

March 20, 2020

The Honorable Amy Klobuchar  
United States Senate  
425 Dirksen Hart Senate Office Building  
Washington, DC 20515

The Honorable Tina Smith  
United States Senate  
720 Hart Senate Office Building  
Washington, DC 20515

The Honorable Jim Hagedorn  
United States House of Representatives  
325 Cannon House Office Building  
Washington, DC 20515

The Honorable Angie Craig  
United States House of Representatives  
1523 Longworth House Office Building  
Washington, DC 20515

The Honorable Dean Phillips  
United States House of Representatives  
1305 Longworth House Office Building  
Washington, DC 20515

The Honorable Betty McCollum  
United States House of Representatives  
2256 Rayburn House Office Building  
Washington, DC 20515

The Honorable Ilhan Omar  
United States House of Representatives  
1517 Longworth House Office Building  
Washington, DC 20515

The Honorable Tom Emmer  
United States House of Representatives  
315 Cannon House Office Building  
Washington, DC 20515

The Honorable Collin Peterson  
United States House of Representatives  
2204 Rayburn House Office Building  
Washington, DC 20515

The Honorable Pete Stauber  
United States House of Representatives  
126 Cannon House Office Building  
Washington, DC 20515

Dear Members of the Minnesota congressional delegation:

Thank you for your efforts thus far in passing the *Coronavirus Preparedness and Response Supplemental Appropriations Act* and the *Families First Coronavirus Response Act*. Like you, the Minnesota Department of Human Services (DHS) is working to mitigate the spread and effects of COVID-19 throughout the state.

To ensure the effective delivery of services during this public health emergency, our department requires a number of flexibilities from the federal government. We understand that Congress is working to develop and approve additional response packages related to COVID-19 and urge you to include the policy priorities outlined in this letter. We believe that our suggestions are needed to help prevent the pandemic from disproportionately impacting the health and economic security of Minnesota's most vulnerable residents. The following is a comprehensive list of federal actions that are needed to address the state's human services demands:

Federal waivers and guidance:

- **Encourage federal agencies to issue uniform waivers and guidance to states:** Although many states are requesting similar flexibilities from the federal government, they are dedicating

valuable time to individual waiver requests and state plan amendments. A standardized, national approach can help address common needs in a more streamlined manner which reduces administrative burden.

#### Medical Assistance (MA) and MinnesotaCare:

Particularly among low-income individuals and families and those with complex health needs, MA and MinnesotaCare will play a critical role in testing and treatment for COVID-19. Legislative action is also needed to ensure that our department can efficiently connect Minnesotans to care under emergency conditions.

- **Advocate for flexibility within Basic Health Programs:** Minnesota is one of two states (the other being New York) to operate a Basic Health Program (BHP). Minnesota's BHP is MinnesotaCare, which provides affordable coverage to approximately 81,000 low-income Minnesotans who earn too much to qualify for Medicaid and too little to pay for private health insurance. Any waivers or guidance related to MA (Medicaid) will need to be extended to BHPs as well.
- **Further increase the Federal Medical Assistance Percentage (FMAP) for Medicaid:** The federal government agrees to pay for a specified percentage of state Medicaid expenditures using an FMAP. While the recently approved *Families First Coronavirus Responses Act* included a 6.2% increase to Minnesota's FMAP, more support is needed to accommodate testing and care (including for uninsured people) and higher enrollment as is common during an economic downturn. After the Great Recession of 2008, the federal *American Recovery and Reinvestment Act of 2009* included a similar 6.2% FMAP increase but allowed for further increases based on state economic conditions. As a result, state FMAPs rose by an average of 10% overall. At the very least, states will need another 10% increase to combat COVID-19.
- **Encourage CMS to waive face-to-face-encounter requirements for medical services provided to American Indians in tribal health or Indian Health Service (IHS) facilities:** Minnesota's Medicaid State Plan defines an "encounter" at a tribal health or IHS facility as a face-to-face visit between a qualifying provider and a client. As medical providers (including tribal providers) increase their use of telehealth in response to COVID-19, these restrictions will impede service delivery to American Indians. For example, home-based services to the elderly and medication-assisted treatment (MAT) do not meet the face-to-face requirement and are therefore not reimbursable at the state's negotiated rate. As COVID-19 causes providers to close to the public, reimbursable encounters over the telephone are essential for the continuity of care and can help patients avoid the risk of exposure.
- **Temporarily ease restrictions on mental health and SUD services:** Federal and state law only allows reimbursement for telehealth in a limited number of mental health and SUD services. For those that do qualify for reimbursement, there are further restrictions on the frequency of services (for example, a limit on the number of reimbursable sessions per week). Accessible telehealth is critical during emergency conditions that make it difficult and potentially unsafe to visit a health facility in person.
- **Extend the Electronic Visit Verification (EVV) implementation deadline:** The federal *21<sup>st</sup> Century Cures Act* requires states to adopt electronic visit verification (EVV) systems for all Medicaid personal care and home health services that require an in-home visit. If Minnesota

fails to implement its EVV system by January 21, 2021, it could lose federal Medicaid funding. The same DHS employees who are spending substantial time and effort on EVV implementation are the same personnel responding to COVID-19 disruptions in our public health programs. Delaying the EVV implementation deadline will help key department staff respond to challenges brought about by COVID-19 without fear of financial penalty. Service providers will also benefit from foregoing new training and reporting requirements in the midst of a pandemic.

