

January 27, 2021

Ben Goldhaber

Acting Assistant Secretary for the Administration for Children and Families
United States Department of Health and Human Services

RE: Ensuring Equitable Implementation of the \$638 million in Federal Assistance for Low-Income Water and Wastewater Ratepayers

Dear Acting Assistant Secretary Goldhaber:

On behalf of our organizations, we write to urge the US Department of Health and Human Services (HHS) to equitably implement the \$638 million in federal assistance for low-income water and wastewater ratepayers (“Low-Income Household Drinking Water and Wastewater Emergency Assistance Program”), as provided by the Consolidated Appropriations Act, 2021 (Public Law No. 116-260, section 533). Congress entrusted HHS to administer this program, which represents the first time that Congress has ever appropriated money to help low-income households pay their water and sewer bills.

We ask that HHS take concrete steps, including the ones laid out in this letter, to ensure equitable implementation of this new block grant program, while moving this funding to states and water and wastewater systems, as well as Tribal Nations, as quickly as possible. We stress that without these steps, this funding may fail to meet its important and desperately needed objectives.

This letter is organized around the following sets of recommendations:

- HHS Must Stress the Importance of Equitable Implementation
- HHS Should Require States and Water and Wastewater Systems To Provide Basic Equity Protections In Order To Receive Funding
- HHS Must Ensure that State Programs Reach Customers of All Water And Wastewater Systems, Regardless of System Size
- HHS Implementation Should Be Closely Coordinated With The US Environmental Protection Agency
- Funding Should Be Implemented In A Manner That Anticipates Additional Future Water And Wastewater Assistance Funding

HHS Must Stress the Importance of Equitable Implementation

Access to safe and affordable drinking water and sanitation is a basic human right, not a privilege. Access to water should never be shut off due to inability to pay. Unfortunately this has not been the reality in this country, with water shutoffs regularly hurting the most vulnerable in our society -- particularly communities of color, low-income communities, and Indigenous communities. The COVID-19 pandemic has both made this crisis worse and starkly illustrated

the necessity of preserving access to safe and affordable water and sanitation for all. There cannot be an equitable COVID-19 recovery unless we take action to prevent the future water shutoffs caused by inability to pay.

With all this in mind, our organizations have repeatedly advocated for a federal water/sewer assistance program. We were therefore pleased to see Congress act to provide \$638 million in one-time federal assistance for low-income water and wastewater ratepayers. While not enough funding to meet the true scope of need, this is a positive step and will provide some short-term measure of relief to low-income families.

We would like to offer the following recommendations for implementing the \$638 million in federal assistance for low-income water and wastewater ratepayers.

HHS Should Require States and Water and Wastewater Systems To Provide Basic Equity Protections In Order To Receive Funding

We recommend HHS set the following parameters as conditions for states and their water and wastewater systems to receive the federal water affordability funding. We also recommend HHS develop implementation and reporting guidance to help facilitate equitable implementation.

- Funding should be used first to provide direct debt relief for low-income households; other uses can occur only after this issue of household debt for low-income households has been addressed.
- If a water system receives federal funding any consolidation or regionalization project(s) shall be community requested and led. The water utility must remain governed by local elected officials and community members that is proportionate and representative of and to the community it serves.
- Require states to ban disconnection of low-income residential customers due to inability to pay for at least 12 months from the time funding is first implemented by each state.
- Require states to prohibit late fees and reconnection fees for low-income households for at least 12 months from the time funding is first implemented by each state.
- Require states to prohibit placing liens on homes due to water- and wastewater-related debts.
- Require states to make the application for obtaining funding simple. If a person is already enrolled in other federal assistance programs, they should be allowed to receive the water affordability assistance without going through a full application process.
- Require states to develop longer-term plans and programs to make water and wastewater service affordable that includes affordable rates, emergency assistance, alternatives to water shutoffs, debt forgiveness, water conservation tools, and education.
 - These plans should include consideration of:
 - Water and wastewater systems offering extended repayment plans of at least 12 months in duration
 - Water and wastewater systems offering arrearage management plans

- A state and/or water-system level program to provide water audits and water conservation assistance to low-income rate-payers to reduce household water use
 - A state and/or water system level program to analyze and reduce water system water loss of treated water
 - Changing local water and wastewater rate structures to enhance equity across the customers, including consideration of reducing flat fees, charging very low rates or elimination of baseline water usage, income based rates
 - Programs that reduce bills on an ongoing basis specifically for low-income customers, such as bill discounts or income-based rates
 - States should provide a report to HHS within 12 months of receiving the federal water affordability funding on each states' plans and strategies to make water and wastewater service affordable and accessible, including identified alternatives to water shutoffs and how these alternatives will be utilized and maintained moving forward.
- Require states and water and wastewater systems to engage with local community-based organizations to support equitable outreach to eligible customers and otherwise assist with implementation. HHS should allow use of a small percentage of the funds to support this outreach work.

