January 26, 2015

Deputy Assistant Commissioner for Policy, Program and External Relations
Department of Transitional Assistance
600 Washington Street
Boston, MA 02111

Dear Deputy Assistant Commissioner:

We write on behalf of our low-income clients and members to raise serious concerns about some of the regulation amendments the Department has proposed to implement the changes made by the new welfare law enacted as Chapter 158 of the Acts of 2014 (St. 2014, c. 158). We also ask the Department to implement several provisions of the law that were omitted from the proposed regulations. At the end, we note those proposed amendments that we support and urge to be retained.

As we explain below, some of the proposed changes would cause severe harm to families who need the subsistence benefits provided by the TAFDC program. Some provisions in the proposed amendments are not required in order to implement the new law, and some could minimize harm if revised in the ways that we recommend.

The proposed regulations were submitted to the Legislature and filed with the Secretary of State in the last weeks of the prior Administration and were not developed by the current Administration. The Governor has wisely decided to put all regulations on hold until March 31, 2015.

We ask that the Administration use this pause to revise the proposed regulation amendments and to submit the revised regulations for public comment so that the public has an opportunity to comment on this Administration's proposal, not just the prior Administration's proposal. We strongly urge that any proposed or final regulations of this Administration address the concerns discussed below and ensure that implementation of the new welfare law does not cause unnecessary hardship to the Commonwealth's most vulnerable families. Further restricting or delaying access to cash assistance will, among other hardships, result in more families becoming homeless, exacerbating the current homelessness crisis and driving up the costs of providing emergency shelter.

Provisions that should be revised

1. Disability Standard for Exemptions: Sections 203.100(A)(1)(a) and 203.530

The proposed regulations would eliminate the state standards for an exemption from the TAFDC work requirement and time limit based on the parent or other caregiver's disability. Under current rules, a parent is considered exempt if the University of Massachusetts Disability

Evaluation Service (DES) determines that the parent's disability meets the very strict federal disability criteria used for SSI benefits *or* the similar but slightly less stringent state medical and vocational criteria. The state criteria accord the exemption to parents whose disabilities substantially reduce or eliminate their ability to support their families. The prior Administration proposed that parents be considered exempt only if they meet the federal SSI standard, with only a minor modification for short-term disabilities.

The federal SSI program is designed to provide benefits to individuals, not families. The SSI disability standards accord benefits to individuals whose disabilities have lasted or are expected to last for at least 12 months or result in death and prevent them from engaging in any substantial gainful activity. The SSI standards are the wrong standards to use in the TAFDC program, the purpose of which is to enable parents to provide for their children's basic needs. The Department has estimated that there are 3,000 parents whom the DES has already found to have severe disabilities that meet the current state standards but not the SSI standard. Many of them have chronic impairments that have lasted or are expected to last 12 months or more. About half of the parents with current exemptions have been approved based on mental health impairments, about twenty percent based on musculoskeletal issues, and substantial numbers have more than one disability. Many are coping with the impact of domestic violence, which approximately two thirds of TAFDC recipients have experienced.

Under the prior Administration's proposal, these parents would be considered not disabled and would be subject to work requirements of 30 hours per week (20 hours for parents of preschool age children) and the 24-month time limit on benefits. If they cannot meet the work requirement, they and their children will lose all assistance. And even if they do somehow manage to meet the work requirement, they and their children will lose all assistance after two years even if they have no other source of income.

The prior Administration's proposal purports to recognize the need to provide exemptions for short-term disabilities in some cases; it provides an exemption for parents who meet all but the durational requirement of the SSI standards. The proposed exemption for short-term disabilities would apply those expected to last for 90 days to 12 months. The Administration has not told us how many families it estimates would be covered under this short-term provision. In our experience, only a small number of the parents who are currently disabled under the state standards have short-term disabilities. Moreover, the proposed regulations do not explain how the SSI standards – which are designed for long-term disabilities – will be applied to short-term disabilities. For example, a person with a broken leg that does not involve "gross anatomical deformity" would not qualify for SSI even aside from the 12-month durational requirement for SSI and therefore would apparently not qualify for an exemption under the proposed regulations.

