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August 28, 2006

TANF Reauthorization Comments  
Office of Family Assistance  
Administration for Children and Families  
5<sup>th</sup> Floor East  
370 L'Enfant Promenade SW  
Washington, DC 20447

Dear Sir or Madam:

State Associations of Addiction Services (SAAS) and the Legal Action Center (LAC) appreciate the opportunity to submit comments on the Temporary Assistance for Needy Families (TANF) program and changes that the Department of Health and Human Services (HHS) has proposed in response to the TANF provisions signed into law as part of the Deficit Reduction Act of 2005 (Pub.L. 109-171). SAAS is a national organization representing state provider associations and community-based programs for the prevention and treatment of substance use disorders. The mission of SAAS is to ensure the availability and accessibility of quality drug and alcohol treatment, prevention, education, and research. The Legal Action Center is a non-profit law and policy organization that works to expand treatment and prevention services for people with alcohol and/or drug addictions, people living with HIV/AIDS, and people with criminal records. Our comments focus on the changes to the policy and work requirements that impact families with parents who are engaged in, or seeking to engage in, treatment services for substance use disorders.

We are pleased that the Department recognizes the need for and value of treatment for substance use disorders for TANF recipients. However, we are extremely concerned that the classification of treatment as a job search and job readiness activity, and the subsequent time limit that attaches to such classification, will have extremely harmful consequences for thousands of families receiving TANF benefits and significant negative impact on criminal justice, child welfare, health care, and other systems. We urge you to:

- 1. Produce better TANF outcomes by removing treatment for substance use disorders from the “job search and job readiness” category that limits the amount of time treatment can be counted as a work activity to six weeks, and reclassifying these services in the more flexible “community services” category so that individuals and families can get the healthcare and treatment services they need.**
- 2. Eliminate the requirement that States may only count an individual’s “actual hours” of participation in addiction treatment as work activities under TANF.**

- 3. Work with SAMHSA and engage the addiction treatment field to implement the new provision that a State may place an individual who is “otherwise able to work but for the need to reinforce substance abuse treatment into a special program in which a single provider coordinates work and treatment in a halfway house environment.”**

A more detailed discussion of each recommendation follows.

**Recommendation # 1: Produce better TANF outcomes by removing treatment for substance use disorders from the “job search and job readiness” category that limits the amount of time treatment can be counted as a work activity to six weeks, and reclassifying these services in the more flexible “community services” category.**

Parents in families on TANF need sufficient time to receive treatment for addiction to alcohol or other drugs. The proposed time restriction may well lead to relapse and involvement in the criminal justice and child welfare systems.

### **Addiction Represents a Significant Barrier to Many Families on Welfare**

Research has suggested that low-income Americans, particularly those receiving public assistance, have significant rates of alcohol and drug problems. According to the most recent data available, illicit substance use was about twice as common among female welfare recipients as among other women with dependent children who did not receive public assistance. Estimates suggest that 8 to 20 percent of women on TANF have a substance use problem that probably interferes with their functioning.<sup>1</sup> These women have severe alcohol and drug problems. A recent study of New Jersey welfare recipients<sup>2</sup> funded in part by the Administration for Children and Families (ACF) and the National Institute on Drug Abuse (NIDA) found that the women in the study with alcohol and drug problems reported serious, chronic and long-standing substance use problems. This study also found that:

- On average, women drank heavily or used drugs on about two of every three days in the prior month and had extensive histories of prior substance use ranging from eight to fourteen years.
- Despite the severity of substance use problems, half of the study participants had not received prior counseling for substance use disorders.
- Although one third of the participants were assessed as needing inpatient treatment, sixty-five percent of these women were initially placed in intensive outpatient treatment typically consisting of 20-35 hours a week of outpatient counseling.<sup>3</sup>

Unfortunately, these findings are not unique. In a national treatment demonstration project for this population, researchers found a very similar pattern of co-occurring problems in a sample of 760

