



January 28, 2010

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Adam Goldberg
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Dear Director Orszag and Messrs. Nabors, Werfel, and Goldberg:

We are very pleased to note the enactment of \$35 million to fund the Administration's federal-state partnership proposal, under which pilot programs will test promising concepts to streamline administration of assistance programs and save substantial taxpayer dollars. We commend you for this pioneering initiative and stand ready to move forward with you at any time. APHSA, which represents all state and many local health and human service administrators, has always supported sound and productive oversight of assistance programs and is strongly committed to program integrity and accountability. We have been in contact with Office of Management and Budget staff for many months about the partnership, and we together with a number of our state members are ready to submit detailed proposals as soon as you provide application and approval procedures.

Also, as you know, on November 23, 2009, President Obama issued his Executive Order on improper payments directing fresh initiatives to reduce such payments in federal benefit programs. The Executive Order also announced the formation of a federal-state work group to recommend policy solutions. Our members deal every day with the challenges of administering large and complex programs under rigid – and often unreasonable – standards while facing unprecedented caseloads and the worst budget conditions in decades. We are anxious to offer you our help and advice in maintaining the high degree of program performance and integrity needed for public confidence and fiscal restraint while making the current oversight system far more useful and relevant. Attached is a brief paper summarizing APHSA's positions and general recommendations on program accountability issues, which

we will also post on your improper payments solutions web site,
<http://www.whitehouse.gov/open/partner4solutions>.

With our accumulated expertise and experience in dealing with these complex issues, APHSA and its members are ideal candidates to make a positive contribution to this important work group. We believe both APHSA and a selection of our members deserve a prominent and leading role in this very promising undertaking.

We look forward to hearing from you at your earliest convenience on both our policy proposals and the makeup of the state and federal work group. If you have any questions, please contact Larry Goolsby, Director of Legislative Affairs, (202) 682-0100 ext. 239.

Sincerely,

A handwritten signature in black ink, reading "Jerry W. Friedman". The signature is written in a cursive style with a large, prominent initial "J".

Jerry W. Friedman
Executive Director

Attachment



Recommendations for Improving Accountability In Public Health and Human Service Programs

(The following is based in part on APHSA's February 2009 publication, Focal Point, available on the APHSA web site at <http://www.aphsa.org/Home/Doc/FocalPointDoc.pdf>)

Overview

The American Public Human Services Association represents the nation's state and local public health and human service commissioners. We have long had strong concerns about the current mix of federal reviews, monitoring requirements, and oversight mechanisms. Many elements of the current system are redundant and costly, and they frequently fail to reflect the excellent service states provide to vulnerable children and families and the many advances states have made in recent years. Health and human service program monitoring and auditing practices need several significant change, including bringing them in line with existing law and the clear intent of Congress; achieving useful results without spending inappropriate levels of staff and monetary resources; using measurements that accurately reflect the work of the states and that focus on client outcomes, not processes; and gathering reliable information needed to design or improve effective programs. The current system of largely process-oriented reviews coupled with punitive sanctions consumes a vast amount of critical resources and at best documents the methodologies utilized by states to assure program integrity vs. documenting results.

In developing program requirements and accountability standards, the federal government should partner with the states to assure maximum state flexibility in all programs, achieved through administrative options readily available to all states rather than through cumbersome individual approval procedures. Simultaneously, states should be held accountable for performance standards that are reasonable, achievable, and reflective of the many differences that exist among state programs and caseload demographics.

Implementing these reforms would have the simultaneous effect of streamlining administration, making assistance programs more accessible, and reducing the substantial amounts of administrative overhead now paid by both federal and state governments to operate these large and complex programs.

