



Cynthia A. Rice

09/08/97 09:04:25 PM

Record Type: Record

To: Emily Bromberg/WHO/EOP, Emil E. Parker/OPD/EOP, Keith J. Fontenot/OMB/EOP, Francis S. Redburn/OMB/EOP

cc: Diana Fortuna/OPD/EOP

Subject: HHS New Mexico letter

I will have faxed to each of you first thing in the morning HHS letter to Sen. Bingaman re: New Mexico as well as another copy of the Cuomo letter you've already seen. I think they're fine (one clarifying edit noted) and would like to give the go-ahead for them to go on Thursday.

Thus, please provide any comments to me by COB Tuesday. Thanks.

DRAFT

HHS

The Honorable Jeff Bingaman
United States Senate
Washington, DC 20510

Dear Senator Bingaman:

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

We understand that there will be a public hearing in New Mexico on these issues on September 29. Also, our regional staff have recently met with senior State officials regarding this policy. You may be aware that the State has modified its earlier policy. Housing subsidies will not be counted during the first 60 days of families' receipt of TANF assistance, or for those individuals who are exempted from the TANF work requirements -- the elderly, persons with disabilities, pregnant women, and those with children under one year old.

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

The statute requires each State to submit a plan that outlines how it will conduct its TANF program, but it does not specify the level of detail that must be included. HHS is required to certify that a State's plan is complete, i.e., that all the required certifications are made, and that other specific provisions are addressed. New Mexico's TANF plan was certified complete on June 5, 1997.

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

Page 2 - Senator Bingaman

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

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

I hope this information is helpful to you. Please feel free to contact me again if I can assist you further.

Sincerely,

Donna E. Shalala
Secretary

I am suggesting this edit:

Under TANF, states may ~~also~~

count housing subsidies ~~as they~~ as they could ~~also~~ under AFDC; they also have additional new flexibility to choose what types of income they will count in determining eligibility and benefit levels for TANF.

CR

DRAFT

HUD

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

Dear Senator Bingaman:

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

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

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

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

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

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

Sincerely,

Andrew Cuomo

3/20/97
JEFF BINGAMAN
NEW MEXICO

09:17

POLICY DEVELOPEMENT OFFICES → 94567431

NO.197

004

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IN NEW MEXICO—1-800-443-8668
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senator_bingaman@bingaman.senate.gov

United States Senate

August 11, 1997

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

Dear Secretary Cuomo:

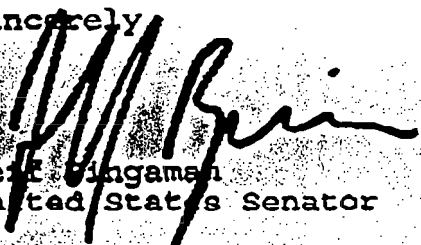
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New Mexico's plan for Temporary Assistance for Needy Families (TANF) was cleared to take effect July 1, 1997. The New Mexico TANF plan mentions how income will be calculated for beneficiaries. However, federal housing subsidies were not detailed specifically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

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

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

Sincerely,


Jeff Bingaman
United States Senator

JFB/dw



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF POLICY DEVELOPMENT AND RESEARCH

FROM:  Paul A. Leonard
Deputy Assistant Secretary
for Policy Development

DATE: August 20, 1997

TELEPHONE NO: 202-708-3896

FAX NO: 202-708-0309

TO: Cynthia Rice

TELEPHONE NO: 456-2216

FAX NO: 456-7431

NUMBER OF PAGES INCLUDING COVER SHEET: 3

NOTE:

I would like to get your thoughts on this letter as soon as possible.

Thanks.

Cynthia/Diana -

*I kind of like this letter.
We need to know what HHS
wants to do and/or how
it wants to respond. (I see
Bingaman sent the same letter
to Malala.). (By the way, what's
the Aug 14 action referred to in
Cuomo's letter?)*

E. Leonard

DRAFT

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

Dear Senator Bingaman:

Thank you for your letter of August 11, 1997, concerning the decision of the New Mexico Secretary of Human Services to count Federal housing subsidies as income for recipients of assistance under the Temporary Assistance for Needy Families program. I share your grave concerns about this action. Our data systems indicate that approximately 8,000 New Mexico families receive both HUD housing assistance and AFDC.

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

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Sincerely,

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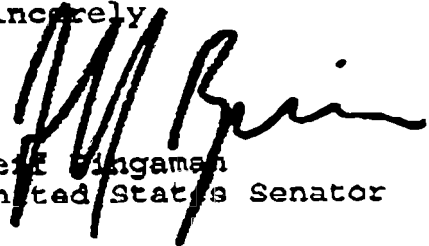
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Jeff Bingaman
United States Senator

JFB/dw

cc Stg Gallagos
IGA

F41- From
Diana Fortne

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Q's - say no legislation?

- can HUD release letter?