DTA has no specialized programming and insufficient funding for education and training programs that can accommodate the disabilities of parents who will no longer be eligible for a disability exemption. Moreover, as we understand from the Mass. Rehabilitation Commission, even vocational training programs specifically for individuals with disabilities cannot accommodate conditions like severe depression and anxiety when the parent's symptoms prevent consistent attendance and focus. There is no question that without the exemption, most of those qualifying under the state disability standards will not be able to comply with the TAFDC work

requirement and will lose all benefits for their families because of work sanctions. Even those who manage to meet the work requirement will lose all benefits after two years, leaving their children destitute.

Recommendation: Maintain a separate state standard, but review the medical listings to determine if they need to be updated to be consistent with current medical knowledge. The DES, with which DTA already contracts, is well-suited to this task.

2. Job Search-Related Provisions for Applicants: Sections 702.125(G) - (I)

We strongly oppose these proposed provisions, which exceed the requirements of the statute. As drafted, they will effectively prevent vulnerable families from obtaining benefits that they urgently need. At the point of applying for TAFDC, families are likely to be in crisis and have no alternative source of income. Legal services and community providers regularly get calls from parents unable to feed and clothe their children or at risk of eviction because they cannot pay the rent.

a. Screening for Exemptions and Domestic Violence Waivers

G.L., c. 118, §13, added by St. 2014, c. 158, §19, expressly limits the new job search requirement for applicants to those who are not exempt. We assume that the Legislature also intended the requirement not to be imposed on applicants eligible for a domestic violence waiver. However, the proposed regulations contain no provisions for identifying applicant families who are eligible for an exemption or waiver. A screening process is essential because applicants often do not know of the possibility of an exemption or waiver, and circumstances such as disability and domestic violence may not be discernible without a proactive inquiry.

Moreover, the process for securing exempt status or a waiver involves completing lengthy and detailed forms and/or obtaining and submitting verification. Applicants often need help with this process and the process frequently takes a number of weeks, meaning that exemption and waiver status is often not determined on the date of application. The proposed regulations provide no protection from immediate job search unless the applicant is known right away to be exempt, and there is no provision regarding domestic violence waivers at all.

Recommendations:

- Provide for a screening process to identify applicant families who may be eligible for exemptions or domestic violence waivers and advise them of their possible eligibility.

- Provide temporary good cause for not meeting the job search requirements while applicants pursue the process of obtaining an exemption or waiver.

- Require the Department to offer assistance with the process of requesting an exemption or waiver.

b. Timing, Quantity, and Verification of Job Search

G.L., c. 118, §13(b), added by the new law, gives applicants 60 days from the date of application to meet the job search requirement. This is to ensure that applicants have time to meet the requirement after their benefits are at least temporarily approved within the 30-day limit for processing applications required under longstanding law in G.L., c. 118, §2. In contrast, the proposed regulation §702.125 (I) expressly bars approval and provision of TAFDC benefits until and unless the applicant provides weekly verification that the required job search has been done. The proposed regulations are not clear about whether the Department will approve benefits by day 30 if the applicant manages to verify weekly job search by then.

- The proposed regulations would leave applicants with no TAFDC benefits for themselves and their children for up to 60 days, during which applicants are to do job search with no income. This violates state law, G.L., c. 118, §2, which requires that applications be processed within 30 days from the date of application. G.L., c. 118, §13(a), added by the new law, expressly provides that "an applicant shall not be disqualified from receiving temporary assistance during the cash assistance eligibility determination process." Our understanding is that the intent was to assure that approval of benefits is not withheld on the 30th day after application solely because of the job search requirement. Instead, the intent is that benefits be approved within the 30-day period for processing TAFDC applications; if the job search requirement is not met by the 60th day, the Department would then terminate benefits (hence the reference to "temporary assistance").

- St. 2014, c. 158, §19, does not require TAFDC applicants to verify, much less perform, job search every week during the application period. Legislators said that the job search requirement was not intended to be onerous, but instead was meant to involve a modest number of contacts with potential employers, to be done whenever the applicant is able during the 60-day period. In contrast, by requiring weekly verification of job search, the proposed regulation effectively requires nonexempt applicants to conduct continuous job search after they apply for TAFDC. This is inconsistent with the legislative intent and unrealistic for families at the point of applying for benefits.

- Families are likely to be in crisis when they apply for TAFDC, without money for rent or necessities – much less transportation or phone service needed to perform job search – before receiving benefits. Under the proposed regulations, parents will be left unable to get TAFDC because they cannot do job search and unable to do job search because they cannot get TAFDC.

