Tribal Consultation - NPRM – Parentage Establishment in the Child Support Program – Transcript 11/16/2023

Darryl Watts: Good afternoon, everyone. Thank you so much for joining OCSS for the Tribal Consultation concerning the Notice of Proposed Rulemaking for the Parentage Establishment in the Child Support Program. I'm going to turn it over to our wonderful Commissioner, who will give us a welcome and opening remarks. Commissioner Gray.

Tanguler Gray: Thank you so much, Darryl. Good afternoon, everyone. I do want to be brief. I, too, want to welcome you to our Tribal Child Support Consultation. I think many of you are already aware of who I am, but I will introduce myself, maybe for the new ones in the room. My name is Tanguler Gray, and I have the pleasure of serving as the Commissioner for the Federal Office of Child Support Services over the past two years. I do want to acknowledge and give my thanks to our Tribal Child Support Directors for accommodating my request for visits and for educating me about your culture, and your community, and your child support operations. It is greatly appreciated.

In those conversations we have discussed a lot of your program initiatives. We've talked about your successes. We definitely have had some conversations about challenges as well, and so in response to the feedback that we've received, we've talked a lot about the vision and the 3 P's that's been established during this administration, so I won't rehash it. But today's consultation is meant to continue those previous conversations making sure that we are responsive to your concerns, and I definitely think that this notice of proposed rulemaking, when establishing parentage really and truly align with the 3 Ps that we've discussed. Again, that's our process, the people that we're serving and making sure we're looking for ways to improve performance. And so again, this particular notice of proposed rulemaking is in response to the concerns and issues that we have received, not only to some on the tribal end, but also in response to some of the state directors' concerns. It did publish in the Federal Register on September 26th, and we have until November 27th to solicit feedback and comments. So, Darryl, that can kind of conclude this - my welcome.

Darryl Watts: Thank you so much, Commissioner Gray. I will go ahead and just provide some logistical information for this consultation today.

The Commissioner will first provide a few remarks about the NPRM. And we will then move forward to Tribal leaders, followed by their designees. And as a note today's consultation, we cannot address specific concerns regarding the proposed rule or respond to questions about proposed rules other than providing information that's published in the notice of proposed rulemaking.

We want to ensure that all Tribal leaders have the opportunity to provide testimony. We also ask that you begin your testimony by announcing your name, so that we can include that information in the transcript that's set forth by HHS and ACF Tribal Consultation Policy.

And with that, elected and appointed Tribal leaders will be allowed to speak first. After completion of testimonies from all of the elected and appointed Tribal leaders, we will then open the floor to Tribal designees. Now to ensure clear recording and transcript for today, we ask that everyone would remain on mute until such time that you are ready to provide your testimony. Now to do so, simply raise your hand in the Zoom room, or press 9 if you're on the phone to request to provide testimony. Today's consultation again is recorded and transcribed. The final report will be issued by OCSE, OCSS, forgive me, OCSS, and written testimonies may be submitted up until December 16th to OCSS.dpt@acf.hhs.gov.

Commissioner Gray, I'm going to ask you to share just a few talking points about this before we move on to getting the testimonies.

Tanguler Gray: Thank you again, Darryl. So, just as a reminder, this is just a high-level overview of the notice of proposed rulemaking. I want to encourage you all to review it in its entirety, and then we will make sure that your feedback and comments in response to the NPRM are captured, compiled, and responded to in writing.

So once again the Office of Child Support Services, we are pursuing a regulation to replace the gender-specific term paternity with a gender-neutral term parentage. The purpose of us pursuing this opportunity is to be more inclusive of all family structures served by the child support program, while maintaining, of course, our current regulatory provisions regarding genetic testing for paternity.

Now, this particular proposed rulemaking is not only consistent with title IV-D in the Social Security Act, but I really want to highlight here that the tribes and states have the option to expand their parentage establishment laws, and procedures. We are not mandating this particular change. Again, it is focusing on establishment of parentage, particularly for children of same-sex parents where the establishment of paternity does not apply.

Now this NPRM, to be crystal clear, would permit again, but not, it will not require tribes to establish same-sex parentage, and it would recognize parentage established by other states and tribes for those that have already taken actions to do so.

I will skip over the data that we had planned to cover with you this morning, because I want to provide plenty of opportunity for our Tribal leaders to provide testimony. But what I will say, is that we do have a number of states that are progressive in this area and have already adopted the 2017 Uniform Parentage Act. And then we have an additional number of states, including the District of Columbia, that has pursued laws and adopted forms that allow same-sex parents to use the voluntary acknowledgment process to established parentage.

And so, if you're not familiar with language in the UIFSA Act of 2008, as a reference title IV-D, it already uses the term parentage instead of paternity for the requirements

governing interstate child support. So, things are really, truly going to make sure you leave with today, and what this regulation would do if supported,

It clarifies parentage establishment for children of same-sex parentage is not prohibited under title IV-D. It would also clarify that Federal funds under title IV-D are available for such parentage establishments. There is some language that addresses providing full faith and credit to same-sex parentage establishments made by any other state or tribe, as well according to its laws and procedures. It's not prohibited under title IV-D but allows the inclusion of same-sex parent establishments in the reporting of our program performance.

The last thing I would like to communicate is that this proposed regulation aligns with the President's Executive Order on advancing inclusion, equity, and support for underserved communities through the Federal government.

And so, Darryl, what I would like to do at this time is make it crystal clear that this is the intent of the Federal Office of Child Support Services, and I want to be clear on those items that we want to highlight to further support families of same-sex, and the children that could possibly receive child support through this program. Thank you.

