June 21, 2019

Nancy Potok
Chief Statistician
Office of Management and Budget
725 17th St. NW
Washington, DC 20006

Re: Directive No. 14, "Consumer Inflation Measures Produced by Federal Statistical Agencies," Docket No. OMB-2019-0002

Dear Ms. Potok,

The National Consumer Law Center, on behalf of its low-income clients, writes in strong opposition to the Office of Management and Budget (OMB)'s proposed changes to the federal poverty line adjustment methodology which will, over time, result in millions of consumers losing their eligibility for low-income assistance programs or experience a reduction in the amount of assistance received.

Since 1969, the National Consumer Law Center (NCLC) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC works with nonprofit and legal services organizations, among other entities, across the nation to stop exploitative practices, to help financially stressed families build and retain wealth, and to advance economic fairness.

The Department of Health and Human Services (HHS) poverty guidelines, or percentage multiples of them (such as 125 percent, 150 percent, or 185 percent), are used as an eligibility criterion by many federal programs, including legal services programs and the Low Income Home Energy Assistance Program (LIHEAP) and low-income Weatherization program which NCLC supports. OMB's proposal would change the way the poverty guidelines are adjusted for inflation, reducing them over time so that more people would fall above the income-eligibility cutoffs, and thereby lose some or all assistance from programs they would otherwise have qualified for.

Civil legal aid helps ensure fairness for all in the justice system, regardless of how much money one has. Equal justice under law is a fundamental American value. Legal services helps low-income families in numerous ways, including keeping homes out of foreclosures, protecting Social Security funds critical for basic needs, stopping abusers from stalking victims of domestic violence, and helping veterans with problems after they are discharged from service. Poor consumers in rural areas rely heavily, if not exclusively on civil legal aid programs. Legal representation helps improve the efficiency of civil legal proceedings in the courts, while self-help centers and online legal forms can help parties navigate the system more effectively. Legal aid helps provide educational, housing, health, familial, and financial stability and encourages clients to become more civically engaged. Threatening access to these programs will result in expensive and disastrous consequences for those who rely on the support they provide.

Federal low-income energy assistance programs like the Low Income Home Energy Assistance Program and the low-income Weatherization program protect the health and safety of frail elderly individuals, consumers with disabilities and chronic conditions as well as families with very young children. Keeping home energy affordable reduces the risk of hypothermia in the winter and heat stress (even death) in the summer and lowers the risk of fire from unsafe heating sources.

Because you said you were not seeking comment on the impact of changing the HHS poverty guidelines, we are not commenting directly on that issue. However, were you to consider moving forward with a change to the thresholds that affects the guidelines, it would be imperative to first undertake in-depth research and analysis, and solicit public comments regarding the full reach of the effect of such a change to the federal poverty guidelines on programs such as legal aid, LIHEAP and Weatherization, health coverage, prescription drugs and nutrition assistance. Such analysis will need to consider the number of consumers losing assistance, the effect of the loss of such assistance on consumers and stakeholders and the how the impacts would grow over time.

We provide four key points for your consideration:

1. **An alternative inflation index may be less accurate for those with low incomes.**

For the broad categories of goods and services that dominate poorer households' spending, prices have been rising *faster* than the consumer price index for all urban consumers (CPI-U).[1] For example, the poorest fifth of households devote twice as large a share of spending to rent as the typical household and the cost of rent rose 31 percent from 2008 to 2018, compared to 17 percent for the overall CPI-U.[2] In addition, recent studies find that low-income households may face more rapidly rising prices than high-income households even for the same types of goods, possibly because low-income households have fewer choices about where and how to shop.[3]

The proposed Chained CPI assumes that as prices of goods rise, individuals substitute less expensive items, thereby reducing their overall expenses.[4] However, low-income people cannot as readily take advantage of such substitutions, since they are already doing without the more expensive items (and even without moderately priced items). Because low-income households experience more inflation in the goods they purchase than households with higher incomes, and do not have as much opportunity to switch to less expensive items, the Chained CPI is not an appropriate means of calculating the poverty line. It will inaccurately define low-income working or retiree individuals or households as out of poverty when they are struggling to pay for necessities. Denying them eligibility for benefits such as legal aid services, heating or cooling

---

[1] Arloc Sherman & Paul N. Van de Water, *Reducing Cost-of-Living Adjustment Would Make Poverty Line a Less Accurate Measure of Basic Needs*, CTR. ON BUDGET AND POL'Y PRIORITIES (Jun 11, 2019), https://www.cbpp.org/research/poverty-and-inequality/reducing-cost-of-living-adjustment-would-make-poverty-line-a-less.
[2] *Id.*
[3] *Id.*
[4] 84 Fed. Reg. 19962 (May 7, 2019).

assistance, health coverage, prescription drugs or nutrition assistance will increase hardship and threaten health, child development, and family stability, contrary to the intent of Congress in establishing these programs.

2. The official poverty line is already too low.

Since the Official Poverty Measure (OPM) was originally set during the Johnson administration, it has been increased for inflation, but without a serious revision based on current spending patterns. Today's families with children, for example, spend a high percentage of their income on housing and child care.

