

NLWJC - Kagan

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Wisconsin Waiver - Welfare [1]

NEW DRAFT

July 9, 1996

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Ken Apfel

SUBJECT: Major Issues -- Wisconsin Waiver

Bob -
Appointing
w/ Dole reversion
TOSC earlier
Any Thompson
later to day would
be appreciated!
KA

Here is a brief summary of issues the White House needs to resolve in the next few days so that the President can announce the Wisconsin waiver next week.

I. Overview

On May 29, Gov. Thompson delivered a 400-page request for specific waivers of 69 AFDC, 18 Medicaid, and 5 Food Stamp provisions. HHS sees no problem with at least 54 of the 69 welfare provisions and 7 of the 18 Medicaid provisions. USDA has more limited waiver authority (it cannot allow changes that would make any families worse off), but most of the waivers can be worked out.

The earliest the waiver can be approved without legal challenge is July 11, which marks the end of 30-day period for public comment. Dole stopped in Wisconsin last week to attack the Administration for not getting the waiver done yet. Last month, the House overwhelmingly passed a bill to deem the entire Wisconsin waiver approved, but the Senate is less likely to move that legislation -- unless we stir it up again by turning down too much.

II. Major Policy Issues

There are two schools of thought on how to approach the major remaining policy and legal issues in the Wisconsin plan. One approach, advocated by HHS, is to treat Wisconsin as another waiver request, and try to hold the line on a handful of issues -- time limits, residency requirements, etc. -- that HHS has denied states in the past. The other approach would be to treat Wisconsin as the political equivalent of another welfare reform bill, and judge its elements based on what we are willing to accept or reject in national legislation from Congress. The first approach would deny Wisconsin some provisions even though states could do them under the Breaux-Chafee welfare bill we support. The second approach would take the same position on Wisconsin that we have staked out in the national debate: yes to a work-based welfare block grant, no to a Medicaid block grant.

1. Medicaid: On Medicaid, the state will get very little of what it asked for. Although the health plan was designed to expand coverage up to 165% of poverty by placing welfare recipients in managed care, we will have to reject the basic framework, which is a block grant that ends the Medicaid guarantee. HCFA is also firmly opposed to allowing premiums of \$20 a month and forcing recipients to accept insurance from their employer if it is available. However, we can grant a pending Medicaid 1915(b) waiver that will place welfare recipients in managed care and use the savings to expand coverage, and pledge to keep working with the state to approve as much of the W-2 waiver as we can while preserving the guarantee. As always, budget neutrality will be a problem. The Medicaid provisions are the primary reason we need to keep Congress from passing legislation to deem the waiver approved, because such a bill would be their current reconciliation package in miniature -- generally acceptable welfare reform linked to unacceptable Medicaid.

2. Time Limits: The Wisconsin plan includes a 5-year lifetime limit, like our bill and all the major congressional plans. The issue for the waiver is whether to impose terms on who should get extensions to the time limit. Wisconsin wants to leave that decision to the discretion of the caseworker. In other states, HHS has always forced states to accept mandatory extensions for anyone who reaches the time limit and can't find a job. The one exception is the two-county waiver we granted Wisconsin in 1993, which essentially left that decision to the state.

We have two realistic options: 1) allow the state to implement the exact terms statewide that we granted in 1993; or 2) let the state develop its own terms. Under the first option, Thompson could only complain a little, since he has bragged in the past that his two-county waiver was the toughest in the country. Under the second option, the state could do what it will be able to do anyway if welfare reform becomes law. As a practical matter, Wisconsin will probably implement the same rules whichever option we choose. (Mary Jo Bane favors a third option, to "clarify" the 1993 terms along the lines of what HHS has demanded from other states -- but others at HHS consider this a non-starter, since it would enrage Thompson without enabling us to say he had agreed to the same terms once before.)

3. Entitlement: The toughest issue in the entire waiver is how best to make sure that recipients get jobs and child care, without handing Thompson the chance to claim we vetoed his waiver by insisting upon an individual entitlement, which we have not done in the congressional debate. The intent of the Wisconsin plan is to provide enough work and child care to go around, and to use some savings from caseload reduction toward that purpose, but like Breaux-Chafee and other congressional reform bills, there is no explicit guarantee. Indeed, the Wisconsin statute specifically denies that any individual is entitled to such benefits.

The Wisconsin legislature enacted a specific non-entitlement provision, for two reasons: 1) the major national welfare reform bills end the entitlement; and 2) the state wanted to avoid the due-process constraints of *Goldberg v. Kelly*, a 1970 Supreme Court case which requires states to grant a recipient notice and an evidentiary hearing (including the

opportunity to submit evidence, cross-examine opposing witnesses, and retain a lawyer) before terminating any benefits to which the recipient has a statutory entitlement. Wisconsin is willing to provide certain post-termination opportunities for review, but argues that requiring a full evidentiary hearing before terminating benefits would make it easier for recipients to get around work requirements, and would keep the system looking more like a welfare program than the real world of work.

There is no having it both ways on this question: any outright guarantee will maintain the individual entitlement and the consequent due process safeguards, even if we call it an assurance or something else. HHS would like to do just that, and impose due process procedures that go much further than the state proposed. That would have the advantage of protecting recipients if the state runs out of money. On the other hand, it might prompt Thompson to reject the terms of the waiver, claim that we had vetoed welfare reform a third time in order to preserve the current system, and lobby Congress to pass a full Wisconsin waiver.

A second approach would be to go along with the request to waive the entitlement, but require the state to "make best efforts to ensure that those eligible receive services and benefits." Holding Wisconsin to a "best efforts" standard would make it easier for courts and the Administration to review the waiver if Wisconsin fails to provide jobs, and probably would not be interpreted as an individual entitlement. Recipients would get the notice and review proposed by the state, but could not go to court and demand a full evidentiary hearing prior to any sanction. We can make clear that if the state fails to meet this best efforts standard, we have the authority to revoke its waiver.

A third approach would be to simply give Wisconsin what it wants, by waiving the entitlement without imposing a best-efforts standard. That would quiet Thompson, but alarm advocates (who will be upset no matter what we do).

Regardless of which approach we take, White House Counsel suggests that instead of HHS outlining its own detailed due process procedures for the state, we allow the state to adopt procedures "insofar as and to the extent that they comport with applicable constitutional requirements." Since these issues are bound to be litigated no matter what we say, it probably makes sense to leave them to the courts to decide.

III. Legal Issues

On two of labor's main concerns (worker displacement and the minimum wage), we lack the legal authority to grant exactly what the state wanted. The provision that requires workfare participants to be placed in new (not existing) job vacancies is in a section of the Social Security Act that cannot be waived under current law. But every major welfare bill would remove that provision, so Wisconsin will be free to do what it wants once welfare reform becomes law. On the minimum wage, we can essentially grant the state's request to pay participants the minimum wage for 30 hours a week of work but not additional hours of

One constitutional issue will require a White House decision. The State asked for a 60-day residency requirement before any person could apply for assistance. DOJ believes that under Shapiro v. Thompson, a 1969 decision in which the Supreme Court held a one-year residency requirement to violate the constitutional "right to travel," any residency requirement must meet the most stringent kind of Supreme Court review, requiring assertion of a "compelling state interest." DOJ also notes that so far, the State has failed to advance such an interest.

There are two options here -- one advocated by HHS, the other by the White House Counsel's office. The HHS option is simply to deny the request for a residency requirement. The Counsel option is to grant the request for "the period up to sixty days for which the state can demonstrate an interest satisfying constitutional standards." This approach, approved in full by DOJ, authorizes the State to do what it wants if such action is constitutional, leaving the issue of constitutionality to the courts. The approach thus effectively allows the Administration to grant the State's request, but places the burden on the State to defend its provision in court. 602?

HHS objects to the Counsel's approach on the ground that it abdicates to the courts a decision that properly should be made by the Administration. HHS also argues that this approach sets a dangerous precedent for the future. Counsel's Office replies that the approach is fully legal (DOJ concurs) and that it allows us to get rid of a tricky issue by at once giving the state what it wants and not approving anything we think improper. Counsel's Office also notes that a decision to hand the question to the courts may be especially appropriate in this context because the law here is very uncertain: a great many constitutional commentators believe that the current Court is looking for an opportunity to reverse or severely curtail Shapiro.

To Ken Apfel:

Substitute Residency Requirement
Section

Elena

Key Decisions on Wisconsin Waiver

There are four key decision that need to be made with respect to the Wisconsin welfare waiver. These are:

- *Entitlement and Due Process.* What type of assurances of a job slot, and due process for those denied assistance -- if any -- should replace the current entitlement to cash assistance?
- *Time Limits.* Should the waiver require time limit extensions for those who play by the State's rules but do not find a job before the time limit, and whether there should be vouchers for children?
- *Residency Requirement.* Should Wisconsin be allowed to impose a 60 day residency requirement if the State can develop a reasoning that meets constitutional concerns?
- *Contracting Out.* Should the State be allowed to contract out AFDC, Food Stamp, and Medicaid administration to non-union private organizations?

HHS, USDA, and the State have worked through most other issues. The final waiver would also need to include a deadline by which the details of evaluation procedures and cost-neutrality formulas will be mutually developed.

ENTITLEMENT AND DUE PROCESS

While the Governor says he seeks to provide a job slot and child care to every eligible family, the State explicitly seeks to end any entitlement to assistance or services. The entitlement is enforced through the right to the timely adjudication of eligibility based on written rules, timely provision of assistance to those who are eligible, and the right to an evidentiary hearing before assistance is reduced or terminated. -- and sometimes must --

Under Wisconsin's proposal, assistance would be provided at the discretion of the contractor to those who meet financial criteria. The State could accept an appeal from a family that believed it had been treated wrongly, but the State could also refuse to hear such appeals. There is general agreement within the Administration that the waiver needs to include stronger assurances of a job than Wisconsin proposes, but there is not agreement on what those assurances should be. The options are:

1. *"Best Efforts" Option.* End the entitlement, but closely monitor Wisconsin, and revoke the waiver if significant numbers of families fail to receive appropriate assistance. rework
2. *"Senate Language" Option.* End the entitlement, but provide equal protections and due process procedures consistent with the Castle-Tanner bill provisions, which are also included in the current Senate welfare bill.

3. ~~"Job Guarantee" Option. Continue the entitlement and most due process procedures by~~
substituting an entitlement to an opportunity to work for the current entitlement to cash assistance, w/ current DP procedures

1. **"Best Efforts" Option:**

Description. The waiver would require regular reporting on what work opportunities and services were being provided to applicants. If the state does not achieve "substantial compliance" in meeting its intentions to provide work and services, the Department would, after a period allowing for modification, revoke the waiver. As proposed in the state's application, hearings would be available for adverse decisions on eligibility or benefits.

Discussion. In order for the "substantial compliance" provision to be enforceable, the Department would determine the criteria for assessing compliance -- which will require drafting detailed performance standards and could be viewed as an intrusive monitoring effort. Non-compliance could be defined as inappropriately denying job slots in 10% or more of the cases. Little protection would be provided to individuals against arbitrary treatment or waiting lists. Though this Administration has never revoked a waiver, experience in other areas teaches that a revocation could lead to years of litigation.

2. **"Senate Language" Option:**

Description. The Welfare Reform bill being debated on the Senate floor contains language identical to that in Castle-Tanner that requires states to:

"Determine, on an objective and equitable basis, the needs of and the amount of assistance to be provided to needy families, and....treat families of similar needs and circumstances similarly; and,

Grant an opportunity for a fair hearing before the appropriate State agency to any individual to whom assistance under the program is denied, reduced, or terminated, or whose request for such assistance is not acted on with reasonable promptness."

Under this option, the State would develop criteria for providing the different levels of assistance to families. The State would assure that applicant families with similar needs and circumstances would receive similar work opportunities and services. The waiver terms and conditions would include the Senate language on hearings.

Discussion. Unlike Option 1, this option would provide some protection for applicants against arbitrary and discriminatory treatment and require uniform state guidelines for provision of assistance. This language also requires appeals to the State, rather than the Wisconsin proposal to allow state discretion in hearing appeals. The State would likely object to these requirements. A key difference from current law is that hearings can occur *after* benefits were cut off -- rather than before. Further, this option might not protect against waiting lists, since the state could

argue that families seeking benefits and services from a state whose funds are depleted will all, equally, not get them.



3. Job Guarantee Option.

full entitlement

In accord w/ Govt,
People whose assistance
is terminated or
substantially modified

Description. Under this option, the terms and conditions would state that all individuals wishing to apply for W2 services shall have the opportunity to do so. It would also assure that work opportunities and necessary services will be furnished with reasonable promptness to all eligible individuals who meet the work obligations and other conditions of W2 participation. ~~Those denied assistance would have the opportunity for a hearing before termination from the program.~~ The hearing procedure could be simplified, and for minor benefit reductions, ~~could be eliminated~~ by waiver of some hearings regulations.

price by
the act

Discussion. This option goes the furthest toward requiring that the state meet its commitment to provide work and associated services. It provides protection against both arbitrary treatment and against waiting lists. Goldberg-Kelly due process requirements would apply. ~~The option offers a hearing only to those whose program participation is altogether precluded. The job guarantee would be viewed as maintaining the current law entitlement.~~

The full range of

but HHS could
soften its own
procedural
requirements

substantive politics
TIME LIMITS

Wisconsin's time limits are based on participation in W-2 job components and could range anywhere from 2 to 5 years. Time limit extensions may be provided at contractor discretion, but contractors must pay for the extensions themselves and may thus have incentive to minimize the number granted. Decisions may not be appealed to the State. It is unclear whether vouchers for basic shelter assistance would be provided to children in families who do not receive extensions but could become homeless. There are three options:

- (1) Grant the State's request without further clarification. This is what the Governor would support most, but those who "play by the rules" would not be protected.
- (2) Grant terms identical to those used in the existing "Work, Not Welfare" demonstration. There, Wisconsin plans to offer extensions on a discretionary basis to those who "play by the rules" (which is different than HHS's understanding of the terms when they granted the waiver.) Unlike "Work, Not Welfare," however, in which the State pays for the costs of extensions, contractors would pay for extensions under W-2 and may have incentive to minimize the number granted. The waiver calls for child vouchers for housing "if a child will be made homeless as a result of the termination of benefits."
- (3) Use terms similar to "Work, Not Welfare," but specify that extensions must be granted when parents "play by the rules" (which was HHS's intent when first granting the existing waiver). The Governor might object more strongly and claim the Administration is less willing to accept time limits than when "Work, Not Welfare" was approved in 1993.

RESIDENCY REQUIREMENTS

Wisconsin requested a 60-day residency requirement in order to apply for assistance. A 1969 Supreme Court decision held residency requirements to violate the constitutional "right to travel" in the absence of "compelling State interest." The Justice Department noted that Wisconsin has failed so far to assert such "a compelling State interest." There are two options:

- (1) Deny the request on the basis that the State's reason for the requirement -- to deter people from moving to Wisconsin to receive welfare -- does not meet constitutional standards.
- (2) Grant the request ^{attorney will} for a period up to 60 days ^{lit} for which the State can demonstrate an interest satisfying constitutional standards. This would authorize the State to institute a 60-day residency requirement if such action is constitutional, leaving the issue of constitutionality to the courts.

