

December 17, 2019

Division of Grants, Office of Grants Policy,  
Oversight, and Evaluation, Office of the  
Assistant Secretary for Financial Resources,  
Department of Health and Human Services.

Re: Notice of Proposed Rule Making to repromulgate or revise certain regulatory provisions of the Department of Health and Human Services, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards. RIN 0991-AC16.

Dear Assistant Secretary:

On behalf of **MAZON: A Jewish Response to Hunger**, I am writing today regarding the Department of Health and Human Services (HHS) request for comments regarding the proposed repromulgation and revision of certain regulatory provisions included in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.

**MAZON vehemently opposes the proposed rule change, which will officially license the discrimination against some of our nation's most vulnerable citizens. The proposed revisions and repromulgations are an affront to our national values, contrary to our laws, arbitrarily timed, and would cause needless irreparable harm. As such, this proposal must be withdrawn.**

Inspired by Jewish values and ideals, MAZON is a national advocacy organization working to end hunger among people of all faiths and backgrounds in the United States and Israel. For nearly 35 years, MAZON has been committed to ensuring that vulnerable people have access to the resources they need to be able to put food on the table. MAZON is a leading voice on anti-hunger issues, especially those that involve low-income populations or problems that have been previously overlooked or ignored—this includes food insecurity among currently-serving military families, veterans, single mothers, seniors, rural communities, Tribal Nations, and college students. It is with this experience and focus that we address HHS's request for comments.

10850 Wilshire Blvd.  
Suite 400  
Los Angeles, CA 90024  
t (310) 442-0020  
f (310) 442-0030  
[mazon.org](http://mazon.org)

1101 14th Street, NW  
Suite 930  
Washington, DC 20005  
t (202) 830-0730  
f (202) 830-0649

#### CHAIR

Liz Kanter Groskind  
Executive Committee, Tucson Jewish  
Community Relations Council\*

#### TREASURER

Rabbi Joel Pitkowsky  
Congregation Beth Shalom (NJ)

#### SECRETARY

Morgan J. Powell  
Director of Business Development  
Veterinary Markets, Sirona Dental

#### BOARD OF DIRECTORS

Sara M. Albert  
Temple Emanu-El (Dallas, TX)

Adam L. Berger  
Investment Strategist,  
Wellington Management

Leonard A. David  
SVP & Chief Compliance Officer (Ret.),  
Consultant, Henry Schein, Inc.

Shirley Davidoff<sup>o</sup>  
Vice President, Congregation Shearith Israel  
(Dallas, TX)

Steven Krikava  
Board of Directors, Jewish Family & Children's  
Service of Minneapolis

David A. Lash  
Managing Counsel for Pro Bono and Public  
Interest Services, O'Melveny & Myers

Richard Loewenstein  
Chief Strategy and Growth Officer,  
Centria Healthcare

Theodore R. Mann<sup>o</sup>  
Past Chair, Executive Committee,  
Israel Policy Forum

Ana Mendelson  
Northwestern University

Talia Rosen  
Gallery Assistant, Pace Gallery

Carolyn Schwarz Tisdale  
President, Hebrew Free Loan Detroit

Leonard Fein (z"l)  
Founder, MAZON: A Jewish Response  
to Hunger

#### PRESIDENT & CEO

Abby J. Leibman

\* Titles for identification purposes only

<sup>o</sup> Past Chair

As an organization founded upon and grounded in Jewish values and experiences, any government action that allows and encourages discrimination against a marginalized group, particularly on religious grounds, is gravely concerning. We are concerned that HHS' proposal would erase protections that currently prohibit government-funded programs from discriminating against people they serve based on sexual orientation and gender identity. Allowing organizations to discriminate on religious grounds is anathema to our values as a Jewish organization and as citizens of the United States of America. Jewish Americans can recall all too recent business and organizational practices of religious discrimination against Jews in this country. In our lifetimes, we saw hotels, restaurants, retail and social service establishments with prominent signs that declared: "No dogs or Jews allowed." We know that exclusionary ideologies are dangerous in any form, and this proposal certainly promotes an exclusionary ideology.

"A Jewish Response to Hunger" is more than just our name; it is a reference to the guiding principles of the Jewish faith that animate our work to improve the lives and circumstance of people of all faiths and backgrounds, without discrimination. Through the tenet of *b'tzelem Elohim*, we are called to see "the image of God" in our peers, our neighbors, and the stranger, and to treat each person with the respect that call demands. This proposal, which gives license to discriminate, fails to meet this standard that we hold for ourselves and for our governing institutions.

