

(8) TIME-OUT BENEFITS PROVIDED UNDER CHAPTER 281 (RELATING TO TIME-OUT BENEFITS) ARE NOT COUNTED TOWARDS THE FEDERAL 60-MONTH TIME LIMIT.



**Suggested Revision of Section 141.54(b)(4)(iii)**  
**(page 33 of the regulations)**

(iii) AN INDIVIDUAL WHO DISAGREES WITH THE FINDINGS OR  
RECOMMENDATIONS OF THE WCA MAY REQUEST A DE NOVO SECOND OPINION  
WCA.

**Suggested Revision of Section 141.58**  
**(page 44 of the regulations)**

§ 141.58 APPEAL RIGHTS.

AN INDIVIDUAL MAY APPEAL THE DENIAL OR TERMINATION OF  
EXTENDED TANF OR OTHER DEPARTMENTAL ACTIONS OR FAILURES TO ACT  
CONCERNING OF EXTENDED TANF UNDER CHAPTER 275 (RELATING TO APPEAL  
AND FAIR HEARING AND ADMINISTRATIVE DISQUALIFICATION HEARINGS), AND  
WILL BE GIVEN NOTICE OF DENIAL, TERMINATION OR OTHER DEPARTMENTAL  
ACTIONS CONCERNING EXTENDED TANF.

**Suggested Revision to Section 141.54(b)(3)(iii)(A)  
(page 31 of the regulations)**

(A) *EXISTING DOCUMENTATION*. THE INDIVIDUAL SHALL COOPERATE WITH THE DEPARTMENT OR ITS AGENT IN OBTAINING EXISTING DOCUMENTATION REGARDING MEDICAL CONDITIONS AND FUNCTIONAL LIMITATIONS THAT MAY PRECLUDE OR LIMIT COMPLIANCE WITH RESET, INCLUDING AVAILABLE RECORDS OF THE TREATING PHYSICIAN AND PSYCHOLOGIST. ~~IF NECESSARY,~~ THE DEPARTMENT OR ITS AGENT WILL ASSIST THE INDIVIDUAL IN OBTAINING EXISTING DOCUMENTATION.

**Suggested Revisions to Sections 141.52 (page 20 of the regulations) & 141.55  
(pages 34-39 of the regulations)**

§141.52 Definitions

*WPP-WORK PLUS PROGRAM*—AN EMPLOYMENT AND TRAINING PROGRAM PROVIDING WORK AND WORK-RELATED ACTIVITIES FOR AN AVERAGE OF AT LEAST 30 HOURS PER WEEK FOR INDIVIDUALS ELIGIBLE FOR EXTENDED TANF.

§141.55 MANDATORY RESET PARTICIPANTS.

(a) *GENERAL.* A FAMILY MAY QUALIFY FOR EXTENDED TANF UNDER THIS SECTION IF THE INDIVIDUAL WHO HAS RECEIVED 60 MONTHS OF TANF MEETS THE REQUIREMENTS OF THIS SECTION, AS FOLLOWS:

- (1) *EMPLOYED 30 OR MORE HOURS PER WEEK.* IF THE INDIVIDUAL IS EITHER EMPLOYED AN AVERAGE OF AT LEAST 30 HOURS PER WEEK OR GENERALLY EMPLOYED 30 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT, INCLUDING SELF-EMPLOYMENT, NO ADDITIONAL WORK OR WORK ACTIVITY IS REQUIRED. THE INDIVIDUAL MAY VOLUNTEER FOR EMPLOYMENT AND TRAINING PROGRAMS THAT ARE DESIGNED TO INCREASE THE INDIVIDUAL'S EARNING CAPACITY.
- (2) *PARTICIPATING IN AN EMPLOYMENT AND TRAINING PROGRAM.* THE INDIVIDUAL IS CONTINUING PARTICIPATION IN AN

EMPLOYMENT AND TRAINING PROGRAM APPROVED ON AN AMR WHILE THE INDIVIDUAL WAS RECEIVING TANF.