- **Temporarily allow EMTs and paramedics to deliver COVID-19 patients who do not need emergency or inpatient treatment to non-hospital facilities:** The federal *Emergency Medical Treatment and Labor Act* (EMTALA) requires EMTs and paramedics to transport patients to an emergency room *regardless* of the level of emergency. Provided that they do not need emergency care, the delivery of potential COVID-19 patients to non-hospital settings will help ease pressure on the state's hospital infrastructure.

#### Supplemental Nutrition Assistance Program (SNAP):

Public health officials and the news media have advised communities to stay home and stock up on food during the pandemic. For the 9.5% of Minnesota households that struggle with food insecurity on a daily basis, this will be an exceedingly difficult task.

- **Temporarily increase the SNAP income limit to 300% of the Federal Poverty Level (FPL):** Through a policy option known as "broad-based categorical eligibility," Minnesota's SNAP income limit is 165% of the FPL (\$34,296 per year for a family of three). Even at 165% of the FPL, a family of three still earns \$40,000 to \$43,000 below the average cost of living in Minnesota. Minnesota's current income eligibility limit will not adequately capture the scope of households who may be at risk of hunger due to COVID-19.
- **Extend all SNAP reporting and recertification deadlines by six months:** SNAP participants must report changes to factors generally including (but not limited to) income, hours worked, and household composition. Participants are also required to have their eligibility recertified on an annual basis, and some will need to recertify during this public health emergency. Delaying SNAP reporting and recertification deadlines will help the state maintain uninterrupted benefits and relieve administrative burden on frontline staff in counties and tribes. In doing so, staff can more effectively respond to an expected increase in applications and manage caseloads in the event that other staff are unable to work.
- **Allow SNAP participants to purchase food online:** In April 2019, the U.S. Department of Agriculture (USDA) launched a pilot program allowing SNAP participants to purchase eligible food items from grocery stores online. Expanding this pilot to all states (in consultation with electronic benefits transfer (EBT) vendors) would help limit the spread of COVID-19 and make groceries more accessible.
- **Urge USDA to withdraw administrative SNAP cuts:** Over the course of 2019, USDA proposed or finalized three administrative rules to cut SNAP or limit Minnesota's ability to enhance the program's reach and efficiency. Specifically, the rules would make it more difficult to waive

SNAP time limits in areas of high unemployment, eliminate broad-based categorical eligibility, and lower Minnesota's standard utility allowance. Particularly during a global pandemic, USDA should be doing everything within its power to increase access to food assistance and not restrict it.

#### Temporary Assistance for Needy Families (TANF):

Minnesota's TANF program (the Minnesota Family Investment Program) helps families with children meet basic needs and achieve financial stability through employment. A job shortage due to COVID-19 will put many of these families at increased economic risk.

- **Temporarily suspend TANF work requirements:** As businesses and schools close due to COVID-19, it will be increasingly difficult for TANF enrollees to participate in required work activities. Further, participation in the program's job search or group work activities could actually contribute to the spread of the virus. The bipartisan *Families First Coronavirus Response Act* suspended SNAP work and training requirements for the duration of the pandemic, and the same should be true for TANF.
- **Disregard the TANF work participation rate (WPR) for FFY2020:** In TANF, at least 50% of a state's work-eligible enrollees must participate in qualifying work activities for a minimum of either 20 or 30 hours per week. States are required to meet an even higher 90% rate for two-parent families. Failure to meet either WPR can result in financial penalty to states. It will likely be extremely difficult for states to meet this requirement during a pandemic. A similar disregard should take place in FFY2021 if needed.
- **Temporarily suspend the 60-month time limit in TANF:** The TANF program sets a lifetime assistance limit of 60 months for qualifying families. Given the potential difficulty of finding a job due to COVID-19, months that families spend in TANF during the pandemic should not count toward the 60 month time limit.
- **Increase TANF contingency funding and make it available to all states:** If states meet certain criteria, they can qualify for additional TANF funding through the program's contingency fund. Increasing this contingency fund and making it available to all states will help insulate families with children from the economic consequences of COVID-19 nationwide.

