We discuss the comments we received and our response in greater detail below.

Childcare

Ann - excerpts from draft HPB rule. A Ale

*Child Care*

<u>Comments:</u> A child care measure was the new measure most frequently recommended, and it was the one for which commenters offered the most concrete suggestions for how we might construct such a measure. Supporters of a child care measure included a broad array of individual and organizational commenters. With one exception, States and their representative organizations were silent on this issue.

In support of their recommendations, commenters observed that currently there is no reward for good performance in providing child care. A child care bonus, they believed, would be an excellent incentive toward better State performance, given that only a small percentage of income-eligible children are now receiving subsidies, according to published estimates from this Department. Many commenters based their rationale simply on the fact that child care is a critical work support needed in order for poor families to work.

The suggestions for how we should construct a specific child care measure centered primarily on the number of children receiving child care subsidies and/or the amount of expenditures on eligible children. Commenters suggested various target populations, including: 1) TANF recipients and former TANF recipients; 2) children eligible under the provisions of the Child Care and Development Block Grant (i.e., at or below 85% of State median income); 3) children at or below 200% of poverty; or 4) children served both under the Child Care and Development Fund (CCDF) and, at State option, other subsidy programs. Commenters also suggested child care as both an absolute and an improvement measure. Some commenters built into their proposed measures factors such as the appropriateness of payment rates, family co-payments, and the utilization of licensed care.

Several commenters also suggested child care as a qualifying condition or a threshold measure - either as a qualifying factor for a child care bonus or in order for a State to receive other bonus awards. For example: (1) before a State could receive a child care bonus, the State must pay a child care rate equal to at least the 75th percentile of the local market rate based on a survey that is not more than two years old; or (2) the State must spend a required percentage of child care funding for care that meets State certification standards. Other suggestions included granting high performance bonus awards only on the condition that a State based its child care payments on recent market surveys or served at least 70% of its income-eligible children.

query

cut-off

Response: We agree that child care is of critical importance to working families, and we share the commenters' views that access to affordable, high quality care is a necessary part of a welfare reform program. In developing the NPRM, we gave considerable thought to the possibility of including a child care measure, not only because of its importance to working families but also because the CCDF program and the TANF program are closely related. However, there are a number of problems in the development of a child care measure. After considering all of the comments on the proposed rule, we have decided not to include a child care measure in the high performance bonus system at this time. A major factor in our decision was that new data collection requirements would be unavoidable if we were to construct a meaningful measure. We concluded that the additional data required could be so burdensome to States that the bonus award incentive would be unlikely to result in strong competition.

For example, we know that, in addition to CCDF funds, some States have made investments in child care activities by using TANF and other Federal and/or State funds. A performance measure based on expenditures would need to consider a number of funding sources. However, even between the CCDF and the TANF program, data are not comparable. Thus, they would not yield either comparable spending information or an unduplicated count of eligible children served.

A second concern was that the measures suggested by the commenters might produce unintended consequences. For example, a measure of the number of children served with TANF and CCDF funds might have the unintended effect of driving down subsidy payments and increasing family child care co-payments.

We also considered child care as a qualifying condition or a threshold measure. However, current TANF data would not provide information on subsidy payment levels or on placement of children in care that met State licensing or certification requirements. Therefore, suggested threshold measures related to payments or certification of providers across programs would not be feasible. Also, threshold measures based on the percentage of eligible children served might also produce the same unintended consequences as separate measures based on the number of children served.

In addition, the data available from the CCDF program alone are not sufficient to make the threshold determinations suggested by the commenters. For example, not all CCDF State plans include data on the 75th percentile payment rates, and there are no uniform standards in the CCDF program for how a State must conduct a market survey and establish percentiles. Therefore, comparing State payment rate data, even within the CCDF program, would pose problems.

Although we have not added a child care measure to the high performance bonus system, we are very interested in continuing to work to improve existing child care data and performance measurement, both through research and collaborative work with States. As a matter of policy, we view child care as a critical support, not only for welfare families, but more broadly, for many if not all low-income working families. While Medicaid and the Food Stamp Program have traditionally been viewed as transitional work supports, we view child care as an ongoing support for working families. Given this view, we would prefer to use other, more universal opportunities for measuring progress in child care.

