Welfare Bulletin

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CASE DEVELOPMENTS

Medicaid Terminations Enjoined in Missouri

White v. Martin, *Case No. 02-4154-CV-C-NKL (U.S. District Court for the Western District of Missouri) (Order, Oct. 3, 2002).*

The court has issued an order granting plaintiffs' preliminary injunction motion and directing the state welfare agency to provide Transitional Medicaid Assistance (TMA) to approximately 17,000 people who lost categorical Medicaid effective July 1, 2002 when the state implemented legislative changes that reduced the Medicaid eligibility level from 100% of the federal poverty level to 77% of the poverty level. The plaintiff class is comprised of those families who lost Medicaid because their earnings bring their income above the new 77% eligibility level, who are not eligible for Medicaid on another basis and who are otherwise eligible for TMA. They claim that defendants violated 42 U.S.C. § 1396r-6(a)(1) which requires the provision of TMA, 42 U.S.C. § 1396 (a)(8), and 42 C.F.R. § 435.930 (b) which requires the state agency to conduct ex parte reviews before terminating Medicaid.

On July 26th the court granted plaintiffs' motion for a class wide temporary restraining, certified the class, and ordered the state to provide transitional Medicaid to all who are eligible for it while the litigation continued. After expedited discovery and upon further exchange of papers and oral argument, on August 16, 2002, the court granted plaintiffs' motion for a preliminary injunction. On October 3rd, the court issued its written order granting preliminary relief and certifying the class.

The October 3rd order, in finding that plaintiffs met the standard for a preliminary injunction, concluded that the court has jurisdiction to enforce the Medicaid provisions at issue in the case, finding that the statutory provisions created enforceable rights under the test enunciated in **Gonzaga University v. Doe**, 122 S. Ct. 2268 (2002). It rejected the defendants' claim that its pre-termination administrative review process deprived the court of jurisdiction. The court found that plaintiffs were likely to succeed on the merits based on a similar case, **Phillips v. Noot**, 728 F. 2d 1175 (8th Cir. 1984) and subsequent amendment to the relevant federal law that "removes any doubt that **Phillips** was correctly decided." It found that the balance of harm tipped decidedly to plaintiffs, noting that budgetary harm to the state was not very significant compared to the irreparable harm caused to individual Medicaid beneficiaries. The order denied defendants' motion to decertify the class, directed the defendants to provide TMA to class members and continue the TMA of class members for whom TMA was provided pursuant to the earlier orders, and ordered that defendants have an affirmative obligation to conduct an ex part review to ensure that all entitled to TMA receive it. For a copy of the order and other materials visit the Welfare Law Center website (www.welfarelaw.org).

Plaintiffs' attorneys: *Marc Cohan, Rebecca Scharf, Welfare Law Center, 275 7th Ave., #1205, New York, NY 10001; tel. (212) 633-6967; Steven A. Hitov, National Health Law Program, 1101 14th Street, NW, Suite 405, Washington, DC 20005; tel. (202) 289-7661; Jon E. Beetem, Beetem Law Offices, P.C., 505 East State Street, P.O. Box 476, Jefferson City, MO, 65102-0476; tel. (573-635-6659).*

CA Appellate Court Rules for Plaintiffs in ADA Challenge to Expected Education Completion Date Rule in CalWORKS Program

Fry v. Saenz, *No. C038026 (Cal. Ct. of Appeals, 3rd App. District, May 8, 2002).*

Under the AFDC program, federal law defined a "minor child" eligible to receive benefits as a child under the age of 18, or under the age of 19 and a full-time student in secondary school or an equivalent who was expected to graduate by age 19. When PRWORA was enacted, Congress eliminated this language from the federal law, leaving states free to eliminate this requirement as well. However many states, including California, retained the requirement. This case challenges the "expected age of completion" on behalf of individuals who are full-time students under age 19 who were not expected to graduate by age 19 as a result of their disabilities. They claim that the rule violates the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504).

The California Superior Court ruled against the plaintiffs. The Court held that the "expected age of completion" rule was an essential eligibility requirement of the CalWORKS program, and therefore did not have to be modified for 18-year-olds with disabilities who were not expected to graduate by age 19. The Court held that the purpose of CalWORKS was to provide a home for a needy child, the demarcation between childhood and adulthood defined eligibility for the program, and it would therefore fundamentally alter the program to waive the rule for the plaintiffs.

