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Temporary Assistance for Needy Families (TANF), Interim Final Rule

The Child Welfare League of America (CWLA) submits the following comments on the interim final rule to implement the statutory changes enacted in the reauthorization of Temporary Assistance for Needy Families (TANF) as part of the Deficit Reduction Act of 2005 (DRA), which was published in the Federal Register on June 29, 2006.

The Importance of the TANF Block Grant

Since 1996 the TANF block grant has come to represent a significant source of support for child welfare services, with TANF funds supplying approximately 20 percent of total federal support for a range of services in the child welfare field. In addition, at its peak, TANF has also supplied nearly fifty percent of total federal spending on child care. In the early years of TANF this flexibility in funding resulted in dramatic increased spending in both areas. Further, the ability to use TANF funds in support of some kinship placements is vital in light of a lack of other federal supports for this important child welfare permanency option.

With the reauthorization of TANF no additional funds were provided for the block grant. This means that at the end of this new reauthorization period TANF funding will have been locked in place for fifteen years. Additionally the TANF reauthorization provided almost no increase in child care mandatory funds, unlike the 1996 legislation. With the inevitable erosion of TANF funds and the strains placed on TANF funding as programs continue to try and reduce caseloads, other vital human service programs will also be affected. The decision not to increase TANF and child care funding, and the fact that the reauthorization places a heavy emphasis on reducing caseloads above all other goals, means that these interim final rules take on added significance. An

example of this is where regulation may make it more difficult to place adults into permanent and well paying jobs.

TANF in 1996 and 2006

The most visible measure that has been used to judge the impact of the 1996 changes has been the declining number of families and children receiving cash assistance. Caseloads have decreased by more than 50 percent. CWLA believes a more comprehensive approach should be used to fully assess TANF including how families who have left assistance are doing. This is especially important to the well being of children in these families. If the unemployed poor have become the working poor then the task is not complete. It is also critical to conduct an evaluation of TANF and the changes made by the 1996 legislation against the backdrop of a booming economy. Decreases in the caseload were no doubt helped by a strong economy with unemployment also decreasing from 5.6 percent in 1995 to below 4.0 percent in 2000. At the same time, the country also experienced an increase in the number of those participating in the workforce, with a rate sometimes exceeding 67 percent outstripping labor participation rates and demand for labor in previous decades or in this decade. There was a great demand for workers and this economic setting gave the implementation of TANF an added boost and helped move people off assistance in numbers we have not experienced since 2000.

These factors are not present today and in fact the nation has experienced an increase in the poverty rate throughout this decade. While the reduction in caseload numbers of families and children remaining on public assistance has caught the attention of both press and policymakers as a quick measure of success, it is a measure we feel is lacking in many crucial ways. Although the number of children in poverty declined in the second half of the 1990s, it leveled off and in fact increased from 16.2 percent in 2000 to 17.8 percent in 2004 with one and a half million more children in poverty in 2004 compared to 2000.

The reauthorization of TANF should have been a platform to discuss and debate how best to address the barriers facing those still reliant on TANF as well as those who have left assistance but whose economic struggles continue. The final reauthorization focused too much on national numbers while very little attention was paid to the well being of families and children still reliant on TANF cash assistance and the myriad of human service programs dependent on TANF funding.

Regardless of changes enacted by the 2006 reauthorization, the challenges of removing barriers to successful and permanent employment among TANF recipients remain. Such barriers include, but are not limited to, substance abuse, mental health issues, domestic violence, the presence of learning disabilities and a range of concerns in relation to the needs of two-parent

families on public assistance. How those barriers are – or are not – addressed will have a significant impact on the well being of many families and children.

The 2006 Regulations

In issuing the final regulation for TANF in April 1999, HHS indicated that the law and the regulations represented “widespread bipartisan agreement on a number of key principles:

- Welfare reform should help move people from welfare to work.
- Welfare should be a short-term, transitional experience, not a way of life.
- Parents should receive the child care and health care they need to protect their children as they move from welfare to work.
- Child support programs should become tougher and more effective in securing support from absent parents.
- Because many factors contribute to poverty and dependency, solutions to these problems should not be “one size fits all.” The system should allow States, Indian Tribes, and localities to develop diverse and creative responses to their own problems.
- The Federal government should focus less attention on eligibility determinations and place more emphasis on program results.
- States should continue to make substantial investments of State funds in addressing the needs of low-income families”.

CWLA is greatly concerned that the regulations issued and the conditions set by the new reauthorization fly in the face of many of these seven key principles. We are concerned about how these regulations may impact the ability to address mental health or substance abuse-related barriers to permanent work. Overly prescriptive restrictions concerning the definition of days and hours off, limitations on the use of education to meet work requirements, and some of the data collection requirements seem to strike at the very concept outlined in the sixth principle recommending that we place more emphases on program results rather than eligibility determination. The regulations also seem to undercut the principle that “one size does not fit all”. These regulations should emphasize that States, Indian Tribes and localities should be encouraged to develop diverse and creative responses to their own problems.

All of these factors point to the need for HHS to assist states in strategies that can help move people into permanent decent paying jobs. To do this will require effective strategies dealing with health, substance abuse, domestic violence and other barriers to work. It will also require creative strategies that seek not just to reduce caseloads as a simple, yet incomplete measure of progress, but strategies that assist families and above all improve the well being of children in those families. In light of these concerns CWLA offers the following specific recommendations.

Child-only families

TANF funds have been an important source of funding for states implementing a kinship program as part of their child welfare system. The 1997 Adoption and Safe Families Act (ASFA) recognized kinship placements as one of the three permanency options for children in the child welfare system. In both the preamble and in Section 261.2 (n), definitions, it is implied, but never clarified, that these kinship families are not included in the “work-eligible” category of adults. We recommend this be strengthened and made clear that these important kinship providers continue to be exempt from work requirements.

