

11/2/00 OLC CLARIFICATIONS

Re: 25-Hour Work Requirement

Dear CCIS Grantee:

We are responding to a concern raised regarding the requirement for adult family members to work a minimum of 25 hours per week to be eligible for the subsidized child care program. The following regulations in 55 Pa. Code establish the rules for determining financial and nonfinancial eligibility based on this requirement:

- 3040.32(a) (relating to financial eligibility) states: "The parent/caretaker shall provide paystubs indicating gross earned income for any 4 consecutive weeks within the most recent 6-week period for employed family members."
- 3040.34(a)(3) (relating to nonfinancial eligibility) states: "Each adult family member shall have had at least 4 weeks of employment within the most recent 6-week period and shall work the number of hours required as follows. The eligibility agent may average the hours of employment in the 4-week period. (i) The adult family members shall work at least 25 hours per week."
- 3040.38 (relating to prospective employment or prospective education program for new applicants) lists eligibility requirements for newly employed family members.

It has come to our attention that there are circumstances in which the adult family member has a job that is normally 25 hours per week but the adult family member does not meet the 25-hour work requirement in the review period. Many individuals who are hired to work only 25 hours do not have the opportunity to work additional hours because their job is available only 25 hours. We have heard that many employers are unable or reluctant to provide an employee who is hired to work only 25 hours per week with extra employment (in excess of 25 hours) to "make-up" lost hours (less than 25 hours) during previous weeks.

To address this issue, we will establish a change in procedures pending amendment to regulations. The change in procedures addresses the eligibility of a family whose adult family member is normally scheduled to work at least 25 hours per week, but during the review period she is unable to meet the 25-hour work requirement due to circumstances that are beyond her control. Temporary exceptions to the 25-hour requirement will be granted as outlined below. Although these exceptions are temporary, they may be granted more than once.

Temporary Exceptions to the 25 Hour Per Week Work Requirement

The adult family member may be unable to meet the 25-hour work requirement during the review period due to circumstances beyond her control. Circumstances beyond the control of the adult family member include:

- Illness or injury of the adult family member, or illness or injury of the child or another member of the family unit that necessitates the adult family member miss work;
- Disability of the adult family member, or disability of a child that does not normally prevent the family member from working 25 hours per week but prevented the adult from working 25 hours during a specific week(s);
- Medical appointments for the adult family member, or appointments for a child or another member of the family unit that required the presence of the adult family member at the appointment, and that could not reasonably be scheduled at a time that did not conflict with the adult family member's work hours;
- Unavailability of work for reasons not within the employee's control, e.g. holidays, closings because of snow or other weather emergencies, and closings because of work site problems, e.g. loss of utilities;
- Domestic violence.

Where the reasons the adult family member missed work were reasons beyond her control, she may be granted a temporary exception to the 25 hours per week work requirement. The exception is limited to the weeks she verifies that the circumstance beyond her control existed and prevented her from working, and she otherwise would have worked 25 hours, i.e. she had a 25-hours per week job.

Verification

As with all factors of eligibility, it is the responsibility of the parent/caretaker to supply the information to determine their eligibility for a temporary exception to the 25 hours per week work requirement. (See 55 Pa. Code § 3040.53(h)).

Acceptable forms and methods of verification include:

- statement, note, records, or phone call from a doctor's office;
- statement, note, records, or phone call from the employer;
- statement, note, or phone call from the child care provider indicating that the child was ill.
- phone call by the CCIS eligibility agent, with the parent/caretaker's permission, to a doctor, employer, or person with knowledge of the parent/caretaker's circumstances (when the parent/caretaker has taken all reasonable steps to attain verification or when the CCIS worker believes that this is the most expedient way to obtain information);

- written statement of the parent/caretaker (only where other evidence does not exist or is not reasonably available). In cases of domestic violence, a parent/caretaker will be permitted to sign a statement attesting that she has missed work for reasons related to domestic violence. (The CCIS must ensure the confidentiality of any information provided by a parent/caretaker regarding domestic violence.)

Because of age, physical or mental disabilities, language difficulties or other factors, parents/caretakers may need assistance in obtaining verification. The CCIS should help parents/caretakers who, because of these factors, need help in obtaining verification, and should inform the parent/caretaker that they are available to help them in obtaining verification that they are unable to obtain on their own. When a parent/caretaker is unable to obtain necessary verification, the CCIS eligibility agent, with the parent/caretaker's permission, should attempt to verify good cause through a phone contact(s). When it is necessary for the CCIS to contact employers and doctors to verify good cause, it will still be necessary for the parent/caretaker to give permission for the doctor or employer to release information.

Phone contacts verifying a factor of eligibility should be noted in the family file. Where it is self-evident or known to the eligibility worker, the reason the adult family member missed work shall simply be noted in the family file, e.g., school closing for Thanksgiving.

Procedure

The regulations require that the adult family member be employed for an average of 25 hours per week. When the adult family member has new employment, eligibility is determined based on prospective employment in accordance with 55 Pa. Code §3040.38. Where the employment is not new but the adult family member has not met the 25 hours of employment requirement in 4 (averaged) out of the previous 6 weeks, the procedures set forth below provide the adult family member with the opportunity to verify that the reasons for failing to meet the 25-hour work requirement in the review period were circumstances beyond the control of the adult family member. The adult family member must verify that she is normally scheduled for or normally works an average of at least 25 hours per week and that she will continue to be scheduled or work an average of 25 hours (or more) in the future.

The CCIS must take the following steps to determine whether the adult family member meets the 25-hour per week work requirement on an average or demonstrates that she has 25 hours of work available on a regular basis. In addition, the adult family member must verify the reasons for failing to meet the 25-hour requirement on an average in 4 out of the 6 weeks preceding the eligibility determination, and that the circumstances that caused her to miss work were beyond her control.

Step 1. Nonfinancial Eligibility - Determine if the adult family members meet the nonfinancial requirement to work an average of 25 hours per week as verified by paystubs for any four weeks in the most recent 6-week period. The information may be averaged, 3040.34(a)(3).

Financial Eligibility – Where the paystubs show an average of 25 hours per week, or more, in 4 of the most recent 6 weeks, i.e. non-financial eligibility is established, both financial eligibility and the co-payment are based on paystubs submitted for 4 consecutive weeks of employment in the most recent 6-week period, 3040.32(a).

Eligibility Period - If the family is determined to be eligible, the eligibility agent will establish an eligibility period consistent with the family's circumstances. This eligibility period may not exceed 6 months.

Step 2. Where an adult family member does not meet the 25-hour work requirement as per Step 1 for reasons beyond her control, the adult family member must verify that she is normally scheduled to work or normally works an average of at least 25 hours per week. In addition, the adult family member must verify that she continues to have an average of 25 or more hours of employment available each week.

Nonfinancial eligibility - The adult family member must verify the event or circumstance that caused her to miss work, in accordance with the verification guidelines discussed above. The verified hours of work missed for reasons beyond the family member's control combined with the hours worked each week must total 25. The adult family member must present verification from her employer that she will be retained as an employee and that an average of 25 or more hours of work will be made available to her. If verification is in the form of a statement or note, the employer must sign and date the verification statement.

Financial eligibility - When the adult family member has not verified an average of 25 hours of work in 4 weeks out of the most recent 6-week period, eligibility is determined prospectively in accordance with Section 3040.38. Financial eligibility and the co-payment are based on the employer's statement of the available number of hours of employment, e.g. 25, multiplied by the adult family member's hourly wage.

Eligibility Review period – When it is determined that an exception to the 25 hours of work per week requirement is appropriate, the CCIS will review the family's circumstances 12 weeks after the previous review, with discretion to set the review period for less than or more than 12 weeks based on individual family circumstances. Once the adult family member verifies that she has worked an average of 25 hours in 4 weeks out of the most recent 6, as per Step 1, the eligibility agent will establish an eligibility

period consistent with the family's circumstances. The eligibility period may not exceed 6 months.

Examples of situations listed above are included in the Attachment. If you have questions, please contact your Regional CCIS Coordinator.

Sincerely,

Kathryn J. Holod
Director
Bureau of Child Day Care Services

Attachment

25-Hour Work Requirement**EXAMPLES**

Example #1: The family consists of Ms. G and her two children. Ms. G's redetermination of subsidized child care eligibility is due 3/22. Ms. G is employed at the You Broke It – We Fix It, fix-it shop. Ms. G's hours of employment are based on demand for her services. Ms. G submits the following employment information:

<u>Pay Received Date</u>	<u>Number of Hours</u>	<u>Pay Amount</u>
2/11	40	\$320.00
2/18	27	\$216.00
2/25	25	\$200.00
3/3	30	\$240.00
3/10	15	\$120.00
3/17	12	\$ 96.00

Nonfinancial eligibility – Ms. G meets the requirement at §3040.34(a)(3), employment of 25 or more hours in 4 out of the most recent 6-week period. The weeks of 2/11, 2/18, 2/25 and 3/3 provided for 25 or more hours of employment.

Financial eligibility – Financial eligibility is established using 4 consecutive weeks in the most recent 6-week period. The eligibility agent uses pay information from the weeks of 2/25, 3/3, 3/10 and 3/17. Financial eligibility and co-payment are established based on an annual income of \$8,462.40.

Eligibility period - The CCIS sets a redetermination to occur by 6/24 (less than 6 months, because of her inconsistent hours of employment).

Example #2: The family consists of Ms. Y and her child. Ms. Y's redetermination is due 2/11. Ms. Y is employed as a school crossing guard for 25 hours per week (5 hours per day). Ms. Y submits the following employment information:

<u>Pay Received Date</u>	<u>Number of Hours</u>	<u>Pay Amount</u>
1/7	20	\$135.00
1/14	25	\$168.75
1/21	15	\$101.25
1/28	15	\$101.25
2/4	25	\$168.75

Ms. Y provides the eligibility agent with the following information:

1/3 - No School – Christmas Vacation

1/17 - No School – Martin Luther King Day
 1/19 - No School – Snow Day
 1/26 - No School – Snow Day
 1/27 - No School – Snow Day

Nonfinancial eligibility - The eligibility agent has knowledge of the above days when school did not occur, so no further documentation from the employer is needed. The eligibility agent must note the reason for missed work in the family file. Ms. Y's employer calls the CCIS and verifies that Ms. Y will continue to be employed and that 25 hours of work is available. The eligibility agent establishes nonfinancial eligibility based on circumstances beyond Ms. Y's control preventing her from meeting the 25-hour per week work requirement.

Financial eligibility – The eligibility agent establishes financial eligibility and co-payment prospectively based on income of \$6.75/hour X 25 hours/week X 4.3 weeks per month X 12, or \$8707.50 annually.

Eligibility period - The eligibility agent sets a redetermination of eligibility to occur in 4 months to coincide with the end of the school year because Ms. Y must be working during the summer months to continue to be eligible for subsidized child care during the school break.

Example #3: The family consists of Mr. and Mrs. Z and their 3 children. The Z family's redetermination of subsidized child care eligibility is due 1/26. Mr. Z is employed 30 hours per week at Happy Day Bakery. Mrs. Z is employed 25 hours per week at St. V Church. Each is paid every two weeks. The Z family submits the following employment information:

<u>Pay Received Date</u>	<u>Number of Hours</u>	<u>Pay Amount</u>
Mr. Z 1/7	60	\$450.00
1/21	55	\$412.50
Mrs. Z 12/30	40	\$206.00
1/14	25	\$128.75

Nonfinancial eligibility - The eligibility agent determines that Mrs. Z does not meet the work requirements of an average of 25 hours per week. Mrs. Z states that the church office was closed on December 23 & 24 and she was not paid for those days. In addition, one child had the chicken pox and could not go to day care the week of January 3. Mrs. Z states that she missed work because of her child's illness. The eligibility agent asks Mrs. Z to get a statement from her employer for the dates of 12/23 & 12/24 and a note from her child care provider stating that the child was sent home 1/3 with chicken pox, or a statement from the doctor. Mrs. Z is able to supply each of these documents. The CCIS establishes nonfinancial eligibility.

Financial eligibility – Financial eligibility and the co-payment are determined based on Mr. Z's actual income from employment (\$450.00 + \$412.50/4 weeks X 4.3 weeks/month X 12 months) and Mrs. Z's prospective employment (\$5.15/hour X 25 hours/week X 4.3 weeks/month X 12 months).

Eligibility period - A redetermination is set for 12 weeks, April 19.

Example #4: The family consists of Ms. B and her two children. The B family's redetermination of subsidized child care eligibility is due 3/17. Ms. B is employed 25 hours per week by Busy Bee's cleaning service. Ms. B submits the following employment information:

<u>Pay Received Date</u>	<u>Number of Hours</u>	<u>Pay Amount</u>
2/10	20	\$400.00
2/17	25	\$500.00
2/24	10	\$200.00
3/2	13	\$260.00
3/9	10	\$200.00

Nonfinancial eligibility – The eligibility agent determines that Ms. B does not meet the work requirements of an average of 25 hours per week. Ms. B states that the cleaning service lost some of its customers and that her child had hives and was unable to attend day care for 3 days during the week of 2/17 (reflected in the 2/24 pay stub).

Ms. B provides a note from her child's doctor regarding the dates of 2/14, 15, & 16. Ms. B's employer calls the CCIS and verifies that it has lost several customers and states that when it gets more customers, Ms. B will be provided 25 hours of employment.

The B family is ineligible because Ms. B has not verified that she will have 25 hours of employment per week prospectively. The CCIS sends an Adverse Action Notice to discontinue subsidized child care.

Example #5: Ms. Y applies for subsidized child care on 3/17 for her three children. Ms. Y presents an employment verification form from her employer that states she works Monday to Friday, 5 hours per day. Ms. Y submits the following pay information:

<u>Pay Received Date</u>	<u>Number of Hours</u>	<u>Pay Amount</u>
2/25	25	\$192.50
3/3	18	\$138.60
3/10	27	\$207.90
3/17	10	\$ 77.00
3/24	22	\$169.40
3/31	25	\$192.50

Nonfinancial eligibility – The eligibility agent determines that Ms. Y does not meet the work requirements of an average of 25 hours per week. Ms. Y states that her children have been sick and that she had no transportation to work the week of 3/17.

Ms. Y's day care calls the CCIS and verifies that on 2/28 Mrs. Y was called to come and get her youngest child because of a fever (the center's policy is that the child must be fever free for 24 hours before she can bring the child back. Ms. Y provides a note from the doctor that the oldest child had a doctor's appointment on 3/16. The CCIS establishes nonfinancial eligibility for the pay dates of 3/3 and 3/24.

Financial eligibility – Financial eligibility and the co-payment are determined prospectively. The employment verification stated 25 hours of work available ($\$7.70/\text{hr} \times 25 \text{ hours/week} \times 4.3 \text{ weeks/month} \times 12 \text{ months} = \$9,933 \text{ annually}$).

Eligibility period – A redetermination is set for 12 weeks, June 23.

Example #6: Ms. D applies for subsidized child care on 10/10/00 for her 2-year-old child. Ms. D presents an employment verification form from her employer that states she works as a driver for the Meals-on-Wheels program Monday through Friday and every other Saturday. She works 5 hours each day. Ms. D submits the following pay information:

<u>Pay Received Date</u>	<u>Number of Hours</u>	<u>Pay Amount</u>
9/8	55	\$440
9/22	40	\$320
10/6	35	\$280

Nonfinancial eligibility – The eligibility agent determines that Ms. D does not meet the work requirements of an average of 25 hours per week. Ms. D states that she has chronic allergies and that when she takes her allergy medication she is unable to operate a motorized vehicle, thus she cannot drive for meals-on-wheels. In addition, 9/4 was a holiday and she is not paid for holidays.

Ms. D provides verification from her doctor that she has allergies that require medication and she is not permitted to drive when taking medication. The note from the doctor states that the allergies are worse in the spring and early fall.

The CCIS establishes nonfinancial eligibility for the pay dates of 9/22 and 10/6.

Financial eligibility - Financial eligibility and the co-payment are determined prospectively. The employment verification stated that 55 hours of work are available every two weeks. ($\$8.00/\text{hr} \times 55 \text{ hours every}$

two weeks / 2 = \$220/week, \$220 X 4.3 weeks/month X 12 months = \$11,352 annually)

Eligibility period – A redetermination is set for January after the allergy season ends.

Example #7: Ms. T applies for subsidized child care on 10/16 for her two children. Ms. T presents an employment verification form from her employer that states she works Friday through Sunday (5 hours on Friday, 10 hours each on Saturday and Sunday) as a Nurse. Ms. Y submits the following pay information:

<u>Pay Received Date</u>	<u>Number of Hours</u>	<u>Pay Amount</u>
9/21	20	\$374.00
9/28	15	\$280.50
10/5	25	\$467.50
10/12	22	\$411.40

Nonfinancial eligibility – The eligibility agent determines that Ms. T does not meet the work requirements of an average of 25 hours per week.

Ms. T states that her youngest child has asthma and needs to be given breathing treatments when the child has an asthma attack. Ms. T needs to leave work and go home to give the treatment. In addition, during the pay period ending 9/28 the child needed to be taken to the emergency room for additional treatment. Ms. T verifies the child's condition with a statement from the doctor and has the emergency room record for the date of 9/23.

The CCIS establishes nonfinancial eligibility for the pay dates of 9/21, 9/28 and 10/12.

Financial eligibility - Financial eligibility and the co-payment are determined prospectively. The employment verification stated 25 hours of work are available (\$18.70/hr X 25 hours/week X 4.3 weeks/month X 12 months = \$24,123 annually).

Eligibility period – A redetermination is set for six months based on the fact the child's condition is chronic and the family's circumstances are, therefore, not likely to change.

EXHIBIT 9

The U.S. Equal Employment Opportunity Commission

Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act

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Enforcement Guidance:

the employer must reinstate the employee to her original position.