<sup>1</sup> “Welfare Reform and Substance Abuse Treatment for Welfare Recipients,” Jon Morgenstern, Ph.D., and Kimberly A. Blanchard, Ph.D., *Alcohol Research and Health*, 2006, <http://pubs.niaaa.nih.gov/publications/arh291/63-67.htm>

<sup>2</sup> “Barriers to Employability Among Women on TANF With a Substance Abuse Problem,” Jon Morgenstern, Ph.D., Annette Riordan, Psy.D et al, Washington, DC: Administration for Children and Families, 2002. [http://www.acf.hhs.gov/programs/opre/welfare\\_employ/nj\\_subst\\_abuse/reports/barriers\\_employ/barriers\\_employ.pdf](http://www.acf.hhs.gov/programs/opre/welfare_employ/nj_subst_abuse/reports/barriers_employ/barriers_employ.pdf)

<sup>3</sup> Id.

women on TANF with alcohol and drug problems entering treatment at ten sites.<sup>4</sup> Additionally, statewide studies of TANF recipients in New Jersey, South Carolina, and Connecticut found that women with substance use disorders had significantly higher rates of mental health, health, employment, legal, and family problems than other recipients.<sup>5</sup>

### **TANF Policies That Support Clinically Appropriate Care for Addiction Treatment and Other Rehabilitative Services Will Result in Better TANF Outcomes**

Providing TANF recipients with clinically appropriate alcohol and drug addiction treatment, mental health treatment and other rehabilitative services will result in better TANF outcomes.<sup>6</sup> Numerous studies have shown that treatment for drug addiction can reduce drug use by 40 to 60 percent.<sup>7</sup> Research has also shown that treatment can improve the prospects for employment, with gains of up to 40 percent following treatment. Welfare recipients receiving treatment for substance use disorders are more likely to become employed than those who drop out of treatment or do not receive care.

Ongoing and uninterrupted care as well as a diverse range of services is critical to recovery from addiction and the transition from TANF. Research has shown that, as individuals stop using drugs or alcohol and begin working to care for their families, ongoing support and referral is necessary.<sup>8</sup> Studies have also shown that more than half of the women who were identified as having alcohol and/or drug addiction and were subsequently engaged in treatment were still actively participating in an outpatient intervention at six months.<sup>9</sup>

In addition to alcohol and drug addiction treatment, many of these families have a range of other needs that must be met in order for them to be successful.<sup>10</sup> In a study of women receiving TANF benefits, researchers found that nearly half of the women were diagnosed as suffering from major depression or post-traumatic stress disorder. One-third reported being sexually abused and reported serious family problems, including physical violence, in the recent past. In addition, women engaged in the study reported low education, low job skills, and limited work experience, with more than half lacking a high school diploma, reporting no job skills, and less than twenty percent reporting that they had worked regularly in the past three years.

### **Imposing a Six-Week Time Limit on Counting Addiction Treatment as Work Is Inconsistent with Providing Effective, Clinically Appropriate Care**

The classification of addiction treatment as a job readiness/job search activity imposes a six-week time limit, with four consecutive weeks allowed, on the amount of addiction treatment that counts toward the work requirement. However, data from researchers and providers repeatedly and consistently underscore that clinically appropriate care for these individuals should include a range

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<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> "One-Year Outcomes from the Caseworks for Families Intervention for Substance-Abusing Women on Welfare," Evaluation Review, McLellan et al. December 2003; 27: 656 - 680.

<sup>9</sup> Id.

<sup>10</sup> "Barriers to Employability Among Women on TANF With a Substance Abuse Problem," Jon Morgenstern, Ph.D., Annette Riordan, Psy.D et al, Washington, DC: Administration for Children and Families, 2002.