Two opportunities that we have recently used are implementing the child care performance measures under the Government Performance and Results Act (GPRA) and requiring performance goals and indicators in the Administration's proposed Early Learning Fund (ELF).

In the Department's 2001 GPRA plan, there are a number of measures that ACF developed collaboratively with States that address both the quality and the affordability of child care. The Administration's proposed ELF also includes an accountability mechanism that would require the Secretary, in consultation with the Secretary of Education, to develop performance goals and indicators for quality factors associated with improved developmental outcomes for young children. States participating in the ELF would be held accountable for progress toward those goals and indicators.

We want to emphasize our continuing commitment to supporting efforts to assist working families. We recognize that more needs to be accomplished to give American families sufficient access to a supply of high quality, affordable child care. The Child Care and Development Fund (CCDF), the primary Federal child care subsidy program, made $3.2 billion available in FY 1999 to States to assist low-income working families, including families receiving temporary public assistance and those making the transition off of public assistance, in obtaining child care so they could work or participate in education or training. While the FY 1999 CCDF funding represents an increase of approximately $100 million over the FY 1998 amount, in FY 1998, the most recent year for which we have data, only ten percent of income-eligible children received a child care subsidy.

To increase the quality and affordability of child care, the Department is seeking $817 million in additional dedicated child care subsidy funding for FY 2001. The Department is also seeking $3 billion over five years for the new ELF that will make resources available to communities, through States, to promote school readiness by improving the quality of child care. We are hopeful that Congress will appropriate sufficient funding for both of these initiatives.

We are also committed to creating effective working relationships between the public and private sectors to achieve this goal. ACF will continue to encourage all States -- as some have already done -- to create seamless child care systems that provide subsidies for children of all low-income workers, regardless of their connection to the welfare system. In addition, our technical assistance initiative will assist States in developing important partnerships with the private sector to improve and expand child care services.

Within ACF, the Child Care Bureau is dedicated to enhancing the quality, affordability, and supply of child care for all families. The Bureau not only administers the CCDF, which is the primary source of Federal funds dedicated to child care for States, Tribes, and Territories, but provides leadership in helping to enhance the quality of child care for all children. Among its other priority activities, the Bureau has established the National Child Care Information Center which disseminates information on child care resources to program officials and the general public and shares promising practices and trends from across the country.

The Bureau has also been active in providing technical assistance to help to assure that special needs children are included in settings that serve all children. In addition, the Bureau is responsible for overseeing a key Federal research initiative on child care and promoting the Department's Healthy Child Care America campaign for safer and healthier child care programs, better informed parents and providers, and improved linkages between child care and health services.

In summary, through ACF's commitment to leadership in child care, we believe that our activities address the spirit of the commenters' request for a child care bonus.

*Domestic Violence*

Comments: A substantial number of the letters and notecards recommended adding a measure of how well States address domestic violence. In support of this recommendation, some commenters provided detailed background information about the prevalence of domestic violence among women on TANF and how domestic violence

*Domestic Violence*

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Comment: A few commenters objected to the requirement that States must submit Sections One and Three of the SSP-MOE reports in order to qualify for the high performance bonus. They also commented that a State should not be required to submit MOE data as a condition of competing for the food stamp and Medicaid/SCHIP awards since these measures do not use the SSP-MOE data.

Response: This first comment was similar to one we received on the NPRM for the general TANF rule. It reappeared because §270.11(b) of the high performance bonus NPRM reiterated the requirement from the general TANF rule (at 45 CFR 265.3(d)) that States wishing to compete for a high performance bonus must submit data reports on their separate State programs (SSPs). The SSP-MOE reporting requirement in the general TANF rule covers all high performance bonus measures.

Last year, when we published the TANF final rule and the high performance bonus NPRM, we believed that submission of the SSP-MOE reports was critical to understanding State caseload changes and work performance. However, as TANF and SSPs have continued to evolve, and we have gained more experience with the caseload reduction credit and high performance bonus processes, we have encountered situations where a waiver of the SSP-MOE reporting requirement seemed appropriate. Most notably, as discussed in more detail later, States have raised questions about a very few SSPs that do not address basic needs; do not appear to be particularly germane to assessing State caseload reductions, work efforts, or performance; and are not amenable to TANF-like reporting. Our general TANF rules do not allow us any discretion to grant waivers of the SSP-MOE reporting requirements, even in such circumstances. Based on discussions with States, we are concerned that, in some of these cases where the SSP-MOE reporting requirements are particularly problematic, States might elect not to provide certain benefits that support the goals of TANF rather than to develop the data collection and reporting system that the SSP-MOE requirements would entail.