HHS Must Ensure that State Programs Effectively Reach Customers of All Water And Wastewater Systems, Regardless of System Size

Small water and wastewater systems with low technical, managerial and financial capacity will need extra technical support to participate effectively in the new program. These systems can be found in both urban and rural settings -- although it is worth noting that many or even most small rural water systems face unique challenges.

With this in mind, HHS should require states to identify strategies to reach small and rural systems and those systems' low-income customers and support their participation in the program. With regard to rural systems, specifically, HHS should also work collaboratively with the US Department of Agriculture (USDA) Rural Development Office, as well as with the United States Environmental Protection Agency Office of Water, to ensure effective and equitable implementation. Further, HHS should require states to report on the steps taken to ensure equitable implementation of this funding for small water and wastewater systems.

HHS should also make clear that Congress's direction that states use the funds to assist low-income households "by providing funds to owners or operators of public water systems or treatment works to reduce arrearages of and rates charged to such households for such services" (P.L. 116-260, section 533) does not require that states simply regrant funds to water and wastewater utilities and leave it to the utilities to determine which customers will receive assistance. That approach would effectively place the onus on each utility to administer its own low-income assistance program, likely preventing many smaller utilities from participating at all.

Instead, HHS should make clear that the legislation allows states to take responsibility, either directly or through sub-grantees such as the local agencies that administer the Low Income Home Energy Assistance Program, for enrolling eligible customers of all water and wastewater utilities and determining each customer's benefit level, prior to transferring funds to utilities to be credited to the enrolled customers' accounts. HHS should strongly encourage the latter approach, as Congress provided that "the Secretary, States, and Indian Tribes, as applicable, shall, as appropriate and to the extent practicable, use existing processes, procedures, policies, and systems in place to provide assistance to low-income households, including by using existing programs and program announcements, application and approval processes."

HHS Implementation Should Be Closely Coordinated With The United States Environmental Protection Agency's Office of Water

We recommend HHS take the following steps in coordination with the United States Environmental Protection Agency (USEPA), and particularly the USEPA's Office of Water:

- Require states to report to HHS on how their implementation of the water and wastewater affordability assistance funding is integrated with and supports other state and federal water system safety and sustainability goals (such as those set by USEPA).
- Require states to report on key water and wastewater affordability metrics like numbers of water shutoffs and rate increases that have occurred over the last two years disaggregated by basic biographical details such as gender, race, ethnicity (to the extent that data is available), as well as for the next five years. This data can help USEPA work with states to advance Safe Drinking Water Act and Clean Water Act goals, including affordability, access, sustainability, and equity goals. This data should also be made publicly accessible on the state's webpage and/or on the municipality's webpage.
- HHS and USEPA's Office of Water should develop specific implementation strategies focused on low-income renters (who often pay for water and sewer services indirectly through their landlords) and other hard-to-reach low-income populations. HHS and USEPA Office of Water should consult with community-based organizations that have particular expertise in this area.

Funding Should Be Implemented In A Manner That Anticipates Additional Future Water And Wastewater Assistance Funding

While we strongly support HHS moving as quickly as possible to provide water and wastewater assistance relief to low-income families that need it, we urge HHS to administer these funds in a manner that anticipates additional future funding and programmatic authorization by Congress.

Water is basic PPE -- and yet potentially tens of millions of Americans may have their access to water threatened in the near future as a result of carrying significant water debt due to the economic pain caused by the pandemic. For example, California recently released results of its statewide water debt survey in January 2021 and found a staggering \$1 billion in water debt

affecting nearly 5 million Californians, with an average debt amount of \$500 dollars per person. 155,000 Californians were found to already carry over \$1,000 in debt. The survey also found that low-income communities of color had disproportionately high levels of water debt. The survey was conducted in Fall 2020 so those levels of water debt are likely even worse now.

This shows that the emergency water and wastewater assistance funding provided by Congress, while a first step, is not sufficient to even meet the current need, much less address the ongoing water affordability needs of low-income families. Congress will need to take further actions in the future to support access to affordable water and sanitation -- ideally by passing a permanent and universal low-income water and wastewater assistance program, made available to every individual or family who qualifies. As such, we recommend that HHS and USEPA begin laying the groundwork now for a future program, such as by developing a joint safe and affordable drinking water and wastewater action plan that helps align the two agencies' efforts in order to better achieve Safe Drinking Water Act and Clean Water Act goals, including affordability, sustainability and equity goals.

Our organizations would welcome the opportunity to meet with you to discuss any of the recommendations contained in this letter and to answer any questions you may have.

Sincerely,

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