In May 2002, the California Court of

Appeal for the Third Appellate District reversed and remanded. The appellate court pointed out that PRWORA does not require the "expected age of completion" rule, and the court rejected defendants' argument that the state legislature's enactment of the rule was proof that it was essential to the CalWORKS program. The Court held that program eligibility requirements are essential under the ADA and Section 504 only if the purposes of a program cannot be achieved without the requirement, regardless of whether the rule is enacted by statute or created through regulation.

The Court noted that disability rights cases analyzing whether program purposes are essential take one of two approaches: they either look at whether a rule serves the general purposes of the program, or they look at whether waiving a rule for a particular individual with a disability would conflict with the purpose of the rule in a way that would fundamentally change the purpose of the program. The Court noted that defendants usually win when the first test is used, and plaintiffs when the second test is used. The Court applied the generalized analysis of program purpose, but nonetheless held that the "expected age of completion" rule was not a fundamental eligibility requirement. The Court noted that the purposes of the CalWORKS program described in the statute do not require that 18 year olds be expected to graduate by age 19. Cutting off the benefits of 18 years olds with disabilities who are not expected to graduate by age 19 undercuts the CalWORKS legislative purpose of promoting economic security of families through full workforce participation, because 18 year olds with disabilities who haven't finished school are not well-prepared to work. The Court also noted that the rule detracted from another program purpose, the "family's right and responsibility to . . provide every opportunity for educational and social progress." The Court rejected the lower court rationale about the statutory demarcation between childhood and adulthood, noting that age 19, not 18, was the point of demarcation between childhood and adulthood in the statute and therefore it made no sense to consider 18 year olds who could finish school children up to age 19 but not 18 year olds who could not finish school because of a disability.

The court remanded the case to the trial court for a hearing on whether the fiscal impact of granting relief would be a fundamental alteration, and therefore not required under the ADA and Section 504. The Court noted that the factual record had not been developed on the issue and the state's economic outlook had changed "dramatically" since the trial. The Court held that under *Olmstead v. L.C.*, the Court could consider, in making such a determination, the cost of granting relief not just to the individual plaintiffs in the case but to other similarly situated individuals. The decision is available *via* http://www.courtinfo.ca.gov/cgi-bin/opinarch.cgi.

***Attorneys for plaintiffs**: Nu Usaha, Clare Pastore, Paula Gaber, Richard Rothchild, Western Center on Law and Poverty, Inc., 3701 Wilshire Boulevard, Suite 208, Los Angeles, CA 90010, tel. 213 487-7211; Anne Menasche, Legal Aid Society of San Diego, Inc.; 110 South Euclid Avenue, San Diego, CA 92114; Michelle Uzeta, Melinda Bird, Protection and Advocacy, Inc., 3580 Wilshire Boulevard, Suite 902, Los Angeles, CA 90010); Brian Patrick Lawlor, Legal Services of Northern California, Sacramento, tel. 916-551-2119.*

MA Court Rules TANF Full Family Sanction Rule Violates Statute

Thibault v. Department of Transitional Assistance and McColgan v. Dept. of Transitional Assistance, *C.A. No. 97-04760C and No. 00-113 (Superior Court, Suffolk, Mass.)(Memorandum of Decision and Order, April 25, 2002).*

Plaintiffs and the subclass are past, present, and future TANF adult applicants and recipients and their children who are subject to termination of TANF cash assistance if the adult does not comply with work program requirements. The adults had their claims for a disability exemption denied. The court has granted plaintiffs' motion for partial summary judgment, holding that the regulation imposing a full family sanction conflicts with the plain meaning of the statute which provides that recipients subject to the work requirement who fail to comply shall not receive assistance. The court agreed with plaintiffs that the word "recipient" in the sanction statute was clearly defined to be the adult parent subject to the work requirement, and that provisions defining "family" to be the household of dependent children and a recipient and "dependent children" reinforce this conclusion. Had the legislature intended termination for the entire family, it would have referred to "family" or "recipient and dependent children." The court finds its conclusion consistent with the overall legislative purpose of TANF and notes that the agency represented in its 1995 request to HHS for waivers to implement state law provisions that the sanction for non-compliance was grant reduction in an amount equal to the parent's share.

