PRESS RELEASE
FOR IMMEDIATE RELEASE
December 14, 2001
CONTACT: Becky Gould, Milo Mumgaard, or Ann Vogel 402-438-8853

WELFARE FAMILIES WIN CLASS ACTION SUIT CHALLENGING SHORTENING OF 24 MONTH TIME LIMIT ON ASSISTANCE

Between 7,000 to 11,000 low-income families across the state who may have lost months of eligibility for subsistence cash assistance due to the state's unlawful rules have now won a significant class action lawsuit. On December 12, Lancaster County District Court Judge John A. Colburn issued a ruling that the state's shortening of the time limit on how long low-income families can receive subsistence cash assistance was unlawful.

The decision enjoins the Nebraska Department of Health and Human Services from enforcing a rule which began the two year limit on welfare cash assistance benefits 90 days after an application is filed, rather than when a "self-sufficiency contract" is signed, as required by the Nebraska Welfare Reform Act. The effect of this rule has been to shorten the eligibility period for benefits for many thousands of families – leading to lost eligibility just as we enter a recession. The Nebraska Appleseed Center for Law in the Public Interest's Welfare Due Process Project, on behalf of plaintiffs from Omaha, Lincoln, Norfolk, and Kearney, brought this class action lawsuit in July of 2000 against the Nebraska Department of Health and Human Services alleging that the State of Nebraska violated state law and the constitution by creating the rule.

In the mid-1990's, the Nebraska Legislature passed the Welfare Reform Act, which among other things limits eligibility for cash assistance for low-income families (Aid to Dependent Children) to a two year time period. This time limited period was intended by the Nebraska Legislature to apply only to families that have created and signed an enforceable "self-sufficiency contract." Under the Welfare Reform Act, the two year time limited period starts when an individualized "self-sufficiency contract" is signed by both the low-income family and the state.

This lawsuit challenged the State of Nebraska's implementation of unlawful rules in direct conflict with the Welfare Reform Act. These rules shorten the two year time limit by beginning the calculation of the time limited period prior to the signing of a "self-sufficiency contract" or the completion of the process mandated by the Welfare Reform Act leading to a "self-sufficiency contract."

Judge Colburn found that, "…the Legislature clearly stated that the two year period commences to run upon the signing of the contract. The Legislature has made no provision for this two year time period to run if the recipient fails to sign a contract within 90 days. It is the conclusion of the court that DHHS, in enacting and implementing [the rule] has exceeded its authority and has improperly modified, altered, or enlarged the provision of the Welfare Reform Act." The decision also "rejects the arguments of DHHS that [the rule]...is necessary to prevent the improper extension of benefits."

The class of people this decision affects are those families eligible for ADC and receiving ADC cash assistance at any time since July 31, 1998, who had the 24 month calculation for time limited cash assistance begin 90 days after the date a signed application for cash assistance was received in a local office of the dependants and who had not signed a self-sufficiency contract.

“How to calculate the time limit on cash assistance was very well spelled out by the Nebraska Legislature, but the state agency apparently wanted to make it even shorter,” said Becky Gould, staff attorney with the Welfare Due Process Project. “This decision makes it crystal clear the time begins to run when the parties are actually engaged in activities leading to self-sufficiency, not just when a family receives some cash assistance.”

“We are pleased for the plaintiffs, all of whom are raising children, working hard to become self-sufficient, yet need continuing help,” said Milo Mumgaard, Executive Director of Nebraska Appleseed. “The state basically surprised them by saying one day: guess what, you’ve used up your time. This was grossly unfair to these families-and as has been confirmed by this suit, grossly unlawful.”

“We know there are thousands of families out there who will benefit from this decision,” said Ann Vogel, social worker with the Welfare Due Process Project. “The more people who know about this decision the better, because they can make sure they haven’t lost months of eligibility for help that their families may need in the months to come.”

The plaintiffs were represented by the Nebraska Appleseed Center for Law in the Public Interest’s Welfare Due Process Project, which provides legal representation for families having difficulties with the implementation of welfare reform. Many attempts to negotiate a resolution to this matter were attempted by the Welfare Due Process Project prior to filing suit, to no avail.

The Defendants are the State of Nebraska, the Nebraska Department of Health and Human Services, the state administrative agency charged with implementing the WRA, and Ron Ross, Director of Health and Human Services, who is responsible for the administration and supervision of the public assistance programs in Nebraska.

-30-