Darryl Watts: Thank you so much, Commissioner, for sharing that information. And so now we'll turn it, well, this is the time for you Tribal leaders to provide your testimony. So, if anyone would like to do so, please raise your hand, and state your name and your Tribal affiliation for recording purposes, and feel free to begin your testimony.

Are there, Is there any Tribal leaders present that wishes to share testimony?

Again, keeping in mind that Tribal leaders are also able to provide written testimony as well by submitting that to our OCSS.DPT Mailbox. That information is in the chat box that we have available, as well as on the invitation that you originally received.

So again, I just want to ensure that we do our due diligence. Is there anyone? Are there any Tribal leaders that wish to provide any verbal testimony? If not, I will move forward with allowing any Tribal designees to provide any verbal testimony.

All right. I don't see that any hands have been raised, and so

Maria Huynh: sorry I was trying to raise my hand. I couldn't find it

Darryl Watts: No worries.

Maria Huynh: This is Maria Huynh, I'm with the Port Gamble S'Kallam Tribe, and I guess I could turn on my video, and I just wanted to ask a clarifying question. I noticed that we have, the tribe has until December 16th to submit the written consultation comments, but the NPRM must be turned in by the 27th. So, I just want to ask a

clarifying question if those comments are submitted afterwards. How would they claim to affect the notice of proposed rulemaking?

Darryl Watts: Melissa are you able to respond to that comment?

Melissa Johnson: It's always nice to phone a friend. So, I do think that last time we had some of, a lot of a similar situation, too, about consultation closing before comments may have closed, so I believe that they have to consider the comments mainly that come in with the NPRM. So, the written testimony that may come as part of the consultation, I believe, is considered separate from the comments that come in for the NPRM.

So, if you want to provide comments directly, whether you're in support, or against, or anything about the NPRM, we would really encourage going through at Regulations.Gov or the instructions that are in the NPRM, and submitting those comments. And again, yes, you are correct. The deadline for those comments is November 27th.

I'll put a link to the NPRM. So, we issued an AT, it was AT-23-11, and so I'll put a link to that AT, and it has the link to the NPRM with the information on how to submit comments.

Comments can also be posted online at regulations.gov. And if you go to regulations.gov, you can also already see the public comments that they've received thus far. If you wanted to see what's already come in.

Maria Huynh: Okay, Great. Thank you.

Darryl Watts: Thank you so much.

Do we have any additional verbal comments, or do we have any anyone else who wants to share verbal testimony during this time from the Tribal designees?

I am not seeing any hands raised.

Melissa Johnson: I'm not either.

Darryl Watts: Okay?

Well, the next step is so, if there are no, there are no Tribal leader testimony or a designee testimony.

Again, you still have the opportunity of providing written testimony up until December 16th, as we just discussed, as well as providing comments to the notice of proposed rulemaking by November the 27th using the regulations.gov website. That information again is available on the NPRM itself as well as available on the AT-23-11.

Is there anyone else that has anything to share during this time?

Melissa Johnson: Darryl? Would it, would it be okay if I shared? Would it be helpful to any of the Tribal directors? I know we've got on the line for me to share where to find that on regulations.gov.

Darryl Watts: That would be helpful. Yes, please.

Melissa Johnson: I'll share my screen just in case anyone's trying to find it out there on regulations.gov. I want to make sure you know how to locate it. So, if you go to regulations.gov. I'm old school, and I'm just going to type in parentage, and I'm going to type in it's a proposed rule and boom! It pops up right here at the very top. And so, you can go in here.

You can see if you want to make a comment. You can click here to make your comments online, and then we can see there's already been 157 comments. If you wanted to review the comments that have been received, you can go in here and review the comments that have already been received as well.

OK, any questions about how to find it?

Again. I just went to regulations.gov, I typed in the word parentage, and then to help narrow it down I clicked on proposed rule, and then it comes up really easily.

I hope that's helpful.

Darryl Watts: Thank you so much, Melissa.

Well, again, this was the opportunity for Tribal leaders and Tribal designees to provide verbal and/or written testimony on the notice of proposed rulemaking for the Parentage Establishment in the Child Support program.

At this time, there was no one aside from the one clarification that we had that wishes to share testimony at this time and, if that's the case, I will turn it over to our commissioner for closing remarks. We allotted time for this, and here we are. So, Commissioner Gray.

Tanguler Gray: Thank you so much, Darryl. So, first of all, let me just say how much I appreciate all of you attending this meeting today. Although we did not receive any verbal testimony during today's Tribal Child Support Consultation, your feedback and the opportunity for you to provide written comments is appreciated.

As a reminder in these closing remarks, I just want to say once again that the child support community and the Federal Office Child Support Service firmly believes that all children should be served equitably. The ability to provide all children with services to obtain needed financial support is the heart of our title IV-D program. So, since the

establishment of a parent-child relationship is the preliminary step to establishing a support order obligation, it needs to be inclusive for all families, and that, that language of our regulation should reflect parentage in doing so versus paternity, that all children may receive financial support.

Melissa provided you with a very brief overview on how you can find this notice of proposed rulemaking in the Federal Register. So, I want to thank you again, Melissa, for providing those instructions, and that's discussed for those of you that would like to provide written testimony to this consultation. You can do so by Saturday, December 16th.

And please make sure that those are sent to our OCSS Division of Policy and Training Resource Email Box. I believe that it's already in the chat, but if not, it is OCSS.DPT@acf.hhs.gov.

A final report based on today's consultation and testimony will be prepared and distributed.

So, thank you again for your time in your effort of improving our child support program and the service that we provide for families and children. Okay.

Darryl Watts: Thank you so much. This is officially adjourned.

Melissa Johnson: Thank you. Everyone.