- A similar rule in Pennsylvania increased the denial rate for cash assistance applications from 50% to 80%.

Recommendations:

- Specify that applicants will be approved for benefits by day 30 if they are otherwise eligible and that compliance with the job search requirements will not be determined until 60 days after application.

- Require only a reasonable number of job contacts (e.g., 2 or 3).

- Specify that the job search can be accomplished at any time during the 60-day period, including during the second 30 days, by parents who need benefits before they are able to begin job search.

- Require verification of the job search only at the end of the 60-day period.

c. Good Cause and Offering Help

Under St. 2014, c. 158, §19, applicants are not required to perform job search if they have good cause. However, the proposed regulations do not define good cause or require an inquiry into good cause. They also do not provide for offering applicants help with meeting the job search requirement.

Recommendations:

- Define good cause with respect to the job search requirement as including, but not limited to, the reasons listed in the Department's general good cause regulation, section 701.380, and when the applicant:

    - is already in a work activity;

    - has not been provided with child care benefits, or when child care is otherwise not in place;

    - lacks money for transportation or telephone service;

    - is a recent victim of domestic violence;

    - has difficulty making or recording job contacts due to mental or physical disability, cognitive impairment, lack of literacy, or limited English proficiency; or

    - is an immigrant whose status does not allow paid work.

- Require the Department to affirmatively inquire about possible good cause reasons that the applicant may not be able or has not been able to perform job search.

- Require the Department to offer and provide assistance in both performing and verifying applicants' job search activities.

d. Pathways to Self-sufficiency and Job Diversion Programs

G.L. c. 118, §3C, added by St. 2014, c. 158, §18, requires DTA to establish the Pathways program to "identify applicants with relevant job skills and experience, then match those applicants with appropriate employment for the required number of hours [to meet the work requirement]. Applicants shall be referred to the program following an intake and employment assessment process." G.L. c. 18, §32, added by St. 2014, c. 158, §15, addresses who must participate in the Pathways program, as discussed below.

G.L. c. 18, §31, added by St. 2014, c. 158, §15, requires the Department to develop a job diversion program "to identify [TAFDC] applicants who have the necessary job skills and experience and match those applicants with appropriate full-time employment prior to receiving benefits."

The statute requires participation in the Pathways and job diversion programs for all identified applicants over the age of 18 who are not attending a secondary school full-time or participating in an education or training activity. However, it provides that neither program is mandatory for applicants who are exempt from the work requirements or participating in a substance abuse treatment program. In addition, applicants who are otherwise eligible for TAFDC "shall not be denied temporary benefits" while awaiting employment or job diversion placements under these programs.

The proposed regulations §702.125(G) and (H) would require *all* applicants to participate in the Pathways and job diversion programs prior to receiving TAFDC unless they are in one of the specified activities. These provisions conflict with the statute because they make no exception for applicants who qualify for an exemption and they do not provide for temporary benefits to applicants who are awaiting placement under the programs. The proposed regulations also make no exceptions for applicants who qualify for domestic violence waivers or who have good cause for not participating.

Recommendations:

- Specify that applicants who qualify for an exemption or domestic violence waiver are not required to participate in the Pathways or job diversion programs before being approved for TAFDC. Require the Department to screen for and assist with exemptions and waivers, as discussed in section (a) above, before requiring participation in these programs.

- Specify that applicants who have good cause are not required to participate in the Pathways or job diversion programs before being approved for TAFDC. Require the Department to affirmatively inquiry into good cause reasons and provide assistance verifying good cause, as discussed in section (c) above.

- Require the Department to provide temporary benefits to applicants who are waiting for employment or job diversion placements under these programs.

e. Technical Correction

While the statute added applicant job search only to the TAFDC program, the proposed regulation adds this requirement to section 702 of the Department's regulations, which applies to both EAEDC and TAFDC.

Recommendation: Specify that the applicant job search requirement applies only to the TAFDC program.

3. Caring for a Disabled Family Member: Section 203.100(A)(1)(b)

This provision would restrict exemptions from the TAFDC time limit and work requirement to recipients who need to care for a disabled child or spouse, eliminating the exemption to care for other family members, such as the recipient's parent or the child's other parent. The number of TAFDC recipients who are unable to work due to the needs of a disabled family member in their home other than a spouse or child is small; but for those who need one, an exemption is essential to protecting the well-being of the entire family. Preventing recipients from caring for a needy family member or terminating the recipient's sole means of subsistence due to the time limit or work requirement could result in extreme hardship and, in some cases, institutionalization of the disabled family member at the expense of the Commonwealth.