Example C: An employee with an ADA disability has taken 12 weeks of FMLA leave. He notifies his employer that he is ready to return to work, but he no longer is able to perform the essential functions of his position or an equivalent position. Under the FMLA, the employer could terminate his employment,⁽⁵⁹⁾ but under the ADA the employer must consider whether the employee could perform the essential functions with reasonable accommodation (e.g., additional leave, part-time schedule, job restructuring, or use of specialized equipment). If not, the ADA requires the employer to reassign the employee if there is a vacant position available for which he is qualified, with or without reasonable accommodation, and there is no undue hardship.

Modified or Part-Time Schedule

22. Must an employer allow an **employee with a disability to work a modified or part-time schedule** as a reasonable accommodation, absent undue hardship?

Yes.⁽⁶⁰⁾ A modified schedule may involve adjusting arrival or departure times, providing periodic breaks, altering when certain functions are performed, allowing an employee to use accrued paid leave, or providing additional unpaid leave. An employer must provide a modified or part-time schedule when required as a reasonable accommodation, absent undue hardship, even if it does not provide such schedules for other employees.

Example A: An employee with HIV infection must take medication on a strict schedule. The medication causes extreme nausea about one hour after ingestion, and generally lasts about 45 minutes. The employee asks that he be allowed to take a daily 45-minute break when the nausea occurs. The employer must grant this request absent undue hardship.

For certain positions, **the time during which an essential function is performed may be critical.** This could affect whether an employer can grant a request to modify an employee's schedule.⁽⁶¹⁾ Employers should carefully assess whether modifying the hours could **significantly disrupt** their operations -- that is, cause undue hardship -- or whether the essential functions may be performed at different times with **little or no impact** on the operations or the ability of other employees to perform their jobs.

If modifying an employee's schedule poses an undue hardship, an employer must consider reassignment to a vacant position that would enable the employee to work during the hours requested.⁽⁶²⁾

Example B: A day care worker requests that she be allowed to change her hours from 7:00 a.m. - 3:00 p.m. to 10:00 a.m. - 6:00 p.m. because of her disability. The day care center is open from 7:00 a.m. - 7:00 p.m. and it will still have sufficient coverage at the beginning of the morning if it grants the change in hours. In this situation, the employer must provide the reasonable accommodation.

Example C: An employee works for a morning newspaper, operating the printing presses which run between 10 p.m. and 3 a.m. Due to her disability, she needs to work in the daytime. The essential function of her position, operating the printing presses, requires that she work at night because the newspaper cannot be printed during the

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daytime hours. Since the employer cannot modify her hours, it must consider whether it can reassign her to a different position.

23. How should an employer handle requests for modified or part-time schedules for an employee covered by both the ADA and the Family and Medical Leave Act (FMLA)?⁽⁶³⁾

An employer should determine an employee's rights under each statute separately, and then consider whether the two statutes overlap regarding the appropriate actions to take.

Under the ADA, an employee who needs a modified or part-time schedule because of his/her disability is entitled to such a schedule if there is no other effective accommodation and it will not cause undue hardship. If there is undue hardship, the employer must reassign the employee if there is a vacant position for which s/he is qualified and which would allow the employer to grant the modified or part-time schedule (absent undue hardship).⁽⁶⁴⁾ An employee receiving a part-time schedule as a reasonable accommodation is entitled only to the benefits, including health insurance, that other part-time employees receive. Thus, if non-disabled part-time workers are not provided with health insurance, then the employer does not have to provide such coverage to an employee with a disability who is given a part-time schedule as a reasonable accommodation.

Under the FMLA, an eligible employee is entitled to take leave intermittently or on a part-time basis, when medically necessary, until s/he has used up the equivalent of 12 workweeks in a 12-month period. When such leave is foreseeable based on planned medical treatment, an employer may require the employee to temporarily transfer (for the duration of the leave) to an available alternative position, with equivalent pay and benefits, for which the employee is qualified and which better suits his/her reduced hours.⁽⁶⁵⁾ An employer always must maintain the employee's existing level of coverage under a group health plan during the period of FMLA leave, provided the employee pays his/her share of the premium.⁽⁶⁶⁾

Example: An employee with an ADA disability requests that she be excused from work one day a week for the next six months because of her disability. If this employee is eligible for a modified schedule under the FMLA, the employer must provide the requested leave under that statute if it is medically necessary, even if the leave would be an undue hardship under the ADA.

Modified Workplace Policies

24. Is it a reasonable accommodation to modify a workplace policy?

Yes. It is a reasonable accommodation to modify a workplace policy when necessitated by an individual's disability-related limitations,⁽⁶⁷⁾ absent undue hardship. But, reasonable accommodation only requires that the employer modify the policy for an employee who requires such action because of a disability; therefore, the employer may continue to apply the policy to all other employees.

Example: An employer has a policy prohibiting employees from eating or drinking at their workstations. An employee with insulin-dependent diabetes explains to her employer that she may occasionally take too much insulin and, in order to avoid going into insulin shock, she must immediately eat a candy bar or drink fruit juice. The employee requests permission to keep such food at her workstation and to eat or drink when her insulin level necessitates. The employer must modify its policy to grant this request, absent undue hardship. Similarly, an employer might have to modify a policy to

able to show undue hardship based on an individualized assessment showing the disruption to the employer's operations if additional leave is granted beyond the period allowed by the policy. In determining whether undue hardship exists, the employer should consider how much additional leave is needed (e.g., two weeks, six months, one year?).

48. See Schmidt v. Safeway Inc., 864 F. Supp. 991, 996-97, 3 AD Cas. (BNA) 1141, 1145-46 (D. Or. 1994); Corbett v. National Products Co., 4 AD Cas. (BNA) 987, 990 (E.D. Pa. 1995).

49. See EEOC Enforcement Guidance: Workers' Compensation and the ADA at 16, 8 FEP Manual (BNA) 405:7391, 7399 (1996) [hereinafter Workers' Compensation and the ADA]. See also pp. 37-45, *infra*, for information on reassignment as a reasonable accommodation.

50. Cf. Kiel v. Select Artificials, 142 F.3d 1077, 1080, 8 AD Cas. (BNA) 43, 44 (8th Cir. 1998).

51. See Criado v. IBM, 145 F.3d 437, 444-45, 8 AD Cas. (BNA) 336, 341 (1st Cir. 1998).

52. But see Mathews v. Commonwealth Edison Co., 128 F.3d 1194, 1197-98, 7 AD Cas. (BNA) 1651, 1653-54 (7th Cir. 1997) (an employee who, because of a heart attack, missed several months of work and returned on a part-time basis until health permitted him to work full-time, could be terminated during a RIF based on his lower productivity). In reaching this decision, the Seventh Circuit failed to consider that the employee needed leave and a modified schedule as reasonable accommodations for his disability, and that the accommodations became meaningless when he was penalized for using them.

53. If an employee, however, qualifies for leave under the Family and Medical Leave Act, an employer may not require him/her to remain on the job with an adjustment in lieu of taking leave. See 29 C.F.R. 825.702(d)(1) (1997).

54. See Question 9, *supra*.

55. For more detailed information on issues raised by the interplay between these statutes, refer to the FMLA/ADA Fact Sheet listed in the Appendix.

56. Employers should remember that many employees eligible for FMLA leave will not be entitled to leave as a reasonable accommodation under the ADA, either because they do not meet the ADA's definition of disability or, if they do have an ADA disability, the need for leave is unrelated to that disability.

57. 29 C.F.R. 825.214(a), 825.215 (1997).

58. For further information on the undue hardship factors, see *infra* p. 54.

59. 29 C.F.R. 825.702(c)(4) (1997).

60. See Ralph v. Lucent Technologies, Inc., 135 F.3d 166, 172, 7 AD Cas. (BNA) 1345, 1349 (1st Cir. 1998) (a modified schedule is a form of reasonable accommodation).

61. Certain courts have characterized attendance as an "essential function." See, e.g., Carr v. Reno, 23 F.3d 525, 530, 3 AD Cas. (BNA) 434, 438 (D.C. Cir. 1994); Jackson v. Department of Veterans Admin., 22 F.3d 277, 278-79, 3 AD Cas. (BNA) 483, 484 (11th Cir. 1994). Attendance, however, is not an essential function as defined by the ADA because it is not one of "the fundamental job duties of the employment position." 29 C.F.R. 1630.2(n)(1) (1997) (emphasis added). As the regulations make clear, essential functions are duties to be performed. 29 C.F.R. 1630.2(n)(2) (1997). See Haschmann v. Time Warner

Entertainment Co., 151 F.3d 591, 602, 8 AD Cas. (BNA) 692, 701 (7th Cir. 1998); Cehrs v. Northeast Ohio Alzheimer's, 155 F.3d 775, 782-83, 8 AD Cas. (BNA) 825, 830-31 (6th Cir. 1998).

On the other hand, attendance is **relevant to job performance** and employers need not grant all requests for a modified schedule. To the contrary, if the time during which an essential function is performed is **integral to its successful completion**, then an employer may deny a request to modify an employee's schedule as an undue hardship.

62. Employers covered under the Family and Medical Leave Act (FMLA) should determine whether any denial of leave or a modified schedule is also permissible under that law. See 29 C.F.R. 825.203 (1997).

63. For more detailed information on issues raised by the interplay between these statutes, refer to the FMLA/ADA Fact Sheet listed in the Appendix.

64. See infra pp. 37-45 for more information on reassignment, including under what circumstances an employer and employee may voluntarily agree that a transfer is preferable to having the employee remain in his/her current position.

65. 29 C.F.R. 825.204 (1997); see also special rules governing intermittent leave for instructional employees at 825.601, 825.602.

66. 29 C.F.R. 825.209, 825.210 (1997).

67. 42 U.S.C. 12111(9)(B) (1994); 29 C.F.R. 1630.2(o)(2)(ii) (1997).

68. See Dutton v. Johnson County Bd. of Comm'rs, 868 F. Supp. 1260, 1264-65, 3 AD Cas. (BNA) 1614, 1618 (D. Kan. 1994).

69. See 29 C.F.R. pt. 1630 app. 1630.15(b), (c) (1997). See also Question 17, supra.

70. But cf. Miller v. Nat'l Casualty Co., 61 F.3d 627, 629-30, 4 AD Cas. (BNA) 1089, 1090 (8th Cir. 1995) (court refuses to find that employee's sister had requested reasonable accommodation despite the fact that the sister informed the employer that the employee was having a medical crisis necessitating emergency hospitalization).

71. Pursuant to the Rehabilitation Act Amendment of 1992, the ADA's employment standards apply to all non-affirmative action employment discrimination claims filed by federal applicants or employees with disabilities under section 501 of the Rehabilitation Act. Pub. L. No. 102-569, 503(b), 106 Stat. 4344 (1992) (codified as amended at 29 U.S.C. 791(g) (1994)). The Rehabilitation Act regulations governing reassignment of federal employees with disabilities, which were promulgated several months prior to the enactment of the Rehabilitation Act Amendment, differ in several respects from the ADA's requirements. See 29 C.F.R. 1614.203(g) (1997). For non-discrimination purposes, federal agencies must follow the ADA standards.

For information on how reassignment may apply to employers who provide light duty positions, see Workers' Compensation and the ADA, supra note 49, at 20-23, 8 FEP Manual (BNA) 405:7401-03.

72. 42 U.S.C. 12111(9)(B) (1994); 29 C.F.R. 1630.2(o)(2)(ii) (1997). See Benson v. Northwest Airlines, Inc., 62 F.3d 1108, 1114, 4 AD Cas. (BNA) 1234, 1238 (8th Cir. 1995); Monette v. Electronic Data Sys. Corp., 90 F.3d 1173, 1187, 5 AD Cas. (BNA) 1326, 1338 (6th Cir. 1996); Gile v. United Airlines, Inc., 95 F.3d 492, 498, 5 AD Cas. (BNA) 1466, 1471 (7th Cir. 1996).

EXHIBIT 10

TABLE 5

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
AVERAGE HOURS OF PARTICIPATION IN WORK ACTIVITIES, EXCLUDING WAIVERS, FOR ALL ADULTS PARTICIPATING IN THE WORK ACTIVITY
FISCAL YEAR 1999

STATE	TOTAL NUMBER OF ADULTS	NUMBER OF PARTICIPATING ADULTS ^{1/}	AVERAGE MONTHLY NUMBER OF HOURS OF PARTICIPATION IN WORK ACTIVITY BY ADULTS PARTICIPATING IN THE WORK ACTIVITY					EDUCATION RELATED TO EMPLOYMENT					PROVIDING CHILD CARE	ALL TWELVE ACTIVITIES	
			UNSUBSIDIZED EMPLOYMENT	SUBSIDIZED PRIVATE EMPLOYMENT	SUBSIDIZED PUBLIC EMPLOYMENT	WORK EXPERIENCE	ON-THE-JOB TRAINING	JOB SEARCH	COMMUNITY SERVICE	VOCATIONAL EDUCATION	JOB SKILLS TRAINING	SATISFACTORY SCHOOL ATTENDANCE			
United States	2,112,143	885,464	27.4	31.2	20.1	24.8	28.1	19.2	21.9	22.6	21.1	19.2	20.6	27.4	27.5
ALABAMA	10,024	3,223	32.8			33.2	28.9	27.5	28.8	24.1	24.9		25.1		34.0
ALASKA	8,636	4,296	26.5		16.6	21.8	27.0	19.5	21.1	25.9	24.9		21.8		32.1
ARIZONA	22,677	10,372	27.3			19.9	19.4	14.3	14.9	16.0	12.2	8.7	14.6		29.4
ARKANSAS	7,156	2,109	22.3			22.4	26.5	19.3	15.0	24.0	16.7	20.2	25.7	25.0	22.6
CALIFORNIA	539,259	275,497	35.8			29.7	24.9	20.5	5.1	24.9	24.9	21.0	18.6	32.3	27.5
COLORADO	10,357	4,401	25.6			19.2	32.3	17.5	18.6	23.3	24.0	56.0	9.8	21.1	26.8
CONNECTICUT	26,532	12,688	24.8			21.7	25.0	24.3	8.7	24.0	24.0	14.6	25.0		26.9
DELAWARE	4,076	1,182				11.4	6.1			22.4	22.4		32.2		26.9
DIST. OF COL.	12,147	4,238	32.8			26.0	30.0	23.0	17.5	23.6	23.6	13.0	26.9	30.5	33.7
FLORIDA	45,196	16,137	24.1			16.5	19.0	19.0	25.0	19.7	16.5	14.1	19.7	29.3	26.1
GEORGIA	36,920	7,689	27.0			17.3	24.8	20.0	17.5	20.3	23.0	22.8	12.0		32.0
GUAM	2,831	427	49.2						29.8						25.8
HAWAII	14,616	5,190	22.7			20.0	28.3	13.7	10.3	15.8	14.2	7.6	22.5		18.8
IDAHO	610	517	21.3			12.9	6.3	14.3	10.3	15.8	15.8	16.6	22.7		29.3
ILLINOIS	101,821	58,041	30.0			27.6	24.9	24.9	27.0	26.2	12.9	16.6	22.7		26.6
INDIANA	33,633	13,514	25.4			13.3	22.0	18.0	14.8	17.0	17.9	15.5	15.5		31.7
IOWA	19,237	11,716	29.8			18.3	19.4	9.0	14.8	32.5	15.5	20.8	28.4		32.6
KANSAS	9,142	5,393	29.4			26.1	27.0	22.2	34.2	24.2	5.0	27.3	23.5		26.0
KENTUCKY	28,716	11,186	26.9			24.8	34.5	27.1	23.9	25.1	5.0	12.7	18.5		29.6
LOUISIANA	28,436	9,309	26.7			18.6	23.0	13.0	20.9	19.8	19.8	27.3	16.7	22.4	29.6
MAINE	15,229	7,156	25.3			17.9	32.2	23.5	20.9	22.6	22.6	16.7	18.5		18.1
MARYLAND	22,008	5,467	23.3			21.8	19.8	13.0	18.3	11.8	11.8	16.0	17.4		20.9
MASSACHUSETTS	40,115	12,436	22.6			10.3	35.3	16.0	18.3	18.8	22.2	20.7	23.1		27.4
MICHIGAN	69,284	32,322	27.7			17.3	27.0	14.5	12.1	30.4	32.6	10.0	36.7		22.5
MINNESOTA	37,959	19,952	22.2			16.9	19.2	14.3	16.8	24.5	38.6	13.2	16.6		24.1
MISSISSIPPI	8,412	2,865	26.7			21.4	40.0	25.9	23.4	20.6	25.2	21.4	33.4		30.8
MISSOURI	34,958	10,206	29.9			28.5	17.7	11.7	23.4	23.1	23.1	22.1	22.1		22.1
MONTANA	5,168	4,677	17.7			29.8	31.6	23.6	38.0	29.2	28.4	10.0	22.6		31.3
NEBRASKA	10,126	6,247	26.3			15.9	15.9	6.9	21.5	21.2	6.6	10.0	15.5		20.9
NEVADA	9,462	2,980	33.4			17.5	30.2	14.3	21.5	23.4	22.0	14.2	18.0		20.8
NEW HAMPSHIRE	6,678	1,933	24.2			20.2	26.4	15.9	23.5	18.7	17.8	14.2	27.1	29.8	20.8
NEW JERSEY	45,762	18,616	27.4			20.2	26.4	5.0	23.5	23.7	13.3	6.0	9.8	22.0	28.8
NEW MEXICO	26,160	9,083	29.1			19.3	25.0	20.1	23.0	20.7	5.6	26.3	15.2		28.8
NEW YORK	82,531	26,160	27.5			35.8	35.8	27.5	24.9	22.1	22.1	14.4	22.0	26.5	30.0
NORTH CAROLINA	280,641	5,763	29.2			21.1	25.0	27.5	17.7	26.4	11.6	8.7	27.3	47.5	30.7
NORTH DAKOTA	29,549	5,763	29.2			15.4	25.4	11.3	17.7	26.4	11.6	14.4	22.0	26.5	30.0
OHIO	3,265	876	23.6			19.8	25.4	23.6	38.0	29.2	28.4	10.0	22.6		31.3
OKLAHOMA	77,463	48,604	30.6			28.0	14.1	23.5	21.5	21.2	6.6	10.0	15.5		20.9
OREGON	14,199	6,805	35.2			27.5	34.7	25.2	21.5	23.4	22.0	14.2	18.0		20.8
OREGON	14,450	7,660	21.7			13.3	15.5	11.4	17.7	29.7	14.8	8.7	19.6		30.6
PENNSYLVANIA	96,173	31,357	22.7			18.3	22.1	16.8	21.6	19.6	19.6	12.9	19.2		22.8
PUERTO RICO	39,061	7,228	31.3			27.1	27.3	24.9	21.6	25.0	25.0	26.9	22.7		26.2
RHODE ISLAND	6,200	16,473	24.9			27.2	29.8	23.8	3.0	25.6	25.6	21.0	22.0		26.9
SOUTH CAROLINA	10,183	4,919	30.3			21.8	16.7	18.1	3.0	33.1	35.1	25.4	21.1		32.0
SOUTH DAKOTA	1,693	985	23.3			5.0	30.7	15.2	20.0	23.4	16.6	11.8	18.5		22.7
TENNESSEE	40,812	18,988	32.7			24.7	31.4	28.9	15.2	23.3	23.3	18.6	21.8		36.1
TEXAS	82,729	9,828	28.6			17.4	24.6	19.4	15.2	25.8	19.9	18.6	25.4		24.5
UTAH	10,984	4,659	27.9			17.4	24.6	17.0	20.0	18.2	17.5	18.3	13.1		24.5
VERMONT	6,632	2,932	20.8			21.8	30.6	14.9	20.0	18.2	17.5	22.4	13.2		26.4
VIRGIN ISLANDS	1,059	346	30.0			30.0	26.2	20.1	20.0	21.5	21.5	25.4	21.5	19.1	25.9
VIRGINIA	31,145	10,429	28.6			15.0	14.7	12.8	16.5	12.0	16.5	7.9	12.0		27.8
WASHINGTON	59,660	35,639	26.0			21.0	27.4	17.8	18.6	18.0	18.0	18.5	17.2	26.4	25.0
WEST VIRGINIA	14,348	3,830	25.5			28.9	29.3	19.1	22.1	25.7	25.7	20.3	16.9	12.0	26.9
WISCONSIN	8,473	7,408	18.2			20.6	18.6	11.2	28.9	6.3	11.2	16.9	16.2		34.0
WYOMING	408	212	21.9			24.4	20.8	18.2	28.9	34.9	3.0	16.2	16.2		30.6