[http://www.acf.hhs.gov/programs/opre/welfare\\_employ/nj\\_subst\\_abuse/reports/barriers\\_employ/barriers\\_employ.pdf](http://www.acf.hhs.gov/programs/opre/welfare_employ/nj_subst_abuse/reports/barriers_employ/barriers_employ.pdf)

of services as well as a treatment plan that is significantly longer than the six weeks that the client will receive credit for. In response to the proposed regulation limiting the amount of time addiction treatment can be counted as a work activity, one addiction treatment provider commented:

Time spent in the treatment component is often a substantial number of hours, making it very difficult for a client to meet the hour requirements. In residential treatment, clients spend on average six to eight hours per day, including weekends, engaged in treatment activities. Day treatment programs (partial hospitalization) may have clients engaged in activities for four hours per day. Many clients need more than four consecutive weeks of treatment in order to be ready to enter the workforce. This is particularly true of pregnant and post-partum women in residential treatment. Additionally, those seeking treatment for dual-diagnosis (mental illness and substance use disorders) also generally need more than four consecutive weeks of treatment. In fairness the length of needed treatment should be determined by a licensed professional and not limited to just four weeks.

Allowing States to count alcohol and drug addiction treatment as work for the length of time deemed necessary by a qualified addiction professional is consistent with the policies, research, and goals of other federal agencies and with the current practice in the field. According to the National Institute on Drug Abuse (NIDA), individuals with severe drug problems and co-occurring disorders typically need longer treatment and more comprehensive services; studies indicate many of these women have long histories of use as well as multiple health conditions.

Additionally, according to NIDA, better outcomes are associated with treatment that lasts longer than 90 days.<sup>11</sup> And, an even longer continuum of treatment is often indicated for individuals with severe or multiple problems. Early phases of treatment help the participant stop using drugs and begin a therapeutic process of change; later stages address other problems related to drug use and, importantly, help the individual learn how to self-manage the drug problem.<sup>12</sup> Because treatment for alcohol and drug addiction is a highly individualized process that involves multiple phases and levels of care, it is critical that addiction treatment professionals be permitted to make decisions about treatment based on the client's need. Flexibility to provide care is also important because addiction is a chronic disease; drug relapse and return to treatment are common features of an individual's path to recovery, so treatment may need to extend over a long period of time and across multiple episodes of care.<sup>13</sup>

### **Alcohol and Drug Addiction Treatment, Mental Health Treatment, and Other Rehabilitative Services Should Be Classified in a More Flexible Work Activity Category to Ensure that Individuals Receive the Help They Need**

Under the initial flexibility that States were granted to define which activities could be included in the various work categories, many states made the calculated decision to include treatment for substance use disorders as work, primarily under either the job search/job readiness, work experience, or community service categories. In fact, according to a recent Government Accountability Office (GAO) review of ten States,<sup>14</sup> six of these States counted substance use

<sup>11</sup> National Institute on Drug Abuse (NIDA), Principles of for Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide, 2006, [http://www.nida.nih.gov/PDF/PODAT\\_CJ/PODAT\\_CJ.pdf](http://www.nida.nih.gov/PDF/PODAT_CJ/PODAT_CJ.pdf)

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Government Accountability Office (GAO) Report 05-821, "Welfare Reform: HHS Should Exercise

treatment as a work requirement, including it as job search/job readiness, work experience, or community service. Nevada's experience of trying to serve certain individuals under the time-limited category of job search/job readiness illustrates why State flexibility is critical to the success of welfare reform. According to the GAO report, Nevada decided to move some activities from job search/job readiness to work experience to avoid the six-week time limit on counting hours spent in job search/job readiness. According to a state official, the change was made because field workers, operating according to the six-week time limit, would sometimes make decisions that were not in the best interest of the recipients and move recipients out of activities too quickly. Moving an individual with a drug or alcohol addiction from treatment to work too quickly could have negative results, including relapse, that would likely set the individual's treatment and work goals back significantly.

The TANF interim final rule states that treatment for substance use disorders is "important and beneficial, but not primarily directed to benefiting the greater community." We take strong issue with this statement. Research shows that alcohol and drug treatment reduces drug use, crime, and involvement with the child welfare system, while increasing employment rates and safety – all of significant and direct benefit to the greater community. The specific exclusion of treatment for substance use disorders as a form of community service is counter to TANF's goals. We ask that you classify addiction treatment services in the community service category.