#### Child Support:

- **Waiver of the 48-hour requirement to distribute child support payments:** When child support payments are made, child support agencies are federally required to distribute the support within 48 hours. In many cases, payments are made electronically and workers are able to process them remotely. However, some payments are submitted by mail and are processed manually. If the number of people available to do this work is reduced due to quarantines or illness, it may be impossible to process payment within 48 hours. Suspending the 48-hour requirement will allow workers to process these payments when conditions are safer for them to do so in person.

### Foster Care:

- **Temporarily waive the 80-hour work requirement for foster care maintenance payments:** Federal law requires children who are aged 18 or older to work for at least 80 hours per month in order to qualify for foster care maintenance payments. These federal payments help cover the cost of food, clothing, shelter, daily supervision, school supplies, and other essentials that foster children might need. Given the recent public health orders to close restaurants, bars, theaters, fitness centers, and other public venues, the 80-hour per month work requirement will jeopardize payments for children who may not be able to find employment.
- **Temporarily waive the enhanced background study requirement for prospective foster parents and child caring institution (CCI) employees:** The federal *Families First Prevention Services Act* (FFPSA) requires prospective foster parents and CCI employees to participate in fingerprint-based criminal background checks in order to qualify for Title IV-E funds. These federal funds help states and tribes provide foster care, transitional independent living programs, guardianship assistance, and adoption assistance for certain children. COVID-19 has caused many of the public entities that offer fingerprinting services (including schools) to close, and could result in lost federal funding and a shortage of foster parents and CCI workers.
- **Temporarily waive out-of-state background checks for prospective foster parents and CCI employees:** Federal law requires prospective foster parents and CCI employees to undergo registry checks in any state they've lived in for the past five years. While DHS continues to conduct these background checks, other states often take inordinate amounts of time (up to several months) to respond. The approval of new foster parents and CCI employees may already be delayed by COVID-19 (see previous bullet) and the out-of-state requirement will exacerbate the problem.

### Direct payments to individuals:

- **Disregard direct payments to individuals in eligibility and benefit determinations:** As Congress considers economic stimulus payments directly to individuals, it is important to ensure that they do not "count against" their public assistance. If direct payments put individuals and families over the income limit in their respective programs, they may no longer qualify or have their benefits reduced.

### Community Service Block Grant (CSBG):

- **Provide \$1 billion in emergency supplemental funding for CSBG:** CSBG provides critical funding to a network of 24 Community Action Agencies and tribal governments across the state. Community Action Agencies are locally-governed nonprofit corporations which provide a wide range of services including (but not limited to) food assistance, health care, and housing. An additional \$1 billion in supplemental funding, which is consistent with requests from national CSBG advocates and what was included in the *American Recovery and Reinvestment Act of 2009*, will help these partners respond to evolving challenges on the ground in communities.

- **Temporarily increase the CSBG income limit to 200% of the FPL:** Today, a family of three can only earn up to 125% of the FPL (\$27, 150 per year) in order to qualify for CSBG services. Increased access to CSBG services is needed to respond to the highly disruptive effects of COVID-19 (both known and unknown).

Immigration:

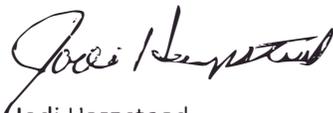
- **Encourage the U.S. Department of Homeland Security to completely withdraw its “public charge rule:”** In August 2019, the U.S. Department of Homeland Security finalized rulemaking which expands the list of benefits that are considered in public charge determinations (making it easier to deny an immigrant’s application to enter the United States or adjust their immigration status). On March 13, U.S. Citizenship and Immigration Services (USCIS) issued guidance stating that testing, treatment, and preventive care related to COVID-19 *will not* be included in public charge determinations, but the guidance is too little and too late. Particularly as it relates to the use of certain Medicaid benefits, the rule has likely made immigrants hesitant to receive COVID-19 testing or care out of fear that it will negatively impact their immigration status.

Tribal nations:

- **Prioritize tribal consultation:** Minnesota’s 11 federally-recognized tribal nations are key providers of human services in Minnesota. Tribal nations have a unique relationship with the federal government in the provision of human services and the inherent right to self-government and federal benefits. Given the number of extreme disparities that tribal communities experience in Minnesota *even without* a public health emergency like COVID-19, it is critical that Congress and federal agencies take into account the particular human services needs of tribal nations in this crisis. Tribes should not only be included in future COVID-19 assistance measures but also consulted as they’re developed. We do not want to see existing disparities experienced by tribal communities exacerbated even further.

The Minnesota Department of Human Services is deeply committed to helping those in need at this difficult time. We thank you for strongly considering our priorities and look forward to discussing them further. Please do not hesitate to contact the department with any questions in the meantime.

Sincerely,



Jodi Harpstead  
Commissioner