



November 6, 2006

Christine Z. Peterson
Acting Director
Nebraska Department of Health and Human Services
301 Centennial Mall South
PO Box 95044
Lincoln, NE 68509-5044

RE: Transitional Child Care Assistance

Dear Acting Director Peterson,

It has recently come to our attention that the Department of Health and Human Services has a regulation denying access to transitional child care assistance to Temporary Assistance for Needy Families (TANF) recipients who lose their TANF assistance when they move to Nebraska for employment. As you know, the TANF program is a joint state and federal program that provides temporary cash assistance to families working to achieve self-sufficiency. When a family obtains employment that takes them over the income guidelines for the TANF program, they are provided transitional benefits to help them make the transition from welfare to work and to decrease the likelihood that they will return to public assistance in the future. The Nebraska legislature has decided that families living in Nebraska who are transitioning off of the TANF program be provided two years of transitional child care. Neb. Rev. Stat. § 68-1713.

However, regulation 392 NAC 3-004.01C(2) requires that in order to receive transitional child care assistance, the family must have received its final TANF grant from Nebraska. This regulation is inconsistent with the requirements of the Child Care and Development Block Grant Act (CCDBG), which provides federal funding for the transitional child care program. The CCDBG requires states to have a program that serves the child care needs of “families receiving assistance under *a State* program under part A of Title IV of the Social Security Act (in other words the TANF program), families who are attempting through work activities to *transition off of such a program*, and families that are at risk of such assistance program, and families that are at risk of becoming dependent on such assistance program.” 42 U.S.C § 9858c (*emphasis added*). Pursuant to this section, states are required to provide assistance to anyone transitioning off of any state’s TANF program.

Moreover, refusing to provide child care assistance to families transitioning off of TANF that move to Nebraska violates the fundamental constitutional right to

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travel, to equal protection, and to enjoy the privileges and immunities enjoyed by other citizens of the same state. *See Saenz v. Roe*, 526 U.S. 489 (1999), *Memorial Hosp. v. Maricopa County*, 415 U.S. 250 (1974); *Shapiro v. Thompson*, 394 U.S. 618 (1969).

In light of this information, we would like to know the following:

1. Does the Department intend to continuing using the provision of regulation 392 NAC 3-004.01C(2) to deny transitional child care assistance to people who received their last TANF grant from another state?
2. If so, how does the Department justify continuing to use this provision?
3. If not, how does the Department plan to ensure that those affected receive child care assistance?

Given the seriousness of this matter, we request a response to this inquiry within ten days. If you have any questions or would like to discuss this issue in more detail, please contact me at (402) 438-8853 ext. 102.

Sincerely,

Rebecca L. Gould
Staff Attorney
Welfare Due Process Project

Cc: Daryl Wusk
Mike Harris