***Plaintiffs' attorneys**: Melanie Malherbe and Brian Flynn, Greater Boston Legal Services, 197 Friend Street, Boston, MA 02114-1802; tel. (617) 371-1270; fax (617)371-1222.*

Massachusetts Supreme Court Upholds 6-Month Residency Requirement for Immigrants Receiving State Welfare Benefits

Doe v. Commissioner of Transitional Assistance, *__ Mass. __, 2002. LEXIS 526 (Mass. Aug. 15, 2002).*

As a consequence of the passage of the Personal Responsibility Act in 1996, qualified aliens who had lived in the U.S. for fewer than five years became ineligible for federally funded welfare benefits. In response to this change, the Massachusetts legislature established a Supplemental Program to be funded solely with state funds that would be available to qualified aliens who were no longer eligible to receive TANF benefits because of their alien status. The benefits provided under the Supplemental Program were comparable to those provided by the state TANF program, except that to be eligible for the Supplemental Program, aliens had either to have been enrolled in the TANF program at the time the state welfare reform act was enacted, or, if newly applying, had to have resided in Massachusetts for six months.

The plaintiffs in this case are qualified aliens who were not eligible for federally-funded TANF benefits and who had not resided in Massachusetts for six months at the time they applied for and were denied benefits under the Supplemental Program. They challenged the constitutionality of the six-month residency requirement as violative of their right to equal protection.

Although the plaintiffs had argued that

strict scrutiny should apply because aliens are a prime example of a "discrete and insular" minority for whom heightened judicial review is appropriate, the court rejected this argument and instead applied a rational basis review, reasoning that the nature of the classification that was at issue was not one of alienage, but of residency. Therefore, a more deferential standard of review was appropriate. Under that standard, the Court concluded that the 6-month residency requirement passed muster because it was consistent with national policies regarding alienage and encouraged aliens to develop enduring ties to Massachusetts.

In reaching its conclusion, the Court was clearly influenced by the fact that the Massachusetts Legislature was not required to establish the Supplemental Program, and by its perception that the program did not discriminate against aliens in favor of citizens because only aliens are eligible for the program.

The decision in ***Doe*** stands in contrast to that in ***Aliessa v. Novello***, 96 N.Y.2d 418 (2001) where the Court of Appeals in New York held that distinctions made among aliens in New York's state-funded Medicaid program violated equal protection.

Plaintiff's attorneys: *Deborah Harris, Massachusetts Law Reform Institute, 99 Chauncy Street, Suite 500, Boston, MA, 02111, (627) 357-0700; email: DHarris@mlri.org.*

U.S. Sup. Court Denies Cert. in CO TANF Procedural Due Process Case

Weston v. Cassata, 37 *P. 3d 469 (Colorado Court of Appeals, 2001), cert. denied, Cassata v. Weston, 2002 Colo. Lexis (Colo. Jan. 14, 2002), cert. denied, U.S. Sup. Ct., June 17, 2002, 2002 U.S. Lexis 4491.*

As reported in the July 2001 ***Welfare News***, the Colorado Court of Appeals had held that Colorado TANF recipients had a property interest in the receipt of TANF benefits despite the existence of "no entitlement" language in the state TANF statute and that TANF sanction notices were constitutionally inadequate. The U.S. Supreme Court has denied certiorari in this case.

W. V. Special Commissioner Recommendations: Procedural Due Process Applies In TANF Time Limit Extension Process

State of West Virginia ex rel. K.M. v. West Virginia Dept. of Health and Human Resources et al., *N. 30494 (West Virginia Supreme Court of Appeals in Vacation)(August 21, 2002, Final Recommendations of the Special Commissioner).*

As previously reported in the April 2002 **Welfare Bulletin**, this case claims that the imposition of TANF lifetime time limits violates the state constitutional provision requiring the provision of subsistence necessary for survival and basic well-being, the right to an adequate education, equal protection and due process, and that the welfare agency time limit policies are invalid in various respects on their face and as applied. Petitioners had filed a petition for a writ of mandamus with the Supreme Court which referred the case to a Special Commissioner who held an evidentiary hearing and heard arguments. On June 27, 2002 the Special Commissioner denied petitioners' motion for a preliminary injunction. On August 21st, the Supreme Court released the Special Commissioner's Final Recommendations in the matter and directed the parties to file written objections by Sept. 4, 2002.