^{1/} ADULTS PARTICIPATING IN MORE THAN ONE ACTIVITY ARE INCLUDED ONCE IN THIS TOTAL.
ACFOPRE: 06-20-2000

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Operations Memorandum - Employment & Training
OPS990707

7/13/99

SUBJECT: Community Service Guidelines for Temporary Assistance for Needy Families
 (TANF) and General Assistance (GA) Clients

Office Of Income Maintenance
 Bureau of Policy

TO: Executive Directors

FROM: Raymond E. Schlechter, Director, Bureau of Operations

JUL 16 1999

Purpose

To provide instructions for counting a cash assistance recipient's participation in ~~community~~ ^{REFER TO:} service towards fulfilling the work requirement for TANF and GA.

Background

Act 35 establishes a program, known as the Road to Economic Self-sufficiency Through Employment and Training (RESET) Program. This program is designed to enable recipients of cash assistance to secure permanent, full-time unsubsidized jobs, entry-level or part-time jobs which can establish a work history, preferably in the private sector, with wages and benefits that lead to economic independence and self-sufficiency. The Act also provides that, unless he or she is exempt from RESET, a recipient who has received assistance for 24 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 20 hours a week.

Discussion

All RESET clients are required to seek, accept and maintain employment. Those clients who are unable, despite good-faith efforts, to obtain a job offering at least 20 hours a week of paid employment, can participate in and have community service count toward fulfillment of the work requirement.

The recipient is responsible for finding a community service position. CAOs can provide recipients with assistance, upon request, to find a community service opportunity. Such assistance can include providing information regarding community service organizations known to the CAO to utilize volunteers. A CAO may not endorse any specific agency or organization and can provide information only as to agencies and organizations that qualify under IRS guidelines as non-profit.

A recipient who meets his or her work requirement through community service remains obligated to seek and accept paid employment.

PROCEDURE

● **Community Service Agency Position Form (PA 1694)**

Before participating in a community service, the recipient must have the Community Service Agency Position Form (PA 1694) completed by the community agency that will provide the recipient with the community service position; alternatively, the community service agency may provide the CAO with the information contained on the PA 1694 on the agency's stationery. In the event the organization that will provide the client's community service

activity has actually requested but not yet received a determination from the IRS of non-profit status, the client may begin participation in the community service pending receipt by the organization of the determination letter.

● **Community Service Participant Introduction Form (PA 1700)**

The Community Service Participant Introduction Form (PA 1700) should be used to inform clients of the maximum number of countable community service hours per week in which they can participate. The U.S. Department of Labor requires states to abide by the Fair Labor Standards Act (FLSA) when calculating the number of hours that a person may participate in community service. The CAO must calculate the maximum number of hours of community service by subtracting from the cash assistance grant any child support paid to DPW on behalf of a child in the budget group, less the support pass-through.

Additionally, any recurring special allowances that are added to the monthly cash assistance grant and received by the client from DPW are deducted from the cash assistance prior to the calculation. The resulting figure is then divided by the minimum wage (\$5.15) to determine the number of hours that the recipient can participate in the community service activity per month. That figure, in turn, is then divided by 4.3 to determine the number of hours per week of participation in community service.

It is essential that this computation is completed and that the recipient is informed both orally and in writing, on the PA 1700, of the maximum number of hours that the recipient can participate in community service.

Once the CAO approves a recipient's participation at a community service site, the client's AMR must be updated. The revised AMR must identify the site where the community service is to be performed, the number of hours that the recipient is scheduled to participate in community service, that the number of hours will be verified monthly, and, where relevant, the special allowances for supportive services that have been given to the client. The AMR also should include an acknowledgment that the client will continue to seek paid employment while participating in community service and identify the efforts the client will make to remove obstacles to paid employment.

● **Community Work Experience Project Participation Form (PA 590)**

It is the client's responsibility to provide verification of participation in community service. The client may provide this information using the community work experience project participation and attendance report form (PA 590). If the PA 590 is not used, alternative documentation must include the community service site information such as the name, address and employer identification number, the hours of participation per week, and signatures of the client and supervisor at the community service site.

CAOs will document the hours of participation in a community service activity by updating the Client Information System (CIS). The Activity Code for community service is AC 20. Project Code A is used if the client is participating in a community service activity and is not also in a contracted program. If the recipient is in a contracted program and in a community service activity, CAOs should use the appropriate Project Code for the contractor and have a minimum of two activity codes.

Next Steps

1. Inform the appropriate staff of these community service procedures.
2. At the next client contact, staff should inform mandatory RESET participants who are not

already fulfilling the work requirement that community service is an optional activity that can be used towards meeting the 20-hour per week RESET work requirement.

3. CAOs should begin tracking clients' participation in community service in CIS.
4. Questions concerning community service should be submitted through the Policy Clarification system. CAOs with urgent questions may contact the Bureau of Employment and Training Programs' Policy Unit at (717) 787-1302.
5. This Operations Memorandum becomes obsolete when the Cash Assistance Handbook is updated to include this information.

Attachments (being sent via regular mail)

Attachment A

COMMUNITY SERVICE GUIDELINES

What is the definition of community service?

Section 402 of the Public Welfare Code defines community service as "unpaid work for a unit of Federal, State or local government, or a nonprofit organization arranged by the cash assistance recipient. The organization receiving the work must agree to report to the appropriate county assistance office regarding the number of hours worked per week by the cash assistance recipient."

What is required of a RESET participant?

Before and during participation in community service, a recipient must be seeking unsubsidized employment. If unsubsidized employment or other paid work activity is offered, the recipient must accept it unless there is good cause.

A recipient who has received cash assistance for 24 or more months and is employed less than an average of at least 20 hours per week and is unable to obtain additional employment may participate in community service, to the extent permitted under FLSA, to supplement hours of paid employment in order to meet the work requirement. Persons doing this must always continue to seek additional hours of paid employment.

What types of organizations can provide community service opportunities?

Community service sites may be located in a number of different kinds of organizations. Federal, State, and local government agencies and non-profit organizations that qualify as tax-exempt under section 501(c) of the Internal Revenue Code, including faith-based organizations and schools (public and nonprofit 501(c) private/parochial) can provide community service opportunities.

501(c) non-profit agencies include the American Red Cross, the Elks Club, the United Way, the Urban League, and the American Lung Association, etc.

Faith-based organizations include: churches, synagogues, mosques, temples, tabernacles, chapels, and any other groups organized for the purpose of worship.

Units of Federal, state and local government include the Social Security Administration, the Internal Revenue Service, the Parks and Recreation Department or fire department of any local borough or municipality, etc.

Schools (Public, Non-Profit 501(c) Private/Parochial) include public schools operated by local school district administrations and local education associations, private non-profit schools such as

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academies, and alternate institutions and parochial schools operated by faith-based organizations.

According to the Internal Revenue Service (IRS), an organization approved as a section 501(c) agency will be sent a Determination Letter which verifies their tax-exempt status under this section. If there is any question about an organization's 501(c) status, the organization may be asked to provide a copy of their Determination Letter from the IRS. If the agency cannot locate its letter, its staff may call the Exempt Organizations Customer Service Unit at their toll free number, (877) 829-5500 and when prompted, press #1 to request a copy of the Determination Letter from the organization's IRS file. Determination Letters are maintained in the IRS files for 5 years. Therefore, any organization requesting verification of their 501(c) status after 5 years will need to request a current verification of exemption. Both requests can be made by calling the aforementioned number. Receipt of the verification from the IRS can be expected within 7-10 days. In urgent cases, the IRS may accept a faxed request and may return the verification via fax. The decision whether or not to accept a faxed request is made by the IRS on a case-by-case basis and is limited to the most urgent situations.

Must the community service activity that is being performed have value?

Yes. An individual's participation in community service shall be counted if the value of the service the individual performs is comparable to work for which an employer would normally pay at least the minimum wage.

What are acceptable community service activities?

Acceptable activities must provide a benefit to the community at large and may not promote religion nor be for the sole benefit of the members of the organization.

The activity may NOT be of a political, electoral or partisan nature, nor any routine, ordinarily unpaid civic activity.

Any activity performed at a 501(c) non-profit agency that is organized for the sole purpose of performing community service will be considered community service for the purposes of meeting the work requirement. Examples of such agencies include the American Red Cross, the American Cancer Society and the American Lung Association.

Examples of activities performed at 501(c) non-profit and government agencies that would qualify as community service for the purpose of meeting the work requirement include, but are not limited to:

- Packaging disaster-relief supplies at the Red Cross;
- Maintaining the playground equipment owned by the Elks Club and available to all children in the community not just the members of the Elks Club;
- Distributing donation canisters to area stores for the United Way;
- Assisting with a neighborhood improvement program being operated by the Urban League;
- Cleaning the fire station and equipment of the local fire department.

Examples of activities performed at 501(c) non-profit and government agencies that would NOT qualify as community service for the purpose of meeting the work requirement include, but are not limited to:

Activities of a political nature:

- Distributing fliers for the Urban League that endorse a specific candidate for political office.

Activities that do not benefit the community at large:

- Organizing an office party or picnic for the staff.

Activities that are routine, ordinarily unpaid civic activities:

- Participating in a neighborhood watch program sponsored by the local township or borough.

Faith-based organizations may provide community service opportunities, so long as the activities benefit the community at large and do NOT involve or promote religious instruction, proselytization, or worship. Further the activities may NOT be of a political, electoral or partisan nature, nor any routine, ordinarily unpaid civic activity.

Examples of activities performed at faith-based organizations that may qualify as community service for the purpose of meeting work requirement include, but are not limited to:

- Cleaning the interior and exterior of the property, provided that the cleaning is not related to a worship service;
- Typing letters inviting all community members to a meeting about violence in the community or some other topic of interest that does not involve or promote religious instruction, proselytization, or worship;
- Assisting the teachers in the day care center, provided that the instruction does not promote religion or displace teachers;
- Working in the food or clothing bank which serves the community but is operated by the organization.

Examples of activities performed at faith-based organizations that would NOT qualify as community service for the purpose of meeting work requirement include, but are not limited to:

Activities that involve religious instruction or proselytization:

- Teaching children in the day care center the doctrines of the faith.

Activities that promote religion:

- Cleaning or preparing the objects used in worship.

Activities that promote religious instruction and worship:

- Typing the order-of-service bulletin for the worship service

Activities that do not benefit the community at large:

- Grounds-keeping of the cemetery open only to members of the faith-based congregation.

Schools (Public, Non-Profit 501(c) Private and Parochial) may be acceptable community service sites if the specific work activities at those sites do not displace teachers, do NOT involve or promote religious instruction, proselytization, or worship. Further the activities may NOT be of a political, electoral or partisan nature, nor any routine, ordinarily unpaid civic activity.

Examples of activities performed at schools that may qualify as community service for the purpose of meeting the work requirement include, but are not limited to:

- Assisting teachers with art projects, provided that the projects do not involve or promote religious instruction, proselytization, or worship;
- Monitoring the cafeteria;
- Supervising the playground;
- Reading to the children, provided that the materials being read do not involve or promote religious instruction, proselytization, or worship;
- Cleaning the school;
- Preparing mailings to the parents, provided that the mailings do not involve or promote religious instruction, proselytization, or worship;
- Scheduling parent-teacher conferences;
- Arranging Back-To-School night activities, provided that the activities do not involve or promote religious instruction, proselytizing, worship, or are not part of a routine, ordinarily unpaid civic duty such as attending a PTA meeting.

Examples of activities performed at schools that would NOT qualify as community service for the purpose of meeting the work requirement include, but are not limited to:

Activities that are routine, ordinarily unpaid civic duties:

- Attending a parent-teacher conference for your own child.
- Attending Parent-Teacher Organization meetings.

Activities that involve religious instruction and proselytization:

- Teaching the children the doctrines of the faith of the parochial school.

Activities that are performed at a school that is not public or non-profit 501(c):

- Any activity at a for-profit school.

What needs to be discussed with the client?

During the interview with the client regarding the work requirements, the client must be informed of each of the activities that count towards meeting the RESET requirements. Community service should be explained as one of those activities. Clients should be made aware that they are responsible for securing community service slots.

For clients who then choose participation in community service as their work activity, further discussion must be held explaining to the client the FLSA calculation discussed in detail elsewhere in these guidelines.

Additionally, clients need to be informed that when they can not meet the 20 hour work requirement through community service alone, they must participate in other activities to bring the total number of hours of participation up to a minimum of 20 hours per week. Participation in community service is not good cause for refusing CAO referral to paid employment or to a contractor for work experience, subsidized employment or on-the-job training. Further, clients participating in community service must continue to seek paid employment. However, community service for the number of hours permitted by the FLSA is approvable even if the client has not found additional hours of paid employment.

How many hours can a recipient participate in community service?

The Federal minimum wage law (called the Fair Labor Standards Act) requires that all workers receive at least the minimum wage for their work. This Law applies to all kinds of work, including both work experience and community service, as well as to unsubsidized jobs. So if clients are meeting their work requirement through community service, they cannot be required to work more hours than their cash grant divided by the minimum wage.

If DPW is collecting child support on the family's behalf, the money DPW keeps (the child support collected minus the pass-through) must be subtracted from the cash grant before calculating the number of hours the client may participate in community service. In other words, minimum wage is calculated based solely upon the money provided by the Welfare Department, not based on the entire amount of the check that includes child support which has been collected on behalf of the family.

To calculate the maximum number of hours that a person can participate in community service for the purpose of counting such hours toward the work requirement, the CAO will subtract from the cash assistance grant any child support paid to DPW on behalf of a child in the budget group, less the support pass-through up to the maximum amount of \$50. Additionally, any recurring special allowances added to the client's monthly cash assistance grant and received by the client from DPW are deducted from the cash assistance grant prior to the calculation. The resultant figure is then divided by minimum wage to determine the amount of hours that can be worked per month. That monthly figure is then divided by 4.3 in order to determine the number of weekly hours of participation in community service.

IMPORTANT:

Earned or unearned income, such as Social Security benefits, is counted and reduces the family size allowance; therefore, only the cash assistance grant, less any special allowances and less the amount of child support received and retained by DPW is used in the calculation. If a recipient receives a special allowance for special needs or supportive services as a one-time issuance or a non-recurring allowance, do not include the amount of the allowance when calculating the maximum number of hours of community service. See example 2 below.

EXAMPLES:

1. Mrs. S. is living with her children. The monthly cash assistance grant is \$678. Mrs. S. has no other income. Mrs. S. receives \$75 per month for transportation to the community service site and \$200 per month for child care for her two children as recurring allowances that are included in the semi-monthly checks. The calculation is:

\$678 monthly cash assistance grant	78 maximum hours per month
- 275 special allowances	. / 4.3 conversion
= 403 net monthly cash assistance grant	= 18 maximum hours per week

\$403 net monthly cash assistance grant
 / . 5.15 minimum wage
 = 78 maximum hours per month

NOTE: When the calculation results in a fraction of an hour, always round down to the whole hour.

