NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

Olivia Golden, Assistant Secretary for Children and Families
U.S. Department of Health and Human Services
Administration for Children and Families
Office of Planning, Research and Evaluation
370 L'Enfant Promenade, SW
7th Floor West
Washington, DC 20447
ATTN: Sean Hurley

February 4, 2000

Dear Ms. Golden:

The National Women's Law Center appreciates the opportunity to submit these comments in response to the Notice of Proposed Rulemaking (NPR) published on December 6, 1999 proposing criteria for awarding bonuses to high performing states under the Temporary Assistance for Needy Families (TANF) program. Our comments focus on three issues. First, we are concerned that there is no child care performance measure and strongly recommend the addition of one. Second, while we support evaluating states on their provision of Food Stamps and Medicaid/CHIP to low-income families, we recommend that HHS look at benefit participation for all eligible low-income families. Third, we propose a new allocation of the bonus funds.

Add a Child Care Performance Measure

The proposed rule should be revised to include a child care performance measure. Child care assistance is an essential support for families of all income levels, particularly low-income families who are struggling to achieve and maintain self-sufficiency. Indeed, HHS has acknowledged that "[p]arents should receive the child care . . . they need to protect their children as they move from welfare to work." 64 Fed. Reg. 68202, 68203 (Dec. 6, 1999) (emphasis added). Yet child care, especially high-quality care, is too often unaffordable for these families. When families below poverty pay for child care, they spend 18 percent of their income on child care while families above the poverty line pay 7 percent. See U.S. Department of Health and Human Services, Access to Child Care for Low-Income Working Families 6-7 (Oct. 19, 1999).

Although Congress increased funding for child care services in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), states are still failing to provide adequate child care assistance. According to a recent HHS report, only ten percent of children who are potentially eligible for assistance under the Child Care and Development Block

With the law on your side, great things are possible.
11 Dupont Circle ■ Suite 800 ■ Washington, DC 20036 ■ 202.588.5180 ■ 202.588.5185 Fax

Grant (CCDBG) (children in families with income below 85 percent of the state median income) are receiving these subsidies. According to this report, in 1998, 27 states served less than ten percent of these eligible children and 24 states served between 10 and 25 percent of them. See U.S. Department of Health and Human Services, Access to Child Care for Low-Income Working Families, supra, at 3. One report on recent state studies of individuals who left welfare supports HHS's data. The states that asked individuals about child care found that less than half of working families who left welfare received child care assistance. Moreover, states also found that 40 percent of the responding families said that they weren't even aware that they could get child care assistance. See Rachel Schumacher and Mark Greenberg, Center for Law and Social Policy, Child Care After Leaving Welfare: Early Evidence from State Studies (October 1999).

States can and must do a better job of providing child care assistance to eligible families. It is critical that the federal government provide an incentive for states to fund these services and make sure that all eligible low-income families – including current and former TANF recipients as well as those who are at risk of having to enter the welfare system – can receive the child care assistance they need. A high performance bonus based on child care performance would give states such a financial incentive.

Our proposed child care measure consists of the following components. As a threshold, states would not qualify for a child care high performance bonus unless they were providing subsidies at least at the 75th percentile according to a market rate survey conducted within the last two years. Once a state has met this threshold, it would be ranked based on each of the following criteria:

- The number of children receiving child care subsidies funded by CCDBG expressed as a percentage of the estimated number of children federally eligible for CCDBG in that state[1]; and

- The percentage point improvement in this measure, relative to the previous year.

The top five states in each measure would receive bonuses from the federal government.[2]

The 75th percentile standard based on recent market rate surveys is critical in ensuring that states establish payment rates that give parents the ability to choose among quality child care providers in their community. This is fully consistent with existing HHS policy. HHS has

---

[1] If states are able to collect accurate, comparable data on the number of children who receive subsidies funded by state child care programs or funds from the federal TANF block grant, they could have the option of adding those children to the numerator in calculating the percentage of federally eligible children served.

[2] We have proposed rewarding the bonus to the top five states in each measure in order to ensure that the bonuses are sufficient to encourage states to compete for them and provide an incentive for them to improve their performance.

recognized that states must provide equal access to child care services for families who are and are not receiving child care subsidies, see 63 Fed. Reg. 39935, 39958 (July 24, 1998); that equal access can be assured only if the states conduct market rate surveys at least every two years, see 45 C.F.R. § 98.43(b)(2) (1999) & 63 Fed. Reg. at 39958; and that "[p]ayments established at least at the 75th percentile of the market would be regarded as providing equal access," 63 Fed. Reg. at 39959.

Once states have met this threshold test, they would compete for two bonuses - - one based on the percentage of eligible children they cover, and another based on improvement in coverage. Offering financial incentives to states for providing child care assistance to eligible children would underscore the federal government's commitment to this important program and should improve states' performance. This performance measure would also provide an incentive for low-performing states to improve, by including a bonus for states that increase their percentage of federally eligible children relative to the previous year, measured by the percentage point improvement.

Although our proposed performance measure is not based on child care assistance provided to TANF recipients alone, it is nonetheless an appropriate means for allocating high performance bonus funds. It is directly related to a central purpose of TANF: providing assistance to needy families to end their dependence on government benefits by enabling them to work. Furthermore, this proposed indicator is outcome-oriented and measurable. HHS already collects data on children who are served by CCDBG funds and the status of market rate surveys, and information on the federally eligible CCDBG population can be estimated from the data sources used for the Food Stamp performance measure.

Expand and Revise the Food Stamps and Medicaid Measures: Sections 270.4 (c) & (d)

We strongly support HHS's proposal of performance measures relating to Food Stamps and Medicaid access for low-income families. These programs are very important to low-income families, particularly those who no longer receive cash assistance. Despite the fact that Food Stamps and Medicaid are supposed to be delinked from welfare receipt, benefit receipt for these programs has declined greatly since the implementation of PRWORA. The following studies have examined these trends.

- The General Accounting Office found that between fiscal years1996 and 1998, the number of Food Stamp participants fell by 24.1 percent (decreasing from approximately 25.000 in August 1996 to approximately 19,000 in August 1998). See U.S. General Accounting Office, Food Stamp Program: Various Factors Have Led to Declining Participation App. II (July 2, 1999).

- A recent Urban Institute study found significantly higher rates of exit from the Food Stamp program for former welfare recipients than for low-income families who had not received welfare. Furthermore, the study found that only four out of ten former welfare families that appeared to be income eligible for Food Stamp benefits reported that they

were receiving them in 1997. See Sheila R. Zedlewski & Sarah Brauner, Are the Steep Declines in Food Stamp Participation Linked to Falling Welfare Caseloads 7 (Urban Institute, 1999).

- A study by the Center on Budget and Policy Priorities stated that number of children receiving Medicaid declined by 1.3 million between 1996 and 1998. See Jocelyn Guyer, et al., Missed Opportunities: Declining Medicaid Enrollment Undermines the Nation's Progress in Insuring Low-Income Children 2 (Center on Budget and Policy Priorities, 1999).

- A recent Families USA report found that between 1995 and 1997, 1.25 million people with incomes under 200 percent of the federal poverty level lost their Medicaid coverage as a result of welfare reform, and that 65 percent of these individuals (812,500) were children. See Families USA, Losing Health Insurance Unintended Consequences of Welfare Reform 1-2 (May 1999).

The decline in program participation has not been accompanied by a decline in the need for these benefits. Between fiscal years 1996 and 1997, the number of children receiving Food Stamps fell by 10.2 percent (decreasing from approximately 13,200 in 1996 to approximately 11,900 in 1997). The number of school-age children receiving Food Stamps decreased from 8,399 in 1996 to 7,825 in 1997 (representing an 18.1 percent decrease) while the number of school-age children receiving free lunches at school increased from 12,657 to 12,973 (a 6.4 percent increase) that same year. See GAO, supra, at 4. These figures indicate that the need for food assistance was not declining even though participation in the Food Stamp program decreased during these years.