Since these problematic situations can arise with respect to either the high performance bonus or the caseload reduction credit, we wanted to provide an opportunity for waiver of the requirements in both circumstances. We believe the clearest way to make that change is in the general TANF rule. Thus, in this rulemaking, we have revised the TANF final rules at 265.3(d)(2) to allow waivers of the SSP-MOE reporting requirements, under very limited circumstances. More specifically, we would allow waivers only if the benefits being provided in the SSPs were considered assistance under 45 CFR 260.31(a)(3) and the State made a clear case that the cost and burden associated with collection and reporting of the data substantially outweighed any potential benefit.

The first condition means that waivers would be available only for benefits that are defined as "assistance" because they are "supportive services such as transportation and child care provided to families that are not employed." We would not waive SSP-MOE reporting requirements for SSPs that provide assistance under paragraphs (a)(1) or (a)(2) -- that is, for programs that: (1) provide assistance that meets the basic needs of a family (even if the family's receipt of such benefits is conditioned upon participation in work experience or community service); or (2) provide benefits that would have historically been considered "welfare" benefits. For example, we would never waive SSP-MOE reporting when the State had elected to meet the basic needs of its two-parent TANF cases through a SSP. We would only grant waivers for SSPs that provide supportive services, such as transportation and child care, to families that are unemployed. In fact, we anticipate that SSPs receiving reporting waivers would typically be serving a mix of employed and unemployed families, but mostly employed families. However, separating the families into employed and unemployed families and gathering detailed characteristics data on a monthly basis for only the employed families would be extremely burdensome.

In deciding whether a State had made its case, we would look at factors such as:

- The capacity of the SSP to provide the kind of information required in the SSP-MOE report;
- The size of the separate State program (e.g., the number of beneficiaries and the proportion of the TANF caseload that would represent); and
- Whether the data would be important to a full understanding of the State's work efforts, caseload changes, or performance.

An example of a situation where we might waive SSP-MOE reporting would be the following: a State provides funds to a local transportation initiative that provides shuttle bus service between a low-income, inner-city neighborhood and suburban jobs. While most of the shuttle passengers are employed, unemployed neighborhood residents can use the shuttle to get to a pre-employment training program. Thus, there may be families receiving benefits that meet the definition of "assistance" under §260.31(a)(3). The State agency, working with the transportation program, can determine the proportion of "eligible families" using this service through a simple survey. However, the program does not collect detailed case-specific and monthly information on the families they serve, and it has no mechanism for collecting such data or submitting data electronically to the State. In addition, the number of families receiving "assistance" in the program is thought to be negligible, and they

**Andrea Kane** 06/21/2000 08:52 AM

Record Type: Record

To: Ann O'Leary/OPD/EOP@EOP

cc: Margy Waller/OPD/EOP@EOP

Subject: TANF HPB comments

are you OK w/ OMB comment on pp. 47-49 (see attached)?

---------------------- Forwarded by Andrea Kane/OPD/EOP on 06/21/2000 08:49 AM ---------------------------

Zoe M. Neuberger
06/20/2000 07:57:32 PM

Record Type: Record

To: Lauren Wittenberg/OMB/EOP@EOP

cc: Jennifer Friedman/OMB/EOP@EOP, Michele Ahern/OMB/EOP@EOP, Andrea Kane/OPD/EOP@EOP, Margy Waller/OPD/EOP@EOP

Subject: TANF HPB comments

The attached comments include mine and Jennifer Friedman's.

I also think we need to run the privacy section on p. 156 by Lauren Steinfeld, just to make sure she doesn't have any concerns. If you don't know her, then I'll take care of that next week.