Congress should repeal or reform any laws that mandate process-based measures for public human service programs where such measures are clearly inappropriate, counterproductive, or inefficient. The most egregious example in recent years is the Improper Payments Information Act of 2002 (IPIA), which has been interpreted to require a "national error rate" for block-granted programs that were explicitly designed by Congress to be innovatively different from one state to the next. That law ignores the many state options and variations that make meaningful national comparisons tenuous at best. Such attempts should be replaced by rational program monitoring and evaluation systems that accurately reflect

states' achievements; gather information that is useful for constructive improvements or redesigns; and recognize the distinctive innovations that states have put in place.

A related recommendation is that Congress should allow a wide range of demonstration programs in all states that are based on person-centric, rather than program-centric, systems of determining and maintaining eligibility, delivering benefits, qualifying for matching funds, and meeting performance standards. Current oversight mechanisms are often so rigid and have such large penalties that they drive program design – precisely the reverse of what rational program planning and creation should be.

Federal-State Partnerships

A robust federal-state partnership allows both parties to foster trust and mutually acceptable oversight procedures. Reform of federal data collection mandates would ensure that state flexibility is maintained while providing that the data are pertinent to program needs, collected in an effective manner, and analyzed properly. This dialogue between federal and state entities, through APHSA and its affiliates, would allow for the development of performance standards that are reasonable and achievable and that reflect state differences. Finally, a strong-federal state partnership is beneficial for both parties in tackling waste, fraud, and abuse in health and human service programs. It would allow for effective oversight while not encumbering access to vital safety net and child welfare programs. Ongoing dialogue between the federal agencies and states facilitates continuous improvement for both parties.

Child Welfare

Public child welfare programs have become far more complicated due to increased federal oversight, audits, and reviews (e.g., Child and Family Services Reviews, Program Improvement Plans, Title IV-E foster-care audits, and Title IV-E adoption assistance audits). Each audit, review, and data collection system comes with different sets of requirements and rules that are costly in staff resources and time. Consolidating these federal reviewing systems would eliminate both conflict and the administrative burden on staff, freeing up resources to meet the growing needs of the vulnerable child welfare population.

The Administration for Children and Families conducts periodic eligibility reviews of Title IV-E foster care assistance in accordance with federal interpretations of the IPIA. The Program Implementation Plan process is implemented when a state is determined to be out of compliance. Penalties include a disallowance of federal funds, which takes away from the already resource-strapped child welfare system. Instead of disallowing federal funds, states should be allowed to reinvest these funds in child welfare services. Penalties are counterproductive to the outcomes child welfare administrators are required to meet.

Health

Improved program integrity in Medicaid requires increased coordination between the Centers for Medicare and Medicaid Services and the states. In addition to the Payment Error Rate Measurement system, the onsite Medicaid Integrity Program reviews, and the new Medicaid Integrity Contractor (MIC) reviews, states also have internal auditors to detect potential cases of fraud. It is not uncommon for Medicaid directors to have state and federal audits occurring simultaneously. Coordination of federal reviews would decrease duplicative practices, free up resources, and enhance the quality of the results, all of which will provide more meaningful data to the states and CMS. Additionally, CMS and states must jointly ensure that PERM

uses a methodology that results in meaningful measurements that can be used for quality improvement.

Federal law requires states to repay the federal portion of any disallowed claim or legal settlement within 60 days of the disallowance's discovery, but the state's ability to collect the disallowed claim in the 60-day period is irrelevant. Thus, the state is penalized for engaging in activities that ensure fiscal integrity of the program. The federal government is entitled to its share of any recouped funds, but states should be required to pay only from funds that are actually collected. Such a change – to require repayment of the federal share on disallowed claims only if they are actually recovered – would provide states an incentive to engage in potentially costly litigation and other long-term methods to recover disallowed claims or payment error recovery.