Studies have also found that many of the individuals who lose their Medicaid coverage do not get alternative health coverage. The majority of states who have studied the population of people leaving welfare found that at least half of the children in families leaving welfare lose their Medicaid coverage. Studies in some states have found that between 65 percent to 70 percent of children lost their Medicaid coverage in the months following their families' departure from welfare. These same studies have found that very few of these children had other sources of health insurance. See Guyer, et al., supra, at 4. Furthermore, fifty-four percent of the people who lost their Medicaid as a result of welfare reform did not obtain alternative coverage and remained uninsured. See Families USA, supra, at 2.

States must ensure that families do not automatically lose their eligibility for Food Stamps and Medicaid because they no longer receive TANF. Furthermore, they should take affirmative steps to facilitate participation in these programs by eligible families. The performance measures proposed by HHS are a good step in encouraging these efforts by states.

HHS should make four changes in the Food Stamp and Medicaid performance measures. First, both measures should include evaluations both for level of performance and for percentage point improvement. It is important to reward absolute performance, in addition to improvements in performance, because high performing states might be disadvantaged if the bonus was only

based on performance improvements. It might be easier for a state to increases its coverage from five to eleven percent than from 80 to 87 percent but both states should have the opportunity to qualify for a bonus. Second, we propose that HHS measure the percentage point improvement rather than percentage improvement in coverage of eligible individuals. Measuring by percentage improvement would inappropriately favor low-performing states. For example, a state that increased coverage from five to ten percent of eligible families (100 percent improvement) would be ranked higher than a state that increased coverage from 30 to 45 percent (50 percent improvement). Third, as with our proposed child care measure, states should be ranked separately on both of these measures and bonuses given to the top five states in each category. Finally, states should be rewarded for improving access to Food Stamps and Medicaid for all eligible low-income families, not just the subgroups delineated in the proposed Food Stamp and Medicaid outcome measures.

The Food Stamp outcome measure in section 270.4(c)(2) evaluates states on "the improvement in the number of low-income working families (i.e., families with children under age 18 who have an income less than 130 percent of poverty and earnings equal to at least half-time, full-year minimum wage) receiving Food Stamps as a percentage of the number of low-income working families in the State." 45 C.F.R. § 270.4(c)(2)(i). The top ten states in terms of their improvement in this measure will be awarded bonuses. See 45 C.F.R. § 270.4(c)(2)(iii).

We disagree with HHS's interpretation of the issue of access to Food Stamps because the proposed regulation only looks at "working families" and it defines "working families" too narrowly. HHS's proposed Food Stamp measure concentrates on employed families who are "better off," although certainly still in need, and not the more vulnerable low-income families who are not employed.[3] Encouraging states to help these needy families access the Food Stamps for which they are eligible not only can reduce hunger, a principal goal of the Food Stamp program, but can help families avoid returning to public assistance, an important TANF goal. A parent whose family is receiving Food Stamps is in a better position to look for work than a parent whose children are hungry. The measure is also faulty because some low-income families that are working might earn less than the equivalent of a half-time, full-year minimum wage job. These families' access to Food Stamps would not be captured by this performance measure.

Therefore, we would propose the following changes in the Food Stamp outcome measure.

---

[3] While many families who leave welfare are initially employed, many families also return to welfare or become unemployed. A study by the Urban Institute found that nearly a third of families who left welfare between 1995 and 1997 returned to welfare. Of those who remained off, 61 percent were unemployed. Many of these families did not have income and would have been in great need of food assistance. A quarter of those who left and remained off of welfare were unemployed and did not have an employed partner or spouse. Almost half of this group had not worked for at least two years. More than a quarter of those without access to earnings reported they could not work because of illness or disability. Fifteen percent said they could not find work. Twelve percent said they could not work because of lack of child care or transportation or the distance from available jobs. Some of these families lived off of child support payments, SSI, or Social Security benefits. More than half of those without access to earned income did not receive payments from any of these three sources, and their means of survival remain largely a mystery. See Pamela Loprest, Families who Left Welfare: Who Are They and How Are They Doing (Urban Institute, 1999).

- **Section 470(c)(2)(i) should state:** "Beginning in FY 2002, we will measure the performance and the percentage point improvement in performance in the number of low-income families (ie, families with children under age 18 who have an income less than 130 percent of poverty) receiving food stamps as a percentage of the number of low-income families (as defined in this subparagraph) in the state.

- **Section 470(c)(2)(iii) should state:** We will rank all states that meet the conditions in paragraph (c)(1) of this section and will award bonuses to the 5 states with the best performance (defined as the highest percentage of eligible families receiving benefits) and the 5 states with the greatest percentage point improvement in this measure.

We are also concerned that the Medicaid outcome measure is too limited in its scope. This outcome measure evaluates "the percentage improvement in the percentage of individuals receiving TANF benefits who are also enrolled in Medicaid or CHIP [and those individuals] who leave TANF in a calendar year and are enrolled in Medicaid or CHIP in the sixth month after leaving TANF assistance (and are not receiving TANF assistance in the sixth month)." 45 C.F.R. § 270.4(d)(3)(i).

This measure is preferable to the Food Stamps measure in that it does not limit its examination to individuals who are working. However, by only looking at individuals who receive TANF and those who have left the TANF rolls in the last six months, the measure ignores the population of individuals who do not and have not received TANF but are at risk of entering the welfare rolls. Medicaid and/or CHIP benefits might keep these families from having to enter the welfare system. Furthermore, given the Clinton Administration's emphasis on expanding health care coverage, particularly for children, it seems inconsistent not to evaluate states on whether or not they are providing benefits to all eligible low-income individuals.

Therefore, we propose the following changes in the Medicaid performance measure.

- **Section 270.4(d)(3)(i) should state:** Beginning in FY2002, we will measure the performance and percentage point improvement in the percentage of eligible individuals who are enrolled in Medicaid or CHIP.

- **Section 270.4(d)(3)(iii) should state:** We will rank the performance on this measure of all States that meet the conditions in paragraphs (d)(1) and (d)(3) of this section and will award bonuses to the 5 States with the best performance (defined as the highest percentage of eligible families receiving benefits) and the 5 states with the greatest percentage point improvement in this measure.

Revise the Allocation of Bonus Funds – Section 270.8

Section 270.8 proposes that $140 million be allocated to the employment and earnings measure and $20 million for the Food Stamps and Medicaid measures. We would instead propose that $35 million be allocated for the child care performance measure with $35 million each going towards the Food Stamps and Medicaid access measures and $15 million going

HHS Secretarial Initiative: Increase self-sufficiency for low-income families through employment and child support collections.

DATA VERIFICATION AND VALIDATION

States currently maintain information on the necessary data elements for the first five program measures. Some States maintain this data manually, while others use an automated system. All States were required to have a comprehensive, statewide, automated CSE system in place by October 1, 1997. Implementation of these systems, in conjunction with clean up of case data, will improve the accuracy and consistency of reporting.

As part of OCSE's certification of automated systems, their ability to produce valid data will be reviewed. Self-evaluation by States and OCSE audits will provide an on-going review of the validity of data input and the ability of automated systems to produce accurate data. There is a substantial time lag in data availability. Final and accurate data for FY 1998 was available in the early summer of 1999, while data for FY 1999 should be available in the spring of 2000.

The Office of the Inspector General's State Satisfaction Survey was conducted using the standard controls. The Inspector General is an independent auditor of HHS programs.

4. Increase affordable child care

Approach for the Strategic Objective: Increase access to affordable, quality child care for low income, working families.

CHILD CARE: AFFORDABILITY

Program Description, Context, Legislative Intent and Broad Program Goals

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 established the Child Care and Development Fund to provide assistance to working low-income families to achieve and maintain economic self-sufficiency. Funds are block-granted to the States for use in enhancing the overall quality of child care and to help low-income parents purchase child care services needed to support employment. States, through their appointed Lead Agencies, make many of the decisions on how funds will be used and where emphasis will be placed in achieving the over all goals of improving access to quality child care.