The 1995 welfare law [St. 1995, c. 5] that provided for exemptions for "recipients who must care for a disabled child or spouse" has long been interpreted to cover other close relatives that TAFDC recipients must care for in their households. The new law does not change this statutory language, so the exemption should not be restricted.

Recommendation: Retain exemptions to care for additional disabled close relatives living in the home.

4. Exemptions and Eligibility for Pregnant Women (other than teens)

a. Exemptions: Section 203.100(A)(1)(c)

In accordance with St. 2014, c. 158, §25, the proposed regulation restricts TAFDC exemptions based on pregnancy to recipients in their 33rd week or later of pregnancy or recipients in their third trimester of pregnancy who have a verified medical condition that prevents them from working. To ensure that recipients with medical conditions are informed of the protection available and facilitate their obtaining the necessary documentation, the Department should provide pregnant recipients with a form that they can take to their medical providers. The form should ask whether the recipient has a medical condition that prevents her from working in her most recent job, which may involve lifting, bending or standing that she can no longer do.

Recommendation: Specify that the Department will give pregnant recipients a form that asks medical providers if the recipient has a medical condition that prevents performance of her most recent job.

b. Eligibility: Section 203.565

This provision would restrict TAFDC eligibility for pregnant women who do not already have a child to those who are in the 33rd week or later of pregnancy. Under longstanding rules, pregnant women have been eligible at the beginning of their third trimester, ensuring that they have access to subsistence benefits that may be essential to their health and wellbeing during pregnancy. This restriction is not called for in the new law, and we have been told by the Department that it was not intended.

Recommendation: Eliminate the proposed restriction on TAFDC eligibility for pregnant women.

5. Exemptions for Seniors: Section 203.100(A)(1)(h)

In accordance with St. 2014, c. 158, §27, the proposed regulations limit TAFDC exemptions based on age to recipients who are 66 or older, or who are at least 60 and are the primary caregiver for a child and "retired" before applying for TAFDC. However, the proposed regulation does not provide any guidance as to what "retired" means. Not all low-income seniors have held stable jobs from which they could formally retire, so this term needs to be defined in a way that realistically reflects the likelihood of the recipient returning to work.

Recommendation: Specify that a caregiver be treated as "retired" if she or he has not had sustained full-time employment outside the home in the past year.

6. Extension of Benefits: Section 203.210

The proposed regulations require the Commissioner to consider, before determining whether to approve an extension of TAFDC beyond 24 months, "whether the recipient has demonstrated a good faith effort to meet all assigned economic independence goals." If a recipient is found not to have demonstrated a good faith effort to meet the goals but to be otherwise eligible for an extension, the Commissioner has discretion to continue to provide benefits for the dependent children. We have serious concerns about this regulation as drafted.

- According St. 2014, c. 158, §19, the aim of developing the goals is to "assist a recipient in determining a path through which the recipient may become self-sufficient." In conflict with this provision and with the Department's Employment Service Program regulations, the proposed regulation refers to goals that will be "assigned" to recipients, rather than developed with the individual recipient's full participation.

- The proposed regulation does not require that the goals be reasonable and realistic, as is necessary for a "path through which the recipient may become self-sufficient." It fails to specify that goals must be developed taking into account the individual's education and training needs, barriers to employment, family circumstances, skills, interests, and other relevant factors.

- The proposed regulation does not define "good faith effort" to ensure that compliance is not required if the goals were not properly tailored to the recipients' needs in the first place.

- The statute provides that, even in cases where the recipient cannot demonstrate a good faith effort, this requirement "shall not prohibit a recipient from receiving benefits on behalf of a dependent child." The intent here is that benefits be provided for children, even if the parent is unable to prove an effort to meet prior goals, so that children do not suffer. The proposed regulations provide for a case-by-case determination by the Commissioner as to whether benefits will be paid for the child, with no standards or guidance as to how the Commissioner should exercise that discretion. This lack of standards creates a risk of arbitrariness and a potential that needy children will be harmed, contrary to the intent of the statute.

- The proposed regulations do not address how an applicant or recipient can cure a determination that she or he has not demonstrated a good faith effort to meet the goals. Presumably, the legislature did not intend to create a permanent bar to receiving TAFDC for families who are otherwise eligible and in need.