NEW MEXICO WELFARE REFORM AND HOUSING ASSISTANCE

Issue: On August 5, 1997, the State of New Mexico announced, via regulation, that all housing assistance was to be calculated for the purpose of determining TANF eligibility and/or level of benefits, retroactive to August 1. There were no public hearings on this issue, the change was not publicized and caught both clients and housing authorities without warning. It was implemented by executive action without the involvement of the state legislature. Remember previously Governor Johnson had vetoed the welfare reform bill passed by the legislature and submitted his own TANF plan to the federal government for certification of completion, much to the dismay of the legislature. The Center for Law and Poverty has filed a lawsuit on this issue.

As TANF recipients who also received housing assistance came up for recertification following August 5, they found that the cash value of their housing assistance put them over the TANF eligibility threshold. Without advance notice individuals were told that they had to choose between housing or cash assistance. HUD estimates that the new policy will effect about 8000 families. It is also reported that some clients went to access their benefits at the ATM machine using their EBT cards and found that they had nothing in their account. Since there was no conversation and forewarning of this upcoming change there has been little time to train the field staff and mistakes are being made. It is reported that even though housing subsidies are not to be counted for medicaid and food stamps, workers are doing so in error and terminating these benefits for people.

HUD became aware of the housing situation via the media and the HHS regional office was notified about it by the Albuquerque City Mayor's Office when it hit the newspaper. It was the first time that everyone even became aware of the situation, there was no advance notification of any governmental entities. Beyond the immediate issue of individuals being forced to choose which type of assistance they will continue receiving, the new policy will have a direct impact on housing assistance in the state in general. Housing assistance is based on income, if an individual chooses to continue receiving housing rather than cash assistance, their income goes down, dramatically limiting the number of people that will receive assistance and increasing existing waiting lists.

There has been extensive local media coverage over the past three weeks as well as some action to address public concerns: a lawsuit has been filed concerning the Governor's authority to undertake such an action, there was a joint Health and Welfare Reform

Committee hearing on the issue at which legislators asked that the State reevaluate the issue, Senator Domenici has asked the state to reevaluate the new policy and Senator Bingamon has asked Secretary Shalala and Cuomo to review the issue as well.

On August 14, Human Services Secretary Duke Rodriguez admitted that the decision to take welfare benefits away from most everyone also receiving housing aid was "clearly a mistake." The state backed off of its original plan by stating that certain individuals who are exempt from the work requirement, such as the totally disabled or women with an infant less than a year old, may keep both federal housing subsidies and welfare.

OTHER GENERAL ISSUES

Welfare reform implementation has been needless to say very contentious in the State of New Mexico. The Human Services department issued a request for proposals for provision of welfare to work activities to implement the TANF plan. They asked potential bidders to address supportive service needs for TANF recipients including transportation, job placement and child care.

However, there has not been any effort to have interagency coordination on these efforts thereby earning the wrath of its sister agencies in the process. The Children Youth Families Department, the state child care agency, sent a letter to all who received the RFP restating that they are the State's child care agency and anyone who is going to provide child care should work with them. The New Mexico Department of Labor has made numerous attempts to assist in the welfare to work planning but is now left out of the system development because they are not eligible to answer the state RFP, which is now the only avenue available to build a service system. Program bidders are being asked to construct systems outside the ones that already exist. The two agencies who were awarded contracts under the RFP, Albuquerque TVI (technical school) and the UNM Continuing Education department are just beginning to see clients. It is estimated that they will serve a fourth of the TANF recipients in Bernalillo County over the course of the year.

DRAFT

HUD

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United States Senate
Washington, DC 20510-3102

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Sincerely,

Andrew Cuomo

5/20/97

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POLICY DEVELOPMENT OFFICES → 94567431

NO. 197

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August 11, 1997

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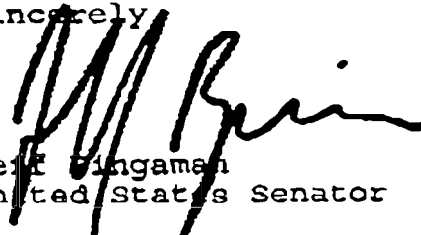
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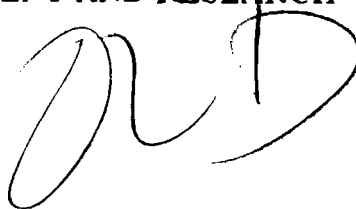
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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF POLICY DEVELOPMENT AND RESEARCH



FROM:

 Paul A. Leonard
Deputy Assistant Secretary
for Policy Development

DATE: August 20, 1997

TELEPHONE NO: 202-708-3896

FAX NO: 202-708-0309

TO: Cynthia RiceTELEPHONE NO: 456-2216FAX NO: 456-7431NUMBER OF PAGES INCLUDING COVER SHEET: 3

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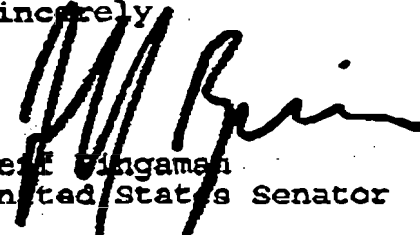
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