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1. Mrs. T. is living with her children. The monthly cash assistance grant is \$403. The amount of child support that DPW receives each month from her children's father varies. DPW sends Mrs. T. a \$50 pass-through check each month. Mrs. T. has no other income. Mrs. T. receives an additional \$75 for transportation to the community service site and \$200 for child care for her two children as non-recurring allowances that are not included in the semi-monthly checks. The calculation is:

MONTH	CHILD SUPPORT RECEIVED BY DPW	SUPPORT PASS-THROUGH
DECEMBER	\$200	\$50
NOVEMBER	\$300	\$50
OCTOBER	\$300	\$50
SEPTEMBER	\$100	\$50
AUGUST	\$100	\$50
JULY	\$200	\$50
	TOTAL \$1200	TOTAL \$300

\$1200 total child support received by DPW
~~- 300~~ total support pass-through
 = \$900 total child support retained by DPW

\$900 total child support retained by DPW
~~6~~ months
 = \$150 average child support retained by DPW per month

\$ 403	monthly cash assistance grant	\$ 253	net monthly cash assistance
- 150	child support retained by DPW	15.15	minimum wage
= \$253	net monthly cash assistance	= 49	maximum hours per month

49 maximum hours per month
~~4.3~~ conversion
 = 11 maximum hours per week

NOTES:

- The non-recurring special allowances are not used in this calculation.
- The support pass-through amounts used in examples 2 and 3 are the maximum amounts of \$50. However, support pass-through amounts will vary and the actual support pass-through paid to the client, up to the \$50 maximum amount, must be used in the calculation.

The CAO will do a six-month reconciliation of child support received. From the reconciliation, the average amount of child support received will be used to determine the client's maximum number of hours of community service participation for the next six-month period.

ALTERNATIVES:

Clients can request that the maximum number of community service hours required be computed more frequently than six months when the payment of child support changes.

Clients who are meeting with their CAO caseworkers monthly to work toward moving from non-willful non-compliance status to compliance with the work requirements will have their community service hours computed monthly.

1. Ms. W. has been participating in community service for the last six months. Ms. W. is at the CAO for her redetermination interview and it is decided that she will continue in her community service activity while seeking employment. The CAO uses the amount of child support received during the last six months, less the support pass-through paid up to the \$50 maximum amount during those same months, to recompute the number of community service hours that count towards meeting the work requirement. A new AMR and PA 1700 are completed. The calculation is:

MONTH	CHILD SUPPORT RECEIVED BY DPW	SUPPORT PASS-THROUGH
JUNE	\$100	\$50
MAY	\$100	\$50
APRIL	\$100	\$50
MARCH	\$100	\$50
FEBRUARY	\$100	\$50
JANUARY	\$200	\$50
	TOTAL \$700	TOTAL \$300

\$ 700 total child support received by DPW
- 300 total support pass-through
 = \$400 total child support retained by DPW

\$ 400 total child support retained by DPW
/ 6 months
 = \$66 average child support retained by DPW per month

\$ 403	monthly cash assistance grant	\$ 337	net monthly cash assistance
<u>- 66</u>	child support received	<u>/ 5.15</u>	minimum wage
= \$337	net monthly cash assistance	= 65	maximum hours per month

65 maximum hours per month
/ 4.3 conversion
 = 15 maximum hours per week

A person may volunteer to participate in community service for as many hours as he or she desires,

but the provisions of the FLSA will only allow the Department/CAO to count the maximum number of hours based on the formula to count towards meeting the work requirement. Clients who can not meet the 20-hour work requirement through participation in community service alone, must participate in other activities to bring the total number of hours of participation up to a minimum of 20 hours per week.

The client does not have to obtain these additional hours of a work activity before community service can be approved. However, the client participating in community service remains obligated to seek and accept paid employment and is obligated to accept referral (unless there is good cause) to any contractor for subsidized employment, on-the-job training or work experience.

NOTE: The maximum number of hours applies to all of the adults in the budget group. For example, had there been two adults and one child in the example #1, all of the adults in the budget group could not participate in community service for more than 78 hours collectively per month.

If the calculation of hours falls below 20 hours per week averaged over the month, after the client has received cash assistance for 24 months or more, the individual must participate in another work activity such as unsubsidized employment, subsidized employment, work experience, Workfare, and/or on-the-job training, to make up the additional hours. If none of these activities are available to the client, the client will be considered to be non-willfully non-compliant and subject to monthly AMR reviews with the CAO as discussed in Operations Memorandum #99-2-4. Clients in this status must continue to seek activities in which to participate in order to meet the minimum 20-hour work requirement.

NOTE: If no payment history exists for a recently established support order at the time of the calculation to determine the number of hours according to FLSA which may be counted toward the work requirement; the CAO caseworker should use the payment order until the first recalculation or until the client requests a reconsideration, whichever occurs first. Also, if other pertinent information at the time of the initial calculation indicates that the history is not indicative of the payments to be expected, the CAO caseworker may use the best estimate until the next recalculation. An example of pertinent information is a recent loss of employment of a support obligor who had a wage attachment.

Is a participant in a community service activity eligible for special allowances for child care, transportation, and other supportive services?

Yes. A client may receive special allowances for supportive services.

What are the recipient's responsibilities during participation in community service?

The recipient's responsibilities during participation in community service are:

1. Continuing to seek, accept, and maintain employment.
2. Obtaining information from the community service agency and submitting it to the CAO. To simplify the process, the CAO will provide the recipient with a new Community Service Agency Position form, PA 1694, to take to the community service agency for completion. When it is completed, the recipient must return it to the CAO to review. The completed form must include the following information:

NOTE: While the PA 1694 is the recommended form, the information contained on the PA

1694 may be provided by the community service agency on other alternative documentation.

- A job description.
- The identity of the appropriate official or staff member responsible for supervising and instructing the person participating in community service.
- The recipient's work schedule.
- Assurance that the community service agency will provide worker's compensation coverage, if applicable.
- Assurance that the community service agency meets applicable health and safety standards prescribed by Federal, State, and local law.
- Assurance that the community service provided by the individual will not result in the displacement of any currently-employed worker or position, including partial displacement, such as a reduction in hours of overtime work, wages, or employment benefits.
- Assurance that the community service provided by the individual will not impair existing contracts for services or collective bargaining agreements.
- Assurance that the community service provided by the individual will not be a substitute for the filling of a position when any other person is on layoff from the same or a substantially-equivalent job within the same organizational unit, or when an employer has terminated any regular employee.
- Assurance that the community service provided by the individual will not infringe in any way upon the promotional opportunities of any currently-employed individual.
- Assurance that the community service provided by the individual will not be a substitute for the filling of any established unfilled vacancy.
- Assurance that the community service agency will cooperate with and respond to requests for information needed to complete an audit, including retaining work and attendance records for four years.

3. Providing on a monthly basis a PA 590, or alternative documentation as previously described, to the CAO completed by the community service agency which shows the actual number of hours of participation each month. The time records shall be attested to by the community service agency.

What are the community service agency's responsibilities?

Completing the relevant sections of the PA 1694, or providing alternative documentation, which lists all of the aforementioned assurances, including that which assures that Workers' Compensation coverage is provided. DPW will reimburse community service agencies for their additional workers' compensation insurance premium. Other information relating to the supervision and instruction of the community service participant should also be given to the recipient to provide to his/her caseworker in the CAO.

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Completing the relevant sections of the PA 590, or providing alternative documentation, to verify participation each month, and providing it to the recipient to provide to the CAO.

Submitting to the CAO the required documentation verifying payment of Workers' Compensation insurance premiums.

What are the CAO's responsibilities?

- Explaining the RESET work requirement to each cash assistance recipient and the types of eligible work activities that may count, including community service.
- Updating the AMR when a recipient chooses to participate in community service and later as appropriate, but no less often than every 6 months. These updates must address the steps the CAO and the client are taking to move the client from community service to self-sufficiency.
- Computing the maximum number of hours that a recipient can participate in community service.
- Informing the recipient, both orally and in writing on the PA 1700, of the maximum number of hours that will be counted from participation in community service towards meeting the work requirement. This information must be recorded both on the AMR and on the PA 1700 that is given to the client.
- Informing the recipient if participation in an additional activity or activities in combination with community service hours will be needed to meet the 20-hour work requirement.
- Reviewing verification provided by the recipient and the community service agency for completeness and compliance with community service requirements.
- Informing the recipient of the availability of and determining the need for special allowances for supportive services.
- Where applicable, authorizing special allowances for supportive services in a timely manner. See CAH 138.8.
- Determining whether the recipient has fulfilled the RESET work requirement on a monthly basis.
- Data-entering hours of participation in community service in the CIS timely and accurately. Activity Code 20 is used to track participation in community service.
- Completing a reconciliation, every six months or more frequently as appropriate, of child support received in order to recompute the maximum number of community service hours which the client can perform.
- Conducting an outreach program with community service agencies to maximize the community service opportunities for cash assistance recipients.
- Reviewing with the recipient the five-year lifetime limit on receipt of cash assistance benefits and the need to move to employment.
- Processing the reimbursement for the cost of Workers' Compensation to the community

service agency.

Who is responsible for finding a community service opportunity?

The recipient is responsible for finding a community service opportunity. Community service is an activity that a client may choose to engage in to maintain eligibility for cash assistance if he/she is unable to obtain at least 20 hours per week of employment or other paid work activity. However, CAOs should provide recipients with assistance, upon request and to the extent that resources permit, to find a community service opportunity.

Such assistance could include providing information about community service organizations known to utilize volunteers. The CAO can NOT ENDORSE any specific agency or organization. The CAO must be careful to provide information that refers only to those agencies and organizations that qualify as 501(c). Further, the activity to be performed as community service for the purpose of meeting the 20-hour work requirement at these sites must benefit the community at large and may not involve or promote religious instruction, proselytization, or worship. Additionally, the activity may not be of a political, electoral or partisan nature, nor any routine, ordinarily unpaid civic activity.

How will participation in community service be documented?

The PA 1700 will be used by the CAO to inform the client of the maximum number of countable hours of community service per week in which they can participate.

The PA 1694, or alternative documentation, will be used by the recipient to obtain required information from the provider that is needed to determine if the community service opportunity can be approved as the recipient's work activity. This form will capture information such as the job description and the necessary assurances from the community service agencies that are listed under recipient responsibilities.

The PA 590, or alternative documentation, will be used by the recipient and the community service agency to provide the CAO with verification of the number of hours that were worked in the previous month.

NOTE: If the Community Service Agency chooses to use alternative documentation other than the PA 1694 or PA 590, the alternative documentation must be provided on a form, which is agreed to and accepted by the CAO caseworker.

Contracted providers may provide services such as collecting participation information and transmitting it to the CAO via the Project/Activity Tracking and Weekly Hour Data Entry form (PA 782) and any other locally developed process between the contractors and the CAOs. This will eventually include transmitting information using the Automated Information Management System.

Last modified: Thursday, July 15, 1999

COMMUNITY SERVICE AGENCY POSITION FORM

PARTICIPANT'S NAME:	CASE RECORD NUMBER/CATEGORY:
PARTICIPANT'S ADDRESS:	TELEPHONE NUMBER:

AGENCY NAME:	TELEPHONE NUMBER:
AGENCY ADDRESS:	EMPLOYER IDENTIFICATION NUMBER:
NAME AND TITLE OF INDIVIDUAL WHO WILL SUPERVISE THE COMMUNITY SERVICE PARTICIPANT:	

PLEASE DESCRIBE THE COMMUNITY SERVICE ACTIVITY IN WHICH THE CLIENT WILL PARTICIPATE:	
EXPECTED START DATE:	NUMBER OF COMMUNITY SERVICE HOURS PER WEEK: _____

BY SIGNING THIS FORM, THE COMMUNITY SERVICE AGENCY REPRESENTATIVE IS ASSURES THAT:

1. the Agency is either a unit of Federal, state or local government or a non-profit organization as defined in section 501(c) of the Internal Revenue Code;
2. he/she will provide monthly verification, on a form acceptable to the Department, of the hours of community service performed by the participant;
3. all the information provided is true, correct and complete;
4. workers compensation coverage is provided for the client.

and

5. the following are true with regard to the community service participant and activity described above.
 - the community service agency is meeting labor, health and safety standards prescribed by Federal, state and local law.
 - the community service provided by the individual is not resulting in the displacement of any currently-employed worker or position, including partial displacement, such as the reduction in hours of overtime work, wages or employment benefits.
 - the community service provided by the individual is not impairing existing contracts for services or collective bargaining agreements.
 - the community service provided by the individual is not a substitute for the filling of position when any other person is on layoff from the same or a substantial-equivalent job within the same organizational unit, or when an employer has terminated any regular employee.
 - the community service provided by the individual is not infringing in any way upon the promotional opportunities of any currently-employed individual.
 - the community service provided by the individual is not a substitute for the filling of any established unfilled vacancy.
 - the community service agency is and will continue to cooperate with and responding to requests for information needed to complete an audit, including retaining work and attendance records for 4 years.

_____ AUTHORIZED AGENCY REPRESENTATIVE SIGNATURE AND TITLE	_____ DATE
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FORMULARIO PARA UN PUESTO EN LA AGENCIA DE SERVICIO A LA COMUNIDAD

NOMBRE DEL PARTICIPANTE:	NÚMERO DE EXPEDIENTE DEL CASO/ CATEGORÍA:
DIRECCIÓN DEL PARTICIPANTE:	NÚMERO DE TELÉFONO:

NOMBRE DE LA AGENCIA:	NÚMERO DE TELÉFONO:
DIRECCIÓN DE LA AGENCIA:	NÚMERO DE IDENTIFICACIÓN DEL EMPLEADOR:
NOMBRE Y TÍTULO DEL INDIVIDUO QUE SUPERVISARÁ AL PARTICIPANTE EN EL SERVICIO A LA COMUNIDAD:	

POR FAVOR DESCRIBA LA ACTIVIDAD DE SERVICIO A LA COMUNIDAD EN LA CUAL EL CLIENTE PARTICIPARÁ:	
FECHA DE INICIO ESPERADA:	NÚMERO DE HORAS DE SERVICIO A LA COMUNIDAD POR SEMANA: ▶ _____

AL FIRMAR ESTE FORMULARIO, EL REPRESENTANTE DE LA AGENCIA DE SERVICIO A LA COMUNIDAD AFIRMA QUE:

1. la Agencia es una unidad del gobierno Federal, Estatal o Local o una organización sin fines de lucro como se define en la sección 501(c) del Código del Servicio de Rentas y Impuestos Internos;
2. el/ella proporcionará verificación mensual en un formulario aceptable para el Departamento, sobre las horas de servicio a la comunidad desempeñadas por el participante;
3. toda la información proporcionada es verdadera, correcta y completa;
4. la cobertura para la compensación de trabajadores (worker's compensation, en inglés) se proporciona para el cliente;

Y

5. las siguientes declaraciones son verdaderas con respecto al participante en el servicio a la comunidad y a la actividad descrita anteriormente.
 - la agencia de servicio a la comunidad está satisfaciendo los estándares de trabajo, salud y seguridad prescritos por la ley Federal, Estatal y Local.
 - el servicio a la comunidad proporcionado por el individuo no resulta en el desplazamiento de algún trabajador o puesto actualmente empleado, incluyendo el desplazamiento parcial, tal como la reducción en horas extras de trabajo, sueldo o beneficios de empleo.
 - el servicio a la comunidad proporcionado por el individuo no está afectando contratos existentes para servicios o acuerdos de negociación colectivos.
 - el servicio a la comunidad proporcionado por el individuo no es un sustituto para ocupar el puesto cuando alguna otra persona se encuentra en suspensión temporaria de empleo del mismo trabajo o de un trabajo substancial equivalente dentro de la misma unidad organizacional, o cuando un empleador haya despedido a algún empleado regular.
 - el servicio a la comunidad proporcionado por el individuo no esté infringiendo de ninguna manera con las oportunidades de ascenso de alguna persona actualmente empleada.
 - el servicio a la comunidad proporcionado por el individuo no es un sustituto para llenar alguna vacante establecida que no se ha ocupado.
 - la agencia de servicio a la comunidad está cooperando y continuará cooperando con las peticiones de información y respondiendo a ellas, que sean necesarias para completar una auditoría, incluyendo el retener los expedientes de trabajo y de asistencia por 4 años.

FIRMA Y TÍTULO DEL REPRESENTANTE AUTORIZADO DE LA AGENCIA	FECHA
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COMMUNITY SERVICE PARTICIPANT INTRODUCTION FORM

THIS IS TO INTRODUCE YOU TO			
CLIENT'S NAME (Last, First, Middle Initial)	CO	CASE NUMBER	
ADDRESS			
TELEPHONE NUMBER	SOCIAL SECURITY NUMBER		
_____ MAY PARTICIPATE IN COMMUNITY SERVICE _____ HOURS PER WEEK <small>CLIENT'S NAME</small>			

PARTICIPATION RESTRICTIONS

FROM	
_____ COUNTY ASSISTANCE OFFICE (CAO)	
CAO ADDRESS	
CAO REPRESENTATIVE'S NAME	TELEPHONE NUMBER

I have read and understand the notice on the reverse side of this form and agree to participate in community service for the number of hours stated above.

CLIENT'S SIGNATURE _____ DATE _____

CAO REPRESENTATIVE'S SIGNATURE _____ DATE _____

TO THE CLIENT:

You are required to meet the work and work-activity requirements of the RESET (Road to Economic Self-Sufficiency through Employment and Training) Program.

Community service may help you to meet the RESET requirements.

The number of hours of community service per week that you may count towards meeting the RESET requirements is shown on the front of this form.

If you make the decision to participate in Community Service; you must return the completed Community Service Agency Position Form (PA 1694) or alternative documentation to the County Assistance Office (CAO) within ten (10) working days of receipt.

You will also be responsible to provide the CAO with a completed and signed copy of the Community Service/Workfare Project Participation and Attendance Report (PA 590) on a monthly basis as specified in your Agreement of Mutual Responsibility (AMR).

Please notify the CAO immediately if you are unable to complete the required weekly hours of participation.

Failure to meet the RESET requirements, without good cause, will result in a loss of cash assistance benefits for your family if you have received cash assistance for 24 months.