- (3) *EMPLOYED 20-29 HOURS PER WEEK.* AN INDIVIDUAL WHO IS EITHER EMPLOYED AN AVERAGE OF 20-29 HOURS PER WEEK OR GENERALLY EMPLOYED 20-29 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT, INCLUDING SELF-EMPLOYMENT, SHALL MAINTAIN EMPLOYMENT. EXCEPT AS SPECIFIED IN SUBSECTION (a)(6), THE INDIVIDUAL SHALL ALSO ENROLL AND PARTICIPATE IN A JOB RETENTION AND ADVANCEMENT PROGRAM, FUNDED OR APPROVED BY THE DEPARTMENT, TO BRING THE COMBINED TOTAL TO AN AVERAGE OF AT LEAST 30 HOURS PER WEEK. AN INDIVIDUAL WHO IS GENERALLY PARTICIPATING IN A COMBINATION OF WORK AND WORK-RELATED ACTIVITIES FOR A TOTAL OF 30 HOURS PER WEEK IS CONSIDERED TO BE IN COMPLIANCE.

- (4) *EMPLOYED LESS THAN 20 HOURS PER WEEK.* AN INDIVIDUAL WHO IS EMPLOYED LESS THAN 20 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT SHALL MAINTAIN EMPLOYMENT. EXCEPT AS SPECIFIED IN SUBSECTION (a)(6), THE INDIVIDUAL SHALL ALSO ENROLL AND PARTICIPATE IN WPP, TO BRING THE

COMBINED TOTAL NUMBER OF HOURS TO AN AVERAGE OF AT LEAST 30 HOURS PER WEEK. AN INDIVIDUAL WHO IS GENERALLY PARTICIPATING IN A COMBINATION OF WORK AND WORK-RELATED ACTIVITIES FOR A TOTAL OF 30 HOURS PER WEEK IS CONSIDERED TO BE IN COMPLIANCE.

(5) *NOT EMPLOYED.* EXCEPT AS SPECIFIED IN SUBSECTION (a)(6), AN INDIVIDUAL WHO IS NOT EMPLOYED IN UNSUBSIDIZED EMPLOYMENT SHALL ENROLL AND PARTICIPATE IN WPP FOR AN AVERAGE OF AT LEAST 30 HOURS PER WEEK. AN INDIVIDUAL WHO IS GENERALLY PARTICIPATING IN WPP FOR A TOTAL OF 30 HOURS PER WEEK IS CONSIDERED TO BE IN COMPLIANCE.

(6) SPECIAL GOOD CAUSE PROVISION. IF THE INDIVIDUAL ESTABLISHES GOOD CAUSE FOR NOT PARTICIPATING IN AN AVERAGE OF AT LEAST 30 HOURS PER WEEK OF COMBINED WORK AND WORK-RELATED ACTIVITIES BUT IS REQUIRED TO COMPLY WITH RESET, THE FOLLOWING RULES APPLY:

(i) IF THE INDIVIDUAL IS EMPLOYED 20-29 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT, THE INDIVIDUAL SHALL MAINTAIN EMPLOYMENT. AN INDIVIDUAL WHO IS GENERALLY

EMPLOYED FOR A TOTAL OF 20-29 HOURS PER WEEK IS  
CONSIDERED TO BE IN COMPLIANCE.

(ii)IF THE INDIVIDUAL IS EMPLOYED LESS THAN 20  
HOURS PER WEEK IN UNSUBSIDIZED  
EMPLOYMENT, THE INDIVIDUAL SHALL  
MAINTAIN EMPLOYMENT. THE INDIVIDUAL  
SHALL ALSO AGREE ON AN AMR TO COMPLY  
WITH RESET BY PARTICIPATING IN WPP FOR A  
COMBINED TOTAL AVERAGE OF AT LEAST 20  
HOURS PER WEEK. AN INDIVIDUAL WHO IS  
GENERALLY PARTICIPATING IN A COMBINATION  
OF WORK AND WORK-RELATED ACTIVITIES FOR  
A TOTAL OF 20 HOURS PER WEEK IS CONSIDERED  
TO BE IN COMPLIANCE.

(iii)IF THE INDIVIDUAL IS NOT EMPLOYED IN  
UNSUBSIDIZED EMPLOYMENT, THE INDIVIDUAL  
SHALL AGREE ON AN AMR TO COMPLY WITH  
RESET BY PARTICIPATING IN WPP FOR AN  
AVERAGE OF AT LEAST 20 HOURS PER WEEK. AN  
INDIVIDUAL WHO IS GENERALLY PARTICIPATING  
IN WPP FOR A TOTAL OF 20 HOURS PER WEEK IS  
CONSIDERED TO BE IN COMPLIANCE.