Allow
Wis. to
impose
a 60-day
res. period

CONTRACTING OUT

but only if

Under current law, local government agencies operate AFDC, Food Stamps, and Medicaid. The unions oppose Wisconsin's proposal to permit private entities to compete for and operate these programs. While Wisconsin provides a right of first refusal for counties that meet the State's contract performance criteria, employment would not be guaranteed to current public workers. This could set a precedent for other States. The unions have argued that public sector accountability and civil service protections are important to maintain in the operating of any public assistance program. (AFSCME represents the workers in every county agency in the State.) Contracting the program out appears to be central to Wisconsin's approach in W-2.

Indeed, The only interest ~~The Governor has~~ ^{The Governor's statement is} ~~asked so far is constitutionally illegitimate.~~ ^{to not}

But ~~there is nothing to prevent Wisconsin~~ ^{This does not} ~~from asserting a constitutionally legitimate~~ ^{different,} ~~and perhaps sufficiently important~~ ^{interest in court, is} ~~interest in its residency~~ ^{requirements} ~~and it is possible that~~ ^{But} ~~(though not probable) that such an interest would~~ ^{be found} ~~to pass muster.~~ ^{to pass muster.}

THE WHITE HOUSE

WASHINGTON

July 14, 1996

MEMORANDUM FOR JACK QUINN AND BRUCE REED

FROM: ELENA KAGAN *EK*

SUBJECT: WISCONSIN WAIVER -- OPTION 2

Below is a first cut at what a strengthened Option 2 would look like. There are some pretty obvious ways of making it even stronger -- or of making it weaker. For example, we could either increase or decrease the percentage of state failures (now listed as 10%) evidencing violation of the "best efforts" standard. Similarly, we could either add additional prohibited grounds or delete the one now listed. I am sure there are other approaches too, and I would be grateful for any ideas or comments.

Keep in mind that the stronger we make the provision, the more we increase the chance that a court will find it to be an entitlement (regardless of the initial disclaimer) -- and that Governor Thompson can accuse us of dishonesty. I am not sure what a court would do with the provision as formulated below. I do think, however, that it puts us on fairly solid ground from a rhetorical standpoint.

No applicant, even if fulfilling eligibility requirements, is entitled to an employment position or any associated services or benefits under this demonstration program.

The State, however, shall use all best efforts to ensure that each eligible applicant receives an offer of an employment position and any associated services or benefits. This standard requires the State to have a substantial reason, not relating to or based on insufficiency of financial resources, to decline or fail to offer an employment position and any associated services or benefits to an eligible applicant. Failure to offer an employment position and any associated services or benefits to more than 10% of all eligible applicants shall constitute highly probative evidence of a violation of this standard, although no such evidence is necessary to prove a violation.

A failure by the State to use all best efforts to ensure that each eligible applicant receives an offer of an employment position and any associated services or benefits shall result in the establishment of an entitlement on the part of each eligible applicant to an employment position and any associated services or benefits.

* * * *

FACSIMILE TRANSMISSION
Assistant Secretary
The Administration for Children and Families

DATE: July 19, 1996

TO:

Bridge Road
Ken Apple
Telephone: 456-6515
395-4844
Fax: 456-5557 395-4780
Number of Pages (excluding cover): 5

FROM: Mary Jo Bane
Assistant Secretary for Children and Families

Telephone: (202)401-2337
Fax: (202)401-4678

MESSAGE:

Attached are the draft terms and conditions that we plan to start discussing with Wisconsin next week.

- Segment #1 -- early in the week
- Segment #2 -- later in week
- Segment #3 -- discuss the following week (week of 29th)
(more tentative)



Department of Health and Human Services
Administration for Children and Families
370 L'Enfant Promenade, S.W., Washington, D.C. 20447
Phone: (202) 401-9200

DRAFT FOR DISCUSSION PURPOSES ONLY**7/18/96****#1****WAIVER TERMS AND CONDITIONS****Wisconsin Works****SECTION 1: GENERAL ISSUES**

- ✓ 1.0 The Department of Health and Human Services and the Department of Agriculture (hereinafter referred to as the Departments) will grant waivers to the State of Wisconsin (hereinafter referred to as the State) under section 1115 of the Social Security Act, as amended, and section 17(b) of the Food Stamp Act, as amended, to operate the Wisconsin Works (W-2) demonstration (hereinafter referred to as the demonstration) as set forth in these Waiver Terms and Conditions. Each Department reserves the right, in its sole discretion, to withdraw any and all waivers granted by that Department at such time(s) that either Department determines that the State has materially failed to meet the requirements as set forth in these Waiver Terms and Conditions. The State also retains the right to terminate the demonstration.
- ✓ 1.1 Failure to operate the demonstration as approved and according to Federal and State statutes and regulations may result in withdrawal of waivers. The Federal statutes and regulations with which the State must comply in the operation of the demonstration include, but are not limited to, civil rights statutes and regulations that prohibit discrimination on the basis of race, color, national origin, disability, sex, age and religion, including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act, and the nondiscrimination provisions of the Omnibus Budget Reconciliation Act of 1980. After waivers are granted, the Departments reserve the right to withdraw them if agreement cannot be reached on any item(s) cited in this document as needing approval by the Departments. The State also has the same right.
- ✓ 1.2 If Federal or State statutes or regulations that would have a major effect on the design and impacts of this demonstration are enacted, the Departments and the State will reassess the overall demonstration and develop a mutually agreed-upon strategy for dealing with the demonstration in the context of such changes. If such a mutually agreed-upon strategy cannot be developed, each

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7/18/96

Department reserves the right, in its sole discretion, to withdraw any or all waivers at such time(s) as that Department determines.

- ✓ 1.3 The demonstration provisions will be implemented statewide no earlier than September 1, 1997, and no later than September 1, 1998. The implementation date of the demonstration shall be the first day on which the first case is made subject to any of the provisions of this demonstration. For cost neutrality purposes, the demonstration shall be deemed to begin on the first day of the calendar quarter (hereinafter "quarter") which includes the implementation date, but for the purpose of calculating excess costs or savings for the initial quarter of the demonstration, only costs incurred beginning with the month that includes the implementation date will be counted. The demonstration shall end no later than the last day of the 20th quarter ending after the deemed beginning date. The demonstration provisions shall be as specified in Section 2. Waivers necessary for the demonstration are approved upon acceptance by the Departments and the State of these Waiver Terms and Conditions. They will become effective as of the implementation date and will remain in effect until December 31, 2005, unless the project is terminated earlier.
- ✓ 1.4 Federal approval of waivers, subject to these Waiver Terms and Conditions, shall not be construed to establish any precedent that either Department will follow in the granting of any subsequent request for waivers.

SECTION 2: IMPLEMENTATION

- 2.0 Under W-2, the State will implement the following AFDC, Child Care, and Child Support program provisions:

Eligibility

- (1) The State will define the unit eligible for W-2 assistance, i.e., the Wisconsin Works group (W-2 group), as consisting of an individual who is a custodial biological or adoptive parent(s), all dependent children with respect to whom the individual is a custodial parent and all dependent children with respect to whom the individual's dependent child is a custodial parent. In two-parent families, only one parent may participate in a W-2 employment position at

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7/18/96

a time.

- (2) The State will count all of a family's earned and unearned income to the extent allowed by the applicable law for the source of income including stepparent income and child support payments, which will be passed through directly to the custodial parent, when determining eligibility for the demonstration, except for EITC, food stamps or its cash equivalent and earnings from a W-2 employment position. Families will be eligible for W-2 if their gross income is 115 percent of the Federal Poverty Level (FPL) or less. The State will not count earned or unearned income of eligible families for purposes of determining benefit amount. W-2 cash benefits amounts will be determined as described in 2.0(xx).
- (3) The State will disregard for applicants and recipients the combined equity value of all motor vehicles belonging to the family up to \$10,000.
- (4) The State will increase the resource limit for applicants and recipients to \$2,500.
- (5) The State will deny eligibility for an employment position described in 2.0(xx) for an individual who without good cause refused a bona fide job offer in the 180 days prior to application.
- (7) Families will remain eligible for W-2 until its resources exceed the demonstration limits for at least two consecutive months or until the income of the family exceeds 115 percent of FPL for two consecutive months or the family's income is expected to exceed 115 percent of FPL limit for two consecutive months.
- (8) Single non-custodial parents with a child support order for a child who is eligible for W-2 as described in 2.0(x) and 2.0(x) and pregnant women eligible for W-2 with no other custodial children may receive job search assistance and case management services.
- (9) The State will provide to participants ongoing title IV-D services without regard to a separate application for fee.
- (10) Individuals who refuse to participate, without good cause in any W-2 employment component described in

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2.0(xx) will ineligible for that component for a minimum of three months or until the individual resumes participation in the assigned activity for two weeks, which ever is longer. A participant refuses to participate in a W-2 employment position if he or she:

- o expresses orally or in writing to the W-2 agency that he or she refuses to participate;
- o fails to appear without good cause for an interview with a prospective employer;
- o voluntarily leaves appropriate employment or training without good cause, as determined by the W-2 agency;
- o is discharged from employment for cause; or
- o demonstrates through other behavior or action, as specified by the State, that he or she refuses to participate in a W-2 employment position.

Individuals who refuse to participate, without good cause, in any W-2 employment component three times will be permanently ineligible for that component. Good cause will include, but not be limited to, the lack of child care.

- (11) The State will pay an eligible custodial parent of a child who is 12 weeks old or younger a monthly benefit of \$555 without regard to participation in a W-2 employment position. The State may require the custodial parent to participate in other activities such as parenting education and life skills training. Any eligible custodial parent of a child who is 12 weeks old or younger will receive this benefit without regard to participation in a W-2 employment position; but receipt of this benefit will not count toward the 24 month limit described in 2.0(xx) or the 60 month lifetime limit described in 2.0(xx) only: (a) if the child was conceived before the parent was determined to be eligible for W-2 or (b) if the child was conceived after the parent was determined to be eligible for W-2 and conception was the result of verifiable rape, sexual assault, or incest.

- (12) The State will sanction participants who fail to

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7/18/96

cooperate with child support enforcement, without good cause, according to the following schedule:

- o For each failure after application to cooperate under section 402(a)(26) of the Act, the family will be denied program benefits until the custodial parent cooperates with child support enforcement.
- o For the third sanction for non-cooperation, the family will be denied program benefits for a minimum of six months.

Pregnant women with no existing children will not be sanctioned for failure to cooperate with child support enforcement during the time that they are pregnant.

- (13) The State will require minor parents to reside in the home of a parent as a condition of eligibility for non-employment W-2 benefits. Minor parents are not eligible for W-2 employment positions. However, minor parents are eligible for job access loans as described in 2.0(xx). In cases where a the minor parent has no parent who is living or the whereabouts of the individual's parent is unknown or the State determines that the physical health or safety of the minor parent or her dependent children would be jeopardized by residing with the individual's parents, the minor parent will be required to live with a legal guardian, adult relative or in another adult-supervised supportive living arrangement as approved by the State. In such cases where the minor parent cannot find a suitable living arrangement with a relative or guardian, the State will place the minor parent and her dependent child(ren) in a suitable adult-supervised living arrangement.
- (14) At the discretion of the FEP, the State may provide, on a limited basis, Job Access Loans (JAL) to W-2 participants to assist with one-time needs to support employment, e.g., car repairs, clothing with work, housing emergencies, etc. A JAL must be repaid either in cash or in a combination of cash and community service work. The State will establish an appropriate repayment rate in cooperation with the participant.

Minor parents participating in W-2 residing in an out-

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7/18/96

of-home adult-supervised placement as described in 2.0(xx) are eligible to receive a JAL during the two months prior to turning age 18 if they have completed high school or its equivalent.

- (15) The state will require dependent children ages 6 through 17 whose parents participate in a W-2 employment position to attend school regularly, as defined by the State. The W-2 orientation session will include notification and explanation of the W-2 school attendance requirements. In-depth assessments will be conducted to identify youth at risk of sanction due to attendance problems. Students determined to be at risk of sanction will be required to enter into a Personal Responsibility Plan establishing goals and strategies and necessary case management services to address school attendance problems. Families whose children fail to meet the State defined attendance requirement or fail to comply with a Personal Responsibility Plan will be sanctioned. Families participating in CSJ or W-2 Transition will be sanctioned \$50 per month; families participating in Trial Jobs will be sanctioned \$50 per month.
- (16) The W-2 agency will organize Community Steering Committees consisting of local leaders from business, education, and other fields. These committees will be charged with the responsibility of identifying and encouraging employers to provide job opportunities for W-2 participants including supported employment activities.
- (17) The State will recover an overpayment made to a participant in a W-2 employment position that is the result of an intentional violation by deducting from the monthly benefit an amount based on the following until the overpayment is recovered:
- o for overpayments less than \$300, 10 percent of the monthly benefit will be deducted;
 - o for overpayments of \$300 to \$999, \$75 per month will be deducted;
 - o for overpayments of \$1000 to \$2499, \$100 per month will be deducted; and

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7/18/96

- o for overpayments of \$2500 or more, \$200 per month will be deducted.

The State will not be required to file 4110 Fraud reports with the Department.

- (18) The State will sanction a participant if a court finds or it is determined after an administrative hearing that a member of a W-2 family applying for or receiving employment position benefits, JALs, or child care has intentionally violated any W-2 provision on three separate occasions for the purpose of establishing or maintaining eligibility or for the purpose of increasing the value of W-2 benefits. The sanction will be permanent denial of all W-2 employment benefits and JALs.
- (19) The State will pay all child support collected on behalf of W-2 families directly to the family and will not deduct such payments from W-2 cash benefits. The State will not assign any amount of child support collected on behalf of a W-2 family to the federal government. The State will count child support collections made on behalf of all families participating in W-2 as AFDC collections for the purpose of reporting collections and calculating federal child support incentive payments.

DRAFT FOR DISCUSSION PURPOSES ONLY**7/18/96****WAIVER TERMS AND CONDITIONS****AMENDMENTS TO THE****WISCONSIN PAY FOR PERFORMANCE AND WORK NOT WELFARE DEMONSTRATIONS**

This is an amendment to the Waiver Terms and Conditions of the Wisconsin Pay For Performance (PFP) and Work Not Welfare (WNW). It sets forth changes to provisions to be applied to the treatment groups as described in Section 2.1 of PFP Waiver Terms and Conditions and Section 2.2 of the WNW Waiver Terms and Conditions.

Changes to Provisions to be Applied to Participants in the Treatment Group:

Below are listed changes in provisions which will apply to all recipients in the treatment groups of the PFP and WNW demonstrations.