The major change created by PROWRA is the requirement for States to serve families through a single, integrated child care system. Three title IV-A child care programs, Aid to Families with Dependent Children (AFDC) including Job Opportunities and Basic Skills Training (JOBS) program, Transitional Child Care (TCC), and At-Risk Child Care (ARCC) have been repealed and replaced by new funding under section 418 of the Social Security Act. All child care funding is now administered under the Child Care and Development Block Grant (CCDBG) Act rules. Existing CCDBG regulations were revised to reflect these changes and were released in July of 1998.

The FY 2001 increase of $817 million for a total of $2 billion will be used to expand the Child Care and Development Block Grant (CCDG) program. This increase will provide quality, affordable child care as a support for low-income working families, essential both to parents' continued employment and children's healthy development and learning.

Access to quality, affordable child care is critical to the achievement of self-sufficiency by welfare clients. Child care subsidies also help the working poor remain self-sufficient. ACF will continue to promote expansion of child care services as a key element in its strategy for helping families achieve economic independence. Doing so will involve working with our partners to increase the supply of child care, to develop measures of, and supports for, child care quality, and to provide information to help parents make sound choices about child care.

In addition, partnerships among providers of child care, Head Start, public and private early childhood education, health, nutrition, mental health and parental employment preparation are essential to meeting the needs of young children and their families. ACF will continue to encourage collaboration at the federal, State and individual program levels to this end.

SUMMARY OF FY 1999 PERFORMANCE

Child Care and Development Fund grantees have many efforts underway to address access to child care for low-income families. As work continues in partnership with States to improve the data collection efforts, a number of indicators, including informal feedback from grantees, show that the number of children served by CCDF is increasing. For example, because some States have reduced the level of parent co-payments required, or have set lower co-payment amounts for the very lowest income families, they are able to increase the number of children served. A number of States indicate having raised their income eligibility standards in an effort to extend child care services to additional families. Other States have initiated new partnerships with the business community and with other early childhood service providers to expand the number of programs that offer child care services that match the hours parents are working or in training. The Child Care Bureau continues to encourage grantees to work toward making child care more affordable and accessible for low income families by offering technical assistance to grantees and information to grantees and the general public about successful initiatives across the country.

Despite this progress, existing resources are inadequate to meet the need for child care assistance. On October 19, 1999, the Secretary of Health and Human Services released a report indicating that nationally, in an average month in 1998, only 1.5 million of the 9.9 million low and moderate-income children eligible for CCDF assistance actually received help through the program—just 15 percent of children eligible under State criteria. The gap between eligibility and receipt of services would be greater if States had chosen to define the eligible population to include all of the low and moderate-income working families that are potentially eligible under Federal law—85 percent of State median income—an estimated 14.7 million children would have been eligible for subsidies in 1998, of whom only 10 percent were served.

Where possible, ACF has used FY 1998 data to establish baselines and projected targets for the Child Care performance measures. An intensive technical assistance effort has been instituted by the Bureau to aid States and Territories in developing high quality data. Due to this effort, the Bureau believes that FY1999 data is the most appropriate baseline on the national level for many of the performance measures, although significant reporting problems remain at the State/Territory level. Child Care and Development Fund grantees were required to submit final program data reports for FY 1999 by December 31, 1999. Performance data for FY 1999 should be available by April 30, 2000. A few of the performance measures will require the establishment of new reporting and/or data gathering methods. The Child Care Bureau intends to address these issues in several ways during FY 2000. Some of the information needed to track state performance is contained in the new FY 2000 and FY 2001 CCDF State Plans. These Plans will be used during FY 2000 to establish baselines. The Bureau also is exploring the addition of items related to performance measures reporting to the State Plan Preprint which is under revision for use in FY 2002 and FY 2003. Data needed for reporting performance on two measures related to child care quality (accreditation of facilities and the awarding of credentials to teaching staff) are available through national awarding/accrediting bodies. Baselines for these measures will be established in FY 2000.

Summary Table

In the performance plan submitted in prior years, ACF identified proxy performance measures that addressed the three goals of the CCDF—affordability, availability, and quality of child care. At that time, ACF indicated that the Child Care Bureau would engage its grantees (the States) as stakeholders in a consensus-building process in FY 1999 to identify the actual measures for future reporting. That process was completed in September 1999 and the current measures listed below replace the proxy measures used as placeholders in previous reports. Working in partnership with the States, in FY 2000 the Child Care Bureau will complete the establishment of baseline data for these new and final performance measures.

Performance Goals	Targets	Actual Performance	Reference
Program Goal: Increase the number of children of low income working families and families in training and education who have access to affordable child care.			Px 60
4a. In FY 2001, increase the number of children served by CCDF subsidies from the 1998 baseline average of 1.5 million served per month to 2.22. (Revised)	FY 01: 2.22 FY 00: 1.92 FY 99: N/A	FY 01: FY 00: FY 99: * FY 98: 1.53	
4b. In FY 2001, increase the percentage of potentially eligible children who receive CCDF subsidies from the FY 1998 baseline of 10% to 11.5%. (New)	FY 01:11.5% FY 00:11% New in 2001 FY 99: N/A	FY 01: FY 00: FY 99: * FY 98: 10%	Px 60

4c. In FY 2001, decrease the average percentage of family income spent in assessed child care co-pay among families receiving CCDF subsidies from the FY 1998 baseline of 6.2% to 5.8%. (Revised)	FY 01: 5.8% FY 00: 5.8% FY 99: N/A	FY 01: FY 00: FY 99: * FY 98: 6.2%	Px 60
4d. In FY 2001, increase the number of slots in state regulated child care settings from the FY 2000 baseline. (Developmental—NOTE: This measure is not limited to subsidized child care slots.)	FY 01: FY 00: New in 2001 FY 99: N/A	FY 01: FY 00: Baseline	Px 61
4e. In FY 2001, increase the number of families working and/or pursuing training/education with support of CCDF subsidies from the FY 1998 baseline of 802,000 to 1.1 million. (New)	FY 01: 1.1 FY 00: 1.0 New in 2001 FY 99: N/A	FY 01: FY 00: FY 99: * FY 98: .802	Px 61
***Availability of Data for FY 1999 Performance Report**: FY 1999 Data is due from States December 31, 1999. If all States meet this deadline, FY 1999 Actual Performance will be available by April 30, 2000.			

Total Funding for Child Care Programs (including ELF in FY 01)	FY 01: $5169.9 FY 00: $3552.6 FY 99: $3175.9	Bx: budget just. section Px: page # performance plan

PERFORMANCE GOALS

The child care program is a recent consolidation under PRWORA of several earlier grant programs. Final regulations were released in July of 1998. ACF began the process of developing child care performance goals and performance outcome, output, and process measures shortly after the final regulations were released and continued to refine the measures throughout FY 1999. The Child Care Bureau discussed the goals and measures in a national conference, via telephone conferences and written communication, and in other meetings with partners in the States, Territories, and Tribes over the past year. The current set of appropriate and achievable program goals and measures was developed through this consensus-building process that incorporated significant opportunities for input from stakeholders. Data for many of the measures is available through existing reports that state grantees submit on an on-going basis. Baselines for these measures have been set with FY 1998 data. A few of the measures remain developmental and the methodology for data collection and reporting must be established during FY 2000.

(Additional child care program goals relating to quality of care may be found under ACF Strategic Objective 5, below.)

While the number and percentage of potentially eligible children receiving subsidized child care (*4a*) are outputs of the number of budget dollars invested (inputs), these quantities are results-oriented because the availability of child care subsidies directly supports self-sufficiency programs. An adequate supply of child care is an important intermediate stage on the way to improving family economic independence as well as a continuing necessity for sustaining such independence. ACF has also worked to develop outcome measures of both the affordability and the supply of care. One such measure is the co-payment measure (*4c*), which reflects State efforts in support of families gradually becoming more self-reliant by assuring that child care costs do not consume an excessive share of family

income. Measure 4d is an indicator of the general supply of regulated child care available in the market.

