



COMMONWEALTH OF PENNSYLVANIA  
**DEPARTMENT OF PUBLIC WELFARE**  
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**Estelle B. Richman**  
Secretary

MAY 11 2006

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The Honorable Joan E. Ohl  
Commissioner  
Department of Human Services  
Administration of Children, Youth & Families  
Portals Building  
1250 Maryland Avenue SW-8<sup>th</sup> Floor  
Washington, D.C. 20024

Dear Commissioner Ohl:

Thank you for meeting with me on May 2, 2006 to discuss the on-going denial of payment by the Administration for Children and Families (ACF) of Pennsylvania's Title IV-E administrative claims for pre-placement activities. As you know, until the May 10, 2006 release of \$6.7million, ACF, since January 2005 and in an unprecedented action, has deferred and disallowed 100 percent of Pennsylvania's pre-placement administrative claims which now amount to over \$137.8 million. Aside from the fact that prior to January 2005, ACF had paid these same claims for nearly 20 years, this precipitous action by ACF reflects the outrageous presumption that Pennsylvania, alone among all states, had virtually no eligible pre-placement administrative claims during the past 16 months. I am most disappointed that we could not reach an amicable resolution of this dispute so that children in Pennsylvania can continue to receive the federal support essential to providing vital support services. I write again to request that you restore our funding and work with Pennsylvania to resolve this matter fairly and rationally.

Frankly, our discussions on May 2<sup>nd</sup> served to affirm our view that the withholding of federal funding here reflects utterly arbitrary and capricious action by ACF. Your staff candidly conceded that there is no uniform, consistent policy or procedure governing the review of pre-placement claims and that practices vary from state to state. Pennsylvania is unique among the states in that it is the only state to be subjected to the retroactive application of newly-developed, indeed, still evolving, policies and procedures and the only state subjected to a 100 percent deferral and disallowance of its claims.

Perhaps most troubling about the actions of ACF here is that when asked what Pennsylvania must do differently from its adherence to policies and procedures that were prior approved by ACF, and to restart federal funding, ACF could not tell us. Indeed, we were told that no other state in Region III has an acceptable claiming process. Remarkably, we have had to engage in a process with ACF that literally

involves the development of policies and procedures that will be acceptable to regional staff. That process continues to this date. How can it be that ACF retroactively denies our claims on the basis of policies and procedures never disclosed to Pennsylvania, which apparently are unique to Pennsylvania and which continue to be developed? What rational justification possibly supports such action by ACF staff?

Pennsylvania, in claiming eligible pre-placement federal funds, has consistently adhered to the ACF approved methodology for over 15 years. Pennsylvania has been using the Random Moment Time Study (RMTS) method as the basis for the Title IV-E administrative claim since the 1980s, without any disallowance from ACF until the recent review. ACF was well aware of Pennsylvania's methodology since its inception via the Department of Public Welfare's Cost Allocation Plan (DCAP) which contains the policies and procedures of the RMTS process. The Department has also provided ACF with updates to the DCAP regarding enhancements made to the claiming process over subsequent years. Examples of this notification include but are not limited to:

- ACF approved DCAP #19, effective July 1989, which specifies the policies and procedures for claiming Title IV-E administrative claims via the RMTS process.
- ACF approved DCAP #27, effective July 1997, which provides the Department's updates to the treatment of Code 6- pre-placement activities within the RMTS process.
- The Department, through DCAP #33, effective July 2003, provided ACF the policies and procedures for claiming Title IV-E administrative costs for juvenile probation officers. ACF did not express any concerns over these protocols.

It is grossly unfair, actually punitive, to financially penalize us and Pennsylvania's children, without affording us prior notice explaining ACF's abrupt change in policy and a reasonable opportunity to conform our practices and procedures to any valid change in ACF policy.

In our meetings with ACF officials from Region III to resolve their sudden concern with our RMTS methodology, ACF has been unable to provide us with a standard format or process. This lack of regulatory specificity is evident in Region III's review of the Pennsylvania sampled cases. For many of the cases, ACF cited the case to be "in error" merely because the target child was not identified on the RMTS form as a candidate or because the words "foster care" did not appear in the plan for the child if preventive services failed. A case file must be considered in its totality and not simply parsed in isolation with a pre-ordained focus on special words or terms. Had ACF properly reviewed the case files, it would have identified other documentation which speaks to the specific child and the placement disposition of the child. The

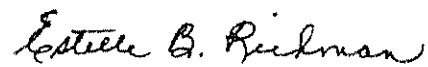
The Honorable Joan E. Ohi

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consideration of a child's complete situation obviously is crucial in determining whether it was reasonable to claim federal funds as opposed to determining eligibility through a myopic and inherently flawed concentration on a single technical term.

Pennsylvania remains committed to resolving this dispute over our Title IV-E claims so that we can continue to maintain the delivery of critical support services to our at-risk children. We again request ACF to release the remaining \$137.8 million held to date, reinstate our funding and allow us to address any concerns you may have on our process prospectively.

Sincerely,



Estelle B. Richman

c: Secretary Leavitt  
Senator Specter  
Senator Santorum  
Pennsylvania County Commissioners