

DRAFT

WR-New Mexico

HUD

Honorable Jeff Bingaman  
United States Senate  
Washington, DC 20510-3102

Dear Senator Bingaman:

Thank you for your letter of August 11, 1997, concerning the decision of the New Mexico Secretary of Human Services to count Federal housing subsidies as income for recipients of assistance under the Temporary Assistance for Needy Families (TANF) program. While such policies are allowable within the broad flexibility TANF provides to states, I share your grave concerns about this action. Our data systems indicate that approximately 8,000-10,000 New Mexico families receive both HUD housing assistance and AFDC.

As you know, on August 14, the New Mexico Human Services Department announced several modifications to their original policy decision to count housing assistance as income when calculating TANF benefits. As I understand it, the State created exemptions for those households exempted from the TANF work requirements -- the elderly, persons with disabilities, pregnant women and those with children under one year old. In addition, the State will provide all other families receiving housing assistance 60 days before ceasing cash assistance.

Even with these very limited exemptions, the vast majority of families receiving housing and cash assistance will still shortly face an untenable choice: keeping their housing assistance and foregoing their TANF grants -- their principal source of cash income; or giving up their housing assistance to retain eligibility for TANF grants and being forced to move from their homes or paying unaffordable portions of their limited incomes for housing. I am concerned about the physical disruption and emotional distress that such a policy has the potential to cause.

I also believe that this policy will have negative consequences for efforts to move families from welfare to work. A stable and affordable housing arrangement is a necessary foundation for many families' efforts to find and retain employment. Forcing families to forego income assistance or to move on short notice can only make it more difficult to make an already-difficult transition from welfare to work.

I am also concerned about the financial impacts of this policy on both the Department and on public housing agencies

(PHAs) in New Mexico. If many families choose to retain their housing assistance and forego their TANF payments, their reduced incomes translate into higher housing subsidies. In the case of our Section 8 rental assistance programs, fewer families will be served. For public housing, PHAs will have less rental income and will be forced, at least in the short term, to delay planned expenditures on such items as maintenance and service programs designed to help families move from welfare to work. For HUD's privately-owned but federally subsidized housing developments, HUD's budget needs will rise in a time in which our budget has already been sharply reduced.

The steps that the Department of Human Services took on August 14 were a welcome first step toward correcting the problems with the State's plan. However, I believe the remaining policy is still overly punitive to families receiving housing assistance and believe the State should take further steps to redress this inequity. I will continue to closely monitor the developments in New Mexico and consider how the Department can best respond.

I firmly believe that effective coordination between housing assistance and the TANF program can help families make the difficult transition from welfare to work. Such effective coordination, however, should not come at the expense of recipients of housing assistance.

Sincerely,

Andrew Cuomo

**DRAFT**

HHS

Not cleared  
through HHS

The Honorable Jeff Bingaman  
United States Senate  
Washington, DC 20510

Dear Senator Bingaman:

This is in response to your letter regarding New Mexico's policy of counting Federal housing subsidies as income in determining eligibility for the Temporary Assistance for Needy Families (TANF) program. We have conferred with our colleagues in the Department of Housing and Urban Development, and share their concern that this may have a very disruptive impact on the lives of many families and children.

Under the TANF statute, each State has very broad flexibility to design its program, determine the conditions of eligibility, and determine the types and amounts of assistance that it will provide. Congress and the Administration both believed that increased State flexibility was an essential element of welfare reform. TANF holds States accountable for strict time limits, work participation rates, and data requirements, but the statute imposes few other limitations on the States for how they may operate their programs.

The statute requires each State to submit a plan that outlines how it will conduct its TANF program, but it does not specify the level of detail that must be included. HHS is required to certify that a State's plan is complete, i.e., that all the required certifications are made, and that other specific provisions are addressed.

You asked whether housing subsidies may be included as unearned income. Previously, under the Aid to Families with Dependent Children (AFDC) program, States were permitted to count in-kind (earned or unearned) income in determining eligibility. We required them to indicate whether they counted housing subsidies and other such income. Under the provisions of the TANF statute, States have more flexibility to choose which types of income they will count in determining eligibility for TANF, and are not prohibited from including housing subsidies.

The TANF statute requires States to make a summary of the plan available to the public. It also requires each State to certify that it has given local governments and private sector organizations at least 45 days to submit comments on the plan before a determination is made that the State's TANF plan is

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complete, and before Federal funds are provided to the State. However, the statute does not give HHS the authority to scrutinize the level of review that was made available to local governments, private sector organizations, or to the general public. We rely on the States to carry out these provisions.

We understand that there will be a public hearing in New Mexico on these issues on September 29. Also, our regional staff have recently met with senior State officials regarding this policy. You may be aware that the State has modified its earlier policy under certain circumstances, such as during the first 60 days of families' receipt of TANF assistance, and when families consist of totally disabled individuals or pregnant individuals. I hope this information is helpful to you. Please feel free to contact me again if I can assist you further.

Sincerely,

Donna E. Shalala  
Secretary

JEFF BINGAMAN  
NEW MEXICO

703 HART SENATE OFFICE BLDG.  
WASHINGTON, DC 20510-3162  
(202) 224-6621  
IN NEW MEXICO—1-800-443-4668  
TDD (202) 224-1732  
senator\_bingaman@bingaman.senate.gov

# United States Senate

August 11, 1997

The Honorable Andrew Cuomo  
Secretary of Housing and Urban Development  
HUD Building  
451 Seventh Street SW  
Washington, DC 20410

Dear Secretary Cuomo:

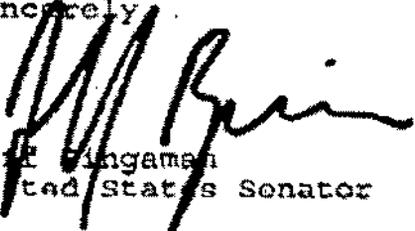
It has come to my attention that the New Mexico Secretary for Human Services has announced his intentions to count federal housing subsidies as income for New Mexico TANF recipients. This strikes me as an unfair ruling that will place citizens in the position of being forced to choose between keeping their welfare benefits or having adequate housing.

New Mexico's plan for Temporary Assistance for Needy Families (TANF) was cleared to take effect July 1, 1997. The New Mexico TANF plan mentions how income will be calculated for beneficiaries. However, federal housing subsidies were not detailed specifically in the New Mexico TANF plan deemed complete by the Health Care Financing Administration. The New Mexico Secretary's regulation has just come to the attention of the public. As I understand it, there were no public hearings before this specific ruling took effect.

I urge you to investigate this new rule immediately. Additionally, please advise me as to the number of welfare recipients in New Mexico who receive federal housing assistance. Please let me know the Administration's interpretation of whether housing subsidies were intended to be included under the federal TANF rules addressing "unearned income."

I look forward to your response and a timely analysis of this situation. I am making a similar request of Secretary Shalala and urge your two departments to look at this matter jointly where possible.

Sincerely,



Jeff Bingaman  
United States Senator

JFB/dw