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**Testimony in Support of:
H.B. 5910 AAC Legislative Oversight of the Department of Social Services**

Sharon D. Langer, M.Ed., J.D.
Human Services Committee Public Hearing
March 11, 2008

Dear Senator Harris, Representative Villano, and Members of the Human Services Committee:

I am a Senior Policy Fellow with Connecticut Voices for Children, a research-based public education and advocacy organization that works statewide to promote the well-being of Connecticut's children, youth and families. Currently, I am Senator Mary Ann Handley's designee on the Behavioral Health Partnership Oversight Council. My colleague, Mary Alice Lee, Ph.D., is Representative Peter Villano's designee on the Medicaid Managed Care Council. I therefore submit this testimony from our vantage point on these important collaborative bodies involved in advising the Department of Social Services concerning the HUSKY managed care program, and the 2006 carve-out of behavioral health services from HUSKY managed care.

We wholeheartedly **support:**

- Requiring the Department of Social Services to provide quarterly reports about its new initiatives to the Appropriations and Human Services Committees, as well as to the legislature's Office of Fiscal Analysis
- Requiring the Department of Social Services to comply with the Uniform Administrative Procedures Act in promulgating regulations
- Requiring the Department of Social Services (and the Department of Children and Families) to submit proposed regulations related to Medicaid and HUSKY to the Medicaid Managed Care Council and the Behavioral Health Oversight Council for their approval prior to implementation of the regulations

Requiring DSS to report quarterly on new initiatives will help all stakeholders be better informed (Sec. 1)

As you are well aware, the Department of Social Services is responsible for hundreds of programs, has a budget of almost \$5 billion, and each year is asked to take on more and more "initiatives", many at the behest of this legislative body. The Department must by necessity prioritize each new program and it is hard for all of us to keep track of which "initiatives" have been implemented, which have been put on the back burner – sometimes by necessity-- and which have fallen off everyone's radar screen, notwithstanding implementing legislation. Just last session, there are a

whole host of HUSKY related initiatives that have yet to be implemented, including: 1) notification to families of children who are ineligible for HUSKY A (Medicaid) that they may be eligible for HUSKY B; 2) presumptive and expedited eligibility for newborns in HUSKY A and HUSKY B, respectively; and 3) centralization of HUSKY A and HUSKY B eligibility processes (DSS has suggested regionalization of HUSKY A applications, although that initiative doesn't conform to the mandates of the legislation). While it is understandable that some programs take longer to implement than others, it would be very useful for DSS to issue quarterly reports. This will help DSS staff, as well as the many stakeholders keep abreast of what has already been implemented, and of course, what remains to be done. DSS can proudly take credit for implementing some of last year's initiatives quickly, including expansion of parent eligibility in HUSKY A. Such a report would allow DSS to highlight such accomplishments, as well as explain the hold-up of certain programs. Other initiatives from prior years that continue to languish include the family planning waiver from 2005.¹ The state can obtain *90%* federal Medicaid matching funds for family planning services for individuals who do not qualify for Medicaid. Such programs save the state money. Another area where *both* DSS and the legislature have not followed through as of yet is the dual requirements that DSS submit a Medicaid state plan amendment to the federal government to make "smoking cessation" a covered service in Medicaid/HUSKY, and for the legislature to approve DSS's plan to cover smoking cessation in Medicaid/HUSKY.²

DSS should promulgate regulations in compliance with the state Uniform Administrative Procedures Act (UAPA); the Medicaid Managed Care Council and BHPOC should be given the opportunity to approve the regulations before they are enacted (Secs. 2, 3 and 4)

Section 2 would change the way in which DSS adopts many of its regulations, particularly those related to the Medicaid and HUSKY Programs. Currently, under authority of General Statutes, Sec. 17b-10, DSS operates under proposed regulations as soon as they are published in the Connecticut Law Journal, *but before the regulations are finalized*. The rationale set forth in 17b-10 is so that DSS can quickly come into conformance with federal mandates.

The implementation of *proposed* rules has allowed the Department to operate without final regulations for months or even years. This is problematic for a couple of reasons. First, this means that the regulations are implemented before the public has had the opportunity to weigh in during the formal comment period contemplated by the UAPA. Second, some proposed regulations take years – or never – to become final regulations. In the case of the HUSKY B program, its regulations never saw the light of day for 10 years. They remained in "draft" form for internal use only. Recently, DSS did publish proposed HUSKY B regulations – and is now operating the program under these proposed – but not finalized – regulations. It is not known when the HUSKY B regulations may be finalized, given all of the other competing priorities within the Department. The HUSKY B proposed regulations were not submitted to the Medicaid Managed Care Council, which oversees both HUSKY, Part A and Part B – prior to the regulations submission to the Connecticut Law Journal.

¹ See, Gen. Stat., Sec. 17b-260c. **Medicaid waiver to provide coverage for family planning services.** P.A., 05-120, eff. July 1, 2005.

² See, Gen. Stat., Sec. 17b-278a. **Coverage for treatment of smoking cessation.** P.A. 99-250, S. 1; P.A. 02-4, S. 19. The DSS Commissioner did present the plan required by this law to the General Assembly. See, "Plan for Treating Tobacco Use and Dependence," CT Department of Social Services's report to Human Service and Appropriation Committees (March 2006).

So too DSS published the Behavioral Health Partnership regulations as “proposed regulations,” which are currently in operation; and without providing the Behavioral Health Partnership Oversight Council an opportunity to give its input regarding these regulations prior to publication, and therefore prior to implementation. Allowing the Medicaid Managed Care Council and Behavioral Health Partnership Oversight Council to comment on proposed regulations would ensure meaningful input and review by the state’s Medicaid and HUSKY stakeholders.

In sum, Connecticut Voices for Children strongly urges this committee to support the revisions to 17b-10 which would require DSS to promulgate regulations in accordance with the state UAPA, and give the Medicaid Managed Care Council and the Behavioral Health Oversight Council meaningful input to the regulatory process.³

Thank you for this opportunity to testify in support of HB 5910. Please feel free to contact me if you have questions about my testimony or need further information.

³ We would also urge this Committee to support HB 5896, *AAC the Publication of State Agency Regulations*, which is the subject of a public hearing before the Committee on Government Administration and Elections, on March 12th. This proposed legislation would require all state agencies – including DSS – to publish their agency regulations on their respective websites. Some agencies already do this but many, such as DSS, do not. In addition, unlike most state agencies, DSS does not publish its Medicaid eligibility rules in the Regulations of Connecticut State Agencies, but rather in the *Uniform Policy Manual*, which is not accessible on the web. By statute, the UPM is made available to DSS offices, legal aid offices, town halls, and to the public by request. See, Gen. Stat., Sec. 17b-10(a). It is long past time for these rules to be accessible on the web and in easily downloadable format.