Recommendations:

- Remove the reference to "assigned" goals and specify that reasonable and realistic goals will be developed with the recipient's full participation, taking into account all of the individual's relevant personal and family circumstances.

- Define "good faith effort" to ensure that compliance is not required if the goals were not properly tailored to the recipient's needs.

- Expressly state that in cases where the recipient cannot demonstrate a good faith effort benefits will continue to be provided for the children.

- Specify a process by which an applicant or recipient who cannot demonstrate a good faith effort in the past can come into compliance and establish eligibility for an extension.

7. Education and Training: 106 CMR 203.400(A)(2)

We support this provision in the statute and regulations which will allow recipients to meet the TAFDC work requirement through participation in a certificate or degree program for up to 24

months or other vocational educational programs for up to 12 months. However, it is well-known that many students, particularly low-income single parents, cannot complete a program within 24 months. The statute provides that the Department "may" extend the time for the program if the individual is making substantial progress. The regulations should state clearly that the Department *shall* do so, so that students can plan, so that the investment in education is not lost, and so that the decisions on extensions are not perceived as ad hoc or arbitrary.

Recommendation: Specify that the Department will extend the time to complete an education or training program for a recipient who is making substantial progress in the program.

8. Vehicle Value Limit: 106 CMR 204.120(G)

This provision increases the market value of a vehicle that is not countable toward the TAFDC asset limit to $15,000 and allows for waivers for vehicles valued above $15,000. According to St. 2014, c. 158, §22, full or partial waivers may be granted for a vehicle that is "necessary for a particular employment or family circumstance." The proposed regulation would permit a waiver "if the specific vehicle is necessary for a particular employment or family circumstance," but "the determination will not be based upon whether owning a vehicle, in general, is necessary for a particular employment or family circumstance." This limitation on vehicle waivers is confusing, unnecessary, and more restrictive than the statute.

Recommendations:

- Eliminate the limitation of vehicle waivers to a "specific vehicle."
- Provide guidance about when waivers will be granted, including specifying that waivers will be granted when the vehicle is needed:
    - To accommodate a disability;
    - To get to work, education, training, or medical care;
    - For a domestic violence survivor's safety plan;
    - Because there is more than one person in the family who needs a vehicle.

9. Verification of Program Participation: Sections 203.400(B) and 207.115(A)(7)

The proposed regulation would require "Employment Services Program participation forms" to be signed by providers under penalty of perjury. However, some education, training, and job search providers may be unwilling to sign forms under penalty of perjury. As a result, under the proposed rule, there would be fewer program placements, potentially having an adverse effect on

the state's federal work participation rate. In addition, some recipients could be denied credit for their participation, which in turn could lead to unjust loss of benefits.

This counterproductive rule is not required by or consistent with the statute, which only requires verification under penalty of perjury for "work participation forms," not all ESP forms. Thus, according to the statute, only recipients who are *working*, such as those who are in a subsidized employment program, must provide verification under penalty of perjury. And even then, if they are doing paid work, the statute appropriately recognizes that a paystub will suffice.

Recommendation: Limit the requirement for verification under penalty of perjury so that it only applies to "work participation" and not all ESP activities.

10. Exclusion of Earnings of Children in School: Sections 204.210-220 and 204.260

In accordance with St. 2014, c. 158, §23, the proposed regulations exclude the earned income of dependent children who are attending school full time from counting for the TAFDC program. We support this change, which should have been effective upon enactment of the new statute. Since it was not enacted timely, the Department should review its system to identify cases where children's earnings have been improperly counted prior to the implementation of this regulation.

The Department should also ensure that families where a child is working are not adversely affected by wage matches. Advocates have seen cases in which families' benefits were terminated for failure to verify a child's earnings even though the earnings are not countable and even where the earnings were previously reported to the Department. This outcome is contrary to current law and the intent of the statute.

Recommendations:

- Identify and correct cases where children's earnings were improperly counted before and after the enactment of the new law.
- Revise the Department's wage match system so that terminations do not occur due to the noncountable wages of dependent children.
- Clarify that this exclusion of earnings also applies when the child is not attending classes during summer vacation.

