

**NLWJC - Kagan**

**Counsel - Box 035 - Folder 009**

**Health and Human Services  
Regulations Generally**

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

16-Sep-1996 11:27am

TO:            Dorothy K. Craft

FROM:         Jeremy D. Benami  
               Domestic Policy Council

CC:            Diana M. Fortuna

SUBJECT:      RE: Tomorrow's meeting on TANF regs at 10

I invited Bruce.. He may actually come.    DKC: Elena, Emily and Ken are coming, right?

I think staff should be welcome.    That's my general principle.

On the agenda: we need to start the meeting by having HHS walk through (1) the list of areas they propose regulating in and (2) the timetable and process they propose.    We need to then provide initial feedback from all of us - and based on how the proposals are received agree on next steps.    Next steps have to include what to present to the intergov'l groups at Carol's meeting as a proposed process - and what the process with labor and the nonprofit community will be as well.

Sound good?    If you agree, should we actually do an agenda?

TO:           Jeremy Ben-Ami  
              Bruce Reed  
              Ken Apfel  
              Elena Kagan  
              Emily Bromberg  
              Sally Katzen  
              Keith Fontenot  
              Richard Green  
              Wendy Taylor

FROM:         Diana Fortuna

DATE:         September 16, 1996

Attached is what HHS has given us to date on what regulations they believe may be necessary or appropriate under welfare reform. It should be useful in advance of our meeting tomorrow at 10 on TANF regulations.

HHS

**PRELIMINARY LIST OF REGULATIONS TO BE ISSUED UNDER THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996****TITLE I - TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

REGULATION	PUBLICATION DATE
1. NPRM - TANF Program Requirements	12/96
- State Plan Submissions/Determination of Completeness	
- Financial Management and Reporting	
- Individual Development Accounts	
2. NPRM - Work Requirements	3/97
- Failure to satisfy participation rate requirements	
- 2-yr. time limit	
- Mandatory work and participation rates	
How to reduce participation rates based on reductions in caseload	
3. NPRM - Tribal Program Requirements	3/97
- Tribal Plan Requirements	
- Disagreement with State numbers for funding	
- Program criteria for Alaskan tribes	
- Individualization of tribal programs	
4. NPRM - Audits/Penalties and Corrective Action	1/97
- Enhanced penalties	
- Failure to submit report	
- Failure to participate in IEVS	
- Failure to sanction for non-cooperation	
- Failure to repay loans	
- Failure in maintenance of effort (eff. FY 98)	
- CS - substantial compliance/technical nature	
- Failure - 5 year limit	
- Failure - contingency fund/100% maintenance of effort	
- Failure - child under 6/no child care	
Reasonable cause exception	
Corrective compliance plan (timely)	
Appeal process	
- Administrative/program costs	

(preliminary)

5. NPRM - Data Collection and Reporting for States & Tribes 3/97
- Sampling plans
  - Data collection procedure
  - Verification of data
  - Definition of data elements
6. NPRM - Methodology for Determining Child Poverty 11/96
7. NPRM - Illegitimacy Rate Reduction Bonus 3/97
8. NPRM - High Performance Bonus 4/97
- Sec. 403 (a) (4) (C) provides that formula should be developed not later than 1 year after date of enactment.
9. FINAL RULE - Omnibus Conforming Regulation 10/97
- Eliminate obsolete or inconsistent regulations.

(preliminary)

## TITLE III - CHILD SUPPORT ENFORCEMENT

## REGULATION

## PUBLICATION DATE

1. NPRM - State Directory of New Hires (Sec. 313) 12/96

Dates, format and information included in the quarterly report of the State Directory of New Hires to the National Directory of New Hires  
Effective date: 10/1/97

2. NPRM - State Case Registry (Sec. 311) 6/97  
and Expansion of EPLS (Sec. 316)

Minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the Federal case registry  
Effective date: 10/1/98

Names, social security numbers or other uniform identification numbers, State case identification numbers, and other information which the Secretary deems necessary to identify the individuals who owe or are owed support and the State or States which have the case  
Effective date: 10/1/97

3. NPRM - State Laws Concerning Paternity Establishment (Sec. 331) 12/96

Voluntary paternity establishment services offered by hospitals and birth record agencies  
Effective date: 10/1/96

Types of other entities that may offer voluntary paternity establishment services and the provision of such services. The provision of such services must include a requirement that such an entity use the same notice provisions, materials, training, and evaluation as the ones used by the voluntary paternity establishment programs of hospitals and birth record agencies  
Effective date: 10/1/96

4. NPRM - Automated Data Processing Requirements (Sec. 344) 8/97

Secretary must prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of

(preliminary)

this Act. The 10/1/2000 effective date for ADP requirements will be delayed one day for each day the Secretary misses the two-year deadline.