- 7) Add the following as item 2.1(14) to PFP and item 2.2(26) to WNW:

The State will impose a fiscal sanction on an individual who refuses to participate, without good cause in any demonstration employment activity. The fiscal sanction will be termination of all AFDC benefit to the family for a minimum of three months or until the individual resumes participation in the assigned activity for two weeks, which ever is longer. A participant refuses to participate in an employment activity if he or she:

- o expresses orally or in writing to the State that he or she refuses to participate;
- o fails to appear without good cause for an interview with a prospective employer;
- o voluntarily leaves appropriate employment or training without good cause, as determined by the State;
- o is discharged from employment for cause; or

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7/18/96

- o demonstrates through other behavior or action, as specified by the State, that he or she refuses to participate in an employment activity.

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7/18/96

#2

SECTION 2: IMPLEMENTATION

2.0 Under W-2, the State will implement the following AFDC, Child Care, and Child Support program provisions:

- (o) The State will pay AFDC benefits to children whose parent(s) or caretakers are not eligible for W-2 but who have a gross monthly income that is 115 percent of the Federal Poverty Level (FPL) or less as described in [2.0(x)]. The State will make AFDC payments as follows:

What's this ←
only in these
2 circumstances?

The State will provide monthly AFDC payments to an eligible child living with and under the care of a relative or legal guardian other than a biological or adoptive parent. The monthly AFDC payment for each eligible child will be \$215 dollars. The relative(s)/guardian(s) of children receiving this benefit will be considered an AFDC recipient for the purpose of Medicaid eligibility. Eligibility determination and administration of these AFDC cases will be the responsibility of the State foster care agency.

Citizen child →
provision

- o The State will provide monthly AFDC payments to an eligible child (a) who is a U.S. citizen whose parent(s) is an alien ineligible for W-2 or (b) whose parent(s) is an SSI recipient. In a two-parent family both parents must be ineligible aliens or SSI recipients in order for the child to receive this payment. The monthly AFDC payment for each eligible child will be \$135 dollars.

? (diff from (o)
statute)

Aliens sponsored by organizations or agencies are eligible for W-2 employment positions if they meet all other W-2 eligibility criteria. Income and resources from alien sponsors will not be used in determining eligibility for W-2 cash assistance.

Program Requirements

will, will, will (1)
What does state
say about all this?

After eligibility has been determined, a W-2 Financial and Employment Planner (FEP) will conduct an employment readiness screening to determine employment placements. The State will develop objective criteria specifying how participants will be assigned to one of the four W-2 employment components described in 2.0(xx), including how determinations of job readiness will be established, e.g., using an assessment of the individuals capabilities and skills, identifying

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barriers to employment, and determining whether the individual has a steady and/or recent employment history; and how participants will be determined to qualify for reassignment from one component to another. Employment readiness screening may include a determination regarding an individual's possible need for alcohol, other drug abuse treatment or mental health services. The State will refer to the county agency serving under the State-authorized 51.42 board or to another qualified health professional for clinical assessment applicants who have been identified by a FEP as possibly in need of alcohol/drug treatment or mental health services. An FEP will use screening indicators provided by the county agency serving under the State-authorized 51.42 board.

After the employment readiness screening, the FEP will establish a preliminary participation plan. The plan will make clear that W-2 benefits are available only to those who cooperate fully in job search and participate in an employment component. The plan will include a requirement to cooperate with child support enforcement, if necessary; a requirement to apply for other benefits, such as unemployment insurance, if appropriate; and a requirement to complete two weeks of supervised job search. By the end of the two-week supervised job search period, an individual who is unable to obtain an unsubsidized position sufficient to support their family or a Trial Job will be assigned to a Community Service Job as described in 2.0(xx). Exempt from this initial job search requirement are eligible custodial parents of a child who is 12 weeks old or younger as described in 2.0(xx) and those assigned to W-2 Transitional Placements as described in 2.0(xx).

In supervised job search, one job contact will equal one hour of participation; the participant will meet with his or her FEP at the end of the first week to discuss progress. Failure to complete the preliminary participation plan without good cause may result in the denial of W-2 benefits.

At least 30 days before the implementation date of the demonstration, the State will submit to the Department for approval good cause determination criteria that will include, but not be limited to, the following: the State may not reduce or terminate assistance based on a refusal of an adult to work if the adult is a

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7/18/96

single custodial parent caring for a child who has not attained 13 years of age or a child up to age 18 who is mentally or physically incapable of self-care; and the adult proves that the adult has a demonstrated inability (as determined by the state) to obtain needed child care for 1 or more of the following reasons: (a) unavailability of appropriate child care within a reasonable distance from the individual's home or work site, (b) unavailability or unsuitability of informal child care by a relative or under other arrangements, (c) unavailability of appropriate and affordable formal child care arrangements.

The State will begin to provide W-2 benefits from the date eligibility is established for applicants who comply with all preliminary participation plan requirements and who are placed in a W-2 employment component.

- (2) Based on the employment readiness screening and preliminary participation plan, the FEP will develop a W-2 participation plan. The participation plan will specify services, including child care, that the parent will receive and the requirement to participate in one of the employment components described below:
- (a) Unsubsidized employment. These positions are completely unsubsidized by the State and will pay wages sufficient to support the family, which will not be less than the higher of the Federal or State minimum wage. Wages will be considered as earned income for any provision of law, including eligibility for the EITC.
 - (b) Trial Jobs: These positions are employment paying wages sufficient to support the family, which will not be less than the higher of the Federal or State minimum wage. The State will reimburse the Trial Job employer up to \$300 per month for a full-time placement. Wages will be considered as earned income for any provision of law, including eligibility for the EITC. Each Trial Job placement will be made for three to six months. The State contract with the employer will require that if the participant meets all of the expectations of the Trial Job period and presents no reason for dismissal, the participant will be offered a regular unsubsidized position at the end of the Trial Job period. Employers will be

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7/18/96

penalized and eventually barred from participation in all W-2 subsidized employment components for repeated breaches of contract. The State will limit participation the Trial Jobs component to 24 months and will grant extensions as described in 2.0(xx).

- (c) Community Service Jobs (CSJ): CSJ positions are work experience placements for participants with barriers to employment, such as having little or no work history, sporadic work history with frequent voluntary quits or terminations, or potential barriers to employment identified by the FEP that need to be addressed before placement in Trial Jobs or unsubsidized employment.

The State will require up to 30 hours per week of participation in the CSJ work activity plus up to 10 hours per week of education and training activities, which may include, but are not limited to, the following:

- o ESL instruction;
- o activities leading to a high school diploma/GED;
- o parenting, life skills, job skills or other adult basic education;
- o providing care for someone in the group who is ill, incapacitated, or;
- o providing care for a child under 11 years old;
- o supervised job search.

The State will place participants in a single CSJ position initially for six months. The State will extend placements for an additional 3 months on a case-by-case basis. The State will limit participation in the CSJ component to 24 months and will grant extensions as described in 2.0(xx).

The State will pay a benefit of \$555 per month to CSJ participants. The State will sanction individuals for failure to participate in CSJ by reducing the monthly benefit at the rate of \$4.25

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7/18/96

times the number of hours of CSJ missed without good cause. Good cause will include, but not be limited to, the lack of child care. If the federal or state minimum wage rises above \$4.25 per hour, the State will increase benefits or decrease work hours to ensure that the benefit divided by hours worked is no less than the minimum wage. The State may raise the hourly sanction for non-participation to the new minimum wage.

The State will pay the CSJ benefit, \$555 per month, if a participant is unable to work due to verified health reasons which are expected to last less than 60 days or for other reasons determined by the FEP. The State will specify criteria under which these benefits will be paid. If a CSJ work activity slot is not available, the State will pay the CSJ benefit, \$555 per month, and assign the participant to education, training, and job search activities for up to 40 hours per week until a slot becomes available.

- (d) W-2 Transition: The W-2 transition component is for individuals with severe barriers to regular employment and work experience positions; e.g., the individual lacks the skills necessary to obtain or maintain employment; substance abuse or mental health barriers are serious enough to impede participation in CSJ; an individual's incapacity is expected to last at least 60 days; or the individual is needed in the home to care for an ill or incapacitated family member or for a child for whom appropriate and affordable child care is not available. An individual with a disability may be assigned to W-2 transition only if he or she cannot be reasonably accommodated in a CSJ.

→ The State will provide that the hours and conditions of participation will not be in excess of the capacity of the individual, as determined on a case by case basis. [Kerry's recommendation.]

The State will require up to 28 hours per week of participation in the W-2 Transition work activity plus up to 12 hours per week of education, training, or treatment activities, which may include, but are not limited to, the following:

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

- o ESL instruction;
- o activities leading to a high school diploma/GED;
- o parenting, life skills, job skills or other adult basic education;
- o meeting with health and social service professionals to address barriers to employment;
- o participating in mental health or substance abuse treatment. The State will refer to the county agency serving under the State-authorized 51.42 board or to another qualified health professional for clinical assessment for participation in an alcohol or drug treatment program or in mental health treatment AFDC recipients who have been identified by a FEP/case manager as possibly in need of such treatment services.

For those with severe alcohol or other drug abuse problems, the State may assign full time treatment as the W-2 Transition requirement until the individual is capable of beginning a CSJ or W-2 Transition work assignment.

For those who are providing care for an ill or incapacitated family member or for a child under 11 for whom appropriate and affordable child care is not available, the State will assign the participant to provide such care on a full time basis if necessary or for as many hours as the family member needs such care.

The State will pay a benefit of \$518 per month to W-2 Transition participants. The State will sanction individuals for failure to participate in W-2 Transition by reducing the monthly benefit at the rate of \$4.25 times the number of hours of non-participation without good cause. Good cause will include, but not be limited to, the lack of child care inability to comply due to a disability [Kerry's recommendation]. If the federal or state minimum wage rises above \$4.25 per hour, the State will increase benefits or decrease work hours to ensure that the benefit divided by hours worked is

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

no less than the minimum wage. The State may raise the hourly sanction for non-participation to the new minimum wage.

The State will limit participation in the W-2 Transition component to 24 months and will grant extensions as described in 2.0(xx).

DRAFT FOR DISCUSSION PURPOSES ONLY**7/18/96****AMENDMENTS TO THE****WISCONSIN PAY FOR PERFORMANCE AND WORK NOT WELFARE DEMONSTRATIONS**

This is an amendment to the Waiver Terms and Conditions of the Wisconsin Pay For Performance (PFP) and Work Not Welfare (WNW). It sets forth changes to provisions to be applied to the treatment groups as described in Section 2.1 of PFP Waiver Terms and Conditions and Section 2.2 of the WNW Waiver Terms and Conditions.

Changes to Provisions to be Applied to Participants in the Treatment Group:

Below are listed changes in provisions which will apply to all recipients in the treatment groups of the PFP and WNW demonstrations.

- 5) Add the following as item 2.1(xx) to PFP and item 2.2(xx) to WNW:

The State shall provide monthly AFDC payments to an eligible child living with and under the care of a relative or legal guardian other than a biological or adoptive parent as follows: The monthly AFDC payment for each eligible child will be \$215 dollars. The relative(s)/guardian(s) of children receiving this benefit will be considered an AFDC recipient for the purpose of Medicaid eligibility. Eligibility determination and administration of these AFDC cases will be the responsibility of the State foster care agency.

- 6) Add the following as item 2.1(xx) to PFP and item 2.2(xx) to WNW:

The State shall provide monthly AFDC payments to an eligible child whose parent(s) is an SSI recipient. In a two-parent family both parents must be SSI recipients in order for the child to receive this payment. The monthly AFDC payment for each eligible child will be \$135 dollars.

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7/18/96

#3**SECTION 2: IMPLEMENTATION**

2.0 Under W-2, the State will implement the following AFDC, Child Care, and Child Support program provisions:

- (1) The State will limit the amount of time a family may participate in W-2 and receive W-2 benefits to life time total of 60 months. Time during which an individual is exempt from W-2 work requirements as described 2.0(xx) will not count against the 60-month time limit. Also in two-parent families, each parent will maintain a separate time clock to track the 60-month lifetime participation limit.

Extensions to the 60-month time limit and the 24-month work component time limit will be granted as follows: Ninety days prior to the termination of benefits the individual will be informed that benefits will be terminated. Individuals will be informed that they may apply for an extension of benefits at any time, but extensions will be granted only in very limited circumstances. The criteria that will be considered in making a determination that an individual's benefits should be extended will include but need not be limited to: 1) whether the recipient has received and/or rejected offers of employment, has quit a job without good cause or been fired for cause, 2) the degree to which the recipient has cooperated, and is cooperating, with the Agency in work related activities, and 3) whether the State has substantially met its obligation to provide demonstration services to the individual. Extensions will be granted to those persons who are unable to work because of personal disability or incapacity, persons who need to care for a disabled dependent, and persons who have made all appropriate efforts to find work and are unable to find employment, given their skills and abilities, because local labor market conditions preclude a reasonable job opportunity. If an extension is granted, it is expected that the individual will participate in some supported work activity within the limits of his or her ability.

same as
prior waiver?

- (2) Children's Services Network: Where benefits are terminated because the 24-month time limit described in 2.0(xx) or the 60-month time limit described in 2.0(xx) has expired, supporting services will continue to be provided including helping the family find charitable food and clothing, WIC, child care for employed

In state
application?

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

parents, and Medical Assistance. A housing grant, not to exceed the amount of a child(ren) only AFDC grant, will be provided in the form of a vendor payment for housing if the child(ren) will be made homeless as a result of termination of benefits. Also, families could receive Food Stamp coupons while ineligible for W-2 cash benefits if otherwise eligible for food stamp coupons.

- (3) The State will provide necessary child care, as defined in section 402(g), for children up to age 13 (or up to age 18 if mentally or physically incapable of self-care) in eligible families whose parents have a gross monthly income of 115 percent of the FPL or less as described in 2.0(x).

Child care may be provided to families with a gross monthly income that is more than 115 percent of the FPL up to 165 percent of the FPL and may include child care for education and training if the parent has been working for nine months and the education and training is in addition to work. Child care is guaranteed to families who meet the current law requirements for Transitional Child Care. [Kerry's recommendation.]

The current requirements for parental choice remain in effect. If more than one category of child care is available the parent must be given the opportunity to choose the arrangement. The State must have at least one method by which self-arranged care can be paid. Additionally, with respect to payment rates, State and local rules promulgated for its child care subsidy programs must not significantly restrict parental choice by: 1) expressly or effectively excluding any category of care or any type of provider within a category of care, 2) having the effect of limiting parental access to or choice from among categories of care or types of provider, and 3) excluding a significant number of providers in any category of care. [QUESTION FOR OGC: What is the legal consequence of omitting this paragraph?]]?

The State will require families to make co-payments for child care services provided according to the following schedule:

- o Families with income equal to or less than 75

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

percent of FPL will pay 7.5 percent of the cost of child care;

- o Families with income between 75 and 95 percent of FPL will pay 10 percent of the cost of child care; and
- o Families with income greater than 95 percent of FPL will pay 10 percent plus 1.2857 percent for every percentage point by which the individual's income exceeds 95 percent of the FPL, up to the full cost of child care.