Classifying alcohol and drug treatment, mental health treatment and other rehabilitative services in a more flexible work category would also ensure that the TANF regulations comply with federal civil rights laws. The Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) require that all program participants be provided (1) individualized treatment; and (2) an effective and meaningful opportunity to participate. To fulfill these principles, States must treat individuals on a case-by-case basis and provide reasonable accommodations, auxiliary aids and services to program participants. As currently written, States will find it difficult if not impossible to meet the requirements of TANF, as interpreted in the regulations, and also provide individualized accommodation.

As currently drafted, States will receive no credit for engaging an individual in productive activities that fall outside the narrow definitions included in the regulations, even if those activities help move the individual towards unsubsidized employment and were required as a reasonable accommodation under the ADA or Section 504. Similarly, if an individual engages in activities that meet the definitions in the regulations, but is unable, because a disability, to engage for the number of hours required, the State gets no credit for engaging that individual.

HHS has the authority to make changes to the TANF regulations that will enable individuals with disabilities, including those with substance use disorders, to succeed. Including alcohol and drug addiction treatment services, mental health treatment, and other rehabilitative services in another more flexible work activity category would be one way of making reasonable accommodations on work activity definitions for individuals with disabilities, in addition to helping to give families the adequate time to heal.

**Recommendation # 2: Eliminate requirement that States may only count an individual's "actual hours" of participation in addiction treatment as work under TANF.**

The interim final rules require that States only count an individual's "actual hours" of participation in addiction treatment toward the TANF work requirement. We are extremely concerned that this requirement fails to recognize the totality of the therapeutic environment that characterizes addiction treatment. The entire structured living experience of residential addiction treatment is integral to recovery. In addition to one-on-one and group sessions, a person in drug and alcohol residential rehabilitation participates in a variety of activities that are all geared toward helping the individual to become healthy, i.e., learning to live with other people, acquiring essential life skills, and developing a sense of order by living in a structured environment. This Administration has acknowledged the value of a number of different types of services to a person's recovery, and this rule seemingly contradicts that understanding. We are concerned that requiring that only "actual hours" of treatment be counted toward the TANF work requirement would be a disincentive to provide the full range of recovery services that are part of treatment and would impose additional burdens on addiction treatment professionals who would be charged with complicated, time-consuming reporting requirements. Although we appreciate that the rules do allow assigned, supervised, documented work responsibilities undertaken as a part of an addiction treatment program to be counted as work, we believe this is too restrictive a requirement and should be revised to reflect the "24-7" nature of services delivered during residential treatment. Allowing States to count all time spent in drug and alcohol residential rehabilitation would more accurately reflect the true nature of addiction treatment services and enable families to have the time to heal and use those skills acquired to become self-sufficient.

**Recommendation # 3: HHS, Working with SAMHSA, Should Engage the Addiction Treatment Field to Discuss the Proposed Policy Changes, Offer Guidance on Their Implementation, and Consider Additional Ways to Support States' Efforts**

The interim final rules state that a State may place an individual who is "otherwise able to work but for the need to reinforce substance abuse treatment into a special program in which a single provider coordinates work and treatment in a halfway house environment." However, there is no indication of how States are to finance such programs and how they are to implement them in a short period of time. This approach makes assumptions about the individual's treatment that are not based on a professional opinion, i.e., that all these individuals are going to be near-work ready; unfortunately the ACF's own data indicate that this is not the case. Further, there is no discussion about the availability of such programs or the current shortage of addiction treatment programs in general for women with children. Also missing from the approach is a discussion of whether providers are going to be reimbursed for the addition or expansion of job training services to their programs. HHS should offer assistance to the addiction treatment field on possible strategies for implementation of the proposed policy to ensure that clients receive the services necessary to achieve recovery and transition from welfare.