5. NPRM - ADP Funding Limitation (Sec. 344) 12/96  
Set the limitation for the total amount payable to a State for fiscal years 1996 through 2001
6. NPRM - Grants to States for Access and Visitation Programs (Sec. 391) 3/97  
Monitoring, evaluating, and reporting of State programs designed to support and facilitate absent parents' access to and visitation of their children  
Effective date: 10/1/96
7. FINAL RULE - Omnibus Conforming Regulation 10/97  
Eliminate regulations rendered obsolete or inconsistent with the new law.
8. NPRM - Tribal Program 5/97

(preliminary)

## TITLE VI - CHILD CARE

REGULATION

PUBLICATION DATE

## 1. Child Care Interim Final Rule 11/96

- Administrative costs
- 70% families (welfare, transition, at risk)
- Public hearing
- Equal access in rates
- 4% for quality
- Data sampling
- Reallotment
- Penalties
- Tribes (facilities & model standards)

Withdraw current NPRM in Unified Agenda and indicate that, where appropriate, policies will be incorporated in this interim final rule.

EFFECTIVE DATESTitle I - TANFREQUIREMENTDATE

- |    |   |                       |
|----|---|-----------------------|
| 1. | State Plan  | 7/1/97<br>(or sooner) |
|    | <ul style="list-style-type: none"> <li>- 45 day comment period by local government and private sector organizations</li> <li>- out-of-wedlock pregnancies goal 1996-2005</li> <li>- FY 96 fund availability</li> <li>- Secretary review for completeness</li> </ul> |                       |
| 2. | Bonus/Illegitimacy  | FY 1999               |
|    | <ul style="list-style-type: none"> <li>- Based on 95/96 compared to 97/98</li> </ul>  |                       |
| 3. | Supplemental Grant/Population increases   | FY 1998               |
|    | <ul style="list-style-type: none"> <li>- Can be based on population increases 90-94</li> </ul>  |                       |
| 4. | Bonus/High Performers   | FY 1999               |
|    | <ul style="list-style-type: none"> <li>- 1 year after enactment - Sec. develops performance measures (consulting with NGA and APWA)</li> <li>- Based on 98 performance</li> </ul>   |                       |
| 5. | Contingency Fund  | FY 1997               |
|    | <ul style="list-style-type: none"> <li>- Requests are monthly</li> <li>- Annual reports to Congress</li> </ul>  |                       |
| 6. | Loans (3 years loans)   | FY 1997               |
| 7. | Participation Rates   | FY 1997               |
| 8. | Congressional hearings on implementation of State work programs -- Governors to testify   | FY 1999               |
| 9. | Individual Responsibility Plans   | 7/1/97<br>(or sooner) |
|    | <ul style="list-style-type: none"> <li>- 90 - 180 days for recipients</li> <li>- 30 - 90 days for applicants</li> <li>- from receipt of State plan</li> </ul>   |                       |

10. Grants to Territories 10/1/96
11. Audits of State Expenditures FY 1996  
(if nec.)
12. Grants to Tribes (TANF) FY 1997
- Approved 3 year State plan
  - JOBS § - FY 97
  - Establish for each tribe appropriate participation rate, time limit, penalties against individuals
13. Research FY 1997
- \$15 million each year for 6 years
  - Fund evaluations of State Welfare Reform Demos
  - Develop innovative approaches with States
  - T & TA funds
  - Disseminate information

Title II - SSI (skip)

Title III - Child Support

(To be completed by OCSE)

Title IV - Immigration

(To be completed by ORR)

Title V - Child Protection

(To be completed by ACYF)

Title VI - Child Care

(To be completed by ACYF)

Title VII - Child Nutrition

(To be coordinated by OFA with Dept. of Ag.)