Federal financial participation will be provided, at the FMAP rate, for benefits required to be used for child care copayments from families whose parents have a gross monthly income of 115 percent of the FPL or less as described in 2.0(x).

- (4) The State will award contracts for county or area administration of W-2. The State will award such contracts on a competitive basis, but agencies administering the AFDC or JOBS programs will have a right of first selection based on the criteria communicated in the State's Bureau of Welfare Initiatives memo number 95-56 and memo number 96-14.

The State will provide ACF with 30 days to review and approve the model contract with the W-2 agencies prior to its execution. No FFP will be available for a contract using a model which has not been approved by ACF prior to the effective date of the contract. The State will notify the ACF project officer of significant changes to model contracts, and the State will define contingency plans for assuring continued processing of eligibility determination. Each contract with a W-2 agency will set forth the penalties under State law for any use or disclosure which is inconsistent with law or regulations. The contracts with the W-2 agencies will include provisions for a uniform eligibility determination process and provide penalties if a W-2 agency does not follow the uniform eligibility process. The contracts with the W-2 agencies will include provisions to assure that eligibility workers are trained consistently to assure that eligibility determinations are consistent with established criteria.

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

- !!
- (5) Participants may request that the W-2 agency review disputed agency decisions within 45 days of the agency's decision. Participants may request that the State review a W-2 agency decision within 15 days of a W-2 agency action. The State will develop procedures for providing hearings that meet the criteria of *Goldberg v. Kelly*.

2.2 Section 1115(a)(2) authority is provided to allow the State to claim Federal financial participation:

(1) at the assistance payment rate for W-2 benefits and cash assistance for aliens as described in 2.0(x);

(2) at the administrative rate for services provided by the Children's Services Network;

(3) at the administrative rate for Job Access Loans;
and

(4) at the assistance payment rate for benefits required to be used for child care copayments from families whose parents have a gross monthly income of 115 percent of the FPL or less.

2.3 For purposes of Quality Control, the eligibility of and amount of benefits for treatment group cases in W-2 will be reviewed against the rules of the demonstration, in lieu of the rules being waived.

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

#3

SECTION 2: IMPLEMENTATION

2.0 Under W-2, the State will implement the following AFDC, Child Care, and Child Support program provisions:

- (1) The State will limit the amount of time a family may participate in W-2 and receive W-2 benefits to life time total of 60 months. Time during which an individual is exempt from W-2 work requirements as described 2.0(xx) will not count against the 60-month time limit. Also in two-parent families, each parent will maintain a separate time clock to track the 60-month lifetime participation limit.

Extensions to the 60-month time limit and the 24-month work component time limit will be granted as follows: Ninety days prior to the termination of benefits the individual will be informed that benefits will be terminated. Individuals will be informed that they may apply for an extension of benefits at any time, but extensions will be granted only in very limited circumstances. (The criteria that will be considered in making a determination that an individual's benefits should be extended will include but need not be limited to: 1) whether the recipient has received and/or rejected offers of employment, has quit a job without good cause or been fired for cause, 2) the degree to which the recipient has cooperated, and is cooperating, with the Agency in work related activities, and 3) whether the State has substantially met its obligation to provide demonstration services to the individual. Extensions will be granted to those persons who are unable to work because of personal disability or incapacity, persons who need to care for a disabled dependent, and persons who have made all appropriate efforts to find work and are unable to find employment, given their skills and abilities, because local labor market conditions preclude a reasonable job opportunity. If an extension is granted, it is expected that the individual will participate in some supported work activity within the limits of his or her ability.

- (2) Children's Services Network: Where benefits are terminated because the 24-month time limit described in 2.0(xx) or the 60-month time limit described in 2.0(xx) has expired, supporting services will continue to be provided including helping the family find charitable food and clothing, WIC, child care for employed

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

parents, and Medical Assistance. A housing grant, not to exceed the amount of a child(ren) only AFDC grant, will be provided in the form of a vendor payment for housing if the child(ren) will be made homeless as a result of termination of benefits. Also, families could receive Food Stamp coupons while ineligible for W-2 cash benefits if otherwise eligible for food stamp coupons.

- (3) The State will provide necessary child care, as defined in section 402(g), for children up to age 13 (or up to age 18 if mentally or physically incapable of self-care) in eligible families whose parents have a gross monthly income of 115 percent of the FPL or less as described in 2.0(x).

Child care may be provided to families with a gross monthly income that is more than 115 percent of the FPL up to 165 percent of the FPL and may include child care for education and training if the parent has been working for nine months and the education and training is in addition to work. Child care is guaranteed to families who meet the current law requirements for Transitional Child Care. [Kerry's recommendation.]

The State will require families to make co-payments for child care services provided according to the following schedule:

- o Families with income equal to or less than 75 percent of FPL will pay 7.5 percent of the cost of child care;
- o Families with income between 75 and 95 percent of FPL will pay 10 percent of the cost of child care; and
- o Families with income greater than 95 percent of FPL will pay 10 percent plus 1.2857 percent for every percentage point by which the individual's income exceeds 95 percent of the FPL, up to the full cost of child care.

Federal financial participation will be provided, at the FMAP rate, for benefits required to be used for child care copayments from families whose parents have a gross monthly income of 115 percent of the FPL or less as described in 2.0(x).

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

- (4) The State will award contracts for county or area administration of W-2. The State will award such contracts on a competitive basis, but agencies administering the AFDC or JOBS programs will have a right of first selection based on the criteria communicated in the State's Bureau of Welfare Initiatives memo number 95-56 and memo number 96-14.

The State will provide ACF with 30 days to review and approve the model contract with the W-2 agencies prior to its execution. No FFP will be available for a contract using a model which has not been approved by ACF prior to the effective date of the contract. The State will notify the ACF project officer of significant changes to model contracts, and the State will define contingency plans for assuring continued processing of eligibility determination. Each contract with a W-2 agency will set forth the penalties under State law for any use or disclosure which is inconsistent with law or regulations. The contracts with the W-2 agencies will include provisions for a uniform eligibility determination process and provide penalties if a W-2 agency does not follow the uniform eligibility process. The contracts with the W-2 agencies will include provisions to assure that eligibility workers are trained consistently to assure that eligibility determinations are consistent with established criteria.

- (5) Participants may request that the W-2 agency review disputed agency decisions within 45 days of the agency's decision. Participants may request that the State review a W-2 agency decision within 15 days of a W-2 agency action. The State will develop procedures for providing hearings that meet the criteria of *Goldberg v. Kelly*.

2.2 Section 1115(a)(2) authority is provided to allow the State to claim Federal financial participation:

- (1) at the assistance payment rate for W-2 benefits and cash assistance for aliens as described in 2.0(x);
 - (2) at the administrative rate for services provided by the Children's Services Network;
 - (3) at the administrative rate for Job Access Loans;
- and

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

(4) at the assistance payment rate for benefits required to be used for child care copayments from families whose parents have a gross monthly income of 115 percent of the FPL or less.

2.3 For purposes of Quality Control, the eligibility of and amount of benefits for treatment group cases in W-2 will be reviewed against the rules of the demonstration, in lieu of the rules being waived.

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

**WAIVER TERMS AND CONDITIONS
AMENDMENTS TO THE
WISCONSIN PAY FOR PERFORMANCE AND WORK NOT WELFARE DEMONSTRATIONS**

This is an amendment to the Waiver Terms and Conditions of the Wisconsin Pay For Performance (PFP) and Work Not Welfare (WNW). It sets forth changes to provisions to be applied to the treatment groups as described in Section 2.1 of PFP Waiver Terms and Conditions and Section 2.2 of the WNW Waiver Terms and Conditions.

Changes to Provisions to be Applied to Participants in the Treatment Group:

Below are listed changes in provisions which will apply to all recipients in the treatment groups of the PFP and WNW demonstrations.

- 8) Add the following as item 2.1(xx) to PFP and item 2.2(xx) to WNW:

The State will limit the amount of time a family participating in the demonstration will receive AFDC benefits to 60 months. Time during which an individual is exempt from PFP or WNW will not count against the 60-month time limit. This time limit will also apply to AFDC parents under age 20 in the Parental and Family Responsibility demonstration and to 18 and 19-year-old participants in the Learnfare demonstration.

Extensions to the 60-month time limit will be approved according to the following: Ninety days prior to the termination of benefits the individual will be informed that benefits will be terminated. Individuals will be informed that they may apply for an extension of benefits, but extensions will be granted only in very limited circumstances. The criteria that will be considered in making a determination that an individual's benefits should be extended will include but need not be limited to: 1) whether the recipient has received and/or rejected offers of employment, has quit a job without good cause or been fired for cause, 2) the degree to which the recipient has cooperated,

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7/18/96

and is cooperating, with the Agency in work related activities, and 3) whether the State has substantially met its obligation to provide demonstration services to the individual. Extensions shall be granted to those persons who are unable to work because of personal disability or incapacity, persons who need to care for a disabled dependent, and persons who have made all appropriate efforts to find work and are unable to find employment, given their skills and abilities, because local labor market conditions preclude a reasonable job opportunity. If an extension is granted, it is expected that the individual will participate in some supported work activity within the limits of his or her ability.

- 9) Add the following as item 2.1(xx) to PFP and item 2.2(xx) to WNW:

The State will award contracts for county or area administration of the AFDC program. The State will award such contracts on a competitive basis, but agencies administering the AFDC or JOBS programs will have a right of first selection based on the criteria communicated in the State's Bureau of Welfare Initiatives memo number 95-56 and number 96-14.

- 10) Add the following as item 2.1(xx) to PFP and item 2.2(xx) to WNW:

Child care may be provided for children in non-AFDC families with a gross monthly income that is 165 percent of the Federal poverty level (FPL) or less. Child care is guaranteed to families who meet the current law requirements for Transitional Child Care. [Kerry's recommendation.]

The State will require families to make co-payments for child care services provided according to the following schedule:

- o Families with income equal to or less than 75 percent of FPL will pay 7.5 percent of the cost of child care;
- o Families with income between 75 and 95 percent of FPL will pay 10 percent of the cost of child care; and

DRAFT FOR DISCUSSION PURPOSES ONLY

7/18/96

- o Families with income greater than 95 percent of FPL will pay 10 percent plus 1.2857 percent for every percentage point by which the individual's income exceeds 95 percent of the FPL, up to the full cost of child care.

Federal financial participation will be provided, at the assistance payments rate, for benefits to AFDC families which are required to be used for child care copayments.

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7/18/96

SECTION 4: COST NEUTRALITY

- 4.0 For activities prior to the implementation dates specified in 1.3 above, the Federal government will match the administrative costs related to development of the W-2 project (otherwise called developmental costs) at the applicable matching rate. Such costs may include automated systems development and changes, policy procedures development, and staff training. Not later than 30 days prior to the date on which such costs will be incurred, the State will submit a plan, for approval by the Departments, designating which administrative costs will be treated as developmental costs for purposes of this section. This section is not intended to supersede other requirements for Federal approval for administrative costs of the programs involved in the demonstration.
- 4.1 Except for costs of evaluating and developing this project (as specified in 3.0 and 4.0 above), the operation of this demonstration is to be cost-neutral to the Federal government as of the "deemed beginning date." For cost neutrality purposes, the deemed beginning date will be taken to be the first day of the calendar quarter which includes the implementation date. From the deemed beginning date of the demonstration, the operation of the demonstration is to be cost-neutral to the Federal government with respect to benefit and administrative costs for AFDC, Food Stamps and Medicaid and Child Support Enforcement administrative costs related to Federal incentive payments for child support collections. For purposes of calculating cost neutrality, child care costs made under section 402(g)(1)(A)(i) and (ii) of the Social Security Act, matchable at the Federal medical assistance percentage, and Foster Care administrative costs are considered to be AFDC administrative costs and Foster Care costs, are considered to be AFDC benefit costs. The calculations for cost neutrality related to AFDC program costs will fully take into account any amount of money that, in the absence of waivers, would have been reimbursed to the Federal government as its share of AFDC-related child support.
- 4.2 Cost neutrality computations will be made by the State on a quarterly basis. These computations will determine excess costs or savings of the demonstration in total, as well as separately for each program, and separately for benefit and administrative costs. The demonstration may have cost or savings when compared to what costs would have been in the absence of the demonstration. All costs referred to in the

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7/18/96

rest of Section 4 are to be taken to mean the Federal share of costs. In the remainder of Section 4, the term "cumulative" in the context of costs will indicate that costs are to be summed for all quarters from the deemed beginning date through the quarter in question. The term "total" costs in the context of costs will mean the sum of all benefit and administrative costs for the AFDC, Food Stamp and Medicaid programs.

- 4.3 At least 90 days prior to the implementation date of the major W-2 provisions, the State will submit, for approval by the Departments, a cost allocation plan concerning how AFDC, Child Support Enforcement, Food Stamp and Medicaid administrative costs will be determined (e.g., costs related to the Children's Services Network). The plan will also specify the methods of identifying, tracking and collecting Foster Care costs associated with children in research sample cases in which the caretaker is not a relative.
- 4.4 The specific computation techniques to be used to compute the total cumulative cost/savings will be submitted to the Departments for approval by the State according to the time frames as specified in 3.3.
- 4.5 Excess costs or savings will be reconciled as described in the rest of Section 4 below.

Reconciliation of Costs or Savings

- 4.6 For the period through the fourth quarter ending after the deemed beginning date of the demonstration the Federal government will provide Federal financial participation (FFP) and will not, during that period, recover excess costs.
- 4.7 Starting with the 5th quarter ending after the deemed beginning date, FFP will be limited so that excess costs will be recovered from the State and eliminated by the end of the demonstration. The State will not be allowed to owe the Federal government more than an allowable overage for any quarter. For the 5th through the 10th quarters ending after the deemed beginning date, the total allowable overage is \$20 million. The allowable overage for the 11th through the 20th quarters is: the total cumulative excess costs at the end of the 10th quarter (adjusted for any net amount of excess costs reimbursed in prior quarters) reduced by 1/10 of the excess costs at the end of the 10th quarter for each quarter after the 10th quarter. The allowable overage for

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7/18/96

the 21st quarter through the remainder of the demonstration will be zero.

In no case will the allowable overage be less than zero.

Reimbursement will be made for the 5th through the final quarters ending after the deemed beginning date such that the total cumulative Federal payments through the quarter in question will not exceed the lesser of:

- (1) the total cumulative actual costs, or
- (2) the total cumulative actual costs, minus the total cumulative excess costs, plus the allowable overage for that quarter.

- 4.8 A report, whose format is to be approved by the Departments, showing the total cumulative allowable actual costs of the demonstration to date and calculations of the total cumulative excess costs or savings shall be submitted to the Departments within 60 days following the end of each quarter.
- 4.9 Within 60 days after the end of the demonstration period a final reconciliation will be done to ensure that there are no remaining excess costs. If there are savings at the time of final reconciliation, the Departments agree to authorize FFP for approved and matchable demonstration expenses to the extent that the sum of such FFP provided does not exceed the amount of savings. If there are remaining excess costs at the time of reconciliation, the State agrees to repay the excess costs in equal quarterly amounts over the next four quarters. At the State's request, the final reconciliation can be adjusted for a period of up to two years after the termination of the project if additional cost data become available.
- 4.10 Any adjustments to the amount of Federal reimbursement claimed in a given quarter in accordance with 4.7 above, or 6.2 below, shall be shown as adjustments to AFDC, Medicaid and Food Stamp claims submitted quarterly by the State (e.g., Form FSA-231 for AFDC claims), beginning with the fifth quarter ending after the deemed beginning date. An additional copy of any claims showing adjustments will also be sent by the State to the Federal Project Officers. The Department will provide the State with a methodology for appropriately allocating the costs among the affected

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7/18/96

Federal programs.