HPB comments.w

**Preliminary IMB comments/questions on TANF draft Final Rule:**
**Bonus to Reward States for High Performance**

June 20, 2000

p. 5 "As we stated in this earlier rulemaking . . ." is unclear since many earlier rulemakings are cited in the previous paragraph.

p. 24 Second to last sentence: Saying that states "could not spend program funds to improve [food stamps] program participation" seems like an overstatement in light of the discussion on pp. 89-90. It needs either to be more specific ("could not spend program funds on activities that are reimbursable under the Food Stamp Act") or to make it clear that this reflects states' perceptions only ("they believed they could not spend program funds to improve program participation").

p. 26 Should we add a bullet arguing that greater accountability for outcomes (measured both within and beyond TANF) is a complement to greater state flexibility?

p. 44 Fifth line should be revised: "Child Care and Development ~~Block Grant~~ Fund . . ."

pp. 47-49 It is inappropriate to discuss budget or legislative proposals as justifications for not adding a child care measure. The section should be revised to reflect only existing activities.

p. 52 The last bullet should appear earlier–perhaps second.

p. 58 The last sentence of the first paragraph should be moved to the response section.

p. 61 How seriously was the "self-sufficiency standard" considered in developing the NPRM? Are there disadvantages to incorporating aside from the data collection issues?

p. 70 The first paragraph seems to need a concluding sentence along the lines of " Therefore we have decided not to add a performance or threshold measure based on racial/ethnic disparities."

pp. 72,165, 206 Why is the $20 million that had been devoted to the Family Formation measure being reallocated to the work measures rather than the work support measures? We would prefer to see the Food Stamp and Medicaid/SCHIP measures increased to $30 million each.

p. 74 Basing the improvement measures on percentage point change rather then percentage change does have the advantage of giving states that made improvements early a better chance of winning bonuses. But at the same time it may make it harder for low-performing states to compete for bonus awards. Thus, it seems that the measure used should reflect whether the primary goal of the bonus awards is to encourage all states to improve their programs or to provide an incentive for low-performing states to improve. Since the absolute measures are primarily geared toward states that are already performing well, should the improvement measures be geared toward low-performing states? In past years, have high or low performing states tended to compete/win bonuses? Let's discuss these issues further.

p. 84 Please provide the data that supports the statement on p. 84 that "Between 1995 and 1998, food stamp participation fell three times as fast as poverty..."

p. 86 In general, to what extent has FNS been involved with the development and drafting of the final rule? Have they seen and contributed to this draft? Specifically, has FNS seen draft page 86, describing the July 1999 initiative and simplifications proposed in FNS' NCEP rule?

p. 87 Paragraph at top of page: Please delete the last sentence, "To modify the rules of a larger, national program...."

pp. 97, 133 Let's discuss the three state/seven state split on the Food Stamps and Medicaid/SCHIP improvement measures.

p. 97 Can a state get an award for *both* absolute performance and for most improvement?

p. 99 Who was the commenter that suggested that States should affirmatively demonstrate that their computer systems have been programmed so that when any TANF case closes, the food stamp case remains open until the worker makes an independent determination as to whether the household is still eligible for food stamps? Did HHS and FNS discuss the merits of such a proposal?

pp. 100 -101 Food Stamp qualifying measures: If FNS is conducting program access reviews in each of the states, then why is determining whether states meet the qualifying measures an additional burden? FNS would only need to confirm for HHS that states meet the qualifying measures for those states applying for the bonus, correct?

p. 103 Why wouldn't HHS release baseline information for the food stamp outcome measure for all states? (p. 104 says that HHS will have this information for all states.)

pp. 104-105 Although the response to the comment about requiring food stamp data as a prerequiste for to competing on the work measures makes clear that ACF and FNS have such data, it needs to make clear whether this data will be considered in evaluating performance on the work measures. Presumably, there is no intention to consider food stamp data in determining bonuses for the work measures. If so, that should be stated explicitly.

pp. 115-116 Are the studies on lack of health insurance reliable enough to include?

P. 128 Mention of legislative proposal on transitional Medicaid seems inappropriate. The response could simply reiterate the reduction of the time frame to four months.

p. 129 The last sentence seems out of place. The next full paragraph addresses this issue more thoroughly, so the sentence should be moved or deleted.

p. 141 The last full paragraph of the job retention response needs to address the suggestion that job changes only be ignored if the new job pays a higher wage, offers enhanced benefits, etc. It seems likely that tracking job characteristics other than wages would be overly burdensome.

pp. 142, 204 Given that job retention is to some extent being evaluated because it is likely to be a means to the end of higher wages, why is it given more weight than earnings gains themselves? Why not weigh them equally?

p. 145 Was an earnings gap measure considered either as a stand-alone measure or as a component of the success in the workforce measure? If so, why was it rejected?

p. 153 Should the fourth line of the response say "unemployed" instead of "employed"? If not, please explain how this ration works.

p. 177 The response seems inconsistent with the response on page 154.

p. 206 By what date must a state notify ACF of its intent to compete?