In addition to being contrary to Jewish values, this proposal is an affront to American ideals—a government by and for the people, three co-equal branches of government, and a separation between church and state. By limiting the comment period to 30 days, instead of the 60-day period required by law,<sup>1</sup> HHS risks that this binding and consequential proposal will be inadequately vetted by the public. In addition to dismissing the important role the people play in the rulemaking process, the shortened timeline for comments on this proposed change are contrary to the clear Congressional intent behind the Administrative Procedure Act (APA).

Knowing that this rule touches upon hotly debated issues regarding religious discrimination against the LGBT community, it is deeply troubling that HHS does not consider this agency action an official rulemaking bound by the APA. The request for comments states, "this [Notice of Proposed Rule Making] should be properly viewed as a proposal to modify or to repeal certain provisions in the Final Rule."<sup>2</sup> Under the APA, to amend or repeal an existing rule, an agency must proceed with the same notice-and-comment rulemaking procedures that governed the original promulgation of the rule.<sup>3</sup> The comment period here is only half as long as the APA mandated period, with no compelling or even cogent reason given.

---

<sup>1</sup> *Office of the Assistant Secretary for Financial Resources; Health and Human Services Grants Regulation*, 84 Fed. Reg. 63831 (Nov. 19, 2019) <https://www.federalregister.gov/documents/2019/11/19/2019-24385/office-of-the-assistant-secretary-for-financial-resources-health-and-human-services-grants>

<sup>2</sup> *Id.*

<sup>3</sup> *A Brief Overview of Rulemaking and Judicial Review*, Congressional Research Service (Mar. 27, 2017) <https://fas.org/sgp/crs/misc/R41546.pdf>

For the communities that would be negatively affected by this proposal, the procedural irregularities are dwarfed by the grave harm that these proposed changes would inflict upon people who are already struggling. MAZON's decades of advocacy on behalf of vulnerable populations grants us the expertise to know that many groups already face unique barriers to accessing basic human needs, food principal among them, and would be adversely affected by this rule change proposal.

Research has shown that the LGBT and senior communities experience higher rates of food insecurity.<sup>4</sup> According to the Williams Institute at the UCLA School of Law, "more than 1 in 4 LGBT adults (27%)—approximately 2.2 million people—experienced a time in the last year when they did not have enough money for the food that they or their families needed, compared to 17% of non-LGBT adults."<sup>5</sup> According to the National Foundation to End Senior Hunger, nearly one in every six seniors in America faces the threat of hunger and not being properly nourished.<sup>6</sup> The barriers faced by individuals at the intersection of these communities are uniquely high, and LGBT seniors rely heavily on the programs that would be affected by this proposed rule change, particularly congregate feeding programs and emergency food pantries that are often run by houses of worship. By allowing these programs to discriminate on religious grounds while receiving federal funds and resources, this proposed change would make receiving vital nutrition assistance more difficult for the people who need it most.

**When discrimination of any group is allowed, discrimination of others is sure to follow. As this rule condones and facilitates discrimination, we know that it will create a chilling effect, making people wary of seeking out the help the need for fear of mistreatment.** This rule change proposal would increase the hardship for the very people the rule is meant to assist. As such, it is contrary to the purpose of the Department of Health and Human Services to enhance and protect the health and well-being of all Americans and should be withdrawn.

Sincerely,



Abby J. Leibman  
President and CEO  
MAZON: A Jewish Response to Hunger

---

<sup>4</sup> *The Impact of Stigma and Discrimination against LGBT People in Texas*, The Williams Institute at the UCLA School of Law (April 2017)

<https://williamsinstitute.law.ucla.edu/research/770000-lgbt-adults-and-158500-lgbt-youth-in-texas-vulnerable-to-stigma-and-discrimination-2/>

<sup>5</sup> *Food Insecurity and SNAP Participation in the LGBT Community*, The Williams Institute at the UCLA School of Law (July 2016) <https://williamsinstitute.law.ucla.edu/research/lgbt-food-insecurity-2016/>

<sup>6</sup> *The Facts Behind Senior Hunger*, Aging in Place (Dec. 2019) <https://www.aginginplace.org/the-facts-behind-senior-hunger/>