(iv)THE INDIVIDUAL WHO ESTABLISHES GOOD CAUSE FOR NOT PARTICIPATING IN ~~AT LEAST AN AVERAGE OF~~ 30 HOURS PER WEEK OF COMBINED WORK AND WORK-RELATED ACTIVITIES SHALL ALSO AGREE ON AN AMR TO ADDRESS THE GOOD CAUSE SITUATION. THE AMR WILL SET FORTH THE STEPS THE INDIVIDUAL SHALL UNDERTAKE TO ADDRESS THE GOOD CAUSE SITUATION INCLUDING COOPERATION WITH A WPP CONTRACTOR.

*(b)WORK PLUS PROGRAM.*

- (1) AN INDIVIDUAL ENROLLED IN WPP SHALL COOPERATE IN OBTAINING A VOCATIONAL ASSESSMENT, PERFORMED BY AN EMPLOYMENT AND TRAINING CONTRACTOR.
- (2) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT INDICATE THAT THE INDIVIDUAL IS NOT PRECLUDED FROM COMPLYING WITH RESET, THE INDIVIDUAL SHALL GENERALLY PARTICIPATE A MINIMUM AN AVERAGE OF 30 HOURS PER WEEK IN A COMBINATION OF WORK AND WORK-RELATED ACTIVITIES, IN ACCORDANCE WITH THE FAIR LABOR STANDARDS ACT (29 U.S.C.A. §§201-219). WORK-RELATED ACTIVITIES MAY INCLUDE ENGLISH-AS-A SECOND LANGUAGE (ESL) CLASSES. IF THE INDIVIDUAL ESTABLISHES GOOD CAUSE FOR NOT GENERALLY PARTICIPATING IN AN AVERAGE OF AT LEAST 30 HOURS PER WEEK OF WORK AND WORK-RELATED ACTIVITIES, THE INDIVIDUAL SHALL COMPLY WITH RESET IN ACCORDANCE WITH SUBSECTION(a)(6).



- (3) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT REVEAL A MEDICAL CONDITION, FUNCTIONAL LIMITATION OR GOOD CAUSE SITUATION THAT PRECLUDES THE INDIVIDUAL FROM COMPLYING WITH RESET REQUIREMENTS, THE INDIVIDUAL SHALL BE REFERRED TO MPP.
- (4) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT INDICATE THAT THE INDIVIDUAL IS NOT PRECLUDED FROM COMPLYING WITH RESET BUT, BECAUSE OF DISABILITY, NEEDS A REASONABLE ACCOMMODATION OF PROGRAM RULES AND REQUIREMENTS, SUCH ACCOMMODATION SHALL BE MADE IN ACCORDANCE WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT (42 U.S.C.A. §§12131-12165). FINDINGS AND RECOMMENDATIONS PROVIDED WITH A REFERRAL FROM MPP WILL BE CONSIDERED IN PROVIDING ACCOMMODATION.

*(c)SANCTIONS.* IF THE INDIVIDUAL FAILS TO COMPLY WITH §141.55 (RELATING TO MANDATORY RESET PARTICIPANTS), A COMPLIANCE REVIEW IS CONDUCTED IN ACCORDANCE WITH §165.51 (RELATING TO COMPLIANCE REVIEW). IF THE INDIVIDUAL WILLFULLY FAILS, WITHOUT GOOD CAUSE, AS DESCRIBED IN §141.52 (RELATING TO GOOD CAUSE), TO COMPLY WITH §141.55, A SANCTION IS IMPOSED ON THE BUDGET GROUP UNDER §165.61 (RELATING TO SANCTIONS). AN INDIVIDUAL WHO IS GENERALLY PARTICIPATING IN WORK OR WORK-RELATED ACTIVITIES FOR THE SCHEDULED NUMBER OF HOURS PER WEEK WILL BE CONSIDERED TO BE IN COMPLIANCE.