COMMUNITY SERVICE / WORKFARE PROJECT PARTICIPATION AND ATTENDANCE REPORT

1 REPORT MONTH/YEAR

2 FROM AGENCY NAME

3 TO COUNTY/DISTRICT NAME

4 EMPLOYER IDENTIFICATION NUMBER

5 WORKFARE PROJECT NUMBER

6 ATTENTION

7 COMMUNITY SERVICE / WORKFARE PARTICIPANT IDENTIFICATION NAME

SOCIAL SECURITY NUMBER

ADDRESS

CO CASE NUMBER CAT

8 - HOURS WORKED

Table with columns: WEEK ENDING (MM, DD, YY), SUN, MON, TUES, WED, THUR, FRI, SAT, WEEKLY TOTAL

MONTHLY TOTAL

THIS IS TO CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS ACCURATE

PARTICIPANT DATE AUTHORIZED AGENCY REPRESENTATIVE SIGNATURE AND TITLE TELEPHONE NO. DATE

0 - NOTICE USE BLOCK BELOW WHEN REPORTING FAILURE TO COOPERATE. THIS INFORMATION SHOULD BE MAILED TO THE COUNTY ASSISTANCE OFFICE IMMEDIATELY.

Form with checkboxes: DID NOT REPORT FOR ASSIGNMENT, REFUSED TO CARRY OUT ASSIGNMENT, UNEXCUSED ABSENCES, OTHER EXPLAIN

AUTHORIZED AGENCY REPRESENTATIVE SIGNATURE AUTHORIZED AGENCY REPRESENTATIVE TITLE TELEPHONE NO. DATE

This form is to be completed at the end of each calendar month and mailed to your caseworker no later than the 10th day of the following month.

Note: If you are on monthly reporting, you should return this form in the same envelope and by the same due date, as your monthly reporting form.

If the information contained on this form is not returned to your caseworker by the due date, your continued eligibility for cash assistance benefits will be reviewed.

INSTRUCTIONS ON COMPLETING THE PA 590

The participant should complete block numbers 1 through 7.

Block #1 - Complete this block with the month that just ended and the year.

Block #2 - Complete this block with the agency's name where you are performing community service.

Block #3 - Complete this block with the local county assistance office's (CAO's) name and district information if relevant.

Block #4 - Complete this block with the employer identification number (EIN) of the agency where you are performing community service. (You will need to get the EIN from the community services agency.)

Block #5 - If you are using this form to verify your hours of participation in Workfare, complete this block with the Workfare project number. (You will need to get the Workfare project number from the project operator.)

Block #6 - Complete this block with the name of your CAO caseworker.

Block #7 - Complete this block with your name, address, social security number, your CAO case record number and category of assistance.

Your supervisor at the community service agency should complete block numbers 8, 9, 10, and 11.

Block #8 - Complete these blocks with month, day and year each week for which the participant performed community service. This is a week ending date and must be a Saturday. Also record the daily number of hours the participant performed community service as well as the weekly and monthly total number of hours.

Block #9 - Complete this block by securing the signature of the participant, the date and the authorized agency representative, his or her title, phone number and the date.

Block #10 - Complete this block only if the participant fails to cooperate with the community service Assignment.

Block #11 - Complete this block with the signature, title and telephone number of the community service authorized agency representative and the date.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
OFFICE OF INCOME MAINTENANCE
BUREAU OF POLICY

FAX TRANSMISSION SHEET

Date: 7/22/99

Number of Pages: 20
(Including Cover Sheet)

To: Sharon Dietrich

FAX Number: 215-981-0434

From: Ed Zagby
FAX Number: (717) 787-6765

Comments:

Please call Donna Goodell at (717) 783-8478 if you have any problems with this FAX transmission.

EXHIBIT 12

PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.

The Department of Public Welfare will establish and enforce standards and procedures to:

- * screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;
- * refer such individuals to counseling and supportive services; and
- * waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving TANF assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

FUNDING

The information below is provided in accordance with the draft document entitled "State Plan for Temporary Assistance for Needy Families Program" developed by the Department of Health and Human Services, Administration for Children and Families.

Section 403(a)(1)(A) provides that each eligible State shall be entitled to receive for each of the fiscal years 1996 through 2002, a grant in an amount equal to the State family assistance grant as defined in section 403(a)(1)(B).

I. Payments to Agency Administering the TANF Program.

Please provide payment for the TANF Program to the same organization administering the AFDC/JOBS programs as of August 22, 1996.

The Commonwealth of Pennsylvania has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

OPTIONAL CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.

The Department of Public Welfare will establish and enforce standards and procedures to:

- * screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;
- * refer such individuals to counseling and supportive services; and
- * waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving TANF assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

CERTIFIED BY THE CHIEF EXECUTIVE OFFICER OF THE STATE:

Date Tom Ridge, Governor

FUNDING

Section 403(a)(1)(A) provides that each eligible State shall be entitled to receive for each of the fiscal years 1996 through 2002, a grant in an amount equal to the State family assistance grant as defined in section 403(a)(1)(B).

I. Payments to Agency Administering the TANF Program.

Please provide payment for the TANF Program to the same organization administering the AFDC/JOBS programs as of *March 3, 1997*.

II. State Payments for TANF Program

Payments for the TANF Program are to be made to the Pennsylvania Department of Public Welfare.

The Commonwealth of Pennsylvania's estimate for each quarter of the fiscal year by percentage is:

EXHIBIT 13

ELIGIBILITY PROVISIONS FOR EXTENDED TANF

§ 141.51. Policy.

(a) In addition to the requirements of Chapter 133, § 141.21 and Chapters 142, 177 and 183, a family may be eligible for Extended TANF as follows:

(1) Eligibility Due to Domestic Violence. A family that includes an adult who has exhausted 60 months of TANF may receive Extended TANF if the adult applicant or recipient or another family member is, or has been, or may in the future become a victim of domestic violence as defined in § 141.52 (relating to definitions). This includes families that currently have or previously obtained good cause waivers of program requirements or time-out due to domestic violence as well as those who have not. Eligibility for Extended TANF under this paragraph is subject to the following:

(i) Verification of Domestic Violence shall be verified.

(A) If the family has not previously had a good cause waiver of TANF child support cooperation, work, or other program requirements or time-out due to domestic violence, the applicant or recipient must provide one of the types of verification specified on the "Verification of Good Cause Based on Domestic Violence" form:

(1) Documentation;

(2) Third party verification; or

(3) Self-affirmation.

Any one of the above forms of verification is alone sufficient to establish eligibility for Extended TANF.

(B) If the family has a current or past good cause waiver of TANF child support cooperation, or TANF work, or other program requirements or time-out due to domestic violence, no further verification is required.

(ii) Duration of Extended TANF. Extended TANF due to domestic violence shall be provided for as long as necessary to address current domestic violence, the risk of future domestic violence, or the effects of domestic violence.

(A) An applicant or recipient who has or had ~~was granted~~ a good cause waiver of TANF child support cooperation, ~~or TANF work, or other program requirements or time-out due to domestic violence~~ shall at a minimum may be provided ~~receive~~ Extended TANF for ~~at the~~ period of time equal to the period of time that ~~the~~ such good cause waiver(s) or time-out is or was in effect. At the end of this period of time, the family's situation shall be reviewed and Extended TANF shall continue if the family is experiencing domestic violence or the effects of domestic violence, or is at risk of further

domestic violence.

(B) An applicant or recipient who does not or has not had a good cause waiver of TANF program requirements or time-out due to domestic violence but is experiencing domestic violence or the effects of domestic violence or is at risk of further domestic violence shall be provided Extended TANF as long as necessary to address the domestic violence.

~~(iii) An applicant or recipient who has a current waiver of TANF child support cooperation or TANF work requirements due to domestic violence may receive Extended TANF during the period the waiver is in effect, subject to periodic review in accordance with subparagraph (v).~~

~~(iiiv) Domestic Violence Services Plan. Extended TANF due to A family in which a member is or has been a victim of domestic violence shall be accompanied comply with by a domestic violence services plan that meets the requirements of 45 C.F.R. §260.55(c) developed with a person trained in domestic violence services.~~

(iv) Six Month Review. Eligibility for Extended TANF shall be reviewed at least every 6 months. No additional verification shall be required unless the family's circumstances have changed.

(vi) The adult whose family is ineligible for Extended TANF under this paragraph may qualify for Extended TANF or GA under paragraph (2) or (3).



SEARCHED - 1 10 53

February 25, 2002

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

Dear Mr. Zogby:

Impact Services has been deeply involved with the implementation of TANF since we operated one of Philadelphia's largest regional welfare-to-work service centers and continue to provide retention and other support services to women making the transition to work. From 1998 to the present, we have enrolled over 1700 women in various employment/training programs.

I am writing in response to the Department of Public Welfare's proposed Extended TANF Plan.

The Department should be commended for including two key features:

- Providing all families with additional time to achieve self-sufficiency while their benefits continue
- Identifying barriers to employment as well as providing services to address those barriers.

These two steps should go a long way in helping families to move onto the path of self-sufficiency.

There are, however, a few aspects of the regulations that are of concern:

1. We need a safety net for children whose parents fail to comply with TANF regulations. Therefore, we urge the Department to ensure that children can obtain General Assistance even if their parents are non-compliant.
2. We know first-hand that families with limited English proficiency do not readily succeed up the economic ladder. Therefore, we urge the Department to provide greater educational opportunities for those who need it.

3. We encourage the Department to make available short-term emergency assistance, using federal TANF funds, to families who have been recently unemployed, for example. Given the slumping economy, we serve people who are temporarily out of work, but need a hand to address immediate crises.

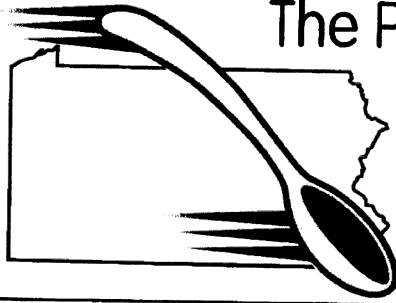
We encourage the Department to make these essential changes to help families become self-reliant.

Sincerely,

A handwritten signature in cursive script that reads "John MacDonald".

John MacDonald
President

Cc: Chairman, Independent Regulatory Review Commission



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

February 22, 2002

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
55 PA. Code Chapters 133, 141 and 183

Dear Mr. Zogby:

On behalf of the Pennsylvania Hunger Action Center, I have reviewed the regulations proposed by the Department and published in the January 26th edition of the **Pennsylvania Bulletin**. Based on our review and on our experience of working with low-income families and community-based service providers, we submit the following comments for your consideration.

A. The provision for Extended TANF cash assistance, as proposed by the Department, reflects the long-stated policy of this Administration, state and federal law, and wise public policy.

Section 141.52 defines "Extended TANF" as "federally-funded TANF cash assistance for eligible families in which an adult has exhausted 60 cumulative months of TANF cash assistance."

Section 141.51 describes the conditions that a family must meet in order to qualify for federally funded cash assistance beyond 60 months.

From the beginning of "welfare reform" the Department has anticipated that some families would need cash assistance beyond the so-called 60-month lifetime limit. This is plainly seen by reviewing the January 1997 State Plan filed with the U.S. Department of Health and Human Services by Department Secretary Feather O. Houstoun. It stated that Pennsylvania "reserves the right to exclude up to 20 percent of its average monthly caseload from the 60-month limit due to a situation determined to constitute a hardship."

because food isn't enough...

This policy position is fully consistent with federal law, which authorizes the hardship exception, and with Act 35 of State law, which does not contain a lifetime limit but rather simply declares (in Section 401) "the legislative intent to promote self-sufficiency of all the people of the Commonwealth."

The Department's proposal to offer Extended TANF cash assistance also is wise public policy. As is demonstrated by the Department's own research, many of the parents approaching 60 months of cash assistance face multiple barriers in their efforts to achieve self-sufficiency. Because of these barriers, progress toward self-sufficiency is often slowed and public support over a longer period of time is warranted. It is entirely reasonable and humane to provide additional time to the families of these parents.

B. We strongly support the Department's proposal to make Extended TANF available to parents who are not exempt from the work requirement.

Based on discussions with Department staff over the past several years, we were confident that the Department would utilize the federal option and provide a "hardship extension" for parents who were victims of domestic abuse or who had previously been determined to be exempt from the work requirement because of an impairment of disability. Throughout those discussions, the availability of such an extension to parents able to work was in some doubt. In our view, the Department's proposal to include this group is the correct decision for the following reasons.

- Research has documented that many parents who are able-bodied and who experience difficulty retaining employment have undisclosed or undiagnosed barriers that impede their progress. The Department's proposal provides a mechanism to continue supporting the children of such parents, to identify the nature of the barriers, and to help the parents overcome those barriers.
- Cash assistance serves a critical economic role during periods of economic recession when parents with few work skills have great difficulty finding jobs. To categorically deny cash assistance to able-bodied parents because of the 60-month rule would effectively render the Commonwealth powerless to serve some of its most vulnerable citizens during times of economic crisis.
- If the Department had decided not to serve able-bodied parents, it would have created a perverse incentive for parents approaching 60 months to characterize themselves as disabled or incapacitated. Such an incentive would not have served the stated purpose of Act 35 - "to promote the self-sufficiency of all the people of the Commonwealth."

C. The proposed regulation would treat affected families fairly in the process of the Department's review of eligibility for Extended TANF.

As we understand Section 133.23, a transfer "from TANF to Extended TANF" would require "a complete redetermination" rather than a new application. In the course of conversation with senior Department staff, they have confirmed this understanding.

The significance of this distinction is that in the event of an unfavorable Department decision, the parent would be able to invoke the fair hearing process and thereby seek correction of the situation that led to the unfavorable decision. Moreover, she could do this without experiencing the loss of subsistence cash assistance benefits on which her children continue to depend.

We believe the Department's plan is both humane and required by the United States Constitution.

D. Section 141.51 (a)(3)(A) overreaches in its requirement that parents in the Work Plus Program "must participate a minimum of 30 hours per week in a combination of work and work-related activities".

Although the Department has long required 30 hours per week of work and work-related activities from nonexempt parents who utilize its publicly-funded employment programs, it has never foreclosed the possibility that the family of a nonexempt parent could continue to qualify for cash assistance so long as the parent engaged in 20 hours per week of private sector employment. The proposed regulation breaks new ground in its attempt to impose the 30-hour per week requirement across the board.

In our view, this across-the-board approach overreaches and is inconsistent with Section 405.1(a.2)(6) of Act 35. Our recommendation is to add the phrase "engage in an average of at least 20 hours per week of private sector employment or" immediately after the word "must" in the above-referenced paragraph of the proposed regulation.

E. Section 141.41 should be amended to clarify that cash assistance that is entirely state-funded does not count on the federal 60-month clock.

The Department currently provides the mechanism whereby parents who are exceeding minimum requirements in their efforts to become self-sufficient are "off the federal clock". As we understand it, the Department achieves this highly attractive incentive by funding the cash assistance entirely with Maintenance of Effort (MOE) state funds.

Perhaps the proposed regulations reflect this reality by narrowly defining "TANF cash assistance" as only federally provided dollars. However, we have not been able to confirm that such is the case.

Berry Friesen to Edward J. Zogby
February 22, 2002
Page #4

We suggest that this mater be clarified, perhaps through the addition of a subparagraph (e)(4), which would state that "periods of cash assistance that are solely state-funded do not count toward the 60-month limit".

There are other very important matters (particularly expanded use of federally funded nonassistance to help the short-term unemployed or the marginally employed) that would have been appropriate for this regulatory package. In light of the Department's decision to not address those matters here, we will continue to offer those perspectives in other venues.

Thank you for the sound policy reflected in this regulatory proposal and for your consideration of these comments and suggestions.

Very truly yours,



Berry Friesen
Executive Director

Cc: Senator Harold F. Mowery
Senate Public Health and Welfare
169 Main Capitol Building
Harrisburg, PA 17120

Senator Vincent J. Hughes
Senate Public Health and Welfare
543 Main Capitol Building
Harrisburg, PA 17120

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor - 333 Market Street
Harrisburg, PA 17101

Representative Dennis M. O'Brien
House Health and Human Services
100 Main Capitol Building
Harrisburg, PA 17120

Representative Frank L. Oliver
House Health and Human Services
34 Main Capitol East Wing
Harrisburg, PA 17120



ORIGINAL: ZNY

Philadelphia Citizens for Children and Youth

Seven Benjamin Franklin Parkway
Philadelphia, Pa 19103

Phone: 215-563-5848

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pccy@aol.com / www.pccy.org

February 22, 2002

Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Chairman:

I am the Executive Director of Philadelphia Citizens or Children and Youth. Our mission is to improve the lives and life chances of the Southeastern Pennsylvania's children, through thoughtful and informed advocacy, community education, targeted service projects and budget and policy analysis. We are located in Philadelphia and interact with hundreds of low income families, as well as child advocates from across the state and country, each year.

I write in response to the Extended TANF plan that was published by the Pennsylvania Department of Public Welfare.

This plan has some positive features. It shows an increasing understanding of the challenges that our communities face in helping move families to self-sufficiency. This plan heads in the right direction by:

1. Providing all families who need more time to become self-sufficient with an opportunity to receive continued benefits.
2. Committing to identifying barriers to employment – and to providing services to address those barriers.

Through our Watching Out for Children in Changing Times project, we regularly interview families who receive TANF. Many of them have been exempt from the TANF work requirements for several years. Exemptions, or good cause, are granted due to significant barriers that keep them from work. These barriers range from personal physical and mental health problems to their responsibility to care for a child with special needs. The problem is that throughout the time they have been exempt from the work requirements, many families have not received services to help them move closer to work. The extra time allowed through Extended TANF, and the specialized services to address individuals' work barriers are welcome changes.

However, several parts of the proposed regulations greatly concern me. These are:

1. Children whose parents do not comply with the rules cannot receive any financial support through the state's longstanding General Assistance program. We need a true safety net for children in the community.



Children have no control whatsoever over their parents choice, or capacity, to cooperate with the Extended TANF program. They should not be punished as a result of the parent's inaction or inability to cooperate.

2. The plan does not provide for families with limited English proficiency. These families cannot engage with most employment services or jobs, and have limited opportunities for moving toward self-sufficiency without appropriate services.

Similar to the families who have been exempt from the work requirements and have made little progress in developing work skills, many non-English speakers have not made the successful transition to work because the programs available during the past 60 months have ignored their needs. Until appropriate services are available, these families may continue to comply with TANF rules without developing marketable skills and progressing to self-sufficiency.

