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On Behalf of
The National Association of Counties
and
The County Welfare Directors Association of California

Before the Subcommittee on Income Security and Family Support
Ways and Means Committee
U.S. House of Representatives

Hearing on Recent Changes to Programs Assisting Low-Income Families
Tuesday, March 6, 2007

Mr. Chairman and members of the Subcommittee on Income Security and Family Support, thank you for including counties in today's hearing on recent changes to programs assisting low-income families. I am Bruce Wagstaff, Director of Human Assistance for Sacramento County, California. I am representing the National Association of Counties (NACo) and the County Welfare Directors Association of California (CWDA), as its Self-Sufficiency Committee Chairman. I am also the former TANF Administrator for the State of California.

We particularly appreciate the opportunity to testify before you today because many of the statutory changes and subsequent regulations issued by the Department of Health and Human Services are having a devastating effect on our ability to provide effective services to families and children in need.

As background, NACo is the only national organization representing all county elected and appointed officials. More than 2,200 of the nation's counties are members of NACo. CWDA represents the human service directors from each of California's 58 counties. CWDA's mission is to promote a human services system that encourages self-sufficiency of families and communities and protects vulnerable children and adults from abuse and neglect.

The role of counties in administering federal low-income programs varies widely among states, and even within states. In California, for example, counties administer all social services programs, with oversight from the state. Others, such as Pennsylvania administer some, but not all of the programs at the county level, with others administered by the state. There are also a few states where some but not all of the counties administer one or more of the programs within this committee's jurisdiction. With this diversity in mind, NACo asked numerous state associations of counties and county human services directors to send us their comments on the effect of the TANF regulations and the cuts to child support in preparation for this hearing.

TANF

As you are well aware, welfare as we knew it changed forever with the passage of the Temporary Assistance to Needy Families program more than a decade ago. The counties that administer TANF are proud of how we implemented the 1996 federal welfare reform law and our authorizing state statutes. We formed strong public-private partnerships, bringing together employers, community- and faith-based organizations and the other local and state agencies that serve our participants. We changed an entire culture, moving our staff from check-writers who adhere to strict process rules into counselors who assist clients in moving from welfare to work. The way in which we use our state and federal funding has shifted from a focus on cash aid to a focus on supportive services such as child care, transportation, and skills training. Instead of speaking of "entitlements," we speak of "self-sufficiency." From caseload reductions, to increases in work, to a decreasing reliance on cash aid, TANF has been a success.

Against this backdrop of success, states and counties had hoped and anticipated that TANF reauthorization would fix some of the issues that had been broadly identified as limiting state flexibility in the original law. For the most part, the Deficit Reduction Act in and of itself did not severely limit states' flexibility, nor did it expand flexibility as we'd hoped it might. When the Department of Health and Human Services issued regulations to implement the DRA changes, however, we were disappointed to see them heavily focused on process rather than outcomes – something we thought we had moved away from with the 1996 TANF statute. The regulations include narrow definitions of work activities, add parents who have reached their statutory time limits on aid into states' work participation rate calculations, and implement process-heavy requirements for verifying and documenting participation.

I would like to make it very clear that counties are not afraid of participation. In California, we began the work to increase participation before TANF was reauthorized, not just because we felt pressure from the federal government but because it was the right thing to do for families and children. For example, our state enacted a statutory requirement that every welfare-to-work participant have an engagement plan in place within 90 days of them entering the program; we did this three years ago, when the idea was under discussion in Congress. What we do want, however, is the ability to run our programs in the best way for our clients, our business communities and our local situations.

Unfortunately, the regulations that have been issued will impede, rather than enable, our efforts. I am here today to ask you to be enablers, to help us in our work, and to improve upon some of the most problematic areas of the regulations.

You might be surprised to hear that a majority of those on our welfare rolls today are engaged in some activity, including a mix of work, education, training, and treatment. States generally report lower participation numbers than this, however, because the federal work participation rate captures only those families who are participating full-time in federally recognized activities. It does not capture the tens of thousands of individuals participating part-time and/or in activities that are not recognized by the federal program, such as mental health and substance abuse treatment, domestic violence services, English as a Second Language programs, and services to assist with learning disabilities. Counting only those in federal activities for the minimum number of hours is misleading, because it may lead some to conclude that the rest of our participants are sitting around doing nothing – and nothing could be further from the truth.

The federal rate is also a point-in-time look. It does not recognize the many people who are engaged in our programs, but who are new to the program, leaving welfare soon, or in-between formal activities. To illustrate why this matters, think about an emergency room. At any given time in the ER, there will be some percentage of people waiting and some percentage being served. However, if we observe the ER over the course of the entire day, we would hope and expect that 100 percent of the people are served. The federal work participation rate is a snapshot - it essentially looks at that one

moment in the ER when a relatively small percentage of patients are being served, rather than the much higher percentage served over the course of time.

