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FROM ASSISTANT ATTORNEY GENERAL:

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- Danielle J. Steimel

RE: Dorman

COMMENTS:

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May 21, 2003

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Dear Counsel:

This letter responds to both the February 11, 2003 data report we received and your April 17, 2003 transmittal to us of revised procedures pursuant to Paragraph 11 of the Consent Order. As we agreed, plaintiffs' 30 day comment period on the policies runs from the date you sent us a letter summarizing the changes being provided, which is May 2.

As an initial matter, we believe it would be appropriate and useful to meet with the new DCFS Director and the new or acting General Counsel regarding Norman generally and also about some of the ongoing concerns plaintiffs' counsel have raised. While some of the points raised below are technical, others relate to some fundamental concerns and might be appropriate for such a discussion. As you know, we continue to view Norman as an extremely successful and cost-effective program, and we hope that we could have an opportunity in the very near future to meet with Director Samuels to discuss the Decree and its implementation.

I. Concerns Regarding February 11, 2003 Data Report

1. Your letter to us references a "delay" in getting underlying data related to ¶(c) of the reporting agreement (i.e., concerning certification rates for each region and a review of the two subregions with the lowest certification rates in the reporting period. We did receive the summary reports A1, A4 and A5 and raise some concerns about these below, but would like to received the delayed information as soon as reasonably possible so we can fully air our concerns with you.

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2. We have compared the number of families served with Norman funds in this report against the report given to us in February 2002. The following statistics concern us:

(a) Region 1A (Rockford) had a drop of approximately 1/3 in the number of families served and an even higher drop in the amount of funds authorized.

(b) Region 4A had a drop of more than 1/3 in the number of families served and a similar commensurate drop in the amount authorized.

(c) Region 5A also had a similar drop in the number of families served, though slightly less of a drop in the amount authorized.

(d) Average payments have dropped by \$43 per month throughout the state. Since rents continue to rise and other housing-related expenses are also increasing (especially energy bills), we are concerned that caseworkers are shaving authorized expenditures to the bone, making it harder for the class to meet basic subsistence needs.

We note that increases in families served occurred in each of Regions 6A-D (all Cook) and offset some of the drops in other regions (though amount authorized in 6C was less than in 2002 even though more families were served). These increases serve in part to explain why the decrease in families served is only 300 families overall, rather than a much greater decrease. We would like to emphasize, however, that Norman is a statewide case and we would be surprised if the need for Norman services has decreased so substantially in the past year in the regions we mention, especially in light of the economic climate during the reporting period. Therefore, we request that Norman requirements be re-emphasized in Regions 1A, 4A and 5A especially, but also in each of the other regions in which the number of families served fell: 1B, 3A, 3B.

3. There is a discrepancy in the report as to the number of families served. The cash assistance report first states 2,282 families were served, then later says 3,239 families were served, though the amount of cash reported authorized is the same. One of these figures must be wrong, and we believe it is the latter one given the regional figures showing reductions in families served in numerous regions. Please clarify this point.

4. We find the amount of housing assistance authorized for 30 families (in Springfield and Marion combined) of slightly more than \$8,000 to be extremely low. This is less than \$300 per family and we would be very surprised if this amount even covers either a first month's rent or a security deposit in these areas. Similarly, \$12,144 for 64 families in Rockford comes out to less than \$200 per family there. We would like additional information as to the available rentals in these areas or explanations as to why such low amounts should be considered acceptable. Also, the amount of housing assistance under the Housing Assistance Data report dropped by \$100,000--more

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than 1/4. This is a very substantial reduction, and we would like to know what accounts for it, given that the number of families has served has not dropped substantially (956 families this year compared to 971 families last year).

5. We continue to have difficulty in understanding the information in report A-1 as to what "children of certified families" and "families with no children" refers to. Assuming this means children with certified families means children in placement and families with no children means intact cases, we would much prefer that these reports be reformatted to say so.

6. The rates of "average days in placement after certification" are shockingly high. These rates are actually increasing from their abysmally high rates last year. Average days in placement rates in Peoria, Aurora, East St. Louis and Chicago Central are considerably worse than last year. Only Springfield shows a very considerable drop. We would like to know what Springfield did in order to cause this result. Obviously, Norman certification is intended to assist with reunification in these cases, yet reunification is not occurring within months of certification. DCFS upper management should be alerted to these concerns and immediate steps taken to press for reunification particularly in the regions where the delays are increasing.