The Final Recommendations reject petitioners' claims that the notices were constitutionally inadequate because their characterization of the grounds for extension differed from the language in the welfare agency's policy. The Special Commissioner noted that the welfare agency acknowledged that notices need to be corrected but found that the defects did not rise to a constitutional level and that petitioners received enough information to seek extensions.

The Final Recommendations conclude that petitioners have a protected property interest giving rise to procedural due process rights in the time limits extension process and that the fair hearing process does not meet due process requirements. Specifically, agency policies provide that the fair hearing officer, following an evidentiary hearing, cannot reverse a decision of the extension committee except where the decision is based on inaccurate information. While the extension committee can change an initial decision upon reconsideration, its review is limited to documentary evidence. Since the real fact finder is the fair hearing examiner who conducts an evidentiary hearing, the limitation on her authority violates procedural due process.

The Special Commissioner recommends 1) that the Supreme Court direct the agency to correct notices prospectively and to modify the fair hearing process to allow the fair hearing officer to affirm, reverse, or remand decisions regarding extensions; 2) that the recipient have the right to appear and present evidence and cross-examine witnesses at the fair hearing; that she have the right to appear with or without a representative; and that the fair hearing examiner shall issue written decisions. In addition, the Special Commissioner recommends that the Supreme Court direct the welfare agency to develop procedures to ensure the confidentiality of extension requests based on domestic violence and further direct the welfare agency to notify recipients, including petitioners, who have been denied an extension of their right to appeal to the fair hearing examiner. Based on the evidence and cited legal authorities, the Special Commissioner concludes without analysis that the poor do not have a constitutional right to subsistence.

Petitioners' attorneys: *Larry Harless, Route #2, Box 186C, Cottageville, WV 25239; Dan Hedges, Mountain State Justice, 922 Quarrier Street, Ste. 925, Charleston, WV 25301-2648, tel. (304)344-5564, fax (304)344-3145.*

NJ Appellate Court Upholds Family Cap

Sojourner A. et al. v. The New Jersey Dept. of Human Services, *Docket No. A-2787-99T5 (N.J. Superior Court, Appellate Division, April 5, 2002).*

The appellate court has affirmed the decision of the lower court upholding the validity of New Jersey's family cap which denies additional cash benefits for a child born to a family receiving cash assistance. Plaintiffs claimed that the family cap violates their state constitutional right to privacy by unconstitutionally coercing the reproductive

choices of poor women and their state constitutional right to equal protection by denying aid to poor children who are born while the family receives welfare while other similarly poor children receive aid. While acknowledging that a woman's right to make reproductive choices is fundamental and constitutionally protected, the court concluded that the family cap "does not impair a woman's reproductive rights to any significant degree." Balancing the government's interest with that of the class, the court concluded that the purposes of reducing welfare dependency, promoting individual responsibility, and strengthening the family unit "outweigh the indirect effect a the family cap has upon a woman's decision to bear another child." It noted that the cap only involves the cash aid available to the family, that additional Medicaid and food stamps are provided, and that other programs such as job search and training, vocational and other education are available to the family. The court concluded that the family cap has a rational basis. In reaching its decision, the court looked to the prior decision on this issue on federal constitutional issues in **C.K. v. Shalala**, 92 F. 3rd 171 (3d Cir. 1996) affirming 833 F. Supp. 991 (D.N.J. 1995). In applying the balancing test for the state constitutional claims it noted that while the state and federal tests differ they are "substantially the same" and "will often yield the same result." The opinion is available *via* www.judiciary.state.nj.us.

Plaintiffs' attorneys: *Sherry Leiwant, Martha Davis, Spenta Cama, NOW Legal Defense and Education Fund,395 Hudson Street, New York, NY 10014, tel. (212)925-6635, fax (212)226-1066; Gibbons, Del Deo, Dolan, Griffinger & Vecchione; American Civil Liberties of New Jersey; Women's Rights Project, American Civil Liberties Union.*

Court Finds Advocates Have No First Amendment Rights In Welfare Centers

Sanchez v. Turner, *00 Civ. 1674 (AGS) (U.S. Dist. Ct., S.D.N.Y., June 19, 2002).*

A federal district court has granted the New York City welfare agencies summary judgment on most claims in this action seeking to force the city to allow advocates into welfare center waiting rooms. The court ruled that speech restrictions in welfare centers do not receive strict scrutiny and that the defendant's exclusion of advocates is not irrational. The court did find that the city's written policy allowing the presence of any groups "specifically authorized" is impermissibly vague and invalidated that portion. Plaintiffs have appealed.