11. Temporary Absence: Section 203.660

Under this provision, absences that exceed 30 consecutive days, or 90 days in aggregate over the course of a year, create a rebuttable presumption that Massachusetts residence has been abandoned. The proposed regulation requires a recipient to demonstrate at a fair hearing that Massachusetts residency has not been abandoned *and* the "need" for the absence to exceed the

30- or 90-day limit. This is unduly burdensome and contrary to Chapter 158, §19. The new law allows the recipient to rebut the presumption that residency has been abandoned by providing proof of continued residency; it does not require proof of a particular need for the absence.

In addition, the new law does not require a fair hearing to rebut the presumption of abandonment. In contrast, the proposed regulations would require a fair hearing in order to rebut the presumption whenever the absence triggering the presumption has already occurred. They allow Department staff to determine that proof of continued residency adequately rebuts the presumption of abandonment only when verification is submitted prior to the absence or during the first 30 days of the absence. This restriction on the process for rebutting the presumption of abandonment is unnecessarily burdensome. A recipient caring for a severely ill relative in another state, for example, may not know in advance exactly how many days she will be needed to care for the relative. Department staff should be able to determine that a recipient has proven continued residency at any time. Of course, if Department staff determines that the proof is not adequate, the recipient has a right to a fair hearing on the issue.

Recommendation: Eliminate the requirement that the presumption of abandonment must be rebutted by proof that there was a need for the absence to exceed 30 consecutive or 90 aggregate days, and that only a Fair Hearing officer can determine if the recipient has rebutted the presumption.

12. Economic Independence Accounts: Sections 207.111 and 204.140(Z)

The proposed regulations state that the Economic Independence Accounts will be used to help recipients save money for approved purposes. However, they do not provide any information on how these accounts will be set up. They also do not specify whether recipients can put lump sums into such an account, as legislators said was intended. Allowing lump sums to be deposited would enable recipients to make the best use of these accounts, since it is infeasible for most families to save money out of their meager monthly TAFDC grants.

Recommendations:

- Provide details about how Economic Independence Accounts will be established.
- Specify that recipients may establish these accounts without committing to put more than a tiny portion of their monthly TAFDC grants into them.
- Specify that recipients can put lump sums into these accounts and that the lump sums will not affect their TAFDC eligibility.

13. Expungement of Benefits: Sections 706.420(D) and (F)

a. Warning of possible expungement

St. 2014, c. 158, §3, requires the Department to provide notice to recipients of cash benefits whose benefits have not been accessed for 270 days or more that their benefits will be expunged if they do not contact the Department within 30 days. The proposed regulations fail to provide for this notice.

The proposed regulations also include a provision for taking cash benefits offline, thereby making them inaccessible to the recipient, after 90 days of non-use and allowing restoration at the Department's discretion. This provision is inconsistent with the statute, which expressly allows 270 days for recipients to use their benefits – plus another 30 days after notice is sent – before losing access to them.

The proposed regulations provide that the Commissioner has discretion to restore expunged benefits if a recipient can demonstrate a legitimate reason for not accessing benefits for more than 270 days, but they do not provide for a fair hearing on this issue. However, under c. 158, §12, a recipient who requests a hearing to determine if a legitimate reason existed must be afforded one.

Recommendations:

- Provide for the required notice to recipients when their benefits have not been accessed for 270 days.
- Eliminate the provision to place cash benefits offline if they are not accessed for 90 days.
- Clarify that recipients seeking to demonstrate a legitimate reason for not accessing benefits for more than 270 days are entitled to fair hearings.

b. EBT High Balances

The proposed regulations require the Department to send notice requesting a case review to recipients with EBT cash balances higher than $1,500. This provision does not specify that the $1,500 does not include the current monthly issuance or corrections of underpayment (i.e., past benefits owed to the recipient) issued by the Department during the current or prior month. Current policy, under which these issuances do not count as assets when received, recognizes that recipients need a reasonable amount of time to spend their benefits before any remaining balance is counted against them.

In accordance St. 2014, c. 158, §3, the proposed regulations state that if the recipient does not contact the Department within 30 days, the case will be terminated and any EBT balance in excess of $2,500 will be expunged. However, contrary to c. 158, §12, the proposed regulations

do not provide for restoration of expunged benefits to recipients who can demonstrate a legitimate reason for maintaining a balance in excess of $2,500.

Recommendations:

- Specify that the $1,500 balance triggering this regulation does not include either the current monthly issuance of benefits or any correction of underpayment issued by the Department during the current or prior month.