**Typos**

p. 14 Second sentence of full paragraph: "since our initial consultations" appears twice.

p. 17 Second line from bottom: "address" should be "addresses".

p. 25 Sixth line from the bottom: " . . . choose ~~of~~ whether . . ."

p. 26 Third line of first bullet: "'State' agency" should be "'State agency'".

P. 27 Third line of first full paragraph: "~~with~~ the managers' statement . . ."

p. 50 Delete extra domestic violence paragraph.

p. 85 Third line from bottom: ". . . working families' access to food stamps."

p. 174 The reference to section 404(3) of the Act seems to be incorrect or missing a letter.

file: Child welfare final rule

# FAX COVER SHEET

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**DATE:** 5/16/00

**TO:** Ann O'Leary

**FAX:** 456-7431

**FROM:** Patricia Bravo
Director, Intergovernmental Affairs
Administration for Children and Families

**PAGES (including cover):** 3

Hi Ann,

Per my voice mail message. This is information regarding the first 17 states to be reviewed under the cw monitoring regulation. We plan to have our regional administrators send a letter to each of the 17 state commissioners on Monday morning (May 22) and then ASL and IGA will do some FYI calls to interested parties on Monday as well, but no press release or anything like that.

Patricia Bravo

From Patricia Bravo re: the 1st 17 states to be reviewed under cw monitoring regulation

## Child and Family Service Reviews

The Department of Health and Human Services recently announced a new monitoring process for reviewing States' performance and compliance with Federal requirements for child protective services, foster care, adoption, and family preservation and support services under titles IV-B and IV-E of the Social Security Act. The new child and family service reviews will hold States accountable for providing quality services designed to assure the safety of children, enhance their well-being, and promote their timely and appropriate placement in permanent homes, while assisting States to make improvements in these services where needed. The new reviews will include the insights of children, parents, foster parents, caseworkers, and service providers in the assessment of State performance.

The reviews are conducted in two stages:

- The first phase is a *statewide assessment* prepared by the State, in collaboration with community representatives who are not staff members of the State agency, that provides a statewide perspective of the State's child and family service system. Using statewide data profiles prepared by ACF from two national databases, the State analyzes its performance in areas such as repeat maltreatment of children, length of stay in foster care, and length of time to achieve adoption or reunification. The State and its community partners identify areas where the State is performing well and where a more detailed on-site review is warranted.

- The second phase of the review is an *on-site review*, conducted in at least three sites across the State, including the State's largest metropolitan area, by a team of State and Federal representatives. The team reviews for *outcomes* by examining a random sample of cases, including case documentation as well as interviews with the child, parents, foster parents, caseworker and service providers in each case. The team also reviews for *systemic factors* through interviews with community stakeholders, both within and external to the child welfare agency, to make determinations regarding the level at which the child welfare system is functioning.

(Monday, May 22)

All States will be reviewed during the next four years. Today, we are announcing the seventeen states that will be reviewed first. The criteria used to select the first States to be reviewed include high-profile child safety concerns and identified needs for technical assistance to make program improvements. We also scheduled States that represent all ten ACF Regions, and, States that served as pilots for the review process will be reviewed later in the four year schedule. Finally, we selected some States that volunteered to be reviewed in the first year. The first year schedule includes a range of States in terms of geographical location, size of States, and the functioning of the child and family service programs. The statewide assessment for the first States will begin in July of this year, with onsite reviews beginning in January 2001 and continuing throughout FY2001. The seventeen states to be reviewed in FY2001 are:

Arizona
Arkansas
Delaware
District of Columbia
Florida
Georgia
Indiana
Kansas
Massachusetts
Minnesota
New Mexico
New York
North Carolina
North Dakota
Oregon
South Dakota
Vermont

**Background:**

Thirteen states were reviewed between 1995 and 1999 as part of the pilot process for developing the child and family service reviews. Prior to that, State child welfare systems had not been reviewed since 1994, when Congress imposed a moratorium on reviews of the child welfare system in place at that time. The previous review system focused narrowly on case documentation, rather than the actual outcomes for children served by States, and did not require States to make program improvements as part of the review process.