This case was filed on behalf of individual welfare applicants Irania Sanchez and Emilio Vega and Make the Road by Walking, a group that sought access to welfare centers to counsel applicants. The court concluded that the individual plaintiffs did not have standing and dismissed their claims.

Applying the First Amendment forum doctrine, the court found that welfare centers are "limited public fora" whose use is limited to particular purposes and speakers. It ruled that under current Supreme Court and Second Circuit jurisprudence, restrictions on such fora must only be reasonable and viewpoint neutral and need not be subject to strict scrutiny, as must restrictions on the use of public fora such as streets and parks. The city's fears that advocates could create physical congestion in centers, disrupt proceedings and cause confusion about which people were city employees met that simple "reasonableness" test without need for detailed evidence of such problems, the court held. The court found no viewpoint discrimination, because the city did not distinguish among the private groups seeking access to welfare center waiting rooms (it denied all of them), regardless of whether the city's actual motivation for excluding welfare advocates is to discourage claimants from receiving the benefits to which they are entitled.

The court distinguished earlier cases on the same subject that found First Amendment rights for advocates, **New York City Unemployed Welfare Council v. Brezenoff**, 742 F.2d 718 (2d Cir. 1984), and **Albany Welfare Rights Org. v. Wyman**, 493 F.2d 139 (2d Cir. 1974). It concluded they were irrelevant because they had been decided under a different legal analysis that required much stricter scrutiny of city regulations, before the Supreme Court endorsed the concept of "limited public forum." The court also dismissed plaintiffs' due process claims, saying that the city is not impeding welfare applicants from communicating with advocates, and it is under no obligation to affirmatively help them do so. Finally, the court denied the plaintiffs' equal protection claim that applicants who bring advocates to the centers are treated differently than applicants who do not bring advocates, applying the same rational basis scrutiny that was used for the First Amendment claim.

Plaintiffs' attorneys: *Laura Abel, Phillip G. Gallagher and David S. Udell, Brennan Center for Justice, 161 Avenue of the Americas, New York, NY 10013; tel. (212) 998-6737; Marc Cohan, Rebecca Scharf, Welfare Law Center, 275 7th Ave., #1205, New York, NY, 10001; tel. (212) 633-6967; Laura Davis, New York Legal Assistance Group, 130 East 59th St., 14th Floor, New York, NY 10022; tel. (212) 750-0800; Thomas McGanney, David Hille, White & Case LLP, 1155 Avenue of the Americas, New York, NY 10036; tel. (212) 819-8200.*

NE Court Certifies a Class After Finding Inadequate Notice in Child Care Subsidy Case

Johnsen v. State of Nebraska, *No._____ (US. D. Ct. Nebraska) (undated complaint).*

This case, filed as a class action, challenges actions by the Governor and the welfare agency eliminating child care subsidies for individuals whose household income is between 120% and 185% of the federal poverty level, but who had not received cash assistance within the past 24 months. Nebraska's Child Care Program (made up of two separate programs - one with time limits for those leaving the cash assistance program and the other without time limits for those meeting the financial criteria of between 120% and 185% of the poverty level) was designed to be a seamless child care subsidy program. Following the Governor's use of his line item veto power to restrict the financial eligibility standards of the child care subsidy program, the welfare agency adopted implementing regulations. Plaintiffs claim that the line item veto violates the state statute requiring a statement of reasons for the veto and separation of powers because the Governor used the veto to make program modifications. They claim that the implementing regulation violates various state constitutional provisions, including separation of powers and equal protection. Plaintiffs claim that the defendants failure to provide adequate notice and the opportunity for

a fair hearing violate federal and state due process rights and that their sending denial notices before the regulation took effect violates state constitutional rights to due process.

According to a Sept. 6, 2002 press release from Nebraska Appleseed, on August 12, 2002 the court certified a class. The court had previously ruled that the welfare agency failed to provide adequate notice to a named plaintiff and that adequate notice requires a reference to the rules on which the action is based. The agency estimates that about 700 families received inadequate notice. For further information visit www.neappleseed.org.