PROGRAM GOAL: Increase the number of children of low income working families and families in training and education who have access to affordable child care.

4a. ***FY 2000: Increase the number of children to 1.92 million served by CCDF subsidies from the FY 1998 baseline of average 1.5 million children served per month.***

FY 2001: Increase the number of children to 2.22 million served by CCDF subsidies from the FY 1998 baseline of average 1.5 million children served per month.

4b. ***FY 2000: Increase the percentage of potentially eligible children who receive CCDF subsidies to 11 percent from the 1998 baseline of 10%.***

FY 2001: Increase the percentage of potentially eligible children who receive CCDF subsidies to 11.5 percent from the 1998 baseline of 10%.

Data sources: Annual Aggregate Report, ACF-800; Child Care Quarterly Case -Level Report, ACF-801; Child Care Annual Report, ACF-700 (for Tribes only)

The above performance goals directly indicate achievement by counting the average actual number of children receiving services each month. The number served is directly related to the funding provided to the State grantees. This measure also interacts with the measures below on amount of co-pay charged to parents, as well as other State-determined policies such as eligibility criteria and provider payments. If the funding level does not change, additional children can be served only if the States make policy changes—such as increasing the parent co-pay. This measure also interacts with the quality measures under Strategic Objective 5 below since costs associated with increased quality will reduce the number of children receiving services, if funding remains unchanged.

4c. ***FY 2000: Decrease to 5.8 percent the average percentage of family income spent in assessed child care co-pay among families receiving CCDF subsidies from the baseline of 6.2% in FY1998.***

FY 2001: Maintain at 5.8 percent the average percentage of family income spent in assessed child care co-pay among families receiving CCDF subsidies.

Data sources: Child Care Quarterly Case-Level Report, ACF-801

The above performance goal indicates the affordability of child care for families served by expressing the out-of-pocket cost as a percentage of family income.

In addition to the issues of whether low-income families can afford child care services, the presence of child care services in the open market is a basic but important indicator of accessibility of services. The following performance goal addresses the availability of regulated child care slots in the market.

4d. ***FY 2001: Increase the number of slots in state regulated child care setting. (Developmental—Note: This measure is not limited to subsidized child care slots.)***

Data source: Under development. The number of regulated child care slots is being proposed as an optional data element for the annual aggregate ACF-800 data collection. The public comment period for the proposed revisions ends February 21, 2000 at which time it will be sent for OMB approval. The first data collection of this element will occur December 31, 2000.

The following performance goals assess the relationship between access to child care subsidies and parental ability to work or attend training/education leading to greater economic productivity.

4e. ***FY 2000: Increase the number of families working and/or pursuing training/education with support of CCDF subsidies to 1 million from the FY 1998 baseline of 802,000.***

FY 2001: Increase the number of families working and/or pursuing training/education with support of CCDF subsidies to 1.1 million from the FY 1998 baseline of 802,000.

Data source: Child Care Quarterly Case Level Report, ACF 801, Item #6, Response 1, 2, or 3

OPERATIONAL PROCESSES, SKILLS, TECHNOLOGIES AND RESOURCES

Since the passage of PRWORA, ACF has spent over $7 million per year in technical assistance to further grantees' ability to increase the accessibility, affordability, and quality of child care. Efforts continue to include systems development, with particular emphasis on helping States meet requirements for reporting and consumer education, assisting them in developing inclusion initiatives (e.g., for children with disabilities), and guidance on building successful linkages between child care programs and programs such as health services, early childhood education and Head Start.

INTERNAL AND EXTERNAL COORDINATION

Quality early childhood programs provide a crucial linkage for comprehensive, healthy child development to prepare children to be successful in school and later in life. Quality programs also provide needed supports to parents who are moving toward self-sufficiency through training and work. In recognition of the importance of comprehensive services, ACF encourages State partners to create linkages between child care and health, family support, early childhood education and other services at the State and community levels. In

addition, ACF continues to collaborate at the federal level in order to facilitate coordination at the community level. To this end, ACF's child care program office continues to work within ACF in coordination with the TANF program, Head Start, and the Administration on Developmental Disabilities. For example, the Child Care and Head Start Bureaus jointly sponsor the QUILT (Quality in Linking Together) project which provides assistance to Head Start and child care grantees on successful ways to form program partnerships. Within HHS, the child care program participates with the Maternal and Child Health Bureau to sponsor the Healthy Child Care America Campaign, aimed at improving the health and safety of child care by creating strong linkages between the child care and health communities. Externally, ACF continues to partner with the Department of Labor's Welfare-to-Work grants program, the States (both individually and through national associations such as the American Public Human Services Association and the National Governors' Association), various national child care associations, and with the research community (e.g., the Child Care Research Consortium, funded by HHS). Special efforts are being made to foster partnerships between the private and the public sector. The Bureau sponsored Partnerships Project provides technical assistance to States and local communities in building coalitions and designing funding strategies involving both public and private entities.

In developing early childhood programs, States and communities craft together resources from a variety of sources, including the Child Care and Development Fund, Head Start, Early Head Start, Social Services Block Grant, Title 1, Even Start, USDA Child and Adult Care Food Program, State funded pre-kindergarten programs, other State funding sources, foundations, charities and businesses. Collaboration builds on the strengths of each program and blends them together in a coordinated fashion for the benefit of both children and their families. Collaboration benefits the child by promoting continuity in services from infancy through school-age and benefits the parents by ensuring that early childhood programs support work.

The CCDF State Plans for FY 2000 and FY 2001 contain information concerning state initiatives around collaboration and, to some extent, the results of their initiatives. ACF will be able to report on these efforts in FY 2000 and FY 2001.

DATA VERIFICATION AND VALIDATION

The Federal Child Care Information System collects all aggregate and case-level data required in the statute for the Child Care and Development Fund program. Aggregate State-level data is submitted via the Internet and stored in a database in the Child Care Bureau. All data that is received by the Federal Child Care Information System will be stored in a national data set. Data standards have been set and training and technical assistance has been provided to all States and territories regarding reporting requirements and submission procedures. Those few States that continue to have difficulties in collecting and transmitting required data are receiving additional on-site technical assistance.

The Federal Child Care Information System will collect two sets of child care data: State-level data and case-level data, from the 50 States, the District of Columbia, Puerto Rico and the Territories of American Samoa, the Commonwealth of the Northern Mariana Islands

The objectives and major program areas under this goal are:

5. ***Increase the quality of child care to promote childhood development***
   - Child Care: Quality
   - Head Start
6. ***Improve the health status of children***
   - Head Start: Health Status
7. ***Increase safety, permanency, and well being of children and youth***
   - Child Welfare
   - Developmental Disabilities: Education
   - Developmental Disabilities: Health
   - Youth Programs

5. Increase the quality of child care to promote childhood development

Approach for the Strategic Objective: Provide high quality early childhood programs, such as Head Start or accredited child care programs, so that early childhood experiences enhance children's development and school readiness.

CHILD CARE: QUALITY

Program Description, Context, Legislative Intent and Broad Program Goals

In our efforts to break the cycle of poverty and dependency, it is essential to focus both on parents and the upcoming generation. Parents are more likely to succeed in employment and self-sufficiency if they have confidence in their child care arrangements. Beyond issues of health and safety, child care impacts the cognitive, emotional, and social development of children. Research has begun to document the most important early influences on children's development and factors, which contribute to the quality of early child care.

ACF works with State administrators, professional groups, service providers, and others to identify elements of quality and appropriate measures; to inform States, professional organizations, and parents about what constitutes quality in child care; to influence the training of child care workers and accreditation; to improve linkages with health care services and with Head Start, and to otherwise take steps to improve the quality of child care nationally.

Infants and toddlers have been specifically designated by the Assistant Secretary for Children and Families as a priority for attention by all ACF programs. Close cooperation with Early Head Start is underway to address these populations. The second year of funding for the President's Child Care Initiative for working families includes an increase of $600 million to create the Early Learning Fund, a critical investment in ensuring that our youngest and most vulnerable children—infants, toddlers, and preschoolers—have the chance to learn, to develop fully, and to stay safe. The Early Learning Fund will provide challenge grants to communities (distributed by States) to improve care in a variety of child care settings.