**(d)AS USED IN THIS SECTION, THE FOLLOWING WORD SHALL HAVE THE  
MEANING GIVEN IN THIS SUBSECTION:**

**INDIVIDUAL—ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF  
HOUSEHOLD**

**Suggested Revision of Section 141.55(b)  
(page 38 of the regulations)**

§141.55 (b) *WORK PLUS PROGRAM*

(1) AN INDIVIDUAL ENROLLED IN WPP SHALL COOPERATE IN OBTAINING A VOCATIONAL ASSESSMENT, PERFORMED BY AN EMPLOYMENT AND TRAINING CONTRACTOR.

(2) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT INDICATE THAT THE INDIVIDUAL IS NOT PRECLUDED FROM COMPLYING WITH RESET, THE INDIVIDUAL SHALL PARTICIPATE A MINIMUM OF 30 HOURS PER WEEK IN A COMBINATION OF WORK AND WORK-RELATED ACTIVITIES, IN ACCORDANCE WITH THE FAIR LABOR STANDARDS ACT (29 U.S.C.A. §§201-219). A WPP SERVICE PLAN WILL BE DEVELOPED IN CONSULTATION WITH THE INDIVIDUAL. WORK-RELATED ACTIVITIES MAY INCLUDE VOCATIONAL TRAINING, GED CLASSES, JOB SEARCH AND ENGLISH-AS-A-SECOND LANGUAGE (ESL) CLASSES. IF THE INDIVIDUAL ESTABLISHES GOOD CAUSE FOR NOT PARTICIPATING IN AT LEAST 30 HOURS PER WEEK OF WORK AND WORK-RELATED ACTIVITIES, THE INDIVIDUAL SHALL COMPLY WITH RESET IN ACCORDANCE WITH SUBSECTION (A)(6).

**Suggested Revision of Section 141.54(b)(3)(i)(E)  
(page 30 of the regulations)**

(E) THE FINDINGS AND RECOMMENDATIONS OF THE WCA WILL BE PROVIDED TO THE MPP TEAM. THE WCA IS TO BE CONSIDERED BY THE MPP TEAM AND INFORMS, BUT DOES NOT CONTROL, THE OUTCOME OF THE MPP PROCESS.

### **Synopsis of Survey Results: Employment and Training Providers and Limited English Proficient Clients**

Community Legal Services, Inc. conducted a telephone survey of the 18 providers listed in the Philadelphia County Assistance Office's October 2001 Employment and Training Provider Guide ("Provider Guide") that were listed as offering services to people with limited English proficiency. The objective of the survey was to establish whether the provider did in fact serve people with limited English Proficiency, in what languages people with limited English proficiency were served, and to what extent people with limited English proficiency were served by the program. The survey findings indicate that the vast majority of people with limited English proficiency have no access to Employment and Training programs in Philadelphia county in violation of Title VI of the Civil Rights Act of 1964 which requires the Department of Public Welfare to ensure that people with limited English proficiency persons may meaningfully participate in TANF programs.

#### **Program Findings**

- **Some programs do not provide the multilingual services advertised in the Provider Guide, for example:**
  - a. Center for Literacy and Community Learning Center are both literacy programs that provide English as a Second Language (ESL) and are listed in the Guide as providing language services for all non-English speakers. However, these programs do not employ native speakers of any language other than English.
  - b. CORPP, a newly reorganized job retention program, no longer offers any foreign language assistance; that change was not noted in the updated April 2002 Provider Guide.
  - c. Educational Data Systems, Inc., a job retention program, offers more languages than noted in the Provider Guide. However, all five of the Asian languages are provided by one employee. Fluency in five languages would be highly uncommon.
  - d. The Mayor's Office of Community Service Workwise Program, a job readiness program, does not provide services in Spanish.
- **Where providers do provide services for people with limited English proficiency, they do so with individual staff people who cannot cover the full range of the program's services, for example:**
  - a. The EARN Program, an employment and training program, has a program director who speaks Spanish, but is not available to interpret program services for clients.