Our programs do face numerous challenges. For California counties, as with states and counties across the country, one major challenge is to address and remedy the problems of families that are a long way from being ready to maintain stable employment and move off welfare. These families often struggle with a host of personal issues such as poor education, limited skills, little or no work history, behavioral health issues, domestic violence, disabilities, and involvement with other public systems such as child welfare and law enforcement. Many of these families are engaged in work or other activities, but for less than the required number of hours. Many include a disabled adult or child, a victim of domestic abuse, or other situations that render them exempt from participation under California rules and who we believe should be exempt under the federal rules as well. This does not mean that we stop working with these families to get them engaged in appropriate activities; it is a recognition that the barriers for some are so great that expecting 32, 35, or 40 hours of work from them, at least at certain points in time, is unrealistic.

Another major challenge is to assist displaced or underemployed workers who lost their jobs during the recent recession. In many areas, unemployment rates soared during the past few years. Many of those who recently entered TANF or returned to the program after losing a job, already have marketable skills but need temporary assistance, possible retraining, and supportive services to boost them back into the workforce.

We really do have a number of different subgroups within our program today, just as we did in 2001 when we first began talking with elected officials about TANF reauthorization. There are those who just need a quick hand-up to get back into the labor market, and those who are longer-term recipients who might have received welfare as children, for example, and are now in the program as parents themselves. Finally, there are those who are working and participating, but are not yet able to earn enough to get off of aid forever. Figuring out how to help all of these very different sets of families is extremely important and extremely complex.

One additional issue I would like to mention before I get into a few specific recommendations for change relates to supportive services, especially child care, that states provide to working TANF families. These services are absolutely essential – without support like subsidized child care, the parents we work with would be unable to participate fully in welfare-to-work activities. These services are also costly. Quality child care does not come cheap. Without any increases in the Child Care and Development Fund (CCDF) or the TANF block grant, it will continue to be harder and harder for states to provide child care to all recipients who need it without sacrificing other necessary services and supports for families on aid. We urge you to revisit this issue and consider providing additional funds for child care for our participants.

The National Association of Counties and CWDA support maximum state and county flexibility in implementing the TANF changes. Unfortunately, the interim final

rule issued last August and subsequent advisories issued by the Administration for Children and Families have not only reduced flexibility but have also increased program complexity. Comments we received from around the country were consistent in expressing concerns over the work reporting and verification requirements, the work participation rate calculations, and the limitations on allowable activities.

We understand that you will not be able to completely reopen or overhaul the Deficit Reduction Act or the subsequent regulations. However, several smaller changes would increase state and county flexibility in meeting participation rates – returning us to a system focusing on the outcome -- the participation rate -- rather than process. Changes can be made without compromising the work participation requirements or the focus on moving families toward self-sufficiency. We propose the following specific changes:

- **Give partial credit for partial participation.** Many recipients are participating for a portion of the required hours in federal activities. However, states receive no credit for partially participating individuals. At various times during the TANF reauthorization debate, partial credit proposals were on the table. We believe these proposals should be revisited, as they help to ensure that the efforts of states and counties to engage participants in as many hours as possible are recognized and recorded.
- **Clarify and simplify the work verification and reporting requirements:** NACo believes that the documentation requirements for many of the allowable activities will pose an administrative burden and should be revised. These include daily reporting for job search and biweekly reporting for education related to employment, secondary school attendance, vocational education, and jobs skills training, among others. Simpler methods exist, such as negative reporting systems in which participants are presumed to be engaged in their assigned activity unless the program supervisor reports otherwise.
- **Allow realistic participation in behavioral health activities.** The interim rules allow for some substance abuse, mental health and domestic violence services to be counted toward job search/job readiness activities for up to 4 to 6 weeks. However, the rules essentially force states to count even one day of participation in these activities as an entire week. This is counterintuitive, and a departure from how such activities would likely be utilized in the regular world of work. States and counties should be able to count an hour of participation as one hour. Since these activities are limited to six weeks, essentially prorating one hour to count as a week of participation would short-change individuals with substance abuse or other behavioral health problems. States and counties should be able to count 240 hours a year of these activities for each individual.
- **Allow partial participation for persons with disabilities.** States and counties should be allowed to count participation by individuals with disabilities based on the number of hours that their medical professionals deem appropriate for the individual, even if it is below 30 hours a week.

This is consistent with the Federal Rehabilitation Act and Americans with Disabilities Act.

- **Count job search, job readiness, basic skills and English as a second language as a component of any work activity:** Today's economy requires a well-trained workforce. Individuals with poor basic skills and poor English language skills will not be able to obtain meaningful employment. Counties, therefore, suggest that basic skills training, remedial education, and English as a Second Language count as job readiness activities and be an allowable component of vocational education. Job search and job readiness are critical components of self-sufficiency plans. The six-week restriction should apply only to stand-alone job search as a core activity. The limitation should not apply to job search and job readiness activities that are combined with other work preparation activities.
- **Do not penalize states that help children with a safety net.** A number of states, including California, have chosen to give a reduced grant to children whose parents reach their time limits on aid but still meet other eligibility requirements, including having income below a certain level. The HHS regulations include the parents of these children in states' work participation rates. Please do not put states in the position of having to decide whether to eliminate assistance for these vulnerable children.
- **Two Parent Work Participation Rates.** NACo and CWDA would like to commend the administration for proposing to eliminate the two-parent work participation rate as part of their FY 2008 budget proposal. The 90-percent rate is unrealistic and will penalize states that are otherwise doing a good job of engaging participants.