(See also background information under Child Care "Affordability" goal, above)

SUMMARY OF FY 1999 PERFORMANCE

States continue to expand the innovative ways in which they are using quality improvement funds within the CCDF to assure more children are cared for in environments that support their developmental needs. For example, related to an earmark established by Congress to improve care for infants and toddlers, most States are reporting specific initiatives designed to increase training for providers working with infants and toddlers. Many States have established infant-toddler initiatives that include grants and loans to improve quality, recruitment efforts, health consultation for providers, and incentives for providers to become accredited. As compared to 1997 CCDF Plans, States are more likely to report the availability of higher reimbursement rates related to quality, provider grants and loans, and efforts to increase the compensation received by workers in child care.

The Child Care Bureau supports grantees' efforts in this area by developing guidance materials listing successful programs and models for quality improvement activities, and by making information on quality improvement available to grantees and the public through the National Child Care Information Center. The Bureau, in partnership with HHS' Maternal and Child Health Bureau, sponsors the Healthy Child Care America campaign in order to develop and strengthen linkages between child care providers, health professionals, and families, and ultimately to improve the health and safety of children in child care settings. In addition, the Bureau has sponsored national conferences and leadership forums on use of technology to support improved quality in child care, collaboration among early childhood programs, building public/private partnerships and other related topics.

One key strategy for improving the quality of care, as well as its affordability and availability, is to create linkages between CCDF, early childhood programs, and other agencies that provide crucial services to children and families. The Child Care Bureau, through policy and technical assistance, has worked to promote collaboration. In their FY 1997 and FY 1999 CCDF Plans, State Lead Agencies were required to report on their activities to coordinate child care services with other child-serving entities. Below is a summary of these reported activities. The Child Care Bureau will be analyzing collaborative activities reported in FY 2000 and FY 2001 Plans to track progress over time.

In FY 1997 and FY 1999 Plans, 39 States reported that they coordinate with Head Start agencies to provide coordinated child care services, 27 administered or coordinated with the State Head Start Collaboration Project, and 31 coordinated programs, activities, services, and training opportunities with the State Department of Education or Public Instruction. Thirty-two reported coordination with the Department of Health to improve immunization rates, provide training to providers, monitor compliance with health and safety regulations, and improve the child care programs. In addition, 19 States administered or closely coordinated to create statewide Healthy Child Care campaigns or to develop statewide networks for the delivery of health systems through child care programs. Twenty State Lead Agencies said they coordinate directly with tribal communities to improve service delivery to dually eligible children. Thirty-one coordinated with the

TANF agency, 20 with organizations working on school-age care issues, and 23 with the agency administering early intervention programs for children with disabilities.

Summary Table

In the performance plan submitted in prior years, ACF identified proxy performance measures that addressed the three goals of the CCDF—affordability, availability, and quality of child care. At that time, ACF indicated that the Child Care Bureau would engage its grantees (the States) as stakeholders in a consensus-building process in FY 1999 to identify the actual measures for future reporting. That process was completed in September 1999 and the current measures listed below replace the proxy measures used as placeholders in previous reports. Working in partnership with the States, in FY 2000 the Child Care Bureau will complete the establishment of baseline data for these new and final performance measures

Performance Goals	Targets	Actual Performance	Reference
Program Goal: The quality of child care services will improve over time.			Px 67
5a. In FY 2001, increase by 1% the number of child care facilities nationwide that are accredited by a nationally recognized early childhood development professional organization from the FY 1999 baseline.	FY 01: FY 00: FY 99: N/A	FY 01: FY 00: FY 99: Baseline *	
5b. In FY 2001, increase the number of Child Development Associate credentials awarded nationwide from the FY 1999 baseline. (New)	FY 01: FY 00: New in 2001 FY 99: N/A	FY 01: FY 00: FY 99: Baseline *	Px 68
5c. In FY 2001, increase the number of States conducting routine unannounced inspections of regulated providers from the FY 2000 baseline. (New)	FY 01: FY 00: New in 2001 FY 99: N/A	FY 01: FY 00: Baseline *	Px 68
* **Availability of FY 1999 Data:** Data for these measures are not currently available in that they are not included in required state reports. However, outside sources of the data are being identified and it is expected that FY 1999 performance will set the baseline for 5a and 5b. Data sources are in process of being identified. Data on credentials awarded for FY 1999 is expected to be available by June 1, 2000. Baseline for 5c will be set in FY 2000 through a process of working with the State Lead Agencies for the CCDF to identify State level data sources.			
Total Funding for Child Care including Quality	FY01: $5169.9 FY00: $3552.6 FY99: $3175.9	Bx: budget just. section Px: page # performance plan	

PERFORMANCE GOALS

Under the Child Care and Development Block Grant, a minimum of 4 percent of funds must be used to improve the quality of child care and offer additional services to parents, such as resource and referral counseling regarding the selection of appropriate child care

providers to meet their child's needs. Additional funds are also earmarked for quality improvements.

To improve the health and safety of available child care, many States have provided training, grants and loans to providers, improved monitoring, developed child care worker compensation enhancement projects, and other innovative programs. Tribes may use a portion of their funds to construct child care facilities provided there is no reduction in the current level of child care services.

The above investments are inputs and, in some cases, intermediate outputs. These child care measures have been identified given the current state of available data. Recognized accreditation organizations provide credible ratings of individual provider quality.

Because baseline data are not yet available for the child care measures, target percentage increases cannot be specified at this time. However, data for FY 1999 performance is anticipated to be available by June 2000 for the first two measures. Data for FY 2000 may be available by April 2001 for the third measure. As the baseline data become available, target percentage increases will be specified.

5a. ***FY 2000: Increase by 1% the number of child care facilities that are accredited by nationally recognized early childhood development professional organizations and accrediting entities from the FY 1999 baseline.***

FY 2001: Increase by an additional 1% the number of child care facilities that are accredited by nationally recognized early childhood development professional organizations and accrediting entities from the FY 1999 baseline.

Data source: National Early Childhood Professional Organizations and Accrediting Entities. The Child Care Bureau will continue to work with stakeholders, including States and National Organizations, to capture information concerning accreditation programs and to collaboratively develop a strategy to more formally address this information need. We anticipate that the data source will be identified by the end of the year.

The above performance goal is an indicator of quality improvement on a nationwide basis. Child care facility accreditation has been linked to better outcomes for children and is growing in acceptance as a marker of good quality care. Several States use Child Care and Development Fund quality improvement funds in various ways to support facility accreditation.

Through intense efforts with program stakeholders to explore alternative ways to measure progress in improving the quality of child care services, the following performance goals have been developed. These goals address the levels of safety necessary to support children's development in child care settings and the higher levels of quality reflected by facilities in which staff have achieved nationally recognized educational credentials.

5b. ***FY 2000: Increase the number of Child Development Associate credentials awarded nationwide from the FY 1999 baseline.***

FY 2001: Increase the number of Child Development Associate credentials awarded nationwide from the FY 1999 baseline.

Data source: Child Care State Plans. In addition, the Child Care Bureau will continue to work with stakeholders, including States and National Organizations, to capture information and to collaboratively develop a strategy to more formally address this information need. We anticipate that any additional data source will be identified by the end of the year.

5c. ***FY 2001: Increase the number of States conducting routine unannounced inspections of regulated providers from the FY 2000 baseline.***

Data source. The number of States conducting routine unannounced inspections is being proposed as an optional data element for the annual aggregate ACF-800 data collection. The comment period for the proposed revisions ends February 21, 2000 at which time it will be sent for OMB approval. The first data collection of this element will occur December 31, 2000.

INTERNAL AND EXTERNAL COORDINATION

In addition to the partnerships mentioned previously, ACF is working with HHS health agencies, including Maternal and Child Health, Community Health Centers, mental health programs, and the Health Care Financing Administration (and their constituencies) to achieve health targets.