- b. Impact Services Corporation, a job retention program, employs some bilingual career counselors, but no bilingual teachers for their classes.
- **Very few programs offer services in languages other than Spanish, and those that do offer services to only a specialized segment of the population of people with limited English proficiency. For example:**
    - a. The Targeted Assistance Program, an employment and training program, provides language assistance in several languages but is only open to people granted refugee status who have been in the U.S. for one to five years.
    - b. There are no providers to non-custodial parents, no "Upfront" job readiness providers, and no providers to youth that offer services to People with limited English proficiency who speak languages other than Spanish.

#### **Summary Findings**

- There are no "hard skill" vocational training providers that offer services in languages other than English.
- Twelve of eighteen providers reported that they served only Spanish-speaking people with limited English proficiency.
- Five of eighteen providers use an automated telephone system or receptionist system which is English only and therefore inaccessible to people with limited English proficiency. An additional four of the remaining programs reported that they were not in fact equipped to provide any program or service in languages other than English.
- Six of eighteen providers are listed in the Guide as offering services in languages other than English or Spanish; only two of these actually do so.
- Many of the providers reported that they are rarely, if ever, referred clients who do not speak English.

**Suggested Revisions of Sections 151.54(a)(1) (pages 24-25 of the regulations) & 141.55 (b)(2) (page 38 of the regulations)**

**§141.54 MAXIMIZING PARTICIPATION PROJECT**

**(a) ELIGIBILITY. A FAMILY MAY BE ELIGIBLE FOR EXTENDED TANF UNDER THIS SECTION IF THE INDIVIDUAL WHO HAS RECEIVED 60 MONTHS OF TANF ASSISTANCE MEETS THE REQUIREMENTS OF PARAGRAPHS (1), (2) OR (3) AS FOLLOWS:**

- (1) IS EXEMPT FROM PARTICIPATION IN RESET BECAUSE THE INDIVIDUAL IS MENTALLY OR PHYSICALLY DISABLED AS VERIFIED BY A PHYSICIAN OR LICENSED PSYCHOLOGIST AND THE DISABILITY TEMPORARILY OR PERMANENTLY PRECLUDES ANY FORM OF EMPLOYMENT OR WORK-RELATED ACTIVITY, OR THE INDIVIDUAL HAS A SEVERE LANGUAGE BARRIER WHICH TEMPORARILY PRECLUDES EMPLOYMENT;**

**§141.55 (b) WORK PLUS PROGRAM**

**(1) AN INDIVIDUAL ENROLLED IN WPP SHALL COOPERATE IN OBTAINING A VOCATIONAL ASSESSMENT, PERFORMED BY AN EMPLOYMENT AND TRAINING CONTRACTOR.**

(2) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT INDICATE THAT THE INDIVIDUAL IS NOT PRECLUDED FROM COMPLYING WITH RESET, THE INDIVIDUAL SHALL PARTICIPATE A MINIMUM OF 30 HOURS PER WEEK IN A COMBINATION OF WORK AND WORK-RELATED ACTIVITIES, IN ACCORDANCE WITH THE FAIR LABOR STANDARDS ACT (29 U.S.C.A. §§201-219). WORK-RELATED ACTIVITIES MAY INCLUDE ENGLISH-AS-A-SECOND LANGUAGE (ESL) CLASSES.

INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY WHO HAVE NOT PREVIOUSLY HAD THE OPPORTUNITY TO PARTICIPATE IN LANGUAGE ACCESSIBLE VOCATIONAL TRAINING MAY ENGAGE IN VOCATIONAL TRAINING AND/OR ESL AS THEIR PRINCIPAL WPP ACTIVITIES. IF THE INDIVIDUAL ESTABLISHES GOOD CAUSE FOR NOT PARTICIPATING IN AT LEAST 30 HOURS PER WEEK OF WORK AND WORK-RELATED ACTIVITIES, THE INDIVIDUAL SHALL COMPLY WITH RESET IN ACCORDANCE WITH SUBSECTION (A)(6).





Law Center North Central  
3638 North Broad Street, Philadelphia, PA 19140  
Phone: 215 227.2400

### FAX TRANSMITTAL COVER SHEET

FAX NUMBER: (215) 227-2435

DATE: 8/26/02

TO: Jim Smith, IRRC

FAX NUMBER: (717) 283-2664

FROM: AMY HIRSCH

DIRECT DIAL TELEPHONE: (215) 227-2400 EXT. 2415 FAX: (215) 227-2435

TOTAL NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 29

RE: Extended TANF regulations 14-474

MESSAGE: Thank you for giving this  
your consideration

IRRC # 2244

Please call the direct dial number above if there are any problems with this transmission. The information contained in this fax transmittal is legally privileged and confidential and intended only for the use of the individual or organization named above. If you receive this message but are not the intended recipient, please destroy the fax transmittal and notify the sender at the above direct dial number. Thank you for your cooperation.