***Plaintiffs' attorney**: Rebecca Gould, Nebraska Appleseed Center for Law in the Public Interest, 941 O St., Suite 105, Lincoln, NE 68508, tel. 402 438-8853.*

AK Application Delay Challenged

Johnson v. State of Alaska Dept. of Health and Human Services, *Case No. ____ (3rd Judicial District, Superior Court, Alaska)(Complaint and TRO).*

This case, brought on behalf of a destitute mother of three children, challenges the state welfare agency's delay in processing her application for Food Stamps and TANF cash assistance. Plaintiff applied for assistance in late January 2002 and as of early March the agency had not acted on her application. She claims that the agency has violated federal and state law requiring a decision on applications within 30 days and federal Food Stamp provisions that require expedited Food Stamps to be provided within 7 days and that require the agency to establish application procedures to identify households for expedited service. She also alleges that the failure to expedite TANF cash assistance applications in appropriate circumstances violates due process and that the agency's failure to adequately serve rural households violates her right to equal protection.

Plaintiff's counsel reported that the court granted a temporary restraining order.

***Plaintiff's attorneys:** E. Leigh Dickey, Nikole Nelson, Alaska Legal Services Corp., 1016 W 6th Avenue, Suite 200, Anchorage, AK 99501, tel. 907-272-9431, fax: 907-279-7417.*

REPORTS ON WELFARE PRIVATIZATION

Privatization of Welfare Services: A Review of the Literature, *Pamela Winston, et. al., (Mathematica Policy Research, May 2002).*

This review of the recent literature on welfare privatization examines the reasons for the growth in privatization; reviews the findings of various surveys and studies that have looked at the privatization in social service programs, including TANF; identifies the major private providers; summarizes the reasons for privatization and the models of what and how to privatize; and identifies the challenges in privatizing social services. It notes that research on welfare privatization is in its infancy and that studies by Mathematica and U.S. Department of Health and Human Services will provide information on three issues: the relative quality and cost effectiveness of privatized welfare services; how best to implement privatization; and additional information on privatization of case management. Available at www.mathematica-mpr.com.

Welfare Reform: Interim Report on Potential Ways to Strengthen Federal Oversight of State and Local Contracting, *U.S. General Accounting Office, GAO-02-245 (April 2002).*

The following summary of this GAO report appeared on the website of Colorado Welfare Reform--an independent, non-partisan information clearing house for welfare reform in Colorado. The Center for Human Investment Policy (CHIP), manages this site. http://thunder1.cudenver.edu//cwr/ issues/privat.html#.

Welfare Reform: Contracting with nongovernmental entities to provide TANF-funded services occurs in most states and exceeded $1.5 billion in federal and state funds in 2001. A GAO survey indicated that the most commonly contracted services included education and training, job placement, and support services to promote job entry or retention. The Department of Health and Human Services (HHS) relies primarily on state single audit reports to oversee TANF contracting by states and localities. HHS officials told GAO that their regional offices follow up on the TANF deficiencies identified and that HHS focuses on reported deficiencies that involve unallowable or questionable costs. However, HHS officials said that they do not know the extent and nature of problems pertaining to the oversight of nongovernmental TANF contractors that have been cited in state singe audits. State and local governments rely on third parties to help ensure compliance with bid solicitation and contract award procedures, including bid protests, judicial processes, and external audits. They use various approaches to oversee TANF contractors, but problems persist in contract oversight and contractor performance. The report is available on the web at: http://www.gao.gov/new.items/d02245.pdf

RESOURCES FROM ADVOCACY GROUPS

Welfare Made A Difference: Escaping Violence, Finding Safety, *Welfare Made A Difference National Campaign (Sept. 2002).*

The booklet illustrates, through moving personal stories, the importance that access to welfare benefits plays in many women's ability to escape domestic violence. To request a copy send an email to Liz Accles at accles@yahoo.com. Include your name and mailing address. WMAD Campaign Website: www.wmadcampaign.org.

Resources for Recovery: State Policy Options for Increasing Access to Alcohol and Drug Treatment Through Medicaid &TANF, *Legal Action Center and its Arthur Liman Policy Institute (forthcoming).*

From a Legal Action Center announcement: The report examines addiction and addiction treatment, including data demonstrating treatment effectiveness and cost-effectiveness for Medicaid populations; provides background about key social welfare programs (including Medicaid, TANF, and the State Children's Health Insurance Program) that can fund treatment; presents case studies of four States and one county that have adopted promising practices to increase Medicaid or TANF funding for alcohol and drug treatment; and offers State policy options for improving reimbursement for alcohol and drug treatment services through these programs.