- 4.11 The State may propose, for review and approval by the Departments, a methodology for continuing to accrue savings to offset excess costs, in the event there are such costs at the end of the demonstration.
- 4.12 Any excess costs or credited savings that remain at the point current demonstrations are concluded will be applied to W-2.

SECTION 5: MONITORING

- 5.0 For the purpose of monitoring the demonstration, the State will submit to the Departments, for review and acceptance, annual implementation status reports prepared by the evaluation contractor. In addition during the first year of the demonstration a semi-annual report will also be due.

At a minimum, the State will report on critical implementation tasks necessary for the operation of the demonstration as approved, interim factors associated with outcome measures, and tasks or data necessary to support the evaluation. The report is to include findings on:

- o implementation tasks, including but not limited to: the solicitation and contracting of W-2 agency operations; the development and implementation of automated systems required to carry out the demonstration provisions; adequate staffing levels; staff training; and issuance of revised policies and procedures, including FEP assessment guidelines and objective criteria for employment component assignments;
- o interim implementation factors that may affect outcomes as well as interim outcome data or impact findings, including but not limited to: changes in the employment take-up rate during the interim period; changes in the take-up rate of training programs; changes in sanction rates due to child support cooperation requirements, school attendance requirements, and job search requirements; number of case denials due to the applicant job search requirement; the number and proportion of cases that might reach the 24-month component time limit and 60-month lifetime time limit; and the number, proportion, and type of child-only AFDC cases.

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7/18/96

use of child care services, including but not limited to: the number and proportion of cases using child care services; percentage of household income spent on child care; categories of care selected at each copayment level; percentage of unpaid care arrangements used; shifts in the provider infrastructure; changes in work impacted by child care arrangements, etc.

- o evaluation issues, including but not limited to: research sample attrition rate; the availability and reliability of data required to conduct analyses as proposed in the approved evaluation plan; and the adequacy of the evaluation methods implemented.

For the first year, the semi-annual report will cover the six month period ending after the implementation date and must be submitted no later than 60 days after the end of the second quarter. Each of the annual implementation reports must be submitted no later than 60 days after the end of the four-quarter period covered by the report.

- 5.1 The State shall submit quarterly progress reports throughout the project period summarizing project and evaluation activities and accomplishments during the quarter as well as outcome data and interim impact findings including, at a minimum, data available from administrative systems as well as the number of demonstration participants who have reached the time-limit; the number of sanctions; and any other information that the State considers useful or important, such as the outcome and impact information to be included in the interim implementation status report in 5.0 above. Cost neutrality data shall be reported in an integrated format approved by the Departments. The quarterly monitoring reports shall indicate issues or problems and resolutions regarding the implementation of the demonstration or evaluation as approved. These reports are due no later than 60 days after the conclusion of each quarter.

SECTION 6: TERMINATION PROCEDURES

- 6.0 Federal financial participation in demonstration activities requiring waivers will not be provided beyond the period approved by the Departments.
- 6.1 No later than 90 days after acceptance of these Waiver Terms and Conditions, the State will provide, for the Departments'

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7/18/96

approval, a plan to phase down and end the demonstration to ensure there are no waiver-related Federal costs incurred beyond the period approved by the Departments. All activities requiring waivers must cease on the date decided by the Departments if the project is terminated prior to the end of the last quarter of the demonstration after the deemed beginning date.

- 6.2 If for any reason the demonstration is terminated either by the State or by the Departments prior to recovery of all of the total cumulative excess costs (as defined in Section 4: Cost Neutrality), the State agrees to repay the Federal government for all such remaining excess costs. Repayment will be achieved through adjustments to AFDC, Food Stamp, and Medicaid grant awards. Repayments will be made in no more than eight equal payments, starting with the first quarter after completion of the phaseout.

One final idea, which I'm not sure is legally permissible: perhaps we could, either as a supplement to or a substitute for the above, vary the money the State receives along with the State's performance; to the extent that the State does not offer jobs to all eligible applicants, the State will get less money. Assuming such an incentive structure leaves the State some real choice, this kind of arrangement should not create an entitlement. I am not sure, however, that there is room to vary payment in this way under existing law. I will check on this on Monday.

Date: Wednesday, June 5, 1996 2:21 pm
From: SMO02(WERNERU)
Subject: welfare

Other non-financial eligibility requirements under the Wisconsin statute include:

- 1) the individual must be a custodial parent;
- 2) the individual must be 18 or older;
- 3) the individual must be a U.S. citizen or "qualifying alien";
- 4) the individual must have resided in the state for at least 60 consecutive days;
- 5) the individual must "fully cooperate" in efforts to establish paternity of dependent children;
- 6) the individual must furnish the agency with all information requested;
- 7) the individual must make a "good faith effort" to obtain employment, and cannot have refused a bona fide offer of employment within the last 180 days;
- 8) the individual cannot be receiving SSI or state supplemental welfare payments;
- 9) the individual is not participating in a strike;
- 10) the individual applies for or provides a social security #;
- 11) the individual satisfies other eligibility criteria established by rule;
- 12) the individual reports any change in circumstances within 10 days;
- 13) the individual has not participated in the program for longer than 60 months.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

June 13, 1996

Office of the General Counsel
Washington, D.C. 20201

Ms. Elena Kagan
Associate Counsel to the President
The White House Office, General Counsel
129 Old Executive Office Building
Washington, D.C. 20503

Dear Elena:

As you requested, enclosed is a sample waiver package, which is intended to give you an idea of the paperwork that relates to ACF's consideration of a waiver application. The package includes the following:

- (1) An "Issues and Questions" paper sent to the state during consideration of the waiver application for the purpose of asking clarifying questions and flagging problematic issues.
- (2) A recommendation memo prepared for the Secretary, which outlines the proposal and recommends the action she should take with respect to the waiver application.
- (3) A letter to the state notifying it of the Department's action with respect to the waiver application.
- (4) A "Waiver Authority" paper that sets forth the statutes and regulations waived by ACF.
- (5) A "Waivers and Costs Not Otherwise Matchable" paper that sets forth the statutes and regulations waived by HCFA.
- (6) A "Waiver Terms and Conditions" paper that describes the terms of the demonstration project.

I hope these materials are useful. Please let me know if you would like anything further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anna".

Anna L. Durand
Deputy General Counsel

cc: Randy Moss, Department of Justice
Ursula Werner, Department of Justice

(1)

(1)

South Carolina Family Independence Program

Issues and Questions

Issues

- 1) South Carolina proposes to limit AFDC benefits to families to 24 months out of 120 months and to a maximum of 60 months in a lifetime, with exemptions and extensions. Individuals who received benefits for 24 months and leave AFDC but then become unemployed will not be allowed to reapply until after 120 months from their first receiving AFDC under the demonstration. The Department does not support demonstrations which penalize recipients who have "played by the rules." The individuals who would be found ineligible according to this provision could have become unemployed through no fault of their own. Further, if extensions can only be received at the end of the 24 months, and not at a later point when a job is lost, these provisions would provide an incentive to seek extensions to the 24 month time limit rather than encouraging recipients to undertake in earnest the steps necessary to leave AFDC. We are prepared to discuss alternatives that might address this problem.

The State proposes to grant an extension of up to 12 months if an individual has completed training and meets several criteria, e.g., the individual is in compliance with the self-sufficiency plan and the State is satisfied that no available employment reasonably exists. Beyond the 12 month extension, the State proposes to grant a month-by-month extension by express permission of the county director. It is unclear how these extensions would be implemented. Would you please explain exactly how the 12-month and month-by-month extensions would be implemented, what the criteria would be to grant each of the extensions, and whether individuals would be granted extensions beyond the 60-month limit.

Finally, with regard to the AFDC time limit provision for minor parents, the State proposes to end the exemption from the time limit for minor parents when the parent turns 18 years old or completes high school, whichever occurs first. Since many 18-year-olds are legitimately still in high school, it would be more appropriate if minor parents were exempt from the time limit until age 19 or high school completion, whichever occurs first.

- 2) The State proposes to sanction the entire family of a recipient who does not comply with employment and training requirements, who refuses an offer of employment after completing training, who does not comply with drug/alcohol treatment requirements, or tests positive for drug use after

completing treatment. We are concerned that the State's rationale for this policy does not include any information that supports sanctioning whole families in a statewide demonstration.

In January 1995 DHHS approved South Carolina's Self-Sufficiency and Parental Responsibility demonstration, which included an examination of different sanction provisions for the purpose of developing a rationale for testing full-family sanctions versus sanctions of individuals' benefits. Since the Self-Sufficiency and Parental Responsibility demonstration was not implemented, we recommend a similar examination for the Family Independence Program demonstration. Such an examination would have the sanctions for noncooperation for a small subset of counties in the state follow the sanction provisions described in the waiver terms and conditions of the South Carolina Self-Sufficiency and Parental Responsibility demonstration item 2.1.1, a-d. This sanction policy would begin with removal of the caretaker's needs from the calculation of the AFDC benefit for a maximum of 30 days, curable at any time by compliance, followed by a full-family sanction for 30 days. Second, third, fourth/ subsequent instances of noncompliance would incur increasingly stronger sanctions. The remainder of the State's counties would implement sanction provisions in which the noncooperating individual's needs only are removed, similar to item 2.1.1, e-g of the waiver terms and conditions for the South Carolina Self-Sufficiency and Parental Responsibility demonstration.

Under this approach the State would submit to DHHS a special interim report comparing sanction rates and length of sanctions in the subset of counties implementing the progressive, full-family sanction to the sanction provisions used in the rest of the State. The report would cover the results of at least the first 12 months of the demonstration after which the State and DHHS would assess the use of the full-family sanction and decide whether to extend the full-family sanction to the rest of the State and how that would be implemented.

- 3) The State proposes to require individuals who have been assessed to need drug or alcohol treatment to participate in treatment or face sanction. This proposal raises legal issues the resolution of which requires further information. How does the State propose to identify individuals needing treatment, e.g., what evidence would the State use to determine that treatment is required? Would the State describe in more detail the process of how they will assess individuals for referral for substance abuse treatment and how they will they apply the criteria stated in the waiver

application? Also, how many substance abuse treatment slots does South Carolina predict it will need during the demonstration? Does the South Carolina Department of Alcohol and Other Drug Abuse Services have the capacity to meet the projected need? Under what circumstances is random drug testing contemplated?

Please clarify whether a child will continue to be eligible for benefits if taken in by a non-legally responsible relative after a parent tests positive for substance abuse.

- 4) The State proposes to eliminate the incremental increase in AFDC benefits resulting from the birth of an additional child to a family that received AFDC benefits in the month the child was conceived and to provide instead vouchers that may be used to pay for goods and services that would permit the parent to participate in education, training and employment related activities.

The State's proposal does not indicate that the first born of minors will be exempt from the family benefit cap provision. This raises questions related to constitutional equal protection requirements. The minor parent that conceives a child and whose parent is receiving AFDC would have benefits denied to the minor parent and child purely because of the AFDC status of the minor parent's parent -- a status for which the minor parent is not responsible. Minor parents whose parents are not receiving AFDC would be eligible for benefits in their own right. Because of this concern, the Department has not approved the application of "family cap" provisions to the first born of minors.

We believe the family cap should not apply:

- a) when the additional child was conceived as a result of verifiable rape, sexual assault, or incest;
- b) to children who are the firstborn (including all children in the case of a multiple birth) of minors included in an AFDC grant who become first-time minor parents;
- c) to a child when parental custody has been legally transferred (i.e., legal transfer of custody or guardianship has been sanctioned by a court of the State; a voluntary private placement of a child by its parent has resulted in a legal transfer of custody or guardianship; or a placement has been made by the Department of Social Services (DSS) or an agency under contract with DSS); or

- d) to a child who is no longer able to live with his or her parents as a result of:
 - i) the death of the child's parent(s);
 - ii) the incapacity of the child's parent(s) as documented by a physician such that the parent cannot care for the child;
 - iii) the custody of the child is legally transferred to another individual;
 - iv) incarceration of the parent(s), except that the child shall not receive assistance if the parent is subsequently released and reunited with the child; or
 - v) the parent's institutionalization if expected to be for an extended period, as defined in State policies.

Further, a child born subject to a benefit cap will be considered an AFDC recipient for all purposes including Medicaid eligibility.

- 5) The State will require that AFDC applicants, current AFDC recipients, and Medicaid-only applicants and recipients cooperate with child support enforcement requirements, with good cause exceptions, by providing very specific pieces of information, including at least two of the following items for each named non-custodial parent and putative father:
 - 1) date of birth;
 - 2) Social Security Number;
 - 3) last known home address;
 - 4) last known employer's address;
 - 5) either of the non-custodial parent's parent's name and address.

We are concerned that the list of items above may be too limited to allow the custodial parent sufficient opportunity to exhibit cooperation with child support enforcement requirements. Would you consider adding to this list the following item: other information, e.g., name of other relative, names/addresses of friends, schools attended, or other similar information likely to lead to the establishment of paternity?

The State would sanction the parent and the child for whom paternity is being sought by removing their needs in determining the amount of AFDC cash benefits if the

custodial parent fails to provide the required information or provides the requested information for two putative fathers and both are excluded from paternity by genetic testing. The State would remove the sanction for an individual and her child upon establishment of paternity of the child. What is the rationale for including both the parent and child's need in the sanction? Why is it necessary to sanction both to gain cooperation? Also, what evidence is there that the sanction should continue until paternity is established, and not just until cooperation occurs? Can the State show it is devoting sufficient resources to enable the establishment of paternity in a timely fashion once cooperation is achieved?

The State's rationale for the sanction when two putative fathers are excluded is based on its experience that 38 percent of the men tested for paternity in South Carolina test negative. This rate does not appear out of the ordinary considering that genetic testing for paternity is generally confined to contested cases. It would be helpful to know what proportion of paternity cases in South Carolina are contested and what proportion of all paternity cases result in negative genetic tests? Would you please provide this information.

The situation in which a custodial parent submits two names to the State and both test negative for paternity would seem to result from either of two possible scenarios: the woman has provided what she knows to be false information or the woman is unsure about which of several men is the father of her child. Has the State considered how to make this provision more fair to mothers in the latter case? For example, if the woman initially and all at once provides information for more than two fathers, because she is unsure who the father is, the State could refrain from imposing a sanction until all of the men are tested, rather than imposing a sanction because the first two on the list test negative.

