

Testimony for Public Roundtable on PR 19-1072, the “Temporary Assistance for Needy Families Sanction Policy Approval Resolution of 2012”

**District of Columbia Council Committee on Human Services
December 11, 2012 at 10:30 am**

**Westra Miller
Staff Attorney, Public Benefits Unit
Legal Aid Society of the District of Columbia¹**

The Legal Aid Society of the District of Columbia thanks the Committee for holding this roundtable on PR 19-1072, the “Temporary Assistance for Needy Families Sanction Policy Approval Resolution of 2012.” We appreciate the Committee’s—and Chairman Jim Graham’s—willingness to support ongoing discussion as the District redesigns its TANF program. PR 19-1072 would adopt the regulations proposed by the Department of Human Services (DHS), establishing a full-family sanction policy for TANF families who do not comply with program work requirements or Individual Responsibility Plans.

Legal Aid continues to oppose a full-family sanction policy, which harms children and parents living in already fragile financial situations. However, despite our opposition, we have worked with DHS to ensure that the eventual policy implementing these sanctions does minimal harm to vulnerable families. We appreciate that DHS has heard these concerns and adopted many of the changes that Legal Aid and other advocates have proposed.

However, these final proposed regulations—as written—will unnecessarily harm already vulnerable families and must be modified to reduce these harms. My testimony discusses areas in which the currently proposed regulations conflict with DHS’s expressed goal of providing individualized, comprehensive services to TANF recipients to help them achieve self-sufficiency. We also highlight sections of the proposed regulations that we urge the Council to remove in order to reduce the harm to families and improve program operations.

I. The Proposed Regulations Will Harm TANF Families by Limiting Access to Services and by Failing to Provide Clear Rules About When and How the Four Levels of Sanctions Might Be Imposed.

We support DHS’s efforts to improve the District’s TANF program by providing targeted, high quality services to families in need. We are pleased with the agency’s commitment to treating each TANF recipient as an individual and recognizing that

¹ The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Over the last 80 years, tens of thousands of the District’s neediest residents have been served by Legal Aid staff and volunteers. Legal Aid has been practicing in the area of public benefits for a number of years, representing clients with TANF, SNAP, and Medicaid cases.

barriers of many kinds may prevent a parent from achieving self-sufficiency. However, the currently proposed regulations do not support these intentions.

A. The Proposed Regulations Will Harm TANF Families by Limiting Access to Vital Services.

DHS's proposal creates four tiers of sanctions. At the Levels Three and Four, a sanctioned family would receive \$0 in benefits. At a Level Four sanction, the parent would be barred from receiving benefits for at least three months, although the real period without benefits could easily be much longer. In order to be eligible to have benefits re-started after either a Level Three or Four sanction, the parent would need to reapply for TANF and again go through the orientation and assessment process.² In other words, the proposed sanction policy would effectively terminate a parent from TANF after he receives a either a Level Three or Level Four sanction, creating an unnecessary break from key services.

This mandatory termination from TANF would be devastating, as the family will lose not only financial benefits, but also access to other critical services associated with receipt of TANF. For example, these families will likely lose their priority or eligibility for child care vouchers. Such vouchers are critical not just for parents who are working or in training, but also for parents who are seeking work. Uninterrupted access to child care is also essential for children for whom the stability of staying in the same child care program is important to promote healthier child development.

In addition to lacking child care, parents at this level of sanction will face other barriers to re-engaging with the TANF system. In order to re-apply for benefits after a Level Four sanction, a parent must show that she has been in compliance with her Individual Responsibility Plan (IRP) for four weeks. But, Level Four sanctioned parents will not have access to a vendor or the services needed to help them carry out their IRPs because they will have already been terminated from the TANF program.

In meetings with advocates, representatives from DHS have spoken of a "re-engagement center" of some sort, envisioned as a place where sanctioned parents could re-connect with the personalized services that are at the core of the redesigned TANF program. While the creation of such a center, if designed and implemented properly, could address our concerns, this idea does not appear in the proposed regulations. Without this idea explicitly included in the regulations, sanctioned parents will have no legally enforceable right to receive services at such a center (or at all) and will not have any practical way to come into compliance and get their benefits restored.

² See 59 DCR § 12532 at proposed regulation section 5812.08(c) and (d) (establishing a one-month Level Three sanction and a three-month Level Four sanction); see also section 5812.13 (requiring that "[t]o receive benefits following a Level Three or Level Four sanction period, the Customer shall complete an application, orientation, and assessment, and negotiate a revised or new [Individual Responsibility Plan].")