For a copy of the report, e-mail a request to Stacy Frye at sfrye@lac-dc.org. Include your mailing address. Fax requests to 202-544-5712 will also be accepted.

Welfare, Work and Raising Children - Conversations with Twenty-One Maine Families, *Christine Hastedt and Rebekah Smith (Maine Equal Justice Partners, May 2002).*

This report, which profiles the struggles of Maine low-income families to raise their families and make ends meet, puts a human face on welfare reform issues. In addition to presenting the stories of individual families, the report highlights positive programs that Maine has adopted to assist families receiving and transitioning off welfare. The report was developed to inform the debate over federal welfare reauthorization and put the experiences of individual families in a larger context of the need for policies that support the low-income families transitioning from welfare to work, including child care, transportation, health care, and access to education and job training. Available at www.mejp.org.

Race and Recession: A Special Report Examining How Changes in the Economy Affect People of Color *(Applied Research Center, Summer 2002).*

This report uses the stories of individuals and data to make the points that people of color are the hardest hit by the recession and vulnerable to layoffs and discrimination; are less likely to receive unemployment insurance and worker supports like child care; and experience discriminatory treatment at welfare agencies. The report recommends establishment of a racial equity performance measure for welfare programs and rewards for states that perform well; enforcement of anti-discrimination laws and monitoring of state performance; requirements that equal access to information about public benefits programs be provided to all potential beneficiaries; expansion of unemployment insurance eligibility rules; and expanded access to high quality education and training programs. Available on the web at www.arc.org.

From Poverty to Punishment: How Welfare Reform Punishes the Poor (Applied Research Center, 2002).

This book is a collection of articles by university-based academics, independent researchers, and activists that challenges arguments that welfare reform has been a great success. Among the topics examined are the politics of welfare reform, the evolution of welfare from a system of economic support to a system to control behavior, privatization of welfare services, how race is a factor in welfare policies, how the media covers welfare, the effects of welfare reform on low-income people, and organizing campaigns to improve state and national policy. Copies are $20 each (discount for bulk orders). For ordering information visit ARC's website: www.arc.org.

OTHER RESOURCES

Using the Internet to Make Work Pay for Low-Income Families, *Michael O'Connor (Brookings Institution, May 2002)* .

This publication reviews factors that contribute to declining participation rates in work support programs, and describes technology that can improve access while reducing administrative burdens. The article also identifies policy options for promoting the use of web-based eligibility assessment tools. Since most families leaving welfare for work remain in poverty, ensuring access to work supports increases household resources and well-being, and may improve job retention and overall workforce participation rates as well. A variety of web-based tools are described. For example, using a RealBenefits web site, staff at public and private agencies in the Chicago area can interview an individual, enter relevant data, and produce completed applications ready for signature that can be submitted at the appropriate agencies for food stamps, child care assistance, and SCHIP health care benefits as well as a report on EITC eligibility. Available at http://www.brookings.edu/es/urban/publications/welfessay2exsum.htm.

The Impact of Welfare Sanctions on the Health of Infants and Toddlers, A Report from the Children's Sentinel Nutrition Assessment Program *(July 2002).*

This report is based on data collected by the Children's Sentinel Nutrition Assessment Program (C-SNAP) and examines the association of welfare sanctions with the health and food security of children under 3 years old in 6 cities. Main findings are: Sanctions and benefit decreases are associated with increased rates of hospitalization in young children; sanctions are associated with significantly increased rates of food insecurity in households with young children; in 2001 infants and toddlers had greater food insecurity and health risks than in 1999. The report is available at http://dcc2.bumc.bu.edu/CsnapPublicReports/

Extreme Poverty Rising, Existing Government Programs Could Do More, *Sheila R. Zedlewski et al.(The Urban Institute, New Federalism Series B, No. B-45, April 2002).*