7. The reports on services "needed now" versus "needed later" continue to trouble us. Indeed, we see a possible correlation between the low rates of cash assistance, low numbers of families served and the regions in which services are almost never determined to be "needed now." For example, Region 1A (Rockford) lists 91 reviewed families and finds only one has a need for services now, and none of the reviewed families are receiving cash. Either the wrong families are being reviewed in the reports (i.e. this is supposed to be a Norman review, not all cases) or workers in this region are simply not attending to the subsistence needs in their cases and taking prompt steps to meet those needs. We would like to examine underlying documents for Rockford so that we can understand why it is that so few families are getting services "now." Other regions with similar problems include Aurora, Springfield (though to a lesser degree insofar as at least some services are identified as "needed now"), East St. Louis, Marion (similar to Springfield), Cook North and South (same issue as Springfield). The sole region that seems to "get this right" is Champaign. Here again, we request that this issue be discussed with managers in Champaign to find out what accounts for the differences shown on these reports, and that whatever findings there are as to why Champaign workers are able to determine services are "needed now" should be provided to the managers in other regions. Finally, we note that there is no data provided for region 6C and we request such data.

8. We are surprised that there are no renewal agreements or new agreements with housing authorities. Can you please provide us with information about renewal dates so that we can verify that authorities are continuing to renew their agreements with DCFS when they come up for renewal.

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Conclusion to analysis of reported information. In addition to the supplemental information requested here, we ask you to consider the concerns raised here. Within the next thirty days, we would also like to meet with you (and of course with John Cheney Egan and any other person who has a substantial role in Norman) to discuss these concerns.

II. Comments on Proposed Revised Procedures

A. 302.385 a) Identification of Class Members

1. We prefer the original version of this policy's emphasis on provision of services, rather than to the new draft's focus on identification of class members. Moreover, the description of living conditions is misleading in the new draft because it suggests there must be a complete absence of shelter to qualify.

2. The first sentence should include, after living conditions, (i.e. lack of shelter or lack of minimally adequate shelter, such as inadequate heat, unsanitary, unsafe conditions or precarious living arrangements. See Consent Decree at ¶3(b)(class defined by "inadequate shelter etc), ¶4(a) (prohibiting removal based on minimally adequate conditions).

b) Certification of Class Members

1. We have become aware, thanks to Diane's recent work in Dupuy II, that consideration of protective custody does not ordinarily occur in many cases in which there may be a subsistence need, and that when it does occur, the child protection manager must be involved. This may be one reason for the inadequate identification of Norman class members we have seen over the years by DCP and inadequate service provision. Therefore, the reference here should not be to "a reason for taking protective custody."

2. We propose the following language in b(1):

Child protective investigation team supervisors will certify families who are the subject of pending abuse or neglect investigations or indicated reports as to the following allegations, where there is evidence of a need for services in these areas:

(Continue dot points here)

3. As you know, we would prefer to move away from the allegation based system altogether and would like to discuss with Director Samuels and any of his designees the ways in which the Norman program could become more effective if it were not allegation based. This could present an opportunity to modify the Decree in ways helpful to both the plaintiffs and the

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meaning?

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Department.

c. Notice of Class Membership

1. As written, the policy eliminates notification of class membership but only provides for notice of the Norman program. This language potentially violates the requirement that class members be notified when they are denied benefits or services under the decree, because the denial of class membership is a denial of benefits or services. See Consent Decree ¶10. While we have no problem with the idea of extending the time for such notice by another 24-48 hours, we do require that such notice continue.

d. Provision of Services

1. We object to the curtailed list of services. The original draft states that "Such services include but are not limited to... "Provision of hard services such as cash assistance, shelter, utility services, food, clothing, further or other goods or services to meet subsistence needs." and adds to this direct requirement "Family Reunification Fund" "Homemaker Services, " Day Care." This language must be retained. As rewritten, the policy allows for mere referrals for these services (and eliminates some services like Family Reunification Fund and Homemaker Services altogether, even for referral purposes). The original policy requires that child welfare and DCP staff "make use of" the listed services. This is essential language and we do not agree to moving any of the listed services to the category of ones for which the obligation is merely to "seek" or "make referrals" for such services.

Omitted/moved section on cash assistance.

1. The revised draft mentions cash assistance but has moved the cash assistance section to a new section g, which follows the public aid discussion of "returning children from custody." This is a confusing and misleading reorganization. The cash assistance section should remain as section (d), as in the original policy.

e. Housing assistance.