B. The Proposed Regulations Do Not Clearly Specify When and How a Parent Moves from One Level of Sanction to the Next, Which Could Result in Families Being Arbitrarily or Unfairly Sanctioned.

In creating its new assessment process, DHS has recognized that TANF parents face many barriers to immediate employment—including, for example, low literacy levels or mental illness. The Individual Responsibility Plan is designed to create a clear roadmap to support a parent on her personalized path to self-sufficiency. However, these proposed regulations do not provide that same clarity for sanctioned parents. For example, the proposed regulations state that DHS will apply “the appropriate graduated sanction” when a parent does not meet the requirements of her IRP for “at least four consecutive weeks, without good cause.”³ However, other sections of the proposed regulations also suggest further sanction for failing to comply with an IRP for the second, third, or fourth “time.”⁴ It is unclear whether each “time” means a separate instance of *different* types of non-compliance or non-compliance based on the continued failure to follow through on the *same* aspect of an IRP.

DHS representatives have suggested that a new, higher level of sanction would be applied to a family for every four weeks of non-compliance, but the current draft of the regulations does not provide explicit guidance about how the transition between sanction levels will occur. This lack of specificity will result in families being arbitrarily and unfairly sanctioned as case workers at the vendors and DHS are left to interpret when to suggest that a new, higher level of sanction be applied. While some parents will seek and obtain counsel to challenge these actions through an administrative hearing—thus increasing the agency’s administrative expenses—other parents, whose barriers will prevent them from seeking help, will wrongfully lose their benefits.

II. The Council Should Remove the Level Four Sanction and the Requirement that Families Re-Apply for Benefits.

In order to improve these proposed regulations, we urge the Council to delete a number of provisions from the proposed text. These provisions include, but are not limited to:

- **Removing the Level Four sanction, found at section 5812.8(d), and all of the related references to that sanction.** This punitive, mandatory three-month full family sanction goes beyond what is required by District law⁵ and is unnecessary for promoting compliance with the TANF program. Sanctioned parents—already struggling to figure out how to re-connect with TANF services without the financial resources to pay for essentials such as rent and transportation—will

³ See section 5812.01.

⁴ See section 5812.08(b), (c), and (d).

⁵ See DC Code § 4-205.51a(b) (requiring only that “[a] nonexempt customer who fails to participate or complete an Individual Responsibility Plan shall be subject to a progressive, graduated sanction policy, as established by the Department of Human Services. Each level of sanctions shall reduce further the maximum grant a customer will be eligible to receive”).

simply be unable to re-engage with TANF. Even if a parent were able to re-engage with a vendor and re-apply for TANF, he would still have to wait for the three-month penalty of his Level Four sanction to expire before he could get cash benefits again. He may have to wait even longer when administrative delays in issuing benefit payments to new applicants are considered.

Deleting the Level Four sanction from the proposed regulations would help parents comply with their IRPs and more effectively reward—and support—their efforts. As others have testified, removing this level of sanction would also bring the District into line with the many other states in which the maximum sanction has a length of one month or less.

- **Removing the language that would require parents to formally re-apply for TANF after they are sanctioned, found at 5812.8(c) and elsewhere.** As discussed above, termination from the TANF program will harm parents and children because they will lose access to other benefits such as child care. Additionally, TANF termination could have unintended consequences such as termination from the Supplemental Nutrition Assistance Program (commonly known as Food Stamps) or Medicaid due to administrative or system errors. Deleting the requirement that families reapply for TANF would help ensure continuous access to other benefits for which they remain eligible, which, in turn, can help them comply with TANF requirements.

III. Conclusion

In short, this proposed sanction policy does not make the redesigned TANF program stronger. Instead, if implemented, it would weaken DHS's effort to help vulnerable families achieve self-sufficiency by harming the at-risk families that the agency's programs are meant to help.

TANF is an essential support program for the District's most vulnerable families; tens of thousands of children depend on TANF as their only means of support. In these times of limited governmental resources, we understand the impulse to penalize parents who appear to be disengaged from the help that our TANF program offers. Yet, before creating this system of punishment, we ask the Council to consider whether the proposed regulations, as drafted, support the goals to which DHS has devoted so much effort. We believe the answer to that question is no. That is why we urge the Council to exercise its authority to improve these proposed regulations so as to better support families and the TANF program itself.

Thank you for the opportunity to testify today. I am happy to take questions at this time.