In addition, we acknowledge that HHS may have concerns with ensuring that families who are receiving such services are making progress toward self-sufficiency. Therefore, we would propose that States counting parents engaged in treatment or rehabilitative services toward the work participation rate could be required to conduct periodic assessments to evaluate individuals' progress in meeting treatment goals and whether participation in treatment continues to be necessary. For an individual engaged in addiction treatment, the assessment should be performed

by a credentialed drug addiction professional or an addiction treatment facility licensed or certified by the State. HHS could review a sample of such assessments to monitor States' efforts to accommodate families that include a person with a disability while helping them move toward greater participation in the workforce.

## **Conclusion**

Research continues to suggest that a comprehensive, intensive, and integrated set of services may be needed to effectively address addiction among women on welfare.<sup>15</sup> As addiction treatment providers and advocates for individuals with current and/or past addiction histories, we believe that placing a restriction on the amount of time an individual can receive credit for engaging in treatment, such as the one proposed in the interim regulation, means that families will not be given adequate time to heal. Treatment for individuals is likely to be interrupted or cut short by work requirements before they are ready to do so, compromising the treatment, wasting funds spent for treatment, and potentially triggering relapse and all of its consequences.

As agencies in HHS such as SAMHSA strive toward the goal of a life in the community for everyone, we urge you to encourage and provide incentives to women to engage in and remain in alcohol and drug addiction treatment. We ask that you reconsider classifying substance use treatment, mental health treatment and other rehabilitative activities as job search and job readiness activities, and instead include them within an alternative work category, such as community service, that would provide the flexibility and length of time necessary to help families heal. Research has shown that adequate and clinically appropriate services result in successful treatment and will assist HHS and the States in meeting the needs of all individuals in their caseloads struggling to escape welfare dependency.

Thank you for your careful consideration of our recommendations.

Sincerely,

State Associations of Addiction Services (SAAS)

Legal Action Center

Substance Abuse Directors Association of Alaska

Arizona Council of Human Service Providers

Arkansas Association of Substance Abuse Treatment Programs

California Association of Addiction Recovery Resources

California Association of Alcohol and Drug Program Executives

County Alcohol and Drug Program Administrators Association of California

Colorado Association of Alcohol & Drug Service Providers

Connecticut Association of Substance Abuse Agencies

Delaware Association of Rehabilitation Facilities

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<sup>15</sup> McLellan et al., 2003

Florida Alcohol and Drug Abuse Association  
Georgia Council on Substance Abuse  
Illinois Alcoholism & Drug Dependence Association  
Iowa Substance Abuse Program Directors' Association  
Maine Association of Substance Abuse Programs  
Maryland Addictions Director's Council  
Mental Health and Substance Abuse Corporations of Massachusetts  
Michigan Association of Licensed Substance Abuse Organizations  
Minnesota Association of Resources for Recovery & Chemical Health  
Missouri Association of Alcohol & Drug Abuse Programs  
Montana Addiction Service Providers  
Nebraska Association of Behavioral Health Organizations  
Nevada Alliance for Addictive Disorders Advocacy, Prevention and Treatment Services  
New Hampshire Alcohol and Other Drug Service Providers Association  
Addiction Treatment Providers of New Jersey  
Alcoholism and Substance Abuse Providers of New York State  
North Carolina Association for Behavioral Health Care  
North Dakota Addiction Treatment Providers Coalition  
Ohio Council of Behavioral Healthcare Providers  
Oklahoma Substance Abuse Services Alliance  
Oregon Prevention, Recovery, and Education Association  
Drug & Alcohol Service Providers Organization of Pennsylvania  
Drug and Alcohol Treatment Association of Rhode Island  
Behavioral Health Services Association of South Carolina  
South Dakota Council of Substance Abuse Providers  
Tennessee Association of Alcohol and Drug Abuse Services  
Association of Substance Abuse Programs of Texas  
Utah Behavioral Healthcare Network  
Vermont Association of Drug & Alcohol Programs  
Virginia Association of Drug and Alcohol Programs  
Washington Association of Alcoholism & Addiction Programs