This analysis reports that although the official poverty rate declined from 13.7% in 1996 to 11.8 % in 1998, extreme poverty increased when all kinds of income is taken into consideration. The analysis indicates that in 1998 there were some 300,000 more single parent families in extreme poverty than in 1996. Extreme poverty is defined as income less than 50% of the federal poverty level. The authors note that this increase in deep poverty occurred during a strong economy and is attributable to an increase in the number of families that have left or not enrolled in government benefits programs, such as cash assistance and food stamps. The authors indicate that it is difficult to identify the reasons for declining participation, although suggest that "[c]hanging attitudes about seeking help from the government, the increasing complexity of government rules, and states' new welfare programs have no doubt all played a role in reducing participation." They estimate that "[i]n 1998, if all families with children participated in the post-reform government safety net programs for which they qualified, poverty would have declined by more than 20 percent and extreme poverty by 70 percent." The authors recommend that states take steps to increase participation, by adopting "'family-friendly' delivery systems and more standardized eligibility requirements." Available on the web at http://newfederalism.urban.org.

Making Child Care Choices: How Welfare and Work Policies Influence Parents' Decisions, *Lisa A. Gennetian, Aletha C. Huston, Danielle A. Crosby, Young Eun Chang, Edward D. Lowe, and Thomas S.Weisner (Manpower Research Demonstration Corp., August 2002).*

From an MDRC announcement: Congressional deliberations on the future of welfare reform have reopened a debate about whether current child care assistance programs adequately support employment among low-income working parents while also fostering their children's development. Issues at the forefront of this debate are explored in this timely new policy brief. A distillation of seven papers from the Next Generation Working Paper series, the brief uses MDRC's extensive studies of work-promoting programs to explore how different welfare, employment, and child care policies influence parents' child care decisions and experiences. Available on the web at: http://www.mdrc.org/Reports2002/NG_PolicyBrief/NG_PolicyBrief.htm

Welfare Time Limits: State Policies, Implementation, and Effects on Families, *Dan Bloom et al. (Manpower Research Demonstration Corp., July 2002).*

From an MDRC announcement: When welfare reform advocates proposed putting time limits on welfare, many policymakers and observers worried about the potentially harmful consequences. What would happen to families of recipients who could not earn a living wage after their benefits ran out? Time limits became a highly contentious issue in the debate about the 1996 federal welfare reform law, which imposed a 60-month lifetime cap on federal cash assistance but gave states broad flexibility to design time-limit policies. Yet now, with Congressional deliberations about the welfare law's reauthorization under way, there has been little talk about whether time limits have spurred families to achieve self-sufficiency or left them worse off.

Welfare Time Limits, a newly released report from the nonprofit, New York-based public policy research group Manpower Demonstration Research Corporation (MDRC), helps explain why. Drawing from a survey of all 50 state welfare agencies, the report shows that, to date, relatively few families have reached the federal time limit. A larger number of families have reached state time limits of fewer than 60 months, but many of the families who encountered these shorter limits were granted extensions.

Welfare Time Limits not only documents wide variations in states' implementation of the time limit but also underscores how the strong economy of the late 1990s and early 2000s, which created job opportunities and filled state coffers, helped avert the limit's potential adverse fallout. In the current weakened economy, the success of welfare reform will depend even more on how states deal with families who reach the time limit, and this report can inform the renewed debate. Available on the web at: http://www.mdrc.org/Reports2002/welfaretimelimits/wtl_overview.htm.

About The Welfare Law Center

The Welfare Law Center is a national legal and policy organization that works with and on behalf of poor people to ensure that adequate income support is available when necessary to meet basic needs and foster healthy individual and family development. The Center achieves its goals through legal and policy analysis, legal representation, public education, training, and aid and support to advocates. Contributions to the Center are tax deductible.

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With the loss of federal funding, the Center relies upon contributions and publications sales to support its work. Tax-deductible contributions may be made by check or credit card (MasterCard, Visa, American Express - information can be faxed to the Center). Monthly or quarterly contributions can be scheduled. Bequests have been left to the Center in wills, and we would be pleased to discuss possible arrangements. Bulk purchases of publications for distribution to selected audiences are also welcome. For information about any of these options, contact Kay Khan at the Center.

About Welfare News and Welfare Bulletin

Welfare News is a periodic publication of the Welfare Law Center, 275 Seventh Avenue, Suite 1205, New York, NY 10001-6708, tel. 212-633-6967; fax: 212-633-6371; e-mail: wlc@welfarelaw.org; web pages: **www.welfarelaw.org** and **www.lincproject.org**. **Welfare Bulletin**, issued with **Welfare News**, reports on recent court decisions, noteworthy publications, and federal policy issuances on income support programs.

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