



2549

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

Louise E. Hayes
 Staff Attorney
 Direct: 215.227.2400 x2421
 Email: L.Hayes@clsphila.org

By fax: (717) 783-2664 and by
 email: irrc@irrc.state.pa.us

November 27, 2006

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

INDEPENDENT REGULATORY
 REVIEW COMMISSION

2006 NOV 27 PM 1:32

RECEIVED

Re: **Comments on DPW Final Form
 Child Care Regulations,
 55 Pa. Code Chapter 168
 Regulation 14-505**

Dear Members of the IRRC:

We write to urge you to vote "no" on the Department of Public Welfare's final form child care regulations which will be before you this Thursday, November 30. We oppose these regulations for two reasons: (1) DPW has not addressed concerns raised by the IRRC, the Pennsylvania Child Care Campaign, and Community Legal Services about its overly-rigid new requirement for parents to attend a face-to-face interview within 30 (or in some cases 60 days) of their need for child care, and (2) the final form regulations remove all references to child care subsidies for food stamps and General Assistance recipients, which had laudably been included in the proposed regulations, leaving no mechanism for payment of subsidies to food stamp and GA families.

Face-to-face interview requirement: Most importantly, the regulations mandate that mothers on welfare go to a face-to-face meeting at the CCIS within 30 (or in some cases 60) days of needing child care or lose eligibility. As we argued when the regulations were first proposed, we believe this meeting is yet another bureaucratic hoop for busy single mothers to jump through, at the same time that DPW is ramping up welfare work requirements. We believe that the information to be supplied at the CCIS interview could far more conveniently be given in writing or over the phone.

Not everyone agrees that this is a strong enough reason to oppose these regulations, and we have been amenable to compromise. Along with the PA Child Care Campaign and the IRRC itself, we argued to DPW that the way it had drafted the face-to-face interview regulation was too strict and didn't leave enough leeway to accommodate mothers who had trouble getting to the

CCIS because of hardships. Both CLS and the Campaign suggested alternative language to build in flexibility to accommodate various hardships.

Our key recommendation involved mothers whose subsidy is cut off because they missed the interview. CLS and the Campaign urged DPW to reinstate eligibility back to the date of cut-off once a mother comes in for the interview: DPW's goal should be to have the mother go to the interview, not to punish her, her child, and her provider for her lateness. Without this change, many mothers will lose subsidy, causing hardships to families and paperwork hassles and payment problems to providers.

In general, the regulations do not give CCISes discretion to extend the 30-day interview period for reasons not listed in the regulations, and do not require the CCIS to grant extensions when fairness clearly requires them to do so. For example, a mother who never got a letter scheduling the appointment (due to mail delivery problems), and who therefore missed the 30-day window, will lose eligibility for a period of time through no fault of her own. The regulations do not give the CCIS discretion to rectify this situation.

DPW has ignored our suggestions, saying only that our proposed changes would not be "appropriate." We maintain that it is always appropriate to make regulations respond to the likely events that will occur in the real world, where mail sometimes goes astray, where children get sick and where cars break down. We continue to believe that the regulations give the CCISes insufficient flexibility, and will cause unnecessary hardships to families who could not make the interview within the mandated time. The regulations should be rejected so DPW can correct this problem.

Lack of authority to pay for subsidies for food stamp and General Assistance recipients:

The proposed regulations laudably corrected a confusing omission in the current Chapter 168 regulations on child care eligibility: the existing regulations only cover TANF recipients, although both food stamp and GA recipients are also eligible for child care subsidies under 55 Pa. Code § 165.41(a). The omission of food stamp and GA families could lead a casual reviewer, looking under the regulatory heading of "Child Care" in Chapter 168, to believe that food stamp and GA households are ineligible. The proposed regulations' incorporation of food stamp and GA households into Chapter 168 was a sensible step toward regulatory clarity. Unfortunately, the final form regulations reverse that positive step, and, what's worse, undermine DPW's stated goal of child care unification by leaving the CCISes with no authority to pay for subsidies for food stamp and GA households.

DPW has acknowledged to us that its final form regulations do not include food stamp or GA households. The key regulation that authorizes payment is §168.1(a), which covers only cash recipients and not food stamp recipients. And two other proposed final regulations, §168.17 and especially §168.18(a), extend subsidy eligibility only to members of "budget groups," who by the definition of that term in §168.2 are only TANF recipients – excluding GA households as well as food stamp households.

DPW's reversal of its proposal to add food stamp and GA households to the regulations

would be unfortunate but not harmful if it was not also planning to delegate authority to the CCISes to make all child care payments on behalf of the Department. But DPW has, however inadvertently, failed to provide the CCISes with authority to make child care subsidy payments for food stamp and GA families. This omission leaves food stamp and GA families without a clear source of child care payment, undermining DPW's stated goal of unification of the child care subsidy program.

DPW's final form § 168.4 provides that

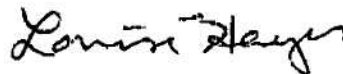
The Department may delegate to another approved entity, such as the CCIS, the responsibilities *set forth in this chapter* for the purpose of administering subsidized child care. (Emphasis added.)

By providing authority for the CCISes to assume only the responsibilities set forth in Chapter 168 – and deleting its proposed inclusion of food stamp and GA families from Chapter 168 – DPW has restricted the CCISes to making payments only for TANF families. Food stamp and GA families will still be eligible for child care under chapter 165, but the CCISes will lack authority to make those payments. By default, payments will presumably have to continue to be made by the County Assistance Offices, in contravention of DPW's stated purpose to “establish consistent policies for administration and payment for subsidized child care within the Office of Income Maintenance and Office of Child Development.” Or, if DPW intends to have the CCIS agencies administer subsidies to food stamp and GA households in contravention of § 168.4 (as DPW has told us it plans to do), it will be making a sham of the very regulations it is now proposing, in violation of all notions of good government.

We believe these two flaws to be too serious for the IRRC to overlook. We urge you to reject these regulations so that DPW can correct these errors.

Thank you for your consideration of these comments.

Sincerely,



Louise Hayes, Supervising Attorney
Richard P. Weishaupt, Senior Attorney