In addition, official estimates of minimum living costs consistently exceed the poverty line by a wide margin; just two parts of a family's budget -- rent for a modest two-bedroom apartment in a medium-cost metropolitan area as determined by the U.S. Department of Housing and Urban Development (HUD), and the cost of a minimum nutritionally adequate diet as estimated by the U.S. Department of Agriculture (USDA) -- would cost $21,000 in 2018, or 83 percent of the poverty threshold for a two-adult family.[5] Surveys also show that most Americans would set the poverty line higher than the current official poverty line.[6]

Similarly, not all income sources are included in the OPM. The high rates of hardship and financial insecurity among both poor and near-poor families suggest that hardships are likely common among families whom the Administration's plan would define as *no longer poor* — namely, those who now are just below the poverty line. This is painful and cruel.

3. Annual updates of the official poverty line should fully reflect changes in the costs of meeting basic needs.

Price indexes are designed to capture price growth but not the cost of "new necessities" for families, such as the growing need for child care as more women enter the paid work force.[7] The poverty line should also capture rising living standards, as items that were once unavailable — such as a computer and internet service — become minimum requirements of acceptable living (and increasingly important for finding and retaining a job). The Administration's plan arbitrarily focuses on one questionable technical change that would lower the poverty line while ignoring the ample evidence that incomes at the poverty line are generally too low to make ends meet and have failed to keep up with basic needs.[8]

4. Better alternatives to the Chained CPI exist.

The Bureau of the Census has begun to develop the Supplemental Poverty Measure, which counts income sources such as SNAP and refundable tax credits, and more accurately takes into

[5] Arloc Sherman & Paul N. Van de Water, *Reducing Cost-of-Living Adjustment Would Make Poverty Line a Less Accurate Measure of Basic Needs*, CTR. ON BUDGET AND POL'Y PRIORITIES (Jun 11, 2019), https://www.cbpp.org/research/poverty-and-inequality/reducing-cost-of-living-adjustment-would-make-poverty-line-a-less.
[6] *Id.*
[7] *Id.*
[8] *Id.*

account expenditures such as housing, child care, and out of pocket medical expenses.[9] The Supplemental Poverty Measure shows a somewhat higher poverty level and rate for most types of households, as compared to the official measure.[10]

We know that households just above the official poverty line report higher than average rates of food insecurity and difficulty paying rent and utilities. They are more likely to be uninsured. These facts suggest that shrinking the annual rate of increase in the Official Poverty Measure will artificially push people over the poverty line even though they struggle to make ends meet. Such a change would be unsupported by the evidence, and would have unfortunate impact of increasing hardships for people who work at low and volatile wages and for retirees whose earnings were never high and who were unable to build adequate savings.

Some alternate measures of poverty include:

a. Asset Limited, Income Constrained, Employed (ALICE)

ALICE is a new way of defining and understanding the struggles of households that earn above the Federal Poverty Level, but do not make enough to afford a bare-bones household budget.[11] The ALICE research team develops a Household Survival Budget that estimates a county's total cost of all household essentials, plus taxes and a ten percent contingency.[12]

The team then develops a threshold minimum income level that covers this basic household budget. An income assessment then measures the income households need to reach the threshold, the income a household actually earns, the amount of public and nonprofit assistance provided, and develops an "unfilled gap" that estimates the shortfall between the threshold and the combined value of a household income and public and nonprofit assistance provided. [13]

b. Self-Sufficiency Standard

This standard is another budget-based measure of the real cost of living for a household. The Self-Sufficiency Standard determines the income required for a working family to meet basic needs (including taxes), taking into account family composition, ages of children, and geographic differences in costs. The Self Sufficiency Standard shows that it takes income well beyond the poverty line to meet basic needs.[14]

---

[9] *Measuring Poverty*, CTR. FOR WOMEN'S WELFARE, UNIVERSITY OF WASH., http://selfsufficiencystandard.org/supplemental-poverty-measure.
[10] *Id.*
[11] *Do You Know Alice?*, UNITED WAY OF NORTHERN N.J., https://www.unitedforalice.org/home.
[12] *Methodology*, UNITED WAY OF NORTHERN N.J., https://www.unitedforalice.org/home.
[13] *Id.*
[14] *The Standard*, CTR. FOR WOMEN'S WELFARE, UNIVERSITY OF WASH., http://selfsufficiencystandard.org/the-standard.

> The standard aims to be as consistent and accurate as possible while accounting for differences among family types and cost of living in different regions. Costs are calculated for over 700 family types, including one adult with no children, one adult with one infant, one adult with one preschooler, and so forth up to three-adult families with six teenagers. There are special weighted standards for families with seven to ten children or four to ten adults. So far, this measure has been calculated for 41 states.[15]

Conclusion

OMB should not ignore low-income worker and retiree spending and income patterns. Doing so will make the annual adjustment painfully inaccurate. People who would be most adversely affected by this unsupported change include children, single mothers, people of color, people with disabilities, and low-income retirees. They need programs such as legal aid, LIHEAP, Weatherization, Medicaid, Medicare Part D Low-Income subsidies, SNAP and Head Start. Denying them benefits by making the poverty line a less accurate reflection of their circumstances is contrary to Congressional intent and the national interest.

Thank you for the opportunity to submit these comments.

Respectfully submitted,

*//s// Olivia Wein*_____________
Olivia Wein, Staff Attorney
Lauren Saunders, Associate Director

National Consumer Law Center, on behalf of its low-income Clients

[15] *Id.*