

December 1, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

**RE: Comments on Proposed Rule: Strengthening Temporary Assistance for Needy Families (TANF) as a Safety Net and Work Program, 88 FR 67697 (October 2, 2023), RIN: 0970-AC97, Docket No. 2023-21169**

Dear Secretary Becerra:

We write to express our concern regarding the U.S. Department of Health and Human Services (HHS) proposed rule, “Strengthening Temporary Assistance for Needy Families (TANF) as a Safety Net and Work Program,” 88 Fed. Reg. 67697 published on October 2, 2023 (the “Proposed Rule”) and ask that you withdraw it. The Proposed Rule arbitrarily and capriciously targets pregnancy resource centers by threatening to strip them of millions of dollars of funding. This is funding that is currently being used to compassionately help women and their unborn babies.

We write on behalf of our 50 state affiliates (and D.C.) the vast majority of which work closely with pregnancy resource centers and on abortion alternative programs. Several state affiliates who could be most directly impacted by the Proposed Rule join this comment on behalf of their state organizations as well.

Since its inception in 1996, TANF has permitted grants to states that can be used “in any manner that is reasonably calculated” to achieve one or more of TANF’s four purposes:

- (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- (4) encourage the formation and maintenance of two-parent families.

Nearly 3,000 pregnancy centers serve about 2 million clients annually, saving local communities millions of dollars by providing services at little to no cost. Many pregnancy centers provide

limited obstetrical ultrasounds under a local doctor's oversight as well as parenting classes. In addition, nearly all centers provide material assistance such as diapers, cribs, and car seats as well as practical help such as connecting a mother in need to local resources that can help her with housing or transportation.

Pregnancy centers have long performed these services for free, through volunteers and donors, reducing the need for services that would otherwise be provided by the government, saving taxpayers an estimated \$266 million in 2019.<sup>1</sup> TANF funding has allowed pregnancy centers across several states to increase their capacity to provide comprehensive counseling, mentoring, and support throughout the entire pregnancy and for up to one year following the birth of the baby.

The Proposed Rule specifically targets pregnancy centers that have come under attack since the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organizations*, with over 88 violent attacks on pregnancy centers and pro-life groups documented since the leak of the decision in 2022.<sup>2</sup> In fact, the House of Representatives passed a bi-partisan resolution condemning "recent attacks of vandalism, violence, and destruction against pro-life facilities, groups, and churches," and calling on the Biden Administration to use its authority to protect the rights of such organizations. In addition, the resolution recognizes "the important role pro-life facilities, groups, and churches play in supporting pregnant women, infants, and families" and calls for the ongoing ability of these organizations to serve the needs of women in their communities without fear of violence.<sup>3</sup>

The Proposed Rule is a barely concealed attempt to strip pregnancy centers of TANF funding. The Proposed Rule is also consistent with the goals of Democrats in Congress (and in state legislatures around the country) who have called for punitive action against pregnancy centers.<sup>4</sup>

Under the Proposed Rule, if the HHS Secretary determines any TANF expenditure "does not appear to HHS to be reasonably calculated to accomplish a purpose of TANF," the State is obligated to "show that it used these funds for a purpose or purposes that a reasonable person would consider to be within one or more of the four purposes of the TANF program."<sup>5</sup>

In the preamble to the Proposed Rule's discussion of the third purpose of TANF (see above), HHS raises concerns about States providing TANF funding for certain pregnancy-related programs, "including through entities sometimes known as crisis pregnancy centers or pregnancy resource centers."<sup>6</sup> Specifically, HHS states that "programs that only or primarily provide pregnancy counseling to women only after they become pregnant likely do not meet the

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<sup>1</sup>Charlotte Lozier Institute, "A Legacy of Life and Love: Pregnancy Centers Stand the Test of Time", October 21, 2020, [https://lozierinstitute.org/wp-content/uploads/2023/01/Pregnancy-Center-Report-2020\\_FINAL.pdf](https://lozierinstitute.org/wp-content/uploads/2023/01/Pregnancy-Center-Report-2020_FINAL.pdf)

<sup>2</sup><https://catholicvote.org/pregnancy-center-attack-tracker/>

<sup>3</sup> Roll no. 30 (1/11/2023) <https://clerk.house.gov/Votes?RollCallNum=30>

<sup>4</sup><https://www.congress.gov/bills/117/congress/senate/bills/4469/related-bills?s=10&r=7&q=%7B%22search%22%3A%22anti-abortion%22%7D>

<sup>5</sup> Proposed section 263.11(c)

<sup>6</sup> 88 FR 67705

reasonable person standard because the connection to preventing and reducing out-of-wedlock pregnancies is tenuous or non-existent.”<sup>7</sup>

Under the Proposed Rule, States could only provide TANF funding for alternatives to abortion programs, including through pregnancy centers, if they “show that the expenditure actually accomplishes the TANF purpose, that prior expenditures by the state or another entity for the same or a substantially similar program or activity actually accomplished the TANF purpose, or that there is academic or other research indicating that the expenditure could reasonably be expected to accomplish the TANF purpose.”<sup>8</sup>

The Proposed Rule grossly under-assumes the work of pregnancy resource centers as being limited to “only or primarily provid[ing] pregnancy counseling to women only after they become pregnant.”

In fact, pregnancy centers not only meet the third purpose of TANF, but all four, by offering services and material assistance to pregnant women described above. Requiring this level of Federal control of State decisions to allocate TANF funds for alternatives is unprecedented and could result in denial of funds for purely political reasons. HHS is targeting pregnancy centers for their pro-life mission rather than for any kind of misuse of Federal funds.

## **Conclusion**

The Proposed Rule is a thinly veiled attempt to punish pregnancy resource centers. The Rule would undermine the TANF program for political purposes and threaten to strip millions of dollars in support for pregnant women and their unborn babies through pregnancy centers.

We ask that you withdraw the Proposed Rule.

Sincerely,

National Right to Life



Indiana Right to Life



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<sup>7</sup>Ibid.

<sup>8</sup> Ibid.

Louisiana Right to Life



Missouri Right to Life



Ohio Right to Life



Pennsylvania Pro-Life Federation