TO BE COMPLETED AFTER FAX HAS BEEN TRANSMITTED:

DATE OF TRANSMISSION:

TIME:

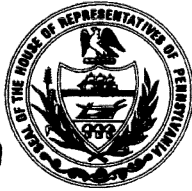
OPERATOR:

8/26/02 11:24 AM  
IRRC # 2244

RECEIVED

2002 MAR 19 AM 8:40

LEGISLATIVE REGULATORY  
REVIEW COMMISSION



March 18, 2002

Edward Zogby, Director  
Bureau of Policy  
Department of Public Welfare  
Room 431 Health & Welfare Building  
Harrisburg, Pennsylvania 17120

Re: Extended TANF Proposed Regulation # 14-474

Dear Mr. Zogby:

I submit these comments in my capacity as Democratic Chairman of the House Health & Human Services Committee. First, I am pleased that the Department is acting in the best interest of children in families who, for whatever reason, remain reliant on cash assistance after 60 months by choosing the Federal option permitting states to extend cash assistance beyond the time limit on federally funded TANF. But, having reviewed the proposed regulation, the Public Welfare Code and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), I am concerned that the proposed regulation may exceed its statutory authority in the following ways:

**ELIGIBILITY OF CHILDREN FOR GENERAL ASSISTANCE**

While under certain circumstances PRWORA includes a 60-month time limit on spending TANF funds to provide assistance, the time limit does not affect state funded assistance. Sections of the proposed regulation that would make an entire family ineligible for state funded General Assistance (GA) violate provisions of the Public Welfare Code, which specifically state that children are eligible for GA.

If the parent is not a mandatory work participant, there is no statutory authority to bar otherwise eligible children from GA because their parents do not cooperate in seeking those benefits. The statute only bars the person who fails to cooperate. It does not provide any authority for disqualifying children who are not responsible for establishing eligibility.

The requirement to apply for federal benefits, on which the Department relies in their effort to make this argument, was intended to point applicants toward federally funded benefits before that person receives state money. The Department's attempt to extend the statutory intent beyond this meaning is convoluted and nonsensical.

## **THE 30-HOUR REQUIREMENT VIOLATES ACT 35**

Under PRWORA, states must require work after two years, but states do have broad flexibility in determining what constitutes work and how many hours per week or month must be worked. In accordance with federal law, the following provisions of Act 35 establish the RESET program, including the required number of hours to be worked per week and the penalty for noncompliance:

Section 405.1 (a.2) (2). “As a condition of eligibility or continuing eligibility for cash assistance, a nonexempt applicant or recipient who is not employed for an average of at least twenty hours per week shall be required to participate in a work-related activity.”

Section 405.1(a.2) (6). “A recipient who has received assistance for twenty-four months, whether those months are consecutive or interrupted, must work, participate in subsidized employment, work experience, on-the-job training, community service or workfare for an average of at least twenty hours per week. Information indicating noncompliance with the minimum twenty-hour per week requirement shall be cause for a review of eligibility.”

The Department’s attempt to now add a new work requirement and penalty in this proposed regulation for Extended TANF is contrary to their statutory authority.

In conclusion, my review indicates that the Department does not have statutory authority to promulgate this regulation and that it is clearly inconsistent with the intent of the General Assembly in enacting our state welfare reform law. I ask that the Department make these necessary and important changes before submitting the regulation in final-form to the Committee.

Sincerely,

Frank L. Oliver, Democratic Chairman  
House Health and Human Services Committee

cc: IRRC

14-474-106



## WELFARE JUSTICE PROJECT

A Project of Just Harvest  
120 East 9<sup>th</sup> Ave, Homestead, PA 15120  
(412) 464-0739

OFFICE OF THE SECRETARY  
DEPT OF PUBLIC WELFARE

REF. \_\_\_\_\_

2002 FEB 26 A 8:24

00248

RECEIVED

February 19, 2002

Secretary Feather Houstoun  
Department of Public Welfare  
Health and Welfare Building  
Harrisburg, PA 17120

Dear Secretary Houstoun:

I am a member of the Welfare Justice Project in Allegheny County and I have personal experience with TANF. I'm writing to state my concerns with the proposed regulations for Extended TANF.