Finally, we recommend that statute be enacted to **adjust the implementation schedule and delay the October 1, 2007 deadline.** States submitted work verification plans to the Department of Health and Human Services by September 30, 2006 as it requested. However, HHS subsequently issued blanket guidance to states and required all states to revise and resubmit their initial plans, which are just now being sent back to HHS. It is our understanding that states will not receive direct feedback from HHS until April at the earliest. States and counties will likely have to make various changes at that point and work with HHS to secure final approval, giving us five months *at most* to retrain staff. This is a recipe for problems, inconsistencies and incomplete implementation. States and counties should be given at least one full year from the date that they receive final approval of their work verification plan to implement without fear of being penalized in the meantime.

Child Support

Counties urge Congress to restore the cuts to the child support program made under the Deficit Reduction Act. The cuts will reverse state and county progress in establishing child support for families and ultimately will affect millions of children whose families depend on the payments to meet daily living expenses.

In order to improve the administration of the child support program, Congress established a competitive incentive program for good performance. Funds earned are required to be re-invested in the system. Additionally, the law was crafted to allow states and counties to use the payments toward leveraging additional federal investments in the program. Effective October 1, 2007 states and counties will be prohibited from this practice under the child support program.

Losing that ability to leverage additional dollars is of most concern to my colleagues who administer child support. Those efforts and incentives have enabled states and counties to double their collection rates over the past ten years and thousands of families avoid the social service system as a result. Other federal initiatives, such as programs supporting marriage, also allow re-investment of federal dollars as match.

Mr. Chairman, I understand that you are considering introducing legislation on this issue. This weekend, NACo adopted a resolution supporting legislation to restore these cuts.

Two other provisions in the Deficit Reduction Act are also troubling. The imposition of a collection fee discourages parents from participating in the child support program and will, coupled with the reduced collections, increase the likelihood of families remaining on or needing public assistance. When families do not receive child support, they need more help from public assistance programs. Some states and counties may choose to waive the fee and absorb the costs in order to encourage parents to participate and/or because it may be cost-effective than the costs of charging the fee.

To encourage paternity establishment, the federal government has provided a 90 percent match for those costs. The DRA reduced the match to 66%. This decrease reduces states' ability to establish parentage. When children are deprived of the right to two parents, the door to Social Security, pension/retirement benefits and health insurance, opportunity for extended family ties (especially the critical father/child relationship) and access to critical medical history and genetic information is closed to them.

In California, the child support cuts will reduce funding to the state's program by over \$90 million a year. Efforts are underway in California to backfill the loss of funds, given the large return on every federal dollar invested. A federal restoration would help the state invest even more into this successful program.

While California may backfill the loss, counties from around the country have told us that many states will not be able to do so. While time does not permit me to provide you with the detailed responses we received, here is a sample of what these cuts will mean to county programs. These cuts in administrative funding will compound the real losses in financial support provided to families.

Michigan counties face a potential loss of \$28 million. The loss in Minnesota is estimated at \$23 million. Indiana counties face a shortfall of over \$7 million. New York

counties expect to lose \$10 million a year. North Carolina Counties expect to lose \$5.3 million in revenues. Ohio expects a reduction of \$60 million a year. Pennsylvania counties may lose over \$ 4 million in two incentive payments. Wisconsin will lose about \$6 million in FY 2007, \$1.7 million of which will be attributed to Milwaukee County. When the cuts take full effect next year, the projected loss for Wisconsin counties by 2008 is \$25 million. It is so dire in Wisconsin that LaCrosse County is holding a raffle where the proceeds will help fund the child support program.

These administrative losses will reverse years of progress in the collection of support for families by producing a ripple effect due to the way the incentive funds have bolstered county staff who pursue and enforce support orders. A good illustration is Ohio. The only way to compensate for the loss of funds would be to reduce staff by approximately 25 percent. Ohio collects almost \$600,000 in child support per staff member. The Center for Law and Social Policy estimated that this would translate to a reduction in child support collections of \$197 million in the first five years. Clearly, the ones who would suffer the most are the children. Similar scenarios are projected in counties in many other states. I will submit additional information from some of those counties in other states before the hearing record closes.

This concludes my formal remarks. Thank you again for inviting us to testify and provide the county perspective. As you consider your next steps in this Congress, please do not hesitate to contact me or our Washington, D.C.-based staff if you have further questions or if any of you would like to visit local programs when you are back in your districts. At this time I would be glad to answer any questions you may have.