1. As we understand the draft proposal, it replaced the previous section 302.386. Please confirm that this is correct. We have no objection to moving all of the provisions concerning Norman related services to 302.385; indeed, we approve of that decision. We do not see the language your letter refers to ("or in the child welfare worker's professional judgment the family will have such needs when the child is to return home" from what you call the "eligibility criteria." Indeed, we see no eligibility criteria at all other than the general description at the beginning (which is acceptable). However, we believe housing advocacy referrals may be necessary in some cases in

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which the family will need advocacy assistance with housing related needs after return home. Therefore, we would propose language such as: "DCP or child welfare worker should also refer families to the Housing Advocacy program if the family is likely to need any of the services listed below upon return home."

2. (e) 4 should include the description of subsistence needs that was in the previous draft ("such as food or clothing or energy assistance" and add "or other basic needs").

(f) IDHS Norman TANF (Public Aid) Application (DHS-NAP).

1. This new section should follow, not precede the cash assistance section that is (g) in the proposal. Also, the second sentence at the top of page 7 does not make sense as written. The phrase "when their child is" should probably be stricken.

2. This section provides more technical information and confusing jargon than is necessary. It also does not start with any expressed understanding of why it matters for DCFS staff. The opening section should be changed to make clear that workers have an important obligation to assist families in accessing public aid. Because this section is "almost...entire[ly] new" as you say, we would like to provide a proposed revision when we meet on the policy and the report. We are currently working on further comments on this new section and can provide those to you before a meeting.

(g) Cash Assistance

1. We would like to discuss with you modifying the basic \$800 fund. As you know, this amount was set *twelve* years ago. Given inflation and housing costs, it is difficult to rent any apartment on the private market for less than \$600 per month, while in 1991 apartments could be rented for \$400 per month. An upward adjustment is overdue, not just in the exceptional cases (over \$2,000) but in the usual case.

2. The language "Whether an item is appropriate is determined on a case-by-case basis" is problematic. As our analysis of the reporting information shows, workers are questioning amounts that should be presumed to be reasonable and necessary. We believe that DCFS should have a table of costs (including rent) under which workers would not be second guessing costs that were within the table. The proposed language gives too much discretion to workers to reject reasonable expenses.

Old g (the resource manual).

1. There is a requirement in the Decree (§ 8) for a resource manual. While we are open

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to discussing the manner in which this requirement is fulfilled, DCFS may not simply rewrite the Decree to exclude the manual. At one time, we envisioned a computer database of current information. This is a matter that requires discussion with plaintiffs' counsel.

h. Locating Absent Parents

1. We do not agree to the elimination of this section, as it is also a Decree requirement, see Decree ¶9(e), and we wish to discuss it with you.

B. Amendments to Procedures 300 (300.80).

b2. Your letter of May 2 states that the policy "has omitted non-Norman services that are no longer provided statewide." We are unaware as to which services these are or why they are no longer provided. The omissions show that Family First referrals, the Family Reunification Fund, and Regional CPS Enhancement Projects are no longer included. We don't know what the last category is, but Family First and the Family Reunification Fund were services provided at the time of the Norman Decree, and the decree provides: "This cash assistance program [i.e. the Norman program] shall not be a replacement for or result in any action by DCFS to eliminate any source of cash assistance for class members to which DCFS has access on the date of entry of this Order, including 'exceptions to policy.'" Decree, ¶5. Therefore, we wish to discuss with you the provision of enhanced cash services and other services in those areas in which these services are no longer provided. We need additional information from you as to the status of these programs, since your letter suggests that some still exist, but not statewide.

b.3. See comment regarding "old g" above.

d.3. and Procedure 300 section generally: the duty not to take children into custody if hard services can prevent their removal is not stated as clearly as it should be. First, d.3 should reiterate the point (it is only stated at the end of b.1, and then in the context of "evaluating services" not "taking custody." In b1, the use of the term "in home" services isn't clear. We suggest a parenthetical there ("listed below, including cash and housing assistance to meet basic needs").

III. Conclusion

We appreciate your consideration of the above concerns and comments and hope we can meet on these matters shortly. We also hope you will discuss our request for a meeting with Director Samuels so that we can provide him an overview of the significance of Norman, the ongoing

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concerns plaintiffs' counsel regarding its implementation, and possible areas in which modifications might be in the interests of both parties.

Yours truly,


Diane L. Redleaf


Laurene M. Heybach