NOTE: See Child Care "Affordability" goal above for "data verification/validation" and "operational processes, skills, technologies and resources."

HEAD START

Program Description, Context, Legislative Intent and Broad Program Goals

Head Start is a national program that provides comprehensive developmental education, health, mental health, nutrition and social services for America's low-income, preschool children ages three to five and their families. The basic philosophy that undergirds the Head Start program is that children benefit from quality early childhood experiences and that effective intervention can be accomplished through high quality comprehensive services for children, along with family and community involvement. Head Start provides diverse services to meet the goals of three major content areas: early childhood development and health services; family and community partnerships; and program design and management. Approximately 1,520 community-based organizations develop unique and innovative programs to meet specific needs, following the guidelines of Program Performance Standards,

#37

February 4, 2000

Olivia Golden, Assistant Secretary for Children and Families
Administration for Children and Families
Office of Planning, Research and Evaluation
U.S. Department of Health and Human Services
370 L'Enfant Promenade, SW
7th Floor West
Washington, DC 20447

Dear Ms. Golden:

Thank you for the opportunity to submit comments in response to the Notice of Proposed Rulemaking (NPR) published on December 6, 1999, creating 45 C.F.R. §270, which establishes the criteria for awarding bonuses to states for high performance under the Temporary Assistance for Needy Families block grant (TANF program). As members of a coalition of lawyers, social service providers and community representatives advocating for fair and effective implementation of welfare reform in the District of Columbia, we believe that bonuses can provide effective incentives to states to create and implement effective programs to move families to work and to support low-income working families, particularly as the five year time limit on federal cash assistance approaches. Our comments on the proposed rule focus on three recommendations: 1) the work measures should emphasize the quality of jobs accessed by recipients; 2) the criteria of the outcome measures for the Food Stamp and Medicaid bonuses should be expanded; and 3) the bonus for increasing the percentage of children in low-income families should be replaced with a measure that will reward states' investment in child care for low-income families.

The work measures should emphasize the quality of jobs accessed by recipients

Section 270.4 proposes to award high performance bonuses based on four work measures. We fully support the principle behind these bonuses, but believe that some of the measures may not accurately assess job retention that will lead to stable, long-term employment. The Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, sets forth requirements for the states to move recipients into jobs; the bonuses should be used to reward states not for simply meeting those requirements, but for taking extra steps to ensure that recipients are moving into and succeeding at stable jobs that offer the possibility for wage advancement and long-term self-sufficiency.

The job retention factor in the "success in the work force rate" measure reflects only whether an individual has worked over a finite period, seemingly without regard to the actual stability of his or her employment history over that period. Given that employees with low job skills often change jobs frequently, the fact that an individual is

employed at two particular points in time may signify little with regard to the individual's long-term employability in the absence of some evaluation to determine whether the employee has changed jobs repeatedly during that time period. We believe that earnings gain is a better indicator of stable employment and suggest that more weight be accorded this factor. We also believe that the job entry and job retention measures should include some evaluation of the quality of jobs in which recipients are placed, with states receiving more credit for entry into jobs paying self-sufficiency wages.

The proposed work performance measures appropriately do not provide any reward for placement in fully subsidized work. However, we suggest that a measure be added to reward states who have adopted screening and assessment tools to appropriately identify recipients' skills and deficits and have provided ancillary services to recipients who are participating in fully subsidized work (such as "work experience") in compliance with the work activity requirement. As caseloads have declined, a greater proportion of individuals receiving cash assistance face multiple barriers to employment, including limited education, literacy and language barriers, substance abuse, domestic violence, mental illness, or disability. The District of Columbia Department of Human Services reports that 66% of adults receiving TANF in the District read at or below the 5th grade level. The likelihood that these individuals will be able to obtain and retain self-supporting employment without education, training or rehabilitation is slim. For example, a recipient in the District obtained a job as a cashier at a drugstore and was subsequently terminated when her drawer reflected that she had given small amounts of inaccurate change on three occasions. Conversely, recipients with more education have higher earnings, work more steadily and are less likely to return to the welfare system.

States are permitted to count recipients who combine at least twenty hours of work experience, job search and job readiness, or community service with additional hours of job training or education toward their work participation requirement. We suggest that states be rewarded for encouraging and promoting training and educational opportunities (such as GED classes, adult basic education, or English as a second language classes) amongst the portions of their caseloads who are engaged in work experience, job search and job readiness, or community service. A bonus could be awarded based on the percentage of individuals meeting the work activity requirement by combining work experience, job training or job readiness, or community service with job skills training or education compared to the overall number of individuals in the state meeting the work activity requirement through work experience, job training or job readiness, or community service.

Expand the criteria of the outcome measures for the Food Stamp and Medicaid bonuses

We fully support the inclusion of food stamp and Medicaid receipt as bases for high performance bonus awards and urge the Department to retain these measures in the final rules. Like other jurisdictions around the country, the number of individuals receiving food stamps in the District has dropped as TANF caseloads have declined. This drop is particularly disturbing given that few TANF recipients in the District have

left the welfare system for employment since 1997, suggesting that few former recipients now have incomes that would have disqualified them for receipt of food stamps. More extensive outreach to these families is necessary to enroll (or reenroll) them in the food stamp and Medicaid program; we believe that the bonus will help to convince state legislators to support local agencies' initiatives to conduct more extensive outreach to low income families, given the possibility that expenditure of funds for such outreach could be recouped through the bonus.

Receipt of food stamps and Medicaid is critical to improving the functioning of low-income families in part because these supports relieve the family from expending scarce financial resources to meet their basic needs for food and health care. Parents can instead divert funds to other needs, including work-related expenses and child care, that enhance their efforts to maintain employment. In the District of Columbia, relieving parents of these expenses can also promote families' residential stability. Excessive rental housing costs – the fair market rent for a two-bedroom apartment in the District is $812.00 per month – force many low-income families to spend large portions of their income on rent. One crisis, such as a medical emergency for a family without Medicaid, can force a parent to fall behind in the rent, leading to eviction and residential instability that can jeopardize his or her employment.

While we fully support the bonus for increased access of food stamps, we suggest that the outcome measure be amended to evaluate an increase in food stamp program participation for all eligible families, not just those who meet the earnings test set forth in 45 C.F.R. 270.4(c)(2). The earnings measure excludes those families who may cycle in and out of employment, or who have suffered a crisis that disrupts their employment – families for whom food stamps are vital.

Similarly, based on data from previous years indicating that many families who left welfare lost their Medicaid coverage, we suggest that the outcome measure for the Medicaid high performing bonus be amended to include an evaluation of a state's success in increasing the number of low-income families receiving Medicaid. According to data from the Health Care Financing Administration, 80,721 individuals were enrolled in Medicaid Managed Care in the District as of June 30, 1997; by June 30, 1998, enrollment had dropped to 51,022 – a decrease of almost 37%. Additionally, many states and the District of Columbia expanded Medicaid eligibility to include parents and children who may never have been part of the TANF system. These populations are overlooked by the measurement proposed in 45 C.F.R. §270.4(d)(3)(i).

We propose that HHS adopt two separate outcome measures for the bonus: one that evaluates the enrollment rate of individuals as of the sixth month after they have left the TANF system, and another that measures the percentage of individuals eligible for Medicaid who are actually enrolled. This second measure would encourage states to identify those who have already dropped out of the system due to poor recertification processes and to reenroll them in Medicaid, as well as to enroll newly eligible families. Structuring the bonus to reward states for outreach to all Medicaid eligible families may

also enhance state efforts to track the well-being of families who left the TANF system shortly after the program's inception.

Replace the bonus for increasing the percentage of children in low-income married families with a measure that will reward states' investment in child care for low-income families

The proposed rules provide for a bonus based on the increase in the marriage rate of low-income parents. We suggest that other measures are more closely related to healthy family functioning and stability and are more practicably supported by state programmatic changes than increases in the marriage rate. Consequently, we urge HHS to replace the marriage bonus with a reward based on income-enhancing measures.

