

**Congress of the United States**  
**Washington, DC 20515**

October 1, 2008

The Honorable Michael O. Leavitt  
Secretary  
Department of Health and Human Services  
Hubert H. Humphrey Building, Room 615F  
200 Independence Avenue, SW  
Washington, D.C. 20201

**Re: California Congressional Delegation Comments--TANF Program,  
Elimination of Enhanced Caseload Reduction Credit for Excess  
Maintenance-of-Effort Expenditures**

Dear Secretary Leavitt:

We write in opposition to the proposed regulations published in the August 8, 2008 Federal Register that would eliminate the enhanced caseload reduction credit for excess maintenance of effort (MOE) expenditures in the Temporary Assistance for Needy Families (TANF) program. 45 C.F.R. 261.43(b). As members of Congress representing all areas of California, we believe the repeal is unjustified by statutory language, untimely, and will have devastating impacts on California's low-income families and the state's budget. We strongly urge the withdrawal of the notice.

In our home state of California, excess MOE expenditures are used to enhance TANF programs and provide work supports, such as child care and child support disregard payments, for tens of thousands of families battling to stay out of or escape poverty. Some of these families have left the TANF rolls and rely on work supports to maintain stable employment and housing. Other families are at-risk of joining the TANF rolls without the assistance of programs paid for by excess MOE resources. At this time of rising unemployment, record home foreclosures, and strained state budgets, it is incredibly reckless policy to discourage states, as the proposed regulation will do, from investing in programs that protect low-income families.

Since welfare reform was enacted, California's TANF caseload has decreased from over 900,000 cases to about 460,000 cases today. Despite this massive reduction in the welfare rolls, California has maintained a strong investment of hundreds of millions of dollars each year beyond their MOE requirement. This money funds some of the state's work support programs to ensure that low-income families do not need assistance from the TANF program. A stated goal of the TANF program is to reduce dependency. In our view, helping families to become self-sufficient through programs that support work is a key to reducing dependence and keeping the TANF caseload small. In California, like many other states, excess MOE money is vital in that effort.

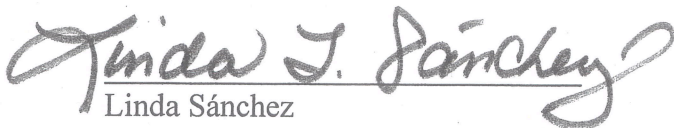
The enhanced caseload reduction credit provides an incentive for states to invest in vulnerable families at no cost to the federal government. The current MOE policy is clearly a win-win situation for the federal government and the states. Most importantly, the policy is a winner for low-income families. The federal government is able to further goals such as connection to the workforce, strengthening two-parent families, and decreasing the number of TANF recipients. States are allowed some flexibility in expenditures and receive a case reduction credit that allows them to meet the new post-Deficit Reduction Act of 2005 (DRA) federal requirements. Consistent with the purposes of TANF, families receive a hand-up that helps keep them out of poverty.

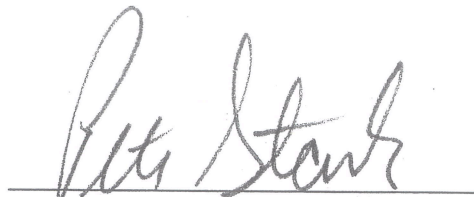
The Notice of Proposed Rulemaking attempts to justify ending the enhanced caseload reduction credit by arguing that states no longer need an incentive to invest in their TANF programs. This argument is contradicted by the budgetary and economic realities facing California and other states. Currently, California is one of many states facing a severe budget shortfall. Combine that with an unemployment rate that is well above the national average and a foreclosure crisis in many areas of the state and the state's TANF programs are in high demand. Now is not the time to encourage states to divest in vital programs. Repeal of 45 C.F.R. 261.43(b) will severely imperil California's chances of meeting the federal work participation rate (WPR). California's Department of Finance estimates that failure to meet the WPR could result in a potential penalty of as much as \$149 million in FY 2009-2010. These penalties could increase sharply to \$229 million in FY 2010-2011, \$294 million in 2011-2012, \$359 million in 2012-2013, and \$424 million by 2013-2014. Such a penalty would further constrain California's ability to serve low-income families, further exacerbating the economic pressures these families are already confronting.

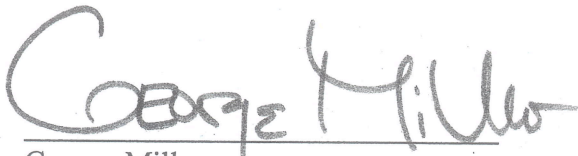
The notice also argues that the credit is contrary to Congressional intent. We strongly disagree and believe repeal of the credit is contrary to Congressional intent. The enhanced caseload reduction credit for excess MOE regulation was in place throughout the reauthorization of the TANF program and the passage of the DRA. There was no action at that time by Congress indicating that the excess MOE credit should be eliminated, and there has been no Congressional action since that time. In addition, when the administration issued final TANF regulations to reflect the changes made by the DRA earlier this year, there was no attempt to change the existing excess MOE regulation. The administration has no new statutory authority to repeal 45 C.F.R. 261.43(b) at this time.

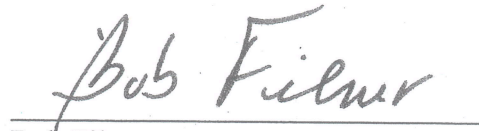
The proposed regulation is untimely, unjustified, and will have serious consequences for low-income families in California. We strongly oppose repeal of the enhanced caseload reduction credit and urge the administration to withdraw the notice.

Sincerely,

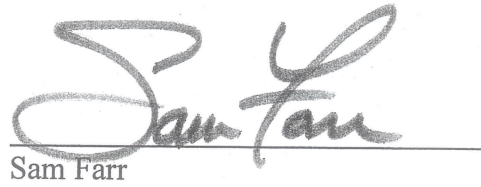
  
Linda Sánchez

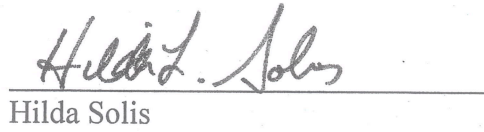
  
Pete Stark

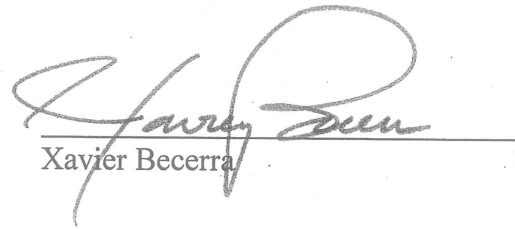
  
George Miller

  
Bob Filner

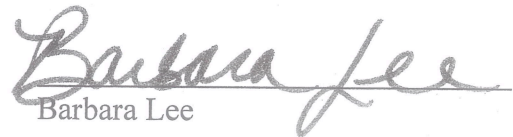
  
Lynn Woolsey

  
Sam Farr

  
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Laura Richardson

  
Barbara Lee