3. Families who need short-term emergency help, because of recent unemployment or a temporary disability, will not be effectively served through Extended TANF. DPW could use federal funds to address this problem.

Families whose progress toward sustained self-sufficiency is interrupted, perhaps as a result of a lay-off or injury, will need *temporary* help that Extended TANF does not provide. Those with significant work history and skills may not reach their 60 months immediately, but when they do, the state should use *federal funds* that are available to provide families *temporary assistance*. This approach would be more efficient both due to its use of federal dollars, and because families would not spend unnecessary time assigned to MPP or WPP when they are not appropriate.

4. Parents who are required to work, and cannot meet the 30-hour work week, will not receive Extended TANF. The 30-hour work week cannot always be achieved, even when a parent wants to be at work 30 hours a week. For example, parents who have a child with a disability may require more time at home.

Caring for children with special needs, or elderly and infirm relatives, is often a labor of love best performed by an immediate family member. Do we really want to force families with the necessary skills and compassion for this task to hire others – or if they cannot afford to do so to rely on publicly funded programs – to provide these services? Thirty hours of work per week is just not realistic for some families.

I urge you to build upon the positive features of the proposed Extended TANF program. Please take the steps necessary to improve Pennsylvania's plans to help families become self-sufficient.

Sincerely,


Shelly Yanoff
Executive Director, PCCY

cc: Secretary Feather O. Houstoun

14-474-10
Interfaith Coalition for the General Welfare
c/o Mishkan Sholom, 4101 Freeland Avenue
Philadelphia, PA 19128

Office of the
Bureau of Policy

FEB 20 2002

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

RECEIVED FEB 22 PM 2:08 February 18, 2002
REFER TO 8

Re: DPW Proposed Regulations/ Extended TANF

Dear Mr. Zogby:

I am writing to urge changes to DPW's proposed regulations concerning extended TANF benefits, which were published in the Pennsylvania Bulletin on January 26, 2002. I want to thank DPW for its decision to provide extended TANF benefits. I am very pleased that the proposed regulations provide for benefits beyond sixty months for families facing a variety of barriers, including domestic violence, disabilities and other obstacles to finding and keeping jobs. Extended TANF benefits are especially critical given the current recession and loss of jobs in many of the industries that employ low-income parents.

However I am concerned that the proposed regulations fail to protect needy families enough. The proposed regulations do not consider the needs of families with limited English proficiency at all, and are seriously flawed in their treatment of children whose parents are not eligible for extended TANF benefits, survivors of domestic violence, and families with disabilities. They don't acknowledge DPW's existing Time-out program and other rules about the counting of time towards the sixty-month time limit on federally funded TANF assistance, and don't provide for short term emergency benefits, which federal law permits. 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 acknowledgment at all* of the problems faced by families with limited English proficiency, in violation of Title VI of the Civil Rights Act of 1964. Families with limited English proficiency, including immigrants and refugees, face particularly difficult barriers to employment. In addition, DPW has not provided English as a Second Language programs or vocational training in languages other than English, and has not given families with limited English proficiency access to the full range of welfare to work programs. The regulations should provide for extended TANF benefits for families with limited English proficiency, and should provide for services to address their needs.

●The regulations punish children whose parents are not eligible for extended TANF benefits, in violation of Pennsylvania's state General Assistance statute. The regulations say that if a parent fails to comply with a requirement for Extended TANF, the entire family is ineligible for General Assistance. Our state welfare law is very clear that, except for violations of the work requirements, only the individual who fails to comply with the rules is ineligible. Children of parents who have failed to comply with the Maximizing Participation Program, or with other non-work requirements, are eligible for General Assistance.

●The regulations don't properly protect survivors of domestic violence. The

regulations do not fully implement the Family Violence Option as adopted by DPW and the recommendations of DPW's own Domestic Violence Task Force. The regulations should provide for waivers of the time limit "as long as necessary" and for families "at risk of further domestic violence" as provided in the federal statute. They should also permit families to qualify for extended TANF benefits whether or not they previously got a waiver of child support or work requirements.

● **The regulations don't provide for short-term emergency benefits.** Federal law clearly allows the state to use federal TANF funds to provide up to four months of benefits for families dealing with a crisis—including unemployment, homelessness, or other problems—without those months counting towards the 60 month time limit. Recently unemployed parents may just need temporary help while they are looking for another job. A short-term emergency assistance program would make more sense than putting these parents into DPW's proposed MPP or WPP programs.

● **The regulations don't properly count TANF days, so people will reach their time limit sooner than they should.** Months shouldn't count towards the time limit if the family has been given a Time-Out, or is getting cash assistance that is state funded, rather than federally funded, or if DPW has been fully reimbursed (for example through child support).

● **There are problems with DPW's plans for assessing disabilities and other barriers to employment.** The standards for determining disability and work exemptions are unclear, and there are not enough procedures to protect clients' rights.

● **The regulations concerning the Work Plus Program violate state and federal law.** The regulations require 30 hours per week of participation in work activities, in violation of Act 35, which requires 20 hours per week. Furthermore, the regulations don't acknowledge that the federal Fair Labor Standards Act requires payment of the minimum wage for required work activities.

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

Sincerely,

Vivian Schatz
Chair of the Legislative
Committee

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

Original: 2244



DEPARTMENT

2002 FEB 26 AM 9:33

REVIEW COMMISSION

February 22, 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 Regulations
32 Pa. Bull. 431(January 26, 2002)

Dear Mr. Zogby:

These comments address the proposed regulations published by the Department of Public Welfare on January 26, 2002 regarding the provision of TANF beyond the 60-month time limit (Extended TANF). We applaud the Department for providing the opportunity for Extended TANF to all TANF recipients, including those who are victims of domestic violence. The extended TANF program will provide these individuals an essential safety net in the form of additional time to overcome the barriers to self-sufficiency imposed by the violence.

The PCADV's 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). Our comments focus on those portions of the proposed regulations that address Extended TANF for victims of domestic violence.

While the proposed regulations suggest that DPW's intention is to implement the Extended TANF program consistent with federal authority and the recommendations from the Domestic Violence/TANF Task Force, there are still some significant provisions that should be included in the information provided in § 141.51(1). These are as follows: (1) a comprehensive description of who is eligible for a time limit waiver based on domestic violence, (2) verification procedures, (3) the period of time for which Extended TANF will be granted, (4) the six (6) month review and (5) the domestic violence services plan.

PENNSYLVANIA

COALITION

AGAINST

DOMESTIC

VIOLENCE

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Ending Violence ~ One Community at a Time, One Home at a Time, One Life at a Time

(1) Eligibility For Extended TANF Based on Domestic Violence

Proposed regulation § 141.51(a)(1) states that Extended TANF is available for families that include a person who is or has been a victim of domestic violence, but refer in subsections (i), (ii), and (iii) **only** to those who have past or present child support and work waivers. The regulations should be revised to provide guidance on Extended TANF for victims of domestic violence who:

- (1) have or had waivers of other program requirements (including those with time-out),
- (2) are experiencing or have experienced domestic violence but do not currently have and did not previously obtain waivers of program requirements, or
- (3) will experience domestic violence in the future and need to return to TANF after a period of time off TANF.

Since victims of domestic violence in all of these circumstances are encompassed within the Family Violence Option as defined by federal regulatory authority, provision should be made in these regulations for their eligibility.

(2) Verification

Inasmuch as § 141.51(a)(1)(i) states that verification of domestic violence is required, the regulations should also set forth the verification procedure itself. In addition to stating that those with child support and work waivers are not required to provide further verification the regulations should also include the verification procedure for those who have not previously provided verification of domestic violence. The regulations should also define the class of individuals who have previously verified and need not produce further verification.

Our understanding is those who do not have to provide further verification include all who have previously verified, including anyone who currently has or previously obtained good cause for program requirement and/or those who have verified domestic violence in order to obtain "time-out".

With respect to those who must still verify, the PCADV strongly recommends the use of a uniform verification form that includes Extended TANF, Time Out and other program requirements. Use of such a form has been recommended by members of the Domestic Violence/TANF Task Force and will make the procedures for Extended TANF consistent with the procedures adopted for support waivers and time-out.

This form would then be used to accompany any one of the following types of verification:

- Documentation;
- Third party verification;
- Self-affirmation.

(3) Six Month Review

The proposed regulations, consistent with federal statutory and regulatory authority, § 141.51(a)(1)(v), require six (6) month review. However, the regulations do not describe this verification process. While discussion between DPW and the Task Force is ongoing and a comprehensive policy on this point has not been finalized, agreement has been reached regarding one point that should be included in the regulations. To the extent that an applicant or recipient has provided verification to support a waiver of any program requirement no further verification must be provided at the 6 month review unless circumstances have changed.

(4) Time Period of Extended TANF

With respect to the period of time for which Extended TANF is granted, the proposed regulations should also include (a) the general Family Violence Option provision that domestic violence waivers shall be “for so long as necessary,” 42 U.S.C. §602, and (b) provide the duration of Extended TANF for victims of domestic violence other than those with good cause waivers for child support or work requirements.

The regulations should clearly state that Extended TANF should be “for as long as necessary.” This federal standard recognizes that domestic violence causes long-term problems that are not within the victim’s control to stop and should be explicitly set forth in the regulations. With respect to those victims of domestic violence who currently have or previously had good cause waivers of program requirements or time-out due to domestic violence, the time period of such waivers or time-out should be the minimum duration of Extended TANF, supplemented by an assessment of need based on current experience of domestic violence or the effects of domestic violence or risk of future domestic violence.

(5) Domestic Violence Plan

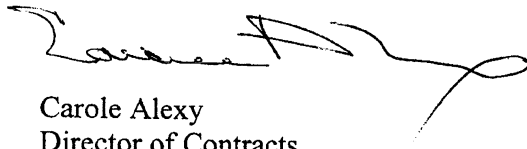
Section 141.51(a)(iv) of the proposed regulations provides for a domestic violence plan that is not entirely consistent with the federal regulations requiring that waivers be “accompanied” by a services plan. 45 C.F.R. § 260.55(c). A

solution to this problem would be to track and cross-reference the federal rule by rewriting the regulation to state:

Extended TANF for a family in which a member is or has been a victims of domestic violence shall be accompanied by a domestic violence services plan that meets the requirements of 45 C.F.R. § 260.55(c).

Thank you for your consideration of these comments. If you have any questions or concerns, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Carole Alexy', with a long, sweeping flourish extending to the right.

Carole Alexy
Director of Contracts



Just Harvest

A CENTER FOR ACTION AGAINST HUNGER

ORT 62NAL. 2244

February 21, 2002

Secretary Feather O. Houston
Department of Public Welfare
Health and Welfare Building
Harrisburg, PA 17120

Dear Secretary Houston:

We are writing on behalf of the Welfare Justice Project in Allegheny County in response to the proposed regulations for the Extended TANF program. The Welfare Justice Project is the Welfare Rights organizing arm of Just Harvest, a Center for Action Against Hunger.

We applaud the Department for proposing regulations that will not terminate from the rolls, the thousands of poor Pennsylvania families that exhaust their 5-year time limit this year. We feared that March 2002 would look much worse for families in poverty and are grateful for the Department's display of compassion at this time.

However, there is much missing from the proposed regulations. We would like to fully endorse the comments and legal opinion of Community Legal Services on this matter and emphasize our concern with several key issues.

We are most concerned by the Department's lack of articulation of both the Work Capacity Assessment (WCA) and the Work Plus Program (WPP).

Work Capacity Assessment. Currently, a majority of the 5-year cohort is non-exempt from RESET. This, apparently, is the group that will "cooperate in obtaining a WCA," to remain eligible for benefits. The absence of a real definition for WCA is deeply troubling. WCA is the process by which the crucial determination of "exempt" or "non-exempt" will be made. If the process fails to accurately identify clients with barriers to working 30 hours a week, we fear that many families will be economically-sanctioned when they cannot meet that work requirement.

Work Plus Program. Among our concerns with WPP are: 1) the vagueness of the proposed regulations; 2) workfare vs. paid work through other work opportunities programs and 3) the illegality of the 30 hour requirement.

Regarding the ambiguity of the proposed regulations, this is extremely problematic when we consider that most of the 5-year cohort is currently in the non-exempt category and will likely be referred to Work Plus. DPW should clearly communicate its plans for WPP before the program starts. Important questions that cannot be answered without specifics

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Just Harvest is an Equal Opportunity/Affirmative Action Employer

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1993 Harry Chapin Food Self-Reliance Award, and the Pa. Public Health Association's 1993 Rodale Award for Health Promotion.

A copy of the official registration and financial information may be obtained from the Pa. Department of State by calling toll-free, within Pa., 1-800-732-0999. Registration does not imply endorsement.

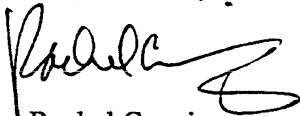
of the plan include: How will WPP move families toward the ever-elusive “self-sufficiency?” What types of work sites will be available to clients?

Secondly, we want to firmly assert that we recognize WPP as “workfare,” and believe that DPW does not have to resort to workfare to accomplish its “work first” goals. States that have already employed workfare strategies have seen troubling results. Pennsylvania should not join them. There are many reasons why paid work is better than workfare. Among them: paid work will more likely lead to more paid work and wages increase eligibility for earned income tax credits and unemployment insurance. DPW should consider expanding its Paid Work Experience Program (currently limited to 6 months of participation). We agree with CLS that DPW’s stated inflexibility on this issue is “unwise,” and very troubling.

Lastly, we are strongly opposed to the implementation of a 30-hour a week work requirement for the Extended TANF/WPP population. Most of the parents who will transition into Extended TANF are already working an average of 20 hours a week, despite 5 years of interaction with DPW Employment and Training staff who have been trying to move them into more hours of work and/or off of TANF. What rationale does DPW have to assume that this population will suddenly be available to spend more hours in a week working? As CLS excellently articulate in their comments, because of the demands of poverty, many TANF recipients are already working as much as they can without neglecting their families. Further, we implore DPW, the IRRRC and the legislature to carefully consider the legality of the 30-hour a week requirement as it is in contrast with the Welfare Code.

Please consider our comments. We feel that welfare policy should accomplish two goals. First, it should provide concrete pathways out of poverty and off of assistance through education, training and work experiences. Secondly, welfare should provide a secure safety net for our most needy families, some of whom may never be able to fully support themselves. DPW’s proposal for Extended TANF is a step in the right direction. Please take the steps necessary to make the policies more likely to succeed for Pennsylvania families.

Very Sincerely,



Rachel Canning
Organizer



Rochelle Jackson
Advocate

CC: IRRRC
Senator Mowery
Senator Hughes

February 21, 2002

Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RECEIVED
2002 FEB 22 PM 12:04

INDEPENDENT REGULATORY REVIEW COMMISSION

Dear Chairman:

I am a board member of People's Emergency Center (PEC) located in West Philadelphia. PEC is a nonprofit agency that provides a continuum of services to help families in Philadelphia break the cycle of homelessness. Our services include a specialized welfare-to-work program for the homeless. I write in response to the Extended TANF plan that was published by the Pennsylvania Department of Public Welfare (DPW) on January 26th.

As a board member, I am concerned about the impact of the proposed regulations on PEC's homeless clients and other women with major barriers to employment. I am also concerned about the impact for PEC and other organizations that need to prepare for a potentially overwhelming increase in demand for services if families reach their welfare time limits and fall through the proposed safety net.

DPW's proposed plan has many positive features. It shows an increasing understanding of the challenges that our communities face in helping move families to self-sufficiency. This plan heads in the right direction by providing all families who need more time to become self-sufficient with an opportunity to receive continued benefits and committing to identifying and addressing barriers to employment.

Four parts of the proposed regulations concern me. These are:

1. Children whose parents do not comply with the rules cannot receive any financial support through the state's longstanding General Assistance program. We need a true safety net for children in the community.
2. The plan does not provide for families with limited English proficiency. These families cannot engage with most employment services or jobs, and have limited opportunities for moving toward self-sufficiency without appropriate services.
3. Families who need short-term emergency help, because of recent unemployment or a temporary disability, will not be effectively served through Extended TANF. DPW could use federal funds to address this problem.
4. Parents who are required to work, and cannot meet the 30-hour work week, will not receive Extended TANF. The 30-hour work week cannot always be achieved, even when a parent wants to be at work 30 hours a week. Parents who have a child with a disability may require more time at home, for example.

Please take the steps necessary to improve Pennsylvania's plans to help families become self-sufficient.

Sincerely,



RON LEWIS

cc: Secretary Feather O. Houstoun
Pennsylvania Department of Public Welfare

**P.O. Box 2675
Harrisburg, PA 17105-2675**



February 21, 2002

Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17120

2002 FEB -1 10:05:52

Dear Members of the IRRC:

I am writing in response to DPW's proposed regulations concerning extended TANF benefits, which were published in the Pennsylvania Bulletin on January 26, 2002. The Jewish Employment and Vocational Service (JEVS) has been providing employment and training services to welfare recipients for many years, and with the passage of PRORA in 1996, our staff has dedicated itself to assisting clients to achieve self-sufficiency through a variety of options made available through the Department of Public Welfare. On behalf of those clients who are faced with multiple barriers and were unable to successfully move off the welfare rolls, we thank DPW for its decision to extend TANF benefits beyond sixty months. Extended TANF benefits are critical given the current recession, loss of jobs in many of the industries that employ entry-level workers and the realization that many still left on the rolls have significant personal barriers to employment success.

We are especially pleased that the proposed regulations commit to identifying barriers to employment and to providing services to address those barriers. However there remain some critical issues, which need to be addressed in order to protect families more completely.