In support of the marriage bonus, the preamble to the proposed regulations states, "We also know that children who live with only one parent suffer more emotional, behavioral and intellectual problems. They are at greater risk of dropping our of school, alcohol and drug use, adolescent pregnancy and childbearing, juvenile delinquency, mental illness and suicide." Where studies have controlled for income, however, children raised by one parent have not been found to be more susceptible to the catalogue of social ills listed in the preamble than those raised by two parents. HHS further states in the preamble, "We also believe that families are one of the strongest factors in developing and sustaining high levels of individual competence and functioning in our complex society." We believe that this statement, and the sentiment it represents, must be qualified: *healthy* families promote individual competence and functioning. We are concerned that focusing the bonus solely on the existence of two parent families may undermine state initiatives that are designed to protect parents and children, such as domestic violence intervention and prevention, but in doing so may lead to the dissolution of marital relationships. The proposed rules should not introduce a principle that ignores family functioning and may compete with state policies designed to protect vulnerable families.

Additionally, we believe that the marriage bonus duplicates pre-existing awards designed to promote two-parent family formation. The Act already provides a bonus for reducing out-of wedlock births, which can be achieved by states in one of two fashions: by reducing pregnancy rates or by encouraging parents to marry. Basing another bonus on the increase in the percentage of married families under 200% of the poverty level duplicates the incentives provided by the bonus for reduction in out-of-wedlock births, undermining the principle stated in the preamble that the proposed rules should "minimize double jeopardy or reward." Further, a state's performance on this measure may be more likely to be tied to fluctuations in the economy rather than on policy initiatives created by the state. Should there be a recession in the economy, sizable numbers of two-parent families could fall under the poverty level criteria for the marriage bonus, without any actual change in the number of married families and with little or no programmatic investment by the state. Award of the bonus could effectively have had little or no relation to positive changes in the marital status of low-income families, at the

expense of an opportunity to promote other measures that could positively impact family stability.

As an alternative, we propose that HHS adopt a bonus that rewards states that have committed resources to subsidize high quality child care for children in low-income families. Development by states of child care subsidy plans that meet the cost and quality needs of low-income working families is a necessary step in assisting families on welfare make a successful transition to work. Recent data reveals that families living in poverty who earn less than $14,400, an amount higher than the typical earnings of families who leave welfare for work, typically devote 25% of their income to child care. An October 1998 report released by HHS noted that "[r]ecent studies suggest that increased funding for child care subsidies increases employment rates and earnings for low and moderate-income parents, while other studies found that families on waiting lists for child care assistance cut back their work hours and are more likely to receive public assistance of go into debt." See U.S. Department of Health and Human Services, Access to Child Care for Low-Income Working Families, October 19, 1999. Employees with inadequate child care are more likely to be late for work, absent, or distracted on the job than parents who access safe, reliable child care. Additionally, studies have shown that high quality child care can promote children's social and intellectual functioning and have a lasting effect on their school performance; low-income children in particular are more vulnerable to the effects of the child care that they receive. Finally, states have more direct control over the provision of child care than over factors that might promote marriage.

Creation of a bonus based on child care performance would reflect the "widespread bipartisan agreement . . . that [p]arents should receive the child care and the health care they need to protect their children as they move from welfare to work." 64 Fed. Reg. 68202, 68203 (Dec. 6, 1999). Promoting child care subsidies advances two TANF goals: to promote work and to provide assistance to needy families. Despite Congressional support for child care programs, data from 1998 reveals that only 12% of children eligible to receive such subsidies in the District of Columbia actually received them. Although the District has made efforts in the last year to increase funding and enrollment of eligible children, much more needs to be done. The financial incentives provided by a high performance bonus could motivate states to improve their child care systems.

A high performance bonus based on child care could include qualifying conditions requiring that states pay child care rates equal to at least the 75th percentile of current market rates, and that a required percentage of subsidies be provided for care arrangements that meet state certification standards. Under the regulations adopted by HHS in 1998, states are required to conduct market surveys every two years to determine whether the subsidies that they provide ensure equal access to child care for families who receive subsidies and those who do not. See 45 C.F.R. §98.43(b)(2) (1999). For states that meet such criteria, two separate high performance bonuses could be awarded based on two measures: (1) the percentage of children under the age of thirteen in families with incomes below 85% of the area median income (the standard for eligibility under the CCDF) receiving subsidies, and (2) the percentage point improvement in this measure,

relative to the previous year using the same designation for "comparison year" and "performance year" set forth in the definitions section, 45 C.F.R. §270.2. This bonus structure would reward both those states that have demonstrated a commitment to ensuring access to child care for low income families and those who have redoubled their efforts

Thank you again for this opportunity to comment.

Susan Bennett
Washington College of Law, American University

Nina K. Dastur, Staff Attorney
Legal Aid Society of Washington DC

Scott McNeilly, Staff Attorney
Washington Legal Clinic for the Homeless

Kerry O'Brien, NAPIL Fellow
Zacchaeus Free Legal Clinic

Sczerina Perot, Staff Attorney
Washington Legal Clinic for the Homeless

Melissa Reinberg, Legal Director
Legal Aid Society of Washington DC

T.J. Sutcliffe, Advocacy Coordinator
So Others Might Eat

Wendy Vaughn, NAPIL Fellow
Legal Aid Society of Washington DC

MINNESOTA TOLL FREE NUMBER:
1-800-642-9041

United States Senate
WASHINGTON, DC 20510-2303

LABOR AND HUMAN RESOURCES
SMALL BUSINESS
INDIAN AFFAIRS
VETERANS' AFFAIRS
FOREIGN RELATIONS

#3

February 3, 2000

Administration for Children and Families
Office of Planning, Research and Evaluation
7th Floor West
370 L'Enfant Promenade, SW
Washington, DC 20447

Re: Comments on Department of Health and Human Services' proposed measures for the TANF High Performance Bonus, 64 Fed. Reg. 68202 (Dec. 6, 1999)

Dear Secretary Shalala:

I am writing to express my support for the Department of Health and Human Services' efforts to develop additional measures for the TANF High Performance Bonus. As a U.S. Senator, I have devoted much of my time and energy to addressing the needs of low-income children and their families, and I feel strongly that the High Performance Bonus can be a useful tool in rewarding states that most carefully attend to the needs of this population.

I feel equally strongly that the High Performance Bonus can also provide us with an invaluable data collection tool. As the National Research Council writes in *Evaluating Welfare Reform: A Framework and Review of Current Work*,

> "Gaps in the data infrastructure for determining the effects of welfare reform are numerous . . . Federal data-gathering activities on the details of state policies have been slow and haphazard . . . Program devolution has also constrained the ability of the federal government to mandate data collection or research to track the effects of the changes in social welfare programs required by the new legislation. Yet it is clear that the federal government and Congress will need a national-level assessment of how the new programs are working, especially to make informed decisions about the renewal of PRWORA."

It is vital that we take whatever steps are necessary to collect the data that will be essential for evaluating the success or failure of welfare reform as we move toward reauthorization in 2002. The data collected through the High Performance Bonus can provide a critical component of our understanding of the effects of welfare reform. I urge HHS to begin the use of additional measures immediately, so that Congress may have access to such data prior to reauthorization.

☐ HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2303
(202) 224-5641

☐ 2550 UNIVERSITY AVENUE, WEST
COURT INTERNATIONAL BUILDING
ST. PAUL, MN 55114-1025
(651) 645-0323

☐ POST OFFICE BOX 251
108 SO AVENUE, SOUTH
VIRGINIA, MN 55792
(218) 741-1075

☐ 417 LYNDALE AVENUE, SW
WILLMAR, MN 56201
(320) 231-0851

Although I believe that the Department's proposal moves us in the right direction, I also believe that there are certain aspects of the proposed regulation that are cause for concern.

