

Congress of the United States
Washington, DC 20515

February 4, 2013

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Dear Secretary Sebelius:

On July 12, 2012, your agency released policy guidance related to the Temporary Assistance for Needy Families (TANF) program, (TANF-ACF-IM-2012-03), indicating your willingness to waive the work requirements for TANF recipients that have been the core of welfare reform since 1996. In your announcement, you stated that the waiver authority provided in section 1115 of the Social Security Act allows your agency to waive these work requirements.

As members of Congress with significant oversight responsibilities over TANF and as individuals who have worked on TANF since its creation, we disagree with your interpretation of existing waiver authority and do not believe you have authority to waive TANF work requirements. In addition, no prior Secretary has ever claimed authority to waive TANF work requirements since TANF was created. Furthermore, the Government Accountability Office (GAO) determined that your guidance constituted a rule, meaning that the agency must submit the rule to Congress before it can take effect. For these reasons, on September 21, 2012, we formally requested information from you related to your Department's interpretation of this waiver authority, how the Department determined that such authority existed, and your Department's response to the GAO determination that your policy guidance was a rule that must be submitted to Congress before taking effect. We requested that you provide answers to these questions by October 25, 2012.

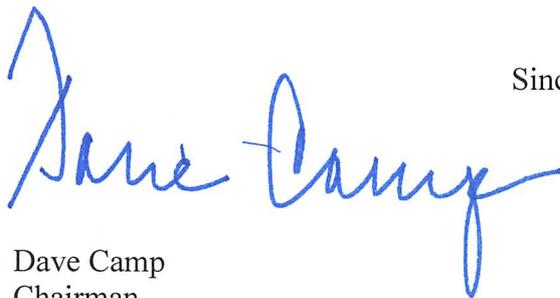
More than four months have passed since you received our request. As of today, we have received no response. The following presents a timeline of our requests for this information and your Department's responses:

- On October 25, 2012, our staff contacted your Department to determine if we would be receiving a response by the deadline. They were told we would not. When our staff asked for a timeline on when we might expect to receive a response, they were told the agency was "working on it."
- On November 8, 2012, our staff again contacted your Department to ask about the status of your response. They were told that the Department was working on a response, but no timeline was given.

- On December 11, 2012, our staff again asked when we should expect a response. This time they received no response.
- On December 19, 2012, Senator Hatch sent a letter to President Obama asking him to withdraw the waiver guidance and instead submit a comprehensive TANF reauthorization proposal to Congress. The waiver guidance has not been withdrawn.
- On December 20, 2012, Senator Hatch raised the lack of a response on this issue with the HHS General Counsel nominee William Schultz. Chairman Baucus also informed the nominee that the Department should respond to Senator Hatch's request. HHS staff members were present during the hearing. However, no response followed this meeting.
- On January 7, 2013, our staff again requested an update on our request. The next day, your Department informed us that they would check on the status of your response.
- On January 14, 2013, our staff repeated the request for a response to our letter. No response was received.
- On January 22, 2013, our staff again inquired about a response to our letter. On January 28, our staffs were informed that a response would be provided the week of January 28th. No response was received during that week. As of February 4, 2013, no response has been received.

We are troubled that you have not provided the information we have requested, and we hope that this information will be provided soon. However, because so much time has elapsed since our initial request, we are now writing to demand that you provide all responsive documents by no later than February 15, 2013. Should your Department fail to provide these documents by that date, the House Committee on Ways and Means may be forced to consider issuing a subpoena to compel you to do so. This is not an action the Committee on Ways and Means takes lightly, and one that we have sought to avoid. However, because of the continued delay in receiving a response, and because of the upcoming reauthorization of the TANF program, it is a step that appears to be required. We look forward to your response so that we can ensure the TANF program functions as required by law, and to ensure that individuals receiving TANF services engage in statutory work activities that lead to self-sufficiency.

Sincerely,



Dave Camp
Chairman
House Committee on Ways and Means



Orrin G. Hatch
Ranking Member
Senate Finance Committee