1. They regulations don't acknowledge DPW's existing Time-out program and other rules about the counting of time towards the sixty-month time limit on federally funded TANF assistance.
2. The regulations do not provide for families with limited English proficiency, including immigrants and refugees, who face multiple barriers to employment. These families need extended benefits to engage in specialized services in order to achieve self-sufficiency.
3. The regulations include a provision that if a parent fails to comply with a requirement for extended TANF, the entire family is ineligible for General Assistance. According to our state welfare law, children of parents who have failed to comply with non-work requirements, such as the Maximizing Participation Project, are eligible for General Assistance. Only the parent may be subject to some form of sanctioning.
4. The regulations do not fully implement the Family Violence Option as adopted by DPW. The regulations should provide for waivers of the time limit "as long as necessary" and for families "at risk of further domestic violence" as provided in the federal statute. They should also permit families to qualify for extended TANF benefits whether or not they previously got a waiver of child support or work requirements.
5. Federal law allows the state to use federal TANF funds to provide up to four months of emergency benefits for families dealing with an unemployment or disability crisis without those months counting towards the 60-month time limit. DPW could include language in the regulations

Howard D. Scher, Esq.

Robert H. Hess
Ned J. Kaplin
Adele S. Lipton
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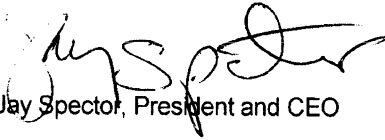
● Page 2

to use these funds to address such emergencies in addition to offering MPP or WPP as options where appropriate.

6. The standards for assessing and determining disability and work exemptions need clarification.
7. The regulations concerning the Work Plus Program require 30 hours per week of participation in work activities, contrary to Act 35, which requires 20 hours per week. The regulations also do not acknowledge that the federal Fair Labor Standards Act requires payment of the minimum wage for required work activities.

Thank you for considering these comments. The modification of the proposed regulations to address the above issues will help all Pennsylvania families to achieve self-sufficiency.

Sincerely,



Jay Spector, President and CEO

Cc: Secretary Feather Houstoun
Department of Public Welfare
Room, 431, Health and Welfare Building
Harrisburg, PA 17126

ORIGINAL: 2244

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Sherry Dunston

Stacy McGinnis

ADMINISTRATIVE ASSISTANT

Katherine Suter



A Womens Way Agency

February 21, 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 Regulations
32 Pa. Bull. 431(January 26, 2002)

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

These comments address the proposed regulations published by the Department of Public Welfare on January 26, 2002 regarding the provision of TANF beyond the 60-month time limit (Extended TANF). We commend the Department of Public Welfare (DPW) for providing the opportunity for Extended TANF to all TANF recipients, including domestic violence victims. In doing so, DPW has appropriately recognized that those who remain on TANF when they reach the 60-month time limit may be in need of additional time and support before they can become self-sufficient.

Our comments focus on those portions of the proposed regulations that address Extended TANF for 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).

By including families with domestic violence in Extended TANF, DPW provides domestic violence victims an essential safe haven in the form of additional time to overcome the barriers to self-sufficiency imposed by domestic violence. Extending TANF benefits is also consistent with DPW's adoption of the Family Violence Option (FVO), 42 U.S.C. § 602(a)(7). The FVO includes procedures to identify victims of abuse in the TANF population, provide referrals to community services, and waive, for as long as necessary, program requirements, **including time limits**, that would harm or penalize battered women and their families. *Id.* DPW's Domestic Violence/TANF Task Force has developed proposals for implementation of Extended TANF under the FVO.

The Family Violence Option

The FVO was included in the legislation authorizing TANF in response to extensive research findings regarding the relationship between welfare and domestic violence. This research 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. At the same time, research also showed that abuse interferes with compliance with welfare requirements, placing women in danger of losing needed benefits, and that 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. As a result, victims of abuse may not be in a position to pursue steps towards self-sufficiency and may need additional time on TANF.

In recognition of the special nature of the barriers facing victims of domestic violence, families with federally recognized time limit waivers based on domestic violence do not count towards the 20% that the state may exempt from time limits on federally funded TANF assistance. 45 C.F.R. § 260.59(a)(2)(ii). Pennsylvania is therefore permitted to address the needs of domestic violence victims without denying other TANF participants the additional time they may need to overcome barriers to self-sufficiency.

DPW must implement Extended TANF for domestic violence victims pursuant to the statutory and regulatory authority promulgated by Congress and the Department of Health and Human Services (DHHS) regarding the FVO. DHHS has adopted regulations governing the FVO which provide extensive guidance on the use of time limit extensions to assist victims of domestic violence. 45 C.F.R. 260.50 – 260.58, 261.52(b)(1), 264.3(b); see also 64 F.R. 17741-17746, April 12, 1999 for explanatory comment. **DPW's adoption of the FVO in its entirety in the state plan submitted to DHHS in January 1997, 27 Pa. Bull. 342, Jan. 18, 1997)(Optional Certification and VI. 15) and renewed in the 1999 state plan, 29 Pa. Bull. 5658 (Optional Certification and**

section VI 18), binds DPW to full implementation of time limit waivers as set forth in federal law. See Appendix A for copies of DPW's Optional Certifications.

DPW's Domestic Violence/TANF Task Force

Implementation of Extended TANF must also be evaluated in light of the proposals by and DPW's agreements with the Domestic Violence/TANF Task Force appointed by DPW to assist it in implementation of the Family Violence Option. Under the leadership of Carolyn Chester, Director, Bureau of Social Services, the Task Force includes 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. Relevant to the Extended TANF regulations is Task Force work on time limit waivers and uniform procedures for all program waivers, which includes waivers of time limits.

Assessing DPW's Regulations Governing Extended TANF for Domestic Violence Victims

While DPW's proposed regulations suggest that it intends to implement Extended TANF consistent with federal authority and Task Force recommendations and DPW representations to that effect, significant provisions are omitted from the limited information provided in § 141.51(1). As discussed below, the regulations fail to include a comprehensive description of: (1) who is eligible for a time limit waiver based on domestic violence, (2) verification procedures, (3) the period of time for which Extended TANF will be granted, (4) 6 month review and (5) the domestic violence services plan. We have included a copy of the portion of DPW's proposed regulations that address domestic violence victims with additions and deletions that reflect the modifications that we believe are necessary to make the regulations consistent with both federal authority and the Task Force recommendations. See Appendix B.

I. Eligibility For Extended TANF Based on Domestic Violence

Proposed regulation § 141.51(a)(1) states that Extended TANF is available for families that include a person who is or has been a victim of domestic violence, but refer in subsections (i), (ii), and (iii) **only** to those who have past or present child support and work waivers. The regulations do not provide guidance on Extended TANF for victims of domestic violence who:

- (1) have or had waivers of other program requirements (including those with time-out),
- (2) are experiencing or have experienced domestic violence but do not currently have and did not previously obtain waivers of program requirements, or
- (3) will experience domestic violence in the future and need to return to TANF after a period of time off TANF.

Victims of domestic violence in all of these circumstances are encompassed within the Family Violence Option as defined by federal regulatory authority and provision should be made in the regulations for their eligibility. HHS regulations provide that time limit relief should be made available to TANF parent/caretakers who are **currently** experiencing domestic violence; those who have been subjected to domestic violence in the **past** and who are struggling to overcome its effects; and those who are at **risk of future** domestic violence. 45 C.F.R. §260.59(a)(1), (2). Accordingly, states may provide time limit relief where, for example, a "current or prior unstable housing situation creates a need for extended assistance", 64 Fed. Reg. at 17746, or a victim was "unable to pursue work or child support for any period of time while [she was] on assistance." *Id.* Time limit relief should also be made "available in the future" based, for instance, "upon [a victim's] current inability to move forward." *Id.*

We do not believe there is disagreement with DPW on the scope of Extended TANF due to domestic violence. DPW has consistently represented to the Domestic Violence/TANF Task Force its intent to provide Extended TANF to those with current, past or future domestic violence whether or not they have a current or past good cause waiver or time-out due to domestic violence. Our recommendations for modification of the regulations are therefore consistent with our understanding of DPW's intention and simply represent necessary edits to fulfill this intent.

Providing Extended TANF to those experiencing domestic violence, the effects of domestic violence or at risk of domestic violence regardless of whether they have or had a good cause waiver or time-out is essential. Domestic violence victims, like all TANF recipients, have been encouraged to pursue self-sufficiency and have had no prior notice or expectation that extended TANF would be available. They may have chosen not to seek a waiver but nevertheless been held back from progressing towards self-sufficiency by domestic violence. Moreover, because development of policy and procedures governing family violence option good cause waivers has taken several years and implementation has not gone smoothly due to the lack of comprehensive training and a single set of clear instructions, domestic violence victims who may have wanted or needed good cause waivers may not have been informed of their availability or been properly evaluated for eligibility. They must not be deprived of the continuing safety net afforded by Extended TANF. Additionally, Extended TANF should be available to families that first experience domestic violence, and therefore need to return to TANF, after having received five years of benefits. Families that had not previously experienced domestic violence would not have previously received a good cause waiver.

II. Verification

Although § 141.51(a)(1)(i) states that verification of domestic violence is required, the regulations do not set forth the verification procedure itself. Instead, the regulations only state that those with child support and work waivers are not required to provide further verification. Thus, the proposed regulation is deficient in two respects. It fails to include the verification procedure for those who have not previously provided verification of domestic violence and it fails to comprehensively define the class of individuals who have previously verified and need not produce further verification.

Those who do not have to provide further verification include all who have previously verified. This includes anyone who currently has or previously obtained good cause for **any** program requirement, including those who have verified domestic violence in order to obtain time-out.

With respect to those who must still verify, we recommend the use of a uniform verification form that includes Extended TANF in addition to other program requirements and time-out. Use of such a form has been recommended by the Domestic Violence/TANF Task Force and will make the procedures for Extended TANF consistent with the procedures adopted for support waivers and time-out as well as with recommendations submitted by the Task Force with regard to time limit extensions, waivers of other program requirements, and uniform procedures. As with the support waivers and time-out, this form would be used to accompany any one of the following types of verification:

- Documentation;
- Third party verification;
- Self-affirmation.

In addition, the regulations should clearly state that any one of these types of verification is sufficient to establish eligibility for Extended TANF.

III. Six Month Review

Consistent with federal statutory and regulatory authority, § 141.51(a)(1)(v) requires 6 month review. However, the regulations do not describe the verification process required at the 6 month review. While discussion between DPW and the Task Force is ongoing and a comprehensive policy on this point has not been finalized, agreement has been reached regarding one point that should be included in the regulations. To the extent that an applicant or recipient has provided verification to support a waiver of any program requirement, DPW has agreed that no further verification must be provided at the 6 month review unless circumstances have changed.

IV. Time Period of Extended TANF

With respect to the period of time for which Extended TANF is granted, the proposed regulation fails to: (1) include the general Family Violence Option provision that domestic violence waivers shall be “for so long as necessary,” 42 U.S.C. §602, and (2) provide the duration of Extended TANF for victims of domestic violence other than those with good cause waivers for child support or work requirements.

The regulations only provide the time period of Extended TANF for those with past or current child support or work waivers. They do not address the time period of Extended TANF for all of those persons to whom DPW intends to provide Extended TANF. As discussed above, this includes victims of domestic violence who:

- (1) have or had waivers of other program requirements (including those with time-out),
- (2) are experiencing or have experienced domestic violence but do not currently have and did not previously obtain waivers of program requirements, or
- (3) will experience domestic violence in the future and need to return to TANF after a period of time off TANF.

The regulations do not provide that Extended TANF should be “for as long as necessary.” This federal standard recognizes that domestic violence causes long-term problems that are not within the victim’s control to stop and should be explicitly set forth in the regulations. Thus, with respect to those victims of domestic violence who currently have or previously had good cause waivers of program requirements or time-out due to domestic violence, the time period of such waivers or time-out should be the minimum duration of Extended TANF, supplemented by an assessment of need based on current experience of domestic violence or the effects of domestic violence or risk of future domestic violence.

V. Domestic Violence Plan

Section 141.51(a)(iv) of DPW’s proposed regulations provides for a domestic violence plan that is not entirely consistent with the federal regulations requiring that waivers be “accompanied” by a services plan. 45 C.F.R. § 260.55(c). The simple solution to correct this problem is to track and cross-reference the federal rule by rewriting the regulation to state:

Extended TANF for a family in which a member is or has been a victims of domestic violence shall be accompanied by a domestic violence services plan that meets the requirements of 45 C.F.R. § 260.55(c).

Conclusion

DPW has repeatedly asserted its intent to fully implement Extended TANF for past, present and future victims of domestic violence. We believe the changes recommended in these comments and reflected in the attached edited regulations are consistent with DPW's assurances and more accurately express the stated intent.

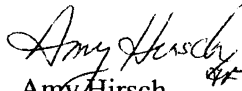
Very truly yours,



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Peter Zurfluh
Community Justice Project
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Harrisburg, PA 17101
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Amy Hirsch
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215-227-2400 ext.2415

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

APPENDIX A

The Commonwealth of Pennsylvania has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

OPTIONAL CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.

The Department of Public Welfare will establish and enforce standards and procedures to:

- * screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;
- * refer such individuals to counseling and supportive services; and
- * waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving TANF assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

CERTIFIED BY THE CHIEF EXECUTIVE OFFICER OF THE STATE:

Date

Tom Ridge, Governor

FUNDING

Section 403(a)(1)(A) provides that each eligible State shall be entitled to receive for each of the fiscal years 1996 through 2002, a grant in an amount equal to the State family assistance grant as defined in section 403(a)(1)(B).

I. Payments to Agency Administering the TANF Program.

Please provide payment for the TANF Program to the same organization administering the AFDC/JOBS programs as of *March 3, 1997*.

II. State Payments for TANF Program

Payments for the TANF Program are to be made to the Pennsylvania Department of Public Welfare.

The Commonwealth of Pennsylvania's estimate for each quarter of the fiscal year by percentage is:

PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.

The Department of Public Welfare will establish and enforce standards and procedures to:

- * screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;
- * refer such individuals to counseling and supportive services; and
- * waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving TANF assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

FUNDING

The information below is provided in accordance with the draft document entitled "State Plan for Temporary Assistance for Needy Families Program" developed by the Department of Health and Human Services, Administration for Children and Families.

Section 403(a)(1)(A) provides that each eligible State shall be entitled to receive for each of the fiscal years 1996 through 2002, a grant in an amount equal to the State family assistance grant as defined in section 403(a)(1)(B).

I. Payments to Agency Administering the TANF Program.

Please provide payment for the TANF Program to the same organization administering the AFDC/JOBS programs as of August 22, 1996.

APPENDIX B

ELIGIBILITY PROVISIONS FOR EXTENDED TANF

§ 141.51. Policy.

(a) In addition to the requirements of Chapter 133, § 141.21 and Chapters 142, 177 and 183, a family may be eligible for Extended TANF as follows:

(1) Eligibility Due to Domestic Violence. A family that includes an adult who has exhausted 60 months of TANF may receive Extended TANF if the adult applicant or recipient or another family member is, or has been, or may in the future become a victim of domestic violence as defined in § 141.52 (relating to definitions). This includes families that currently have or previously obtained good cause waivers of program requirements or time-out due to domestic violence as well as those who have not. Eligibility for Extended TANF under this paragraph is subject to the following:

(i) Verification of Domestic Violence shall be verified.

(A) If the family has not previously had a good cause waiver of TANF child support cooperation, work, or other program requirements or time-out due to domestic violence, the applicant or recipient must provide one of the types of verification specified on the "Verification of Good Cause Based on Domestic Violence" form:

(1) Documentation;

(2) Third party verification; or

(3) Self-affirmation.

Any one of the above forms of verification is alone sufficient to establish eligibility for Extended TANF.

(B) If the family has a current or past good cause waiver of TANF child support cooperation, or TANF work, or other program requirements or time-out due to domestic violence, no further verification is required.

(ii) Duration of Extended TANF. Extended TANF due to domestic violence shall be provided for as long as necessary to address current domestic violence, the risk of future domestic violence, or the effects of domestic violence.

(A) An applicant or recipient who has or had ~~was granted~~ a good cause waiver of TANF child support cooperation, ~~or TANF work, or other program requirements or time-out due to domestic violence~~ shall at a minimum may be provided receive Extended TANF for ~~at the~~ period of time equal to the period of time that ~~the~~ such good cause waiver(s) or time-out is or was in effect. At the end of this period of time, the family's situation shall be reviewed and Extended TANF shall continue if the family is experiencing domestic violence or the effects of domestic violence, or is at risk of further

domestic violence.

(B) An applicant or recipient who does not or has not had a good cause waiver of TANF program requirements or time-out due to domestic violence but is experiencing domestic violence or the effects of domestic violence or is at risk of further domestic violence shall be provided Extended TANF as long as necessary to address the domestic violence.

~~(iii) An applicant or recipient who has a current waiver of TANF child support cooperation or TANF work requirements due to domestic violence may receive Extended TANF during the period the waiver is in effect, subject to periodic review in accordance with subparagraph (v).~~

~~(iiiv) Domestic Violence Services Plan. Extended TANF due to A family in which a member is or has been a victim of domestic violence shall be accompanied comply with by a domestic violence services plan that meets the requirements of 45 C.F.R. §260.55(c) developed with a person trained in domestic violence services.~~

(iv) Six Month Review. Eligibility for Extended TANF shall be reviewed at least every 6 months. No additional verification shall be required unless the family's circumstances have changed.

(vi) The adult whose family is ineligible for Extended TANF under this paragraph may qualify for Extended TANF or GA under paragraph (2) or (3).

Date: February 18, 2002

Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Chairman:

I write in response to the Extended TANF plan that was published by the Pennsylvania Department of Public Welfare.

This plan has many positive features. It shows an increasing understanding of the challenges that our communities face in helping move families to self-sufficiency. This plan heads in the right direction by:

1. Providing *all* families who need more time to become self-sufficient with an opportunity to receive continued benefits.
2. Committing to identifying barriers to employment – and to providing services to address those barriers.