Work Measures

There can be no question that one of the principle goals of welfare reform is to move families into the workforce, and I am encouraged by HHS' efforts to develop thoughtful measures of how recipients are faring at work. However, numerous recent studies have made it clear that many former recipients who enter the labor market do so at the lowest economic rung, typically working in low-paying occupations that offer few benefits and little room for advancement. As a result, it is not clear that the current work measures used in the High Performance Bonus accurately reflect how well leaver families are doing. For instance, we know that low-income workers often cycle in and out of the labor market, making a measure of job entry rates somewhat less telling. The job retention measure is also affected by this pattern – rather than simply measuring whether a recipient is employed from one quarter to the next, there should be some attempt to understand if they are employed in the same job over time. Staying in one job and moving up the job ladder is a significantly different experience than moving from one entry-level job to another.

Furthermore, the measure of earnings should be set as an absolute rather than a relative measure. Currently states can be rewarded for moving families into work that pays far below a living wage, so long as there is some relative gain in earnings over time. Should a state be rewarded for placing a welfare recipient in a job that not only pays poorly initially, but despite increases over time continues to pay poorly? I would encourage HHS to consider a minimum earnings threshold before states can compete on this measure, or at least include a component of this measure that rewards those states that take pains to place recipients in jobs that pay a living-wage.

Finally, I would strongly urge HHS to include child care as a measure of state high performance in meeting TANF goals. Child care is essential in enabling TANF recipients, primarily single women with children, to successfully enter the labor market. Indeed, the preamble to the proposed regulation states that there is "widespread bi-partisan agreement" that "parents should receive the child care . . . they need to protect their children as they move from welfare to work." Yet there is overwhelming evidence that affordable, adequate child care remains one of the single most significant barriers parents face when they try to move into the workforce. HHS' own studies show that only 10 percent of eligible families receive the child care subsidies to which they are entitled. It is critical that we do whatever is necessary to ensure that states increase efforts to provide affordable, quality child care. It is wholly unreasonable to demand that TANF recipients work without at least acknowledging the need to simultaneously provide affordable, accessible, quality child care. That TANF goals cannot be accomplished without the provision of

child care to TANF families should be recognized in the work measures of the High Performance Bonus.

Measures for Supporting Working Families

I strongly support the inclusion of measures of participation by low-income working families in the food stamp and Medicaid/SCHIP programs, and commend HHS' efforts to add these criteria to the High Performance Bonus. Although we know that these supports can prove essential to the economic well-being of families as they make the difficult transition from welfare to work, we continue to see a disturbing decline in enrollment in these programs that cannot be accounted for by any parallel decline in poverty. Only when states ensure that all eligible families in need of supports are enrolled in these programs can we meet the goals of sustaining working families.

It seems, however, that the proposed measure for participation in the food stamps program would penalize those states that are already doing a good job of ensuring participation. By only comparing a state's performance in one year to its performance in the previous year, it is possible that a state that increases enrollment from 10 percent in one year to 20 percent in the next year would receive bonus money while the state that increases enrollment from 90 percent to 95 percent during the same time would not. I would encourage HHS to adopt a model similar to the current work requirements that looks at both absolute (within a state) and relative (between states) improvement in enrollment. I would also strongly urge HHS to earmark at least $40 million for each of these measures, for a total, at a minimum, of $80 million dollars to be awarded for measures for supporting working families. Given the critical need to strengthen and support working families as they transition off welfare, I believe that awarding only $20 million for each of these measures sends the wrong message to the states about their importance.

Measures of Family Formation and Stability

For a number of reasons, I would encourage HHS to delete this measure from the High Performance Bonus. First, this measure would appear to violate your own principle that a high performance bonus system should "minimize double jeopardy or reward." There is a very narrow distinction between rewarding states for decreasing out-of-wedlock births, for which there is already a performance bonus, and rewarding states for increasing the number of children in married parent families. It is difficult to understand what the difference in state programs would be in competing for these two bonuses unless, under the latter, states were to reward poor two-parent families for having more children. Otherwise, decreasing the number of out-of-wedlock births or increasing the number of children in married parent families is much the same thing.

Second, as currently written, the statute seems to reward states when the aggregate income of the married couple is below 200 percent of the poverty level, but would not reward states when the

married couples' aggregate income exceeds 200 percent of the federal poverty level. In some ways, this measure seems to suggest that states should be rewarded for creating poor families. A state becomes eligible for this bonus if a couple gets married yet remains poor, but the state gains no benefit if this same couple moves into economic self-sufficiency.

Finally, the goals and purposes of the TANF program as specified in section 401(a) of the Act use specific language: "(4) Encourage the formation and maintenance of two-parent families." This is different than the promotion of married couples. Under the final TANF regulations, there are a number of things that states can do to encourage both parents in a family to meet their familial responsibilities. There are a variety of initiatives, at both the federal and state levels, that are aimed at non-custodial parents. HHS guidance for use of TANF funds includes these services as meeting the stated goals of the TANF program, so it seems evident that the purpose is not necessarily limited to parents living together. There are a number of reasons why sometimes it makes more sense for a mother and father to live apart from each other, including chemical addiction problems and domestic violence concerns, and states should not be penalized for recognizing this to be the case.

Thank you for your consideration of these comments.

Sincerely,

Paul D. Wellstone

Paul D. Wellstone
United States Senator

From the office of:

Congressman Pete Stark

13th District, California

239 Cannon House Office Building
Washington, D.C. 20515
Phone: (202) 225-5065 Fax: (202) 226-3805

205-3598

To: Sean Hurley for Olivia Golden

From: Anne Montgomery

Number of pages following this cover: 2

If you have any problems or questions, please call the sender at the number above.

Comments: Comment on High Performance Bonus proposed regulation.

#55

Congress of the United States
House of Representatives
Washington, DC 20515

February 4, 2000

Olivia Golden
U.S. Department of Health and Human Services
Administration for Children and Families
Office of Planning, Research and Evaluation
7th Floor West
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

Dear Ms. Golden,

We are writing to comment on the proposed High Performance Bonus regulations published in the December 6, 1999 Federal Register.

In general, we are pleased by the expansion of the bonus to include measures of food stamp and Medicaid participation.

As you know, many studies conducted since 1996 show that states have often failed to enroll eligible low-income families transitioning off TANF in the Medicaid and Food Stamp programs. This has led to unexpected and alarming declines in participation in both programs since the enactment of PRWORA. In our view, this suggests that welfare reform has so far failed to reach its primary purpose of helping low-income families to achieve self-sufficiency in the work force.

We understand that a full federal review of state policies regarding Medicaid enrollment of TANF recipients and leavers is now underway, and that preliminary results show significant problems in some areas. We look forward to discussions about steps the Administration will be taking to reinstate eligibility for individuals improperly denied health insurance, and to address current and future enrollment problems.

Inclusion of Medicaid and food stamp participation in the High Performance Bonus has the potential to motivate states and local welfare offices to take the necessary steps to ensure that fragile low-income families leaving welfare are given an opportunity to apply for these vital support programs. But the allocation of bonus award funds at $20 million annually to each non-work measure -- then divided among 10 states with the highest scores in each measure -- creates little incentive for states to choose to compete for

these bonuses as compared to the much more generously funded employment measures. Careful consideration should be given to increasing the dollar amounts to $40 million each for the Medicaid and food stamp participation measures.

Moreover, it is our understanding that the proposed regulation does not require states to certify that they meet certain statutory and regulatory qualifying conditions related to Medicaid and food stamp application and enrollment procedures as a condition of competing for the employment measures. Thus, we respectfully request that the regulation be amended to include the Food Stamp and Medicaid and S-CHIP certifications required in order for states to compete on any of the work measures, similar to that included in the program guidance for the FY 2001 bonuses.

We also support comments made by the Children's Defense Fund with regard to inclusion of a child poverty measure and creation of a child care bonus. It is clear that millions of welfare families headed by unmarried women will not be able to make a successful permanent transition into the workforce unless they have stable access to affordable quality child care.

Thank you for your consideration of these comments.

Sincerely,

Pete Stark
Member of Congress

Carolyn Maloney
Member of Congress