Regarding the implementation of this requirement for Medicaid-only applicants and recipients, sections 1912(a)(1)(A) and 1902(1)(1)(a) of the Social Security Act prohibit sanctioning women during pregnancy (and during the 60-day period beginning on the last day of pregnancy) for noncooperation with child support requirements. The Health Care Financing Administration (HCFA) asks that South Carolina clarify that it will comply with this provision.

Also, HCFA points out that the Social Security Act does not authorize applying this sanction to children's Medicaid benefits. HCFA would like the State to clarify that the sanction for Medicaid-only applicants and recipients would

apply to the adult only and not to the child for whom paternity is being sought.

- 6) The State would require as a condition of eligibility for AFDC and Food Stamps that applicants participate in a two week job search, documenting contact with a minimum of five employers per week prior to the household's approval for AFDC benefits.

USDA's waiver authority under section 17(b) of the Food Stamp Act prohibits approval of a demonstration that would lower or further restrict the benefit levels provided under the Food Stamp Program. Federal regulations prohibit approving waivers that are inconsistent with provisions of the Food Stamp Act, or which result in material impairment of any statutory or regulatory rights of participants or potential participants.

By creating a new condition of eligibility for Food Stamps, the State's proposal would restrict the household's Food Stamps benefit levels and impair its statutory and regulatory rights. USDA cannot approve South Carolina's request.

Regarding AFDC application, job search normally can be required of applicants prior to approval, once a preliminary determination of eligibility is completed and an individual is deemed income eligible. The penalty for noncompliance with applicant job search is that the case would be approved without considering the noncomplying adult's needs. Please provide a rationale for proposing that applicant job search be a condition of eligibility for the entire case; i.e., include evidence that normal applicant job search is not effective in achieving its purpose in South Carolina.

Also, would you consider alternative approaches, such as imposing a sanction that decreases the AFDC grant more than current policy rather than determining the entire case to be ineligible?

- 7) The State proposes to terminate a family's AFDC cash benefits immediately if it is determined that false information was provided during the application process in order to obtain eligibility. The application does not describe how this provision would be implemented. Would individuals receive a notice that their application is being questioned? Would the notice allow for corrections before benefits are terminated? What if information provided in the past that is now in question is no longer current but the family's current circumstances qualify them for

benefits?

Also, section 416 of the Social Security Act and the corresponding regulations at 45 CFR 235.112 provide states with the option of an AFDC Fraud Control Program. Please clarify the rationale for the requested waiver rather than employing the section 416 fraud control option.

- 8) South Carolina proposes evaluating their demonstration using a quasi-experimental comparison county design. A rigorous evaluation design of the requested waivers is one of the most central considerations for approval of welfare reform demonstrations. A rigorous evaluation of South Carolina's demonstration will require random assignment of cases to experimental and control groups. Random assignment is the only effective way to control for unobserved differences between groups; therefore, it is the only way to ensure that outcomes are directly attributable to the policy changes South Carolina proposes to test and not to differences in the characteristics of the individuals in the demonstration program.

Random assignment may be implemented statewide or in a limited number of sites used to represent the State as a whole. And because the proposed demonstration provisions would affect eligibility determinations, the evaluation must determine impacts on applicants as well as recipients. Having a sufficient number of applicant cases is necessary for impact analysis because newly approved cases tend to have shorter AFDC spells, and therefore also differential impacts, compared to the general population of current cases. In such cases we require random assignment of applicants for approximately the first half of the demonstration, or longer if necessary, to assure that the number of approved control group cases is of sufficient size to adequately represent the population of applicants in the demonstration. This also means that the research sample would include both approved and denied applicant cases.

If approved, the demonstration must also be cost neutral to the Federal government with respect to AFDC (including child care), Emergency Assistance, Food Stamps, and Medicaid benefits and administrative costs. The cost neutrality provision will require that an ongoing measure of costs that would have been incurred in the absence of the demonstration be established. Individual random assignment would provide a mechanism for determining cost neutrality, in that the control group would be used to estimate what costs would have been in the absence of the demonstration.

Also, because some proposed provisions will affect non-AFDC

Food Stamps households and non-AFDC Medicaid cases, separate research samples of non-AFDC Food Stamps cases and non-AFDC Medicaid cases would have to be randomly assigned to experimental and control groups to determine the effects of the demonstration on those populations.

- 9) The State proposes to allow a family to be eligible for AFDC benefits without regard to deprivation of parental support due to death, disability or continued absence. The deprivation requirement cannot be waived, as none of the provisions of section 406 of the Social Security Act are subject to the waiver authority under section 1115 of the Act. However, South Carolina requests waivers to allow the State to determine AFDC-UP eligibility on the basis of need of a dependent child without applying the 100-hour rule, quarters-of-work requirement, and principal wage earner criterion, all of which ACF may approve. In addition, by requesting that ACF waive the 30-day unemployment prior to application condition, the State could determine AFDC-UP eligibility for practically any two-parent family solely on the basis of need of the dependent child. It would appear that this achieves the result sought by the State. Is this a correct interpretation of South Carolina's proposal?

- 10) The State wishes to be exempt from meeting all JOBS and AFDC-UP participation requirements or to be allowed to use the JOBS participation rate at 45 CFR 250.74(b)(1) as the requirement for the AFDC-UP work activity requirement. Neither the JOBS participation rate requirement nor the AFDC-UP 16-hour work requirement can be waived, as none of the provisions of section 403 of the Social Security Act are subject to the waiver authority under section 1115 of the Act.

- 11) The State proposes to terminate food stamps benefits at the same time it terminates AFDC for the assistance unit when the mandatory adult fails to comply with the employment and training requirements or refuses an offer of employment once the recipient completes the training requirements. Benefits will not be reinstated until the noncomplying individual participates in the employment and training program for 30 days.

When the AFDC grant is terminated, the State agency must afford the household the opportunity to apply for food stamps as a non-public assistance (NPA) household. If otherwise eligible the household must be certified and offered the opportunity to participate in the Food Stamp Program. However, if the AFDC employment and training

requirement with which the participant failed to comply is comparable to a Food Stamp Program work registration or employment and training requirement, and the non-complying individual does not meet one of the work registration exemptions provided in food stamp regulations, the individual (or the entire household if the individual is head of household) may be sanctioned for a maximum of two months. If a participant refuses a bona fide offer of suitable employment and AFDC benefits are terminated, the individual (or household) may be sanctioned for a maximum of two months. At the end of the two-month sanction period, the individual or household must be afforded the opportunity to reapply for food stamp benefits. Reapplication may occur at any time during the two-month period if the individual complies with the employment and training requirement or accepts the offer of employment if still available or accepts an equivalent job.

Since the penalties for noncompliance proposed by the State agency exceed those permitted by the Food Stamp Act, thereby restricting the benefits and materially impairing the statutory rights of food stamp household, this waiver cannot be approved.

- 12) The State would disregard the balance in an Individual Development Account up to \$10,000 from the resource limit and would disregard from income a lump sum payment of \$10,000 or less that is deposited in an IDA within 30 days of its receipt. Demonstration participants with Individual Development Accounts must be given notice at least six months before the end of the demonstration that the funds in the restricted accounts will count toward the personal resource limit after the end date of the demonstration. No new IDAs may be started during the last six months of the demonstration.
- 13) The State proposes to verify only the previous four weeks of income in order to establish the prospective estimate of income for all food stamp households. The waiver would apply to all applicant food stamp households statewide.

It is likely that limiting the time period for anticipating and/or averaging fluctuating income to four weeks could disadvantage some food stamp households by providing an inflated estimate of their income, resulting in smaller food stamp allotments than those to which they are entitled. This waiver request can be approved, but the State must agree to provide households the option of using income earned over a longer period, one that is sufficient to accurately estimate monthly household income for the

certification period.

USDA points out that it approved an identical waiver request from South Carolina, with the same stipulation, as part of the State's Self-Sufficiency and Parental Responsibility Program.

Clarifications

- 14) The State proposes to increase the amount of child support to be passed-through to the AFDC recipient to \$75 and thereafter to increase the amount of the pass-through incrementally up to the amount of the monthly support obligation in the following manner:
 - (a) if the amount of child support collected exceeds \$75, the excess will be retained by the State as reimbursement for AFDC payments made to the family for which the State has not been reimbursed. Of the amount retained, the State will reimburse the federal government to the extent of its participation in the financing of the AFDC payment;
 - (b) if the amount collected exceeds the amount required to be retained under (a), the excess will be paid to the AFDC recipient. Child support payments paid to the AFDC recipient will be disregarded in the determination of eligibility and benefit level.

Since it appears that the State would retain current monthly child support payments as reimbursement for AFDC payments made to the family for which the State has not been reimbursed, please clarify how this provision would allow the State to increase the amount of the pass-through beyond \$75 up to the amount of the monthly support obligation.

- 15) The State would require AFDC recipients under the age of 18 to be enrolled in school and to maintain satisfactory attendance as defined by the South Carolina Department of Education. Individuals who do not comply will have their needs removed in determining the amount of AFDC cash benefits until the failure to comply ceases. Please provide the satisfactory attendance policy as it is defined by the South Carolina Department of Education.
- 16) The State would extend Transitional Child Care (TCC) and Transitional Medicaid to 24 months for an individual who leaves AFDC because of employment or who becomes employed

after losing eligibility due to the 24 month time limit and whose earnings are less than the Federal Poverty Guidelines. Please clarify when the 24 months of TCC and Transitional Medicaid would begin for an individual who becomes employed after losing eligibility due to the 24 month time limit, e.g., at the end of the time limit or upon becoming employed at any time after the time limit?

17) The State would eliminate the JOBS reporting requirement for clients involved in self-initiated education or training. ACF has not approved waivers to eliminate the JOBS reporting requirements. Please clarify why the State is seeking to remove this requirement for this very particular group of clients.

18) The State would disclose confidential information to agencies and entities outside the Department of Social Services which provide services to recipients to enable them to become independent and self-sufficient. Exactly what kinds of confidential information does the State intend to release? What kinds of safeguards will the State establish to ensure that agencies receiving such information also maintain confidentiality?

Also, the Health Care Financing Administration points out that information about Medicaid recipients obtained by the Medicaid agency may not be released except for purposes directly connected with the administration of the Medicaid State Plan. Since the State does not request a Medicaid waiver for this provision, HCFA assumes that release of Medicaid information will meet all statutory and regulatory requirements.

19) The State wishes to eliminate the JOBS program rule that individuals in basic and remedial education be raised to a literacy level equivalent to grade 8.9. Through the normal JOBS employability planning process, the State may specify that an individual in basic education does not require a literacy level of 8.9 to achieve his or her employment goal. A waiver is not required to implement this provision.

20) The State requests a waiver to allow an adult applicant to sign the citizenship declaration on behalf of all assistance unit members. Section 1137(d) of the Social Security Act has been amended to allow any adult member to sign the citizenship declaration on behalf of the family; therefore the requested waiver is not necessary.

- 21) The State requests a waiver to modify quality control review requirements to conform to the demonstration provisions. ACF would require that for purposes of quality control, the eligibility of and amount of benefits for treatment group cases in the Family Independence Program demonstration would be reviewed against the rules of the demonstration, in lieu of the rules being waived. A waiver for this provision is not necessary.

Additionally, the State requests a waiver to modify food stamp Quality Control requirements to conform to the food stamp waivers granted for the operation of the demonstration.

Regulations at 7 CFR 11(g) govern the treatment of demonstration project cases with regard to QC error rates. Cases which are correctly classified for participation in a demonstration project which the USDA determines to "significantly modify the rules for determining households' eligibility or allotment level" are excluded from calculation of the error rate for the entire length of the demonstration. Therefore, the inclusion or exclusion of project cases from the Food Stamp error rate is not an issue which would be addressed through a waiver, but rather through a determination of whether the project terms and conditions "significantly modify" the rules for determining eligibility and allotment level. USDA cannot make this determination until the terms and conditions of the project are finalized.

- 22) South Carolina requests a waiver to allow the State to notify in writing any individual under sanction of their option to end the sanction at the time the individual is notified of the sanction. A waiver is not required to implement this provision.



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TO: The Secretary
Through: DS _____
COS _____
ES _____

FROM: Assistant Secretary
for Children and Families

Administrator
Health Care Financing Administration

SUBJECT: Recommendation for Approval of the South Carolina
Section 1115 Welfare Reform Demonstration Project --
DECISION

ISSUE

The South Carolina Department of Social Services has applied for waivers under section 1115 of the Social Security Act for a demonstration project titled Family Independence Act (FIA). The demonstration authority is requested for an 7-year period beginning June 1, 1996.

BACKGROUND

The FIA demonstration would be implemented statewide in South Carolina. According to the provisions of the demonstration, the State will require that applicants participate in job search as a condition of eligibility and that demonstration participants, with exceptions, sign an Individual Self-Sufficiency Plan (ISSP) outlining employment and training requirements, family skills training, and substance abuse treatment if determined to be necessary by the South Carolina Department of Alcohol and Other Drug Abuse Services. The State will apply a fiscal sanction due to an adult's failing to comply with ISSP requirements or refusing an offer of employment once the recipient completes

training. The fiscal sanction will be removal of the adult's needs from the AFDC benefit for 30 days, curable at any time by compliance. If at the end of 30 days the sanctioned adult has not complied, he or she will be notified that at the end of the next 30 days the whole family will be removed from AFDC but can regain benefits when compliance has been demonstrated for 30 days. Benefits will be paid retroactive to the date compliance began. Subsequent instances of noncompliance will result in a full family sanction, also curable when compliance has been demonstrated for 30 days with benefits paid retroactive to the date compliance began.

The State will limit the amount of time a family may receive AFDC benefits to 24 months, with exceptions, and will extend the time limit for up to 6 months when an individual is participating in training and for up to an additional 12 months when the participant has completed training and has complied with the ISSP but remains unemployed and without financial support equal to that provided by the family's AFDC benefit. Individuals who live in a county whose unemployment rate exceeds the state average by fifty percent or more may be required to accept a bona fide offer for a job that is not temporary or seasonal in another part of the State, with relocation assistance from the State, before an extension would be approved. We will require a special interim report from the State on the implementation of this relocation provision. In addition, the State will allow month-by-month extensions by permission of the County Director if he or she determines that the adult recipient in the family has complied with the ISSP and the family has no other source of financial support equal to that provided by the family's AFDC benefit. Individuals who re-apply for benefits after receiving AFDC for at least 24 months will receive benefits only if the County Director determines the individual does not have sufficient financial support to provide a level of subsistence equal to that provided by the AFDC benefit and the lack of such support is due to circumstances arising through no fault of the applicant.

The State will deny an increase in AFDC cash benefits to a family following the birth of a child conceived while the family received AFDC, i.e., family cap provision. Instead the State will provide benefits in the form of vouchers or commodities for a child born subject to this provision. The State will require that AFDC and Medicaid applicants and recipients provide specific information that the State determines is likely to lead to the establishment of paternity and will sanction the parent and, for AFDC, the child for whom paternity is being sought for continued noncooperation with child support enforcement.