Four parts of the proposed regulations concern me. These are:

1. Children whose parents do not comply with the rules cannot receive any financial support through the state's longstanding General Assistance program. We need a true safety net for children in the community.
2. The plan does not provide for families with limited English proficiency. These families cannot engage with most employment services or jobs, and have limited opportunities for moving toward self-sufficiency without appropriate services.
3. Families who need short-term emergency help, because of recent unemployment or a temporary disability, will not be effectively served through Extended TANF. DPW could use federal funds to address this problem.
4. Parents, who are required to work, and cannot meet the 30-hour work week, will not receive Extended TANF. The 30-hour work week cannot always be achieved, even when a parent wants to be at work 30 hours a week. Parents who have a child with a disability may require more time at home, for example.

Please take the steps necessary to improve Pennsylvania's plans to help families become self-sufficient.

Sincerely,

Lisa Y. Smith

6725 N. Lawrence St., Phila. PA. 19126

cc: Secretary Feather O. Houstoun
Pennsylvania Department of Public Welfare
P.O. Box 2675
Harrisburg, PA 17105-2675

2002 FEB 19 AM 9:05
INDEPENDENT REGULATORY REVIEW COMMISSION

IRRC

ORIGINAL: 2244

From: Lisa Smith [Lsmith@pec-cares.org]
Sent: Monday, February 18, 2002 6:02 PM
To: IRRC
Subject: Welfare Reform
<<Independent Regulatory Review Commission.doc>>

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2002 FEB 19 AM 8:05
INDEPENDENT REGULATORY
REVIEW COMMISSION

Visit us at <http://www.pec-cares.org>

Original: 2244



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February 19, 2002

Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Chairman:

I am the Social Services Director of the People's Emergency Center, Philadelphia's oldest private family shelter, providing emergency shelter, transitional housing, case management, educational programs, job training programs and referral services to homeless women and children in the City of Philadelphia. I am writing in response to the Extended TANF plan which was recently published by the Pennsylvania Department of Public Welfare.

While generally this plan acknowledges the barriers we face in helping poor families meet the requirements of the state's welfare reform programs, there are major problems which are not met. These include:

1. The proposed Work Plus Program essentially requires that parents unable to secure employment of their own must work 30 hours/week to receive their welfare grants. This policy is iniquitous, in that it allows for parents to be required to work at an hourly that would be below the minimum hourly wage that is set by the federal government. It is unclear who would benefit from this plan; an obvious beneficiary would be whatever agency, private or public gains the benefit of this unpaid labor. There is no perceivable benefit to the TANF recipient, other than keeping her welfare check; there is no provision for the type of job, training, or hiring. This policy would be eminently challengable under existing labor laws, and should be discarded.
2. Children whose parents have not complied with existing rules cannot receive any financial support through the state's General Assistance program. It cannot really be the state's intent to allow children to have no means of support. Unless the state has plans to vastly increase the budget for foster care and related services (an undesirable outcome at best) it must take into account the need for ongoing support for these children.
3. The plan contains no provision for families with limited English proficiency. These families are extremely hard to employ, and they will need additional services to move into stable employment.
4. Families needing short-term emergency assistance because of recent unemployment temporary disability or other personal crisis will not be effectively served through the



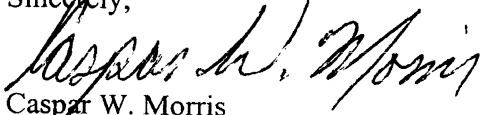
A United Way Agency

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.

5. proposed Extended TANF plan. It might be possible for the state to utilize federal funds to remedy this issue.

I hope that you will consider these issues and find a way to address them.

Sincerely,



Caspar W. Morris
Social Services Director
People's Emergency Center

cc: Secretary Feather O. Houston
Pennsylvania Department of Public Welfare
P.O. Box 2675
Harrisburg, PA 17105-2675



ORIGINAL: 2244

CITY OF PHILADELPHIA

RECEIVED
FEB 15 2002
CITY OF PHILADELPHIA

DEPARTMENT OF HUMAN SERVICES
1515 Arch Street, Philadelphia, PA 19102
(215) 683-4DHS (4347)

Commissioner
ALBA E. MARTINEZ

Deputy Commissioners
ANNE MARIE AMBROSE
RUSSELL J. CARDAMONE, JR.
WANDA MIAL
CHERYL RANSOM

February 15, 2002

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

Re: DPW Proposed Regulations/ Extended TANF

Dear Members of the IRRC:

I want to thank the Department of Public Welfare for its decision to provide extended TANF benefits beyond sixty months for families facing a variety of barriers, including domestic violence, disabilities and other obstacles to finding and keeping jobs. Extended TANF benefits are especially critical given the current recession and loss of jobs in many of the industries that employ low-income parents. However, I am concerned that the proposed regulations fail to adequately protect children in the neediest families, and I am writing to urge reconsideration of the proposed regulations.

The proposed regulations are flawed in their treatment of children whose parents are not eligible for extended TANF benefits. Under the proposed regulations, if a parent fails to comply with a requirement for Extended TANF, the entire family is ineligible for General Assistance. This provision is a violation of Pennsylvania's state General Assistance statute. Our state welfare law is very clear that, except for violations of the work requirements, only the individual who fails to comply with the rules is ineligible. Children of parents who have failed to comply with the Maximizing Participation Program, or with other non-work requirements, are eligible for General Assistance. Failure to provide for the maintenance of benefits for these children poses a serious risk to their safety and well-being, a primary responsibility of the Department of Public Welfare.

The proposed regulations don't provide for short-term emergency benefits, a provision also important to the safety and well-being of children. Federal law clearly allows the state to use federal TANF funds to provide up to four months of benefits for families dealing with a

crisis-including unemployment, homelessness, or other problems- without those months counting towards the 60-month time limit. Recently unemployed parents may just need temporary help while they are looking for another job. A short-term emergency assistance program that will allow the family time to re-enter the workforce makes more sense than putting these parents into DPW's proposed MPP or WPP programs, and may avert the kind financial crisis that frequently results in family separation.

Supporting low-income families is another priority from the perspective of child welfare. Federal law permits the provision of "non-assistance" benefits to needy families and DPW should consider establishing a monthly stipend program to help low-wage workers meet transportation and other work expenses. Monthly stipends for poor working families are consistent with the Department's philosophy to "make work pay", and the resulting economic benefits can promote family stability by alleviating some of the stress associated with low wage work.

Thank you for considering these comments before approving final regulations.

Sincerely,



Alba E. Martinez
Commissioner

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



ST. MATTHEW A.M.E. CHURCH
and Richard Allen Youth Center
The Rev. Ellis I. Washington, M.DIV., Pastor

February 16, 2002

Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Chairman:

I write in response to the Extended TANF plan that was published by the Pennsylvania Department of Public Welfare.

This plan has many positive features. It shows an increasing understanding of the challenges that our communities face in helping move families to self-sufficiency. This plan heads in the right direction by:

1. Providing *all* families who need more time to become self-sufficient with an opportunity to receive continued benefits.
2. Committing to identifying barriers to employment – and to providing services to address those barriers.

Four parts of the proposed regulations concern me. These are:

1. Children whose parents do not comply with the rules cannot receive any financial support through the state's longstanding General Assistance program. We need a true safety net for children in the community.
2. The plan does not provide for families with limited English proficiency. These families cannot engage with most employment services or jobs, and have limited opportunities for moving toward self-sufficiency without appropriate services.
3. Families who need short-term emergency help, because of recent unemployment or a temporary disability, will not be effectively served through Extended TANF. DPW could use federal funds to address this problem.
4. Parents, who are required to work, and cannot meet the 30-hour work week, will not receive Extended TANF. The 30-hour work week cannot always be achieved, even when a parent wants to be at work 30 hours a week. Parents who have a child with a disability may require more time at home, for example.

Please take the steps necessary to improve Pennsylvania's plans to help families become self-sufficient.

Sincerely,

Ellis I. Washington, Pastor
cc: Secretary Feather O. Houston
Pennsylvania Department of Public Welfare
P.O. Box 2675
Harrisburg, PA 17105-2675

Fifty-Seventh and Summer Streets
Philadelphia, PA 19139

Phone: (215) 472-4784
Fax: (215) 472-5544
Email: pastorellis@stmatthewamephila.org

Original; 2244
Independent Regulatory Review Commission
333 Market St.
Harrisburg, PA 17120

2012 JUN 23 AM 8:43

Re: DPW Proposed Regulations/ Extended TANF

Dear Members of the IRRC:

I am writing to urge changes to DPW's proposed regulations concerning extended TANF benefits, which were published in the Pennsylvania Bulletin on January 19, 2002. I want to thank DPW for its decision to provide extended TANF benefits. I am very pleased that the proposed regulations provide for benefits beyond sixty months for families facing a variety of barriers, including domestic violence, disabilities and other obstacles to finding and keeping jobs. Extended TANF benefits are especially critical given the current recession and loss of jobs in many of the industries that employ low-income parents.

However I am concerned that the proposed regulations fail to protect needy families enough. The proposed regulations do not consider the needs of families with limited English proficiency at all, and are seriously flawed in their treatment of children whose parents are not eligible for extended TANF benefits, survivors of domestic violence, and families with disabilities. They don't acknowledge DPW's existing Time-out program and other rules about the counting of time towards the sixty-month time limit on federally funded TANF assistance, and don't provide for short term emergency benefits, which federal law permits. 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 acknowledgment at all of the problems faced by families with limited English proficiency, in violation of Title VI of the Civil Rights Act of 1964.*** Families with limited English proficiency, including immigrants and refugees, face particularly difficult barriers to employment. In addition, DPW has not provided English as a Second Language programs or vocational training in languages other than English, and has not given families with limited English proficiency access to the full range of welfare to work programs. The regulations should provide for extended TANF benefits for families with limited English proficiency, and should provide for services to address their needs.

●**The regulations punish children whose parents are not eligible for extended TANF benefits, in violation of Pennsylvania's state General Assistance statute.** The regulations say that if a parent fails to comply with a requirement for Extended TANF, the entire family is ineligible for General Assistance. Our state welfare law is very clear that, except for violations of the work requirements, only the individual who fails to comply with the rules is ineligible. Children of parents who have failed to comply with the Maximizing Participation Program, or with other non-work requirements, are eligible for General Assistance.

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

regulations do not fully implement the Family Violence Option as adopted by DPW and the recommendations of DPW's own Domestic Violence Task Force. The regulations should provide for waivers of the time limit "as long as necessary" and for families "at risk of further domestic violence" as provided in the federal statute. They should also permit families to qualify for extended TANF benefits whether or not they previously got a waiver of child support or work requirements.

●**The regulations don't provide for short-term emergency benefits.** Federal law clearly allows the state to use federal TANF funds to provide up to four months of benefits for families dealing with a crisis—including unemployment, homelessness, or other problems—without those months counting towards the 60 month time limit. Recently unemployed parents may just need temporary help while they are looking for another job. A short-term emergency assistance program would make more sense than putting these parents into DPW's proposed MPP or WPP programs.

●**The regulations don't provide for the Time-Out program, or other situations in which months of assistance don't count towards the 60 month time limit on federally funded TANF assistance.** Months shouldn't count towards the time limit if the family has been given a Time-Out, or is getting cash assistance that is state funded, rather than federally funded, or if DPW has been fully reimbursed (for example through child support).

●**There are problems with DPW's plans for assessing disabilities and other barriers to employment.**

●**The regulations concerning the Work Plus Program violate state and federal law.** The regulations require 30 hours per week of participation in work activities, in violation of Act 35, which requires 20 hours per week. Furthermore, the regulations don't acknowledge that the federal Fair Labor Standards Act requires payment of the minimum wage for required work activities.

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

Sincerely,

Rochelle Daniels

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

*K. Daniels
213 E. Bravers Lane
Philadelphia, PA 19118*

Maternity Care Coalition

Strengthening families, one baby at a time

RECEIVED
2002 FEB 20 AM 8:47

REVIEW COMMISSION



ORIGINAL: 2244

2000 Hamilton Street
Suite 205
Philadelphia, PA 19130
Tel: 215. 972. 0700
Fax: 215. 972. 8266
www.momobile.org

February 14, 2002

Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17120

Dear IRRC Chairman:

Enclosed are Maternity Care Coalition's comments on the Department of Public Welfare's proposed Extended TANF Regulations.

Please call me at (215) 972-0700 with any questions.

Sincerely,

Natalie Sondheimer
Public Benefits Coordinator



A United Way Agency

Maternity Care Coalition

Strengthening families, one baby at a time

ORIGINAL: 2244

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February 15, 2002

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

2000 Hamilton Street
Suite 205
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 proposed Extended TANF regulations published in the Pennsylvania Bulletin on January 26, 2002. 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*, MCC staff help parents negotiate the TANF/RESET program, supporting them in enrolling in and completing education and training or receiving work exemptions when necessary.

In November 2001, MCC urged DPW to reconsider plans to impose the 60-month TANF time limit without exception. As you recall that plan would have effectively eliminated the safety net for thousands of vulnerable Pennsylvania families. We are very pleased that DPW responded favorably. The current proposed regulations acknowledge the reality that many parents still cannot support their families even after 60 months of participation in TANF/RESET. In these proposed regulations, DPW has begun to define the barriers facing this group of families and has proposed a process to assess and assist them according to their individual needs. MCC strongly endorses this concept!

However, experience has taught us that when it comes to the implementation of complex social programs, "the devil is always in the details." Therefore, MCC urges DPW to consider the following refinements to the proposed regulations. We believe that these suggestions will contribute to our mutual goal of helping families to achieve self-sufficiency while preserving the safety net for the Commonwealth's most vulnerable families.



- The *Maximizing Participation Project* (MPP) has shown early promise in appropriately assessing the needs of parents with the most complex barriers to self-sufficiency. These parents need the personalized approach that MPP provides in order to be appropriately diagnosed. MCC urges DPW to **adequately fund** the MPP so that this program can maximize its potential to either rehabilitate and educate this group of post 60 month TANF participants for family sustaining employment, and move parents who **cannot** work into more appropriate and permanent programs of long term support.
- Transition to Extended TANF will be problematic for the most vulnerable families. The very families who will qualify for the Maximizing Participation Project--those families experiencing physical and mental health barriers to employability--will have difficulty taking the required proactive steps to enroll in the program. We urge the department to continue the efforts of the Community Connections Initiative to educate and assist families with this process. We also urge DPW to take the necessary administrative steps to counter large-scale cutoffs of eligible participants in Extended TANF. Such unnecessary cutoffs will require the expensive and time-consuming process of massive re-enrollment for local DPW staff, as well as place unnecessary financial hardship on these families.
- MCC seeks clarification of where mothers who are using the young child work exemption fit into the Extended TANF program. Will they be channeled into MPP or Work Plus? The regulations are vague for this group. MCC recommends that they be eligible for participation in MPP.
- In order for the Work Plus Program to effectively move parents toward self-sufficiency, DPW must maximize its use of the *Paid Work Experience* programs. If necessary these programs should be extended and expanded. Although, it has taken longer than anticipated for some of these programs to get fully underway, current participants in *Paid Work Experience* programs are getting high quality, skill-focussed training and education. Parents in Work Plus need the opportunity that the *Paid Work Experience* programs offer to work at **real jobs with real wages**. (This is the most successful aspect of the paid work experience--it offers a real paid job with performance requirements in a sheltered, training-oriented environment.) In such an environment parents can succeed in gaining the skills necessary for ongoing employment. As a work site for one such program, MCC has found that even participants facing high barriers to employment can succeed. However, it often takes longer than six months for them to do so. **Community Service for which participants would receive only their subsistence TANF allowance is a step backward.** MCC strongly recommends that Work Plus utilize a range of training and

work options, including paid work experience, **extending the opportunity to participate in such programs to up to 12 months.**

- The proposed regulations do not adequately address the needs of families who are working but due to low wages, large family size, or limited available hours of work, require ongoing cash assistance to meet their family's basic needs. MCC recommends that these individuals work with the existing Retention and Advancement Programs (RARE) to get the help they need to move up the job ladder. They should definitely not be required to perform community service for no wages to maintain their TANF supplement. Such "make work" serves neither the Commonwealth nor the individual. It is in everyone's interest to assist these Extended TANF participants to use their time to pursue educational and training opportunities that will enhance their employability.
- MCC believes that a significant number of the 4,688 parents identified by DPW as non-exempt have limited English proficiency. Without English language skills these adults cannot get work. MCC urges DPW to include English language education and literacy training as part of the Work Plus program.
- The proposed regulations do not include any mention of the Sanction Review Process for participants in Extended TANF. We urge the continuation of this effective internal review process. MCC's experience with the sanction review process has been positive. On several occasions, we have worked collaboratively with administrative staff at the local DPW offices to help parents **comply** with TANF requirements and **avoid** proposed sanctions. The review process allowed our staff sufficient time to assist clients to successfully take the steps necessary for compliance without facing the serious hardships inherent in the loss of income. Elimination of the sanction review process would create an additional barrier to families working toward compliance. MCC urges the **inclusion** of the sanction review process in the Extended TANF program.
- MCC encourages the Commonwealth to utilize federal "non-assistance" and state-funded General Assistance when necessary to insure that an adequate safety net is maintained for families who are at risk of having no means of support and cannot participate in extended TANF. For example: provision of short-term emergency benefits for families facing homelessness or sudden loss of a job when emergency assistance is necessary and participation in either MPP or Work Plus might not be necessary or appropriate.

The well being of children whose parents face significant barriers to self-sufficiency is our mutual responsibility. As guardian of public welfare for the Commonwealth, DPW must make sure that we maintain a safety net for these

children while working to help their parents move out of poverty into real self-sufficiency.

Thank you for your attention to this response.

Very truly yours,

A handwritten signature in black ink, appearing to read "Natalie S. Sondheimer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Natalie S. Sondheimer, LSW
Public Benefits Coordinator

cc: Secretary Feather O. Houstoun
Independent Regulatory Review Commission
Governor Mark Schweiker
Representative Frank Oliver
Representative Dennis O'Brien
Senator Vince Hughes
Senator Harold Mowery



WELFARE JUSTICE PROJECT

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

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,

A handwritten signature in cursive script that reads "John R. Anderson". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