Community Service Definitions

CWLA has concerns about some of the new restrictions created by the definitions in regard to various work categories. We feel that TANF can be strengthened with a greater focus on helping adults with barriers to work to overcome these barriers. Instead, some of the new restrictions seem to move in just the opposite direction. This is particularly true regarding their application to community service programs that provide needed mental health and substance abuse services and that under the new rule may not be categorized as work.

The President’s New Freedom Commission on Mental Health asserted that our nation’s failure to prioritize mental health is a national tragedy. Nowhere is this more evident than among children in foster care who have extensive mental health needs, as most have experienced some form of abuse or neglect and suffer from being separated from their families. Through the Child and Family Service Reviews, (CFSRs) the U.S. Department of Health and Human Services has documented concerns about states’ abilities to adequately meet the mental health needs of children and families. Most states have included actions in their Program Improvement Plans (PIP) in response to the CFSR’s plans to better address the mental health needs of children and families in the child welfare system.

According to research, children with a substance-abusing parent show greater adjustment problems and behavioral, conduct, and attention-deficit disorders than other children without substance abusing parentsⁱ. The only measure that clearly provides a positive outlet for children and families of substance abuse is if specific strategies and resources are in place to address the substance abuse of the parent or guardian.ⁱⁱ

Substance abuse is a treatable public health problem with cost-effective solutions. Good assessment, early intervention, and comprehensive treatment are key components in ameliorating substance abuse problems.

The language included in section 261.2(h) and the preamble language in particular would restrict the use of substance abuse treatment and mental health services as well as other important programs such as family violence

counseling, from this category of work. Community service programs are designed to improve the employability of adults in TANF. If they address some of these critical health issues they are also addressing a significant issue in the child welfare field. It is unclear why HHS is seeking to overturn the practices of some TANF programs to address these areas of concern. If the goal is to move adults into work we find it difficult to imagine that programs addressing substance abuse, mental health and domestic violence are a hindrance to such goals. We recommend that community service programs not be restricted in this way and the definitions in community service be corrected accordingly.

Job Readiness/Job Search Activities

The restrictions imposed in this category 261.2 (g), combined with the other restrictions such as those in the community service definition, may add to the barriers of moving individuals with a substance abuse or mental health issue into work. While placing individuals into a substance abuse or other treatment program is specifically allowed in this category, this category has always been limited to six weeks. The six-week limitation may fit the needs of some adults but one size may not fit all situations. CWLA is also concerned that the preamble highlights the fact that the new definitions proposed under job readiness would eliminate some state programs that incorporate activities “that are essential to the health, safety and welfare of families.” Examples are then cited of some programs have initiated activities, including child’s dental checkups, school attendance, and other similar activities. While these may not seem like job readiness programs, we would argue that a stable and secure family setting is essential to an employee being able to perform their job at the level required in today’s workforce. Again we recommend the new definitions in 261.2 be corrected to allow the continued use of job readiness programs that address these family issues.

Vocational Education

Education is an important step toward a job that pays enough to lift a family out of poverty. The original TANF law created a one-year limitation on the use of vocational education and the accompanying regulations left states some leeway in how they used this education provision. Some states, for example Maine with its Parents as Scholars program, used education in a way that was both innovative and successful. The significance of a college education in an increasingly competitive world makes clear the value of such educational efforts. This is especially true for these families where we hope the goal is not just to reduce caseloads but to move adults and their families to achieve substantial employment.

CWLA recommends that Section 261.2 (i) be revised. In particular there should not be a limitation in regard to the use of baccalaureate educational training. We also have concerns regarding the inability to structure these programs to include the counting of homework. Again these are families with significant challenges and to add a new restriction on whether or not an education

program can include homework and home-based education seems counterproductive. This added inflexibility in the regulations will add to the demand for more child care.

Work Eligible Hours/Absences

We recommend that section 261.60 be revised and that HHS be less prescriptive in how hours are tracked and what the mandates are in regard to absences from work. Of particular concern are restrictions imposed concerning time off due to holidays and excused absences. This reauthorization provided very little increase in child care funding, unlike the gradual expansion allowed in the 1996 law. In addition, there has actually been a reduction in discretionary child care funds over the past several years. TANF funds, which had at one time provided nearly 50 percent of child care funding nationwide, are now dwindling. All of this highlights the likelihood that child care for these families may be unstable. Many of these families may not be able to access or afford the fixed, stable child care services we would like to see and that are needed for both a stable family life and a stable work environment. In light of this, the restrictions imposed under 261.60 unduly limit the ability to address unexpected time off due to unavoidable interruptions in child care. Adults in these families may be working odd or weekend hours and their child care may be more dependent on informal neighborhood child care. An illness of either the child care provider or the children in a family will also cause unexpected interruptions in child care.

CWLA hopes that you will make the modifications as suggested above, thereby ensuring that the result of the interim final rule will be to assist families in overcoming the barriers to substantial and permanent work, thus helping to lift them out of poverty and enhance the well being of their children.

Sincerely,

Shay Bilchik
President/CEO
Child Welfare League of America

¹ Johnson, J. L., & Leff, M. (1999). Children of substance abusers: Overview of research findings. *Pediatrics*, 103(5), 1085-1099.

ⁱⁱ Semidei, J., Radel, L.F., & Nolan, C. (2001). Substance abuse and child welfare: Clear linkages and promising responses. *Child Welfare*, 80, (2) 109-128.