The State will expand AFDC-UP eligibility, increase the AFDC and Food Stamps resource limits, and disregard the value of one motor

vehicle worth up to \$10,000 for AFDC and Food Stamps. The State will disregard for purposes of AFDC the earned income of dependent children attending school and up to \$400 of income from interest and dividends as well as up to \$10,000 deposited into an Individual Development Account for AFDC and Food Stamps. The State will also disregard the cash value of life insurance for AFDC eligibility and will extend Transitional Child Care and Transitional Medicaid up to 24 months and without regard to AFDC receipt in 3 of the 6 months preceding ineligibility. Also, the State will allow Medicaid eligibility to individuals who are participating in an alcohol or drug treatment program for up to 90 days after termination of AFDC benefits due to the removal of the dependent child(ren) from the home because of abuse or neglect.

The State will require AFDC recipients under the age of 18 to be enrolled in school and to maintain satisfactory attendance and will require court-ordered unemployed non-custodial parents of AFDC children to participate in JOBS. The State will increase the amount of child support to be passed-through to the AFDC recipient to \$75 and thereafter will increase the amount of the pass-through incrementally up to the amount of the monthly support obligation. Agencies and entities which have contracts or memoranda of understanding with the Department of Social Services, to provide services to recipients to enable them to become independent and self-sufficient, will be able to receive confidential information on recipients from the State.

Evaluation and Cost Neutrality

The State is prepared to meet the rigorous evaluation and Federal cost neutrality requirements that have been established for welfare reform projects. These requirements are contained in the attached Waiver Terms and Conditions (TAB A).

DISCUSSION

The FIA demonstration is designed to be a program combining positive work incentives, supports for maintenance of two-parent families, with a formal agreement outlining an individual's responsibility for becoming self-sufficient, a time limit, and family benefit limitation restrictions that can be expected to support and compel parents to take their family responsibilities seriously.

The cornerstone of the FIA demonstration is the Individual Self-Sufficiency Plan that AFDC applicants and recipients will be required to sign documenting employment and training requirements, family skills training, and substance abuse treatment if determined to be necessary by the State Department

of Alcohol and Other Drug Abuse Services.

The FIA time limit, family cap provision, stricter sanctions, and school attendance requirement operationalize the State's intention to compel and motivate individuals to take responsibility for their own economic independence. The disregards, asset limitation and auto equity provisions can be expected to help provide support to integrate individuals into the mainstream economy.

Also, the FIA demonstration would represent the first time the Department has approved a provision to require individuals unable to obtain employment by the expiration of the time-limited benefit period to relocate, with exemptions, to another area of the State to accept a non-seasonal, non-temporary bona fide job offer. Acceptance of the bona fide job offer would be a condition of approval of an AFDC time limit extension. The State would provide relocation assistance, and only individuals who live in a county whose unemployment rate exceeds the state average by fifty percent or more may be required to accept a bona fide job offer in another part of the State before an extension would be approved. In addition, the State will consider on a case-by-case basis other good cause exemptions to required relocation, including considering an individual's personal and family circumstances when determining whether relocation is likely to benefit the family. We will require a special interim report from the State on the implementation of this provision.

As a whole, the demonstration will further the AFDC program goals of encouraging self-sufficiency while providing family support. By combining work incentives, AFDC-UP expansions, and expanded transitional child care and Medicaid benefits (including extended Medicaid eligibility for alcohol or drug treatment in certain cases) with a personal responsibility agreement and time limit, South Carolina's approach is designed to support a family's progress from welfare receipt to self-sufficiency while compelling parents to meet their family obligations.

The Department received comments from the NOW Legal Defense and Education Fund raising objections to the proposed family cap provision. NOW commented that the family cap provision is objectionable because the reduction in assistance would harm families and that this provision is not supported on either a legal or policy basis. We have reviewed their concerns but believe the project could further the purposes of the Act and provides adequate safeguards for children. Further, ACF believes that this demonstration will increase our understanding of the effects of family caps, especially concerning the substitution of vouchers and commodities for cash benefits.

RECOMMENDATION

Based on the above information, we recommend approval of the application for waivers for the South Carolina "Family Independence Act" welfare reform demonstration project subject to the State's acceptance of the Waiver Terms and Conditions. We also recommend that you contact Governor Beasley to inform him that you have approved the waiver request and that the Assistant Secretary for Children and Families and the Administrator of the Health Care Financing Administration will be sending approval letters to the South Carolina Department of Social Services.

DECISION

The recommendation to approve the South Carolina "Family Independence Act" welfare reform demonstration project is:

Approved _____ Disapproved _____ Date _____

Mary Jo Bane

Bruce C. Vladeck

3 Attachments:

Tab A - Waiver Terms and Conditions

Tab B - ACF and HCFA Waiver Authority

Tab C - Talking points for Secretary's phone call to Governor Beasley

May 3, 1996

Mr. James T. Clark
Director
Department of Social Services
Post Office Box 1520
Columbia, South Carolina 29202-1520

Dear Mr. Clark:

I am pleased to inform you that your application for waivers under section 1115 of the Social Security Act for the demonstration entitled "Family Independence Act" is approved upon written acceptance of the enclosed Waiver Terms and Conditions. The project period for this activity is specified in the Waiver Terms and Conditions. The title IV-A waivers necessary to implement the demonstration are identified on the enclosed listing. You will be notified by the Health Care Financing Administration and the Department of Agriculture regarding your request for waivers of the Medicaid Program and the Food Stamp Program, respectively.

The Administration believes that the Federal Government must give states the flexibility to design new approaches to their local problems, provided that these proposals meet Federal standards. We believe South Carolina's proposal will add to the information base for new policy directions for welfare reform.

If you have any questions regarding this approval, please contact Leonard Rubin, the Federal Project Officer assigned to this project. His address is: Administration for Children and Families, Office of Family Assistance, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447; telephone (202) 401-5066.

I commend you and staff of the Department of Social Services for seeking alternatives to improve the public assistance system and to assist families in becoming self-sufficient. I look forward to working with you and your agency on this important initiative.

Sincerely,

/s/

Mary Jo Bane
Assistant Secretary
for Children and Families

Enclosures

cc: Ms. Suanne Brooks,
ACF Regional Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN AND FAMILIES

OFFICE OF FAMILY ASSISTANCE

WAIVER AUTHORITY

State: South Carolina

Waivers of the following provisions of the Social Security Act are provided for the Family Independence Act (FIA) demonstration:

Section 402(a)(1) and 402(a)(19)(A) and various provisions of the regulations at 45 CFR 205.120(a), 233.10(a)(1)(iv) and 250.11: Statewideness -- to allow the State to operate the FIA as defined in 2.1 of the Waiver Terms and Conditions for all applicants and recipients except for those assigned to the control group.

Section 402(a)(10)(A) and various provisions of the regulations at 45 CFR 206.10(a)(5)(i): Job Search -- to allow the State to require job search as described in 2.1(1) of the Waiver Terms and Conditions.

Section 402(a), 402(a)(19)(A) and various provision of the regulations at 45 CFR 250.42: Individual Self-Sufficiency Plan -- to allow the State to require individuals applying for or receiving AFDC benefits to sign an Individual Self-Sufficiency Plan as described in 2.1(2), 2.1(3), and 2.1(4) of the Waiver Terms and Conditions.

Section 402(a)(19)(A) and various provisions at 45 CFR 250.45: Family Skills Training -- to allow the State to implement family skills training as a JOBS component as described in 2.1(2) of the Waiver Terms and Conditions.

Section 402(a)(19)(C)(i), (iii), (iv), (v), (vi) and (vii) and various provisions of the regulations at 45 CFR 250.30(b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(7), (b)(8) and (b)(9): JOBS Exemptions -- to allow the State to require JOBS participation of applicants and recipients as described in 2.1(2) of the Waiver Terms and Conditions.

Section 402(a)(19)(G) and 402(a)(26) and various provisions of the regulations at 45 CFR 250.34(a), 232.12(d), 232.13(b) and 233.90(b)(4): Sanctions -- to allow the State to apply the sanctions described in 2.1(5) of the Waiver Terms and Conditions when the recipient fails to cooperate with the ISSP as described in 2.1(2), 2.1(3), and 2.1(4) of the Waiver Terms and Conditions.

Section 402(a): Time Limited Benefits -- to allow the State to

deny AFDC benefits to adults who have received AFDC for 24 months as described in Waiver Terms and Conditions 2.1(6), 2.1(7), and 2.1(8).

Section 402(a): Differential Payments -- to allow the State to implement different methods for determining the amount of assistance, as described in 2.1(9) of the Waiver Terms and Conditions.

Section 402(a)(26) and various provisions of the regulations at 45 CFR 232.12(b) and (d), 232.13(b) and 233.90(b)(4): Cooperation with Child Support -- to allow the State to sanction custodial parents and dependent child for non-cooperation with child support as described in Waiver Terms and Conditions 2.1(10).

Section 402(a)(19)(B)(i) and various provisions of the regulations at 45 CFR 250.30(a): JOBS Participation for Non-Custodial Parents -- to allow the State to require court-ordered unemployed non-custodial parents of children receiving AFDC benefits to participate in the JOBS program.

Section 402(a)(7)(B) and various provisions of the regulations at 45 CFR 233.20(a)(3)(i)(B): Resources -- to allow the State to increase the resource limit to \$2,500, excluding homestead property, for applicant and recipients.

Section 402(a)(7)(B)(i) and various provisions of the regulations at 45 CFR 233.20(a)(3)(i)(B)(2): Resources -- to allow the State to exclude the value of one motor vehicle per assistance unit with a market value of up to \$10,000.

Section 402(a)(8)(A)(i) and (vii), 402(a)(18) and various provisions of the regulations at 45 CFR 233.20(a)(11)(i)(A) and (ii)(A) and 233.20(a)(3)(xiii): Income Disregard -- to allow the State to disregard all earnings of dependent children who are attending school in determining the eligibility and amount of AFDC benefits.

The matter in Section 402(a)(7) before clause (A), 402(a)(31), and 402(a)(39) and various provisions of the regulations at 45 CFR 233.20(a)(3)(ii), (xiv) and (xviii): Income -- to allow the State to disregard up to \$400 of income from interest and dividends for any person whose income must be counted when determining eligibility and grant amounts.

The matter in Section 402(a)(7) before clause (A) and 402(a)(31), and 402(a)(39) and various provisions of the regulations at 45 CFR 233.20(a)(3)(ii), (xiv) and (xviii): Resources -- to allow the State to disregard as a resource up to \$10,000 deposited into an Individual Development Account (IDA) for applicants and recipients as described in 2.1(16) of the Waiver Terms and Conditions.

The matter in Section 402(a)(7) before clause (A) and 402(a)(31), and 402(a)(39) and various provisions of the regulations at 45 CFR 233.20(a)(3)(ii), (xiv) and (xviii): Income -- to allow the State to disregard as income interest and dividend income earned in an IDA.

Section 402(a)(17) and various provisions of the regulations at 45 CFR 233.20(a)(3)(ii)(F): Lump Sum Payments -- to allow the State to disregard lump sum payments of \$10,000 or less deposited in an IDA within 30 days of its receipt as described in 2.1(16) of the Waiver Terms and Conditions.

Section 402(a): Education Requirements -- to allow the State to require AFDC recipients under the age of 18 to be enrolled in school and to maintain satisfactory attendance, i.e., to attend school regularly as described in 2.1(17) of Waiver Terms and Conditions.

Section 402(a)(41) and various provisions of the regulations at 45 CFR 233.100(a)(1)(i) and (ii), (a)(3), (c)(1)(iii), (c)(vi)(A) and 233.101(a)(1)(i) and (ii), (a)(3) and (c)(1)(iii): AFDC-UP Requirements -- to allow the State to determine the eligibility of and the amount of benefits for needy two-parent families without regard to the 100-hour definition of unemployment, the labor force attachment requirement, the 30 day unemployment prior to application condition and the principal wage earner criterion.

Section 402(a)(8)(A)(vi) and various provisions of the regulations at 45 CFR 233.20(a)(3)(iv)(G): Child Support Pass-Through -- to allow the State to increase the amount of child support to be passed-through to the AFDC recipient to \$75 and thereafter to increase the amount of the pass-through incrementally up to the amount of the monthly support obligation and to disregard child support payments paid to the AFDC recipient when determining eligibility and the amount of benefits.

Section 402(a)(7) and various provisions of the regulations at 45 CFR 233.20(a)(3)(i)(B): Resources -- to allow the State to disregard the cash value of life insurance policies for any person whose resources must be counted in determining eligibility for AFDC benefits.

Section 402(a)(9) and various provisions of the regulations at 45 CFR 205.50(a)(1)(i)(A): Disclosure of Information -- to allow the State to disclose confidential information on applicants and recipients to agencies and entities which have contracts or Memoranda of Understanding with the Department of Social Services as described in 2.1(21) of the Waiver Terms and Conditions.

Section 402(a)(14) and various provisions of the regulations at 45 CFR 206.10(a)(2)(ii) and 233.36(a)(2): Monthly Reporting -- to allow the State to require AFDC recipients to make timely and accurate report of changes to earned income as described in 2.1(22) of the Waiver Terms and Conditions.

Section 402(g)(1)(A)(ii) and (iii) and various provisions of the regulations at 45 CFR 256.2(b) and (c): Transitional Child Care -- to allow the State to extend TCC benefits from 12 months to 24 months as described in 2.1(23) of the Waiver Terms and Conditions.

402(g)(1)(A)(iv) and various provisions of the regulations at 45 CFR 256.2(b)(2): Transitional Child Care -- to allow the State to provide transitional child care without regard to AFDC receipt in 3 of the 6 months preceding cessation of eligibility due to earnings or hours of work as described in 2.1(24) of Waiver Terms and Conditions.

Section 402(a)(5) and various provisions of the regulations at 45 CFR 206.10(a)(9)(iii): Eligibility Redeterminations -- to allow the State to dispense with redetermination of eligibility factors every 6 months for purposes of AFDC as described in Waiver Terms and Conditions 2.1(25).

Section 1115(a)(2) authority is provided to allow the State to claim federal financial participation (FFP), at the assistance payments matching rate, for the costs of vouchers and commodities as described in 2.1(9) of the Waiver Terms and Conditions.

Section 1115(a)(2) authority is provided to allow the State to claim FFP, at the 50 percent matching rate, for expenditures related to FIA employment and training services for participants not covered due to the limitation under section 403(k).

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

Waivers and Costs Not Otherwise Matchable for
South Carolina Welfare Reform Demonstration

Waiver

The following waiver is granted to the State:

1902(a)(1) regarding Statewideness, to permit the State to implement the demonstration provisions only with the treatment group, consisting of randomly assigned experimental treatment groups in Sumter and Spartanburg Counties and non-experimental treatment groups in the remainder of the State.