Temporary Assistance for Needy Families

States have spent nearly a decade and a half transforming the former Aid to Families with Dependent Children entitlement program, which focused heavily on adherence to process requirements, into the highly successful TANF state block grant program that emphasizes and achieves participant outcomes. The TANF grant provided states with the ability to establish state priorities and develop local strategies to address state-specific needs and circumstances, contributing greatly to TANF's achievements. The program's broad flexibility to set eligibility rules and decide what benefits are most appropriate has created not a single, uniform, national cookie-cutter cash assistance program, but rather more than 50 separate and distinct programs – a result clearly contemplated in the TANF statute. The state programs reflect wide-ranging policy variations with respect to the duration of cash assistance eligibility and benefit amounts; the amount of benefit reduction due to sanctions and the duration of various sanctions; the types of income that are included and count in the determination of eligibility; the impact, if any, of resources on eligibility; and the amount, if any, of earned income that may be disregarded in the calculation of benefits.

These broad variations in state approaches to cash assistance policy options call into serious question any attempt to establish a national TANF improper payment error rate. The most appropriate way to measure TANF's effectiveness remains assessing each state's performance against that state's individual plan – which, of course, must conform to the four broad purposes of the block grant enumerated in statute. Beyond that, there are certain federal prohibitions related to the provision of TANF cash assistance with which all states must comply in the operation of their programs. It is possible that these prohibitions could form the basis for a common national measure, although the details of such a process would have to be carefully developed through a joint federal-state process. The national prohibitions are the only elements that Congress articulated in federal law in the provision of TANF assistance, leaving all other options to states. Some of these prohibitions include no assistance for families without a minor child (or pregnant individual); no assistance for teenage parents who do not attend high school or other equivalent program; and no assistance for longer than five years, among others.

These common prohibitions constitute the common elements of TANF among the states and hence are the sole elements that should be reviewed to derive any kind of meaningful national improper payments measure.

Child Care

Similar to the TANF program, the Child Care and Development Fund was designed to provide a flexible stream of funding so that states can enable working parents to enter and remain in the workforce as well as nurturing children's developmental needs in their critical early years. Since CCDF is also a block grant, the current federal effort to impose a national error rate on child care payments should be eliminated and replaced with a restructured improper payment methodology that aligns with existing and state-specific practices for quality improvements.

Supplemental Nutrition Assistance Program

SNAP, formerly the Food Stamp Program, has a remarkably successful history in reducing improper payments. Payment accuracy is measured through a quality control system operated by the states and monitored by the Food and Nutrition Service. Both policy options and simplifications and administrative practices affect payment accuracy in the program. Although states were making great progress in increasing payment accuracy in the decade before the 2002 farm bill, the reforms made by that bill in both policy and performance measurement, and the bill's incentive bonuses for high performance, greatly enhanced program performance. States have reduced the SNAP error rate (overissuances plus under issuances) from 6.64 percent in FY 2003 to 5.01 percent in FY 2008, the last year for which data is available. At the same time, program participation has increased from 60.4 percent of eligibles in 2004 to 66 percent in 2007; the number of persons receiving benefits has surged from about 27 million in October 2007 to nearly 38 million in October 2009. This approach demonstrates that it is possible to both reduce improper payments and protect program access.

However, a number of growing trends threaten SNAP's continued success in keeping errors low. The most significant is the continued pressure on state budgets and its effect on agency staffing and administrative support (particularly such tools as automated systems, data imaging, and modern software). To further reduce improper payments in the face of SNAP's rapidly escalating caseload, further simplification of the program's eligibility and benefit determination is essential. APHSA has proposed a number of such policy simplifications, including:

- Expanding the Combined Application Projects to include more categories of households.
- Allowing states to provide a standardized benefit to TANF cash assistance households.
- Supporting demonstration projects that drastically simplify the eligibility and benefit calculation, such as a system that would base the benefit on income with only a deduction from earned income and using an altered benefit reduction rate or an additional standard deduction based on household characteristics.

Other key APHSA recommendations for SNAP include:

- Provide sufficient administrative matching funds to support modernization of administrative practices and computer systems as another necessary component of continued payment accuracy and program access.
- Undertake a comprehensive review, through a joint federal-state work group, of the federal quality control instructions to achieve a badly needed modernization of these policies.