- Provide for restoration of expunged benefits to recipients who can demonstrate a legitimate reason for maintaining a balance in excess of $2,500, both through the fair hearing process and at the Commissioner's discretion.

Provisions that should be added

We urge the Department to include amendments to implement the following provisions of the new welfare law, which the proposed amendments do not address.

1. Returned Mail

St. 2014, c. 158, §4, requires that, before terminating a recipient's benefits due to returned mail, the Department must attempt to contact the recipient by certified mail and "use all reasonable means" to determine the recipient's address. The proposed regulations do not implement this provision.

Recommendation: Specify that the Department must try to contact the recipient by certified mail, phone and e-mail (if available) before terminating benefits due to returned mail. Require the Department to work with DHCD and DCF to locate recipients who are in shelters administered by those agencies.

2. Ability to Contact a Caseworker

St. 2104, c. 158, §15, requires the Department to ensure that recipients of cash assistance can speak with a caseworker when they contact the Department by telephone during normal business hours. The inability to reach caseworkers has been a chronic problem – often resulting in the denial, reduction or termination of benefits – that the Legislature sought to address in the statute. Nevertheless, there is no provision regarding this requirement in the proposed regulations.

The Department's new Telephone Assistance Line and Interactive Voice Response system have not resolved this problem. The system has capacity for a limited number of calls, so that any additional calls are disconnected. Some clients have great difficulty navigating the phone tree and give up. Moreover, calls from cash assistance recipients to the Assistance Line are supposed to be transferred to the recipient's cash assistance worker. If the cash assistance worker does not

answer the phone – because she or he is on another call, away from the phone, on vacation or otherwise unavailable – the statutory mandate is not met.

Recommendation: Expressly require the Department to ensure that cash recipients can reach a TAFDC or EAEDC caseworker by phone on the same day they call. Assure that there is a back-up system for times when the regular cash caseworker is not available.

3. Bar on Job Search Sanctioning of Children

St. 2014, c. 158, §19, states that the Department "shall not terminate the cash assistance provided to the recipient's dependent child" if a parent meeting the work requirement through job search does not provide the information required about her or his job search contacts with employers.

Recommendation: Specify that benefits to the children may not be terminated as a sanction for not meeting job search requirements.

Provisions that should be retained

We strongly support the following amendments to the regulations, which implement important improvements to the TAFDC program made by the new welfare law.

1. Pregnant Teens: 106 CMR 203.565 and 203.630

The proposed regulations state that teens can be eligible for TAFDC benefits and teen living programs at any stage of pregnancy. This will ensure that essential supports are available for vulnerable pregnant teens.

2. Work Expense Deduction: 106 CMR 204.270

This provision increases the monthly work expense deduction from $90 to $150. This will result in an increased grant of up to $30 per month for most recipients with earnings.

Thank you for your consideration of these comments. We would appreciate the opportunity to meet with the Department to further discuss our concerns and recommendations regarding the proposed regulations. Please contact Deborah Harris (dharris@mlri.org, 617-357-0700 x313) or Naomi Meyer (nmeyer@gbls.org, 617-603-1621) to arrange a meeting or if you have any questions.

Sincerely,

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Chief Executive Officer
Jewish Family & Children's Service

Jerry Mogul
Executive Director
Mass. Advocates for Children

Brenda Madura
Executive Director
Mass. Alliance on Teen Pregnancy

Joe Diamond
Executive Director
Mass. Association for Community Action

Robyn Frost
Executive Director
Mass. Coalition for the Homeless

Eva Millona
Executive Director
Mass. Immigrant and Refugee Advocacy Coalition

Phillip Kassel
Executive Director
Mental Health Legal Advisors

Ruthie Poole
President
MPOWER Board of Directors

Julie LaFontaine
Executive Director
The Open Door

Georgia Mattison
Project Director
Poor People's United Fund

Sr. Margaret Leonard
Executive Director
Project Hope

Sue Marsh
Executive Director
Rosie's Place

Isabelle Thacker, Esq.
Steps to Justice, Director
The Second Step

Andrew Stettner
Chief Program Officer
Single Stop

Wilfred "Willie" Desnoyers
President
UAW MA State CAP Council

Cc: Secretary Marylou Sudders, EOHHS
Senator Jennifer Flanagan, Co-Chair, Committee on Children, Families, and Persons with Disabilities
Representative Kay Khan, Co-Chair, Committee on Children, Families, and Persons with Disabilities