I am glad to see the positive features of this plan-- that it recognizes that many families need more time to become self-sufficient and that DPW is committed to continuing benefits to those families.

However, several parts of the regulations concern me. They are:

1. The absence of particulars about the Work Capacity Assessment (WCA). The WCA seems like a crucial component of Extended TANF because it determines who will participate in MPP and who will participate in Work Plus. DPW should clearly state how it will work before Extended TANF starts.
2. The regulations do not explain how Work Plus and MPP will help families move toward self-sufficiency.

3. The 30-hour Work Requirement of Work Plus. I understand the demands of working and being a parent. Many TANF parents are already working 20 hours or more a week. 30 hours may not be possible for everyone, and families should not be sanctioned if parents cannot meet the work requirement.
4. Work Plus is workfare. It is not fair to make TANF recipients work for their welfare checks. Work opportunities programs that pay real wages are better for many reasons. They help people become eligible for benefits like the Earned Income Tax Credit and Unemployment Insurance. Also, real employment protects workers from discrimination. Plus, real jobs lead to more real jobs.

Thank you for considering my comments.

Sincerely,

Department of Public Welfare  
IRRC #2244  
Title: Redetermining Eligibility, General Eligibility  
Provisions and Income

<b>(Agency Form E)</b>		
<b>NAME</b>	<b>ADDRESS</b>	<b>DATE of CORRESPONDENCE</b>
Victoria Edwards	Welfare Justice Project 120 East 9 <sup>th</sup> Avenue Homestead, PA 151207	<b>February 26, 2002</b>
Barbara Longino	Welfare Justice Project 120 East 9 <sup>th</sup> Avenue Homestead, PA 151207	<b>February 26, 2002</b>
Michelle Hill	Welfare Justice Project 120 East 9 <sup>th</sup> Avenue Homestead, PA 151207	<b>February 26, 2002</b>
Jean Bynog	Welfare Justice Project 120 East 9 <sup>th</sup> Avenue Homestead, PA 151207	<b>February 26, 2002</b>



1424 Chestnut Street, Philadelphia, PA 19102-2505  
Phone: 215.981.3700, Fax: 215.981.0434  
Web Address: www.clsphila.org

ORIGINAL: 2244  
March 13, 2002

Linda Hicks  
Official in Charge  
Office of Income Maintenance  
Department of Public Welfare  
Health and Welfare Building  
Harrisburg, PA 17105

Edward Zogby  
Director, Bureau of Policy  
Office of Income Maintenance  
Department of Public Welfare  
Health and Welfare Building  
Harrisburg, PA 17105

Dear Ms. Hicks and Mr. Zogby,

Enclosed are marked up regulations with our suggestions dealing with the MPP and WPP programs. We were asked by IRRC staff to give them a better sense of what we thought the regulations should look like. This markup is our attempt to do just that. We are sharing them with you in the hope that we may be able to find common ground on a lot of important details of the Extended TANF program. We would welcome the opportunity to discuss these regulations and our full comments with you. We all felt that our last meeting was very productive and positive. In any event, we urge DPW to use our markup in finalizing the regulations.

Please note that these regulations do not replace our full comments, nor should the application of this markup only to the MPP and WPP programs be interpreted to mean that our other comments are not equally important. For example, we still remain convinced that it is vitally important to use non assistance to provide a bridge for those who lose their job and are looking for a replacement job. Enrolling in WPP, or even MPP, during this crucial period is likely to serve only as a distraction that will prevent quick reemployment. We suggest a four month temporary period of non-assistance where a person is given the room to look for work, rather than engage in vocational assessments, workfare assignments, et cetera.

We look forward to hearing from you and engaging in further dialogue.

Very truly yours,

Richard P. Weishaupt  
Senior Attorney

cc: IRRC ✓  
John A. Kane, Esq.

Enclosures