Title VIII - Food Stamps

(OFA with AG)

Title IX - Miscellaneous

1. Preventing Teen Pregnancy

1/97

- Establish and implement strategy to prevent out-of-wedlock pregnancies
- Assure at least 25% of communities have pregnancy prevention programs

REGULATIONSTitle I

## REGULATION

## PUBLICATION DATE

1. Ind. Dev. Accounts (regs. required by statute)
  - Define withdrawal from accounts
2. Mandatory Work - Participation Rates (regs. required by statute)
  - How to reduce participation rates based on reductions in caseload (not changes in eligibility criteria)
3. Audits/Penalties
  - Enhanced penalties
  - Failure to submit report
  - Failure to satisfy participation rate requirements
  - Failure to participate in IEVS
  - Failure to sanction for non-cooperation
  - Failure to repay loans
  - Failure in maintenance of effort (eff. FY 98)
  - CS - substantial compliance/technical nature
  - Failure - 5 year limit
  - Failure - contingency fund/100% maintenance of effort
  - Failure - child under 6/no child care (severity of failure = \$ of penalty)

Reasonable cause exception  
 Corrective compliance plan (timely)  
 Appeal process
4. Data Collection and Reporting for States & Tribes
  - Monthly basis, quarterly reporting
  - Much case specific data
  - Administrative costs/program costs
  - Sampling plans
  - Data collection procedure
  - Verification of data (Secretary may develop procedures)
  - Define data elements (Secretary shall prescribe regs. necessary)
  - Allow increased admin. costs for determining elg. for Medicaid (under old revised IVA rules)

5. Tribal programs

- Disagreement with State numbers for funding
- Plan approval process
- Program criteria for Alaskan tribes (statute requires development of criteria -- doesn't specify regs.)

6. Methodology for determining child poverty  
(regs. required by statute)

Title III - Child Support

(To be completed by OCSE)

Title IV - Immigration

(To be completed by ORR)

Title VI - Child Care

1. Child care administrative costs (report language requires Secretary to issue regulations)

Title VII and VIII - Child Nutrition and Food Stamps

(To be completed by OFA with AG when info becomes available)

HHS

OTHER KEY EFFECTIVE DATES

<u>REQUIREMENT</u>	<u>DATE</u>
1. State Plan	7/1/97 (or sooner)
- 45 day comment period by local government and private sector organizations	
- out-of-wedlock pregnancies goal 1996-2005	
- FY 96 fund availability	
- Secretary review for completeness	
2. Supplemental Grant/Population increases	FY 1998
- Can be based on population increases 90-94	
3. Contingency Fund	FY 1997
- Requests are monthly	
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- Annual reports to Congress	
4. Loans (3 years loans)	FY 1997
5. Participation Rates	FY 1997
6. Research	FY 1997
- \$15 million each year for 6 years	
- Fund evaluations of State Welfare Reform Demos	
- Develop innovative approaches with States	
- T & TA funds	
- Disseminate information	
7. One-year extension of SACWIS enhanced funding	
8. Preventing Teen Pregnancy	1/97
- Establish and implement strategy to prevent out-of-wedlock pregnancies	
- Assure at least 25% of communities have pregnancy prevention programs	

*In order?*REPORTS

1. March 1998 (and annually thereafter)
  - Participation Rates
  - Employment and earnings
  - Decreasing out-of-wedlock births
  - State program characteristics
  - Demographics
  
2. FY 97
  - Annual ranking of states
  - Review of most and least successful programs
  - Out-of-wedlock births
  
3. August 1999 Report on Children
  - % drop outs
  - employed
  - crime
  - health insurance
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(Children no longer on aid)
  
4. Child Poverty Rates (from State to HHS not later than 90 days after enactment, and annually thereafter)
  - Corrective action plan within 90 days, if rate increase by more than 5%
  
5. February 1997 - Data Processing
  - Status of State systems
  - \$ to track participants over time
  - Time needed to establish systems
  
6. September 30, 1998 Outcome Measures
  - HHS, with States, study outcome measures for evaluating State success
  
7. November 1996 - Technical Correction Legislative Proposal HHS & SSA, in consultation with other Federal agencies

8. National Random Study of Child Welfare

- Report due from "time to time"
- \$6 m each year from FY 1996 through FY 2002

9. 12/31/97 - Biennial Report to Congress on Child Care Program

10. June 30, 1998 (and annually thereafter)

- Report to Congress on meeting Teen Pregnancy Prevention Goals

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