Costs Not Otherwise Matchable

Under the authority of section 1115(a)(2) of the Social Security Act, the following expenditures made by the State for the costs identified below (which may not otherwise be included as State expenditures matchable under section 1903) shall, for the duration of the project, be regarded as expenditures under the State's title XIX plan:

- Expenditures to provide an initial 12 months of transitional Medicaid benefits to families who become ineligible for AFDC due to an increase in earned income but who did not receive AFDC in 3 of the 6 months prior to becoming ineligible.
- Expenditures to provide an initial 12 months of standard transitional Medicaid benefits to families:
 - that lose AFDC eligibility due to the time limit;
 - in which someone becomes employed with earnings sufficient to terminate AFDC eligibility were the family still receiving AFDC, but below 100 percent of the Federal Poverty Level; but
 - that would not be eligible for transitional Medicaid benefits in the absence of the demonstration.
- Expenditures to provide an additional 12 months of transitional Medicaid benefits to families who become ineligible for AFDC due to an increase in earned income or due to the time limit, whose earnings are less than the Federal Poverty Level and whose employment could be jeopardized by medical expenditures.
- Expenditures to provide 90 days of Medicaid eligibility to individuals participating in an alcohol or drug treatment program after termination of AFDC benefits due to the removal of the dependent children from the home because of abuse or neglect.

WAIVER TERMS AND CONDITIONS

South Carolina Family Independence Act

SECTION 1: GENERAL ISSUES

- 1.0 The Department of Health and Human Services and the Department of Agriculture (hereinafter referred to as the Departments) will grant waivers to the State of South Carolina (hereinafter referred to as the State) under section 1115 of the Social Security Act, as amended, and section 17(b) of the Food Stamp Act, as amended, to operate the Family Independence Act (hereinafter referred to as the demonstration) as set forth in these Waiver Terms and Conditions. The Departments reserve the right, in their sole discretion, to withdraw any and all waivers granted by that Department at such time(s) that the Department determines that the State has materially failed to meet the requirements as set forth in these Waiver Terms and Conditions. The State also retains the right to terminate the demonstration.
- 1.1 Failure to operate the demonstration as approved and according to Federal and State statutes and regulations may result in withdrawal of waivers. The Federal statutes and regulations with which the State must comply in the operation of the demonstration include, but are not limited to, civil rights statutes and regulations that prohibit discrimination on the basis of race, color, national origin, disability, sex, age and religion, including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act, and the nondiscrimination provisions of the Omnibus Budget Reconciliation Act of 1981. After waivers are granted, the Departments reserve the right to withdraw, consistent with federal law, any individual waiver component if agreement cannot be reached on any item(s) cited in this document as needing approval by the Department. The State also has the same right.
- 1.2 If Federal or State statutes or regulations that would have a major effect on the design and impacts of this demonstration are enacted, the Departments and the State will reassess the overall demonstration and develop a mutually agreed-upon strategy for dealing with the demonstration in the context of such changes. If such a

mutually agreed-upon strategy cannot be developed, the Departments reserve the right, in their sole discretion, to withdraw any or all waivers at such time(s) as the Departments determine.

- 1.3 The demonstration provisions will be implemented statewide no earlier than June 1, 1996, and no later than June 1, 1997. The implementation date of the demonstration shall be the first day on which the first case is made subject to any of the provisions of this demonstration. For cost neutrality purposes, the demonstration shall be deemed to begin on the first day of the calendar quarter (hereinafter "quarter") which includes the implementation date, but for the purpose of calculating excess costs or savings for the initial quarter of the demonstration, only costs incurred beginning with the month that includes the implementation date will be counted. The demonstration shall end no later than the last day of the 28th quarter ending after the deemed beginning date. The demonstration provisions shall be as specified in Section 2. Waivers necessary for the demonstration are approved upon acceptance by the Departments and the State of these Waiver Terms and Conditions. They will become effective as of the implementation date and will remain in effect until the last day of the 28th quarter ending after the deemed beginning date, unless the project is terminated earlier.
- 1.4 Federal approval of waivers, subject to these Waiver Terms and Conditions, shall not be construed to establish any precedent that the Departments will follow in the granting of any subsequent request for waivers.

SECTION 2: IMPLEMENTATION

- 2.0 Under these Waiver Terms and Conditions, the State will operate a demonstration of the Family Independence Act (FIA) and will apply to AFDC applicants and recipients as defined in 2.1 below with a random assignment evaluation conducted in Sumter and Spartanburg Counties. In the remainder of the State (i.e., outside the research site) AFDC and Food Stamp applicants and recipients will be assigned to the non-experimental treatment group whose eligibility and amount of benefits for AFDC and Medicaid will also be determined based on FIA provisions. New AFDC and Food Stamp applicants in Sumter and Spartanburg Counties whose eligibility and amount of benefits for AFDC, Food Stamps, and Medicaid will be determined based on FIA provisions after random assignment has ended will also be assigned to the non-experimental treatment group.

The experimental and non-experimental treatment groups together will comprise the "treatment group"; the experimental and control groups together will comprise the "research sample."

2.1 Under FIA, the State will implement the following provisions:

AFDC

- (1) The State will require as a condition of eligibility that applicants for AFDC participate in job search for two weeks during which adults are required to document contact with a minimum number of employers, not to exceed five employers per week, prior to the family's approval for AFDC benefits. Failure to participate without good cause will result in denial of the case. Individuals identified as exempt from provisions in 2.1(2) below are also exempt from this requirement.
- (2) The State will require applicants and recipients to sign an Individual Self-Sufficiency Plan (ISSP) outlining employment and training requirements, family skills training, and substance abuse treatment if determined to be necessary by the Department of Alcohol and Other Drug Abuse Services (DAODAS). The following individuals will be exempt from signing the ISSP:
 - o individuals at least six months pregnant whose pregnancy is verified by a qualified licensed health care provider;
 - o caretakers or parents of a child under one year of age except when the custodial parent is under age 25 and has not completed high school education, in which case there is no exemption regardless of the age of the child;
 - o incapacitated individuals whose incapacity is confirmed, if the State deems necessary under criteria it has established, by the Department of Vocational Rehabilitation, as a physical or mental impairment that prevents the recipient from engaging in gainful employment or participating in education or training;
 - o individuals who care for an incapacitated person whose incapacity has been verified by a physician;
 - o individuals who are unable to participate because child care and reasonable transportation were not provided when needed for participation in employment and training programs.
- (3) A participant who is determined to be job ready will be required to participate in job club and job search activities. Individuals who are not successful in finding employment after completing a 60-day job club and job search will be reassessed to determine if

additional training or education is necessary prior to employment. If it is determined that additional education or training is required but such training or education is not immediately available, individuals must participate in the State's Alternate Work Experience Program (AWEP) while awaiting an opportunity to participate in education or training. Individuals who are not determined to need additional education or training will be required to conduct job search for up to 10 hours per week and to participate in AWEP.

- (4) The State will refer to DAODAS for clinical assessment for participation in an alcohol or drug treatment program AFDC recipients who:
- (a) have been identified by a case manager with concurrence from a supervisor as possibly in need of alcohol or other drug abuse treatment service using screening indicators provided by DAODAS;
 - (b) within 6 months prior to the date of last application for AFDC or subsequently have been convicted of an alcohol- or drug-related offense; or
 - (c) within 6 months prior to the date of last application for AFDC or subsequently gives birth to a child who tests positive for drugs.

Determination that substance abuse treatment is necessary will be made by appropriate clinical staff of DAODAS. Such staff will also assess the participants' compliance with the treatment program using recognized methods of assessment including, but not limited to, random testing. In no instance shall failure to pass a random test, by itself, constitute a non-compliance with treatment. For participants who complete the DAODAS treatment program, the State will monitor their compliance with the ISSP using recognized methods of assessment including, but not limited to, random testing. Failure to pass such a random test shall not constitute the basis for a sanction, but may constitute grounds for review by a clinical professional who will determine if there are additional indicators of substance abuse or grounds for resumption of treatment.

The State will keep records of individuals' alcohol and drug treatment participation confidential pursuant to section 402(a)(9) of the Social Security Act; such information will not be made available to law enforcement personnel.

- (5) The State will apply a fiscal sanction to a family due to an adult's failing to comply without good cause with

the development of and the requirements set forth in the ISSP or refusing an offer of employment without good cause once the recipient completes the training requirements according to the ISSP. The State will impose the fiscal sanction according to the following schedule:

- (a) first instance of non-compliance: removal of the caretaker's needs from the calculation of the AFDC benefit for 30 days, curable at any time by compliance. If at the end of 30 days the caretaker has not complied she/he is notified that at the end of the next 30 days, the whole family will be removed from AFDC, curable when the adult demonstrates compliance for 30 days. AFDC benefits will be paid retroactive to the date when compliance began.
 - (b) second and successive instances of non-compliance: removal of the whole family from AFDC curable when the adult demonstrates compliance for 30 days. AFDC benefits will be paid retroactive to the date when compliance began.
- (6) The State will limit the amount of time a family will receive AFDC benefits to 24 months, except when:
- o the head of household is mentally or physically disabled;
 - o the head of household is providing full-time care for a disabled individual who requires full time care in the home as verified by a physician's statement;
 - o the parent of the child for whom the assistance is received is under the age of 18 and has not completed high school;
 - o the adult head of household is not the parent of the child and is not included in the assistance unit;
 - o the adult head of household is providing a home and caring for a child that the State has determined to be abandoned by his or her parents and for whom the alternative placement is foster care; or
 - o child care or transportation is not reasonably available for employment and training purposes.

Any month or months during which an individual is exempt from the 24-month time limit, as described above, will not count against the time limit.

(7) Extensions to the time limit will be granted according to the following rules and criteria, which the State will explain to the recipient when he or she enters the ISSP:

- (a) the State will grant an extension of up to 6 months if the individual is involved in an approved training program which will not be completed by the 24th month;
- (b) the State will grant an extension of up to 12 months if the individual has completed training and has complied with the ISSP by exhibiting diligence in seeking all available employment and following up on all local employment opportunities known to the Employment Security Commission or other employment entities and cooperating fully with all State agencies in order to strive to become gainfully employed but is unable to obtain or maintain employment that provides financial support sufficient to provide a level of subsistence equal to that provided by the family's AFDC benefit after \$90.00 is disregarded from each working person's earned income. To remain eligible for this month-to-month extension, an individual who is job ready but unable to obtain employment must conduct job search for up to 10 hours per week and participate in AWEF.

A recipient shall not be determined to be diligently seeking all available employment if he or she refuses, without good cause, to accept a bona fide job offer. Further, a recipient shall not be determined to be diligently seeking all available employment if the State determines that he or she refuses, without good cause, to seek work or to accept a bona fide job offer:

- o to continue instead to work in the underground economy,
- o instead to spend time with his or her children,
- o to continue instead to search for a job providing initial earnings which will not negatively impact his or her AFDC or other means tested programs,

- o to engage instead in long-term education over two years,
- o to continue instead to search for a job providing wages higher than minimum wage, or
- o to continue instead to search for a job providing more generous fringe benefits.

Individuals unable to obtain employment may be required to relocate, with State assistance, to another area to accept a bona fide job offer for a position that is not temporary nor seasonal as a condition of approval of their time limit extension request. State assistance may include, but will not necessarily be limited to, moving expenses, assistance in locating a place to live and finding child care, security and utilities deposits, and the first 30 days rent. The following individuals shall be exempt from this relocation requirement:

- o Individuals who do not live in a county whose unemployment rate exceeds the state average unemployment rate by fifty percent or more. A list of such counties shall be prepared at the beginning of each state fiscal year and shall remain in effect for the duration of that fiscal year.
- o Individuals who receive an AFDC payment in excess of the federal hourly minimum wage multiplied by 30 hours multiplied by 4.3 and reduced by \$90.00.
- o Individuals who receive in kind assistance (from a government entity or other source) such as subsidized housing or child care, and the value of this in kind benefit exceeds fifty percent of the federal hourly minimum wage multiplied by 30 hours multiplied by 4.3, and such in kind assistance will not be available to the family at a new location.

The State will consider on a case-by-case basis other good cause exemptions from this relocation provision. In making case-by-case good cause determinations, the State will consider the individual's personal and family circumstances (e.g., work experience, family and community support, child's schooling, child custody and visitation arrangements) when determining whether relocation is likely to benefit the family.

The State will submit to the Department a special interim report examining the use of the relocation provision. The report will cover the implementation of the provision for the first 36 months following the implementation date of the demonstration. On the basis of the results of the interim analysis, due within 60 days after the end of month 36 of the demonstration, the State and DHHS will assess the use of the relocation provision and decide whether to continue the provision.

Every 60 days the State will conduct a review of the recipient's compliance with the requirements of item 2.1(7)(b).

- (c) At the end of the 24-month time limit described in 2.1(6) or at the end of either of the extensions described in 2.1(7)(a) and (b), month-by-month extensions may be granted by permission of the County Director. The County Director will allow an extension to the time limit if he or she determines that the adult recipient in the family has complied with the ISSP and that:
- o termination of AFDC benefits will have a detrimental effect on the welfare of the dependent children in the family; or
 - o the family has no other source of financial support sufficient to provide a level of subsistence equal to that provided by the family's AFDC benefit after \$90.00 is disregarded from each working person's earned income.

Good cause reasons for not seeking employment or for not accepting a bona fide job offer are the same as the reasons for being exempt from the time limit, as described in 2.1(6).

- (8) Individuals who re-apply for benefits after completing an ISSP and after receiving AFDC benefits for at least 24 months can receive benefits only if their applications are approved by the County Director. The County Director will approve applications for individuals who he or she determines have insufficient financial support to provide a level of subsistence equal to that provided by the AFDC benefit for which the family is eligible (after \$90.00 is disregarded from each working person's earned income) and the lack of such support is due to circumstances arising through no fault of the applicant; e.g., individuals whose level of employment, rate of pay or household income

has decreased for reasons other than having been dismissed from a job or demoted for cause, having voluntarily quit a job without good cause, or having failed to accept a bona fide job offer without good cause.

A recipient shall not be determined to have quit a job with good cause or to have failed to accept a bona fide job offer with good cause if the State determines that he or she voluntarily quit a job or refused a job offer:

- o to continue instead to work in the underground economy,
 - o instead to spend time with his or her children,
 - o to continue instead to search for a job providing initial earnings which will not negatively impact his or her AFDC or other means tested programs,
 - o to engage instead in long-term education over two years,
 - o to continue instead to search for a job providing wages higher than minimum wage, or
 - o to continue instead to search for a job providing more generous fringe benefits.
- (9) The State will deny an incremental increase in AFDC benefits to a family as a result of a child born to the family ten or more months after the family begins to receive AFDC. The State will provide benefits in the form of vouchers or provide commodities for a child born subject to this benefit limitation up to the amount of the increase in cash benefits that the family would have received for the child in the absence of the family cap. The vouchers may be used to pay for goods and services, as determined by the State, to support the needs of the child and permit the custodial parent to participate in education, training and employment-related activities.

The benefit cap will not apply:

- (a) when the additional child was conceived as a result of verifiable rape, sexual assault, or incest;
- (b) to a child that was conceived in a month the assistance unit (i.e., the entire family) was not receiving AFDC;

- (c) to children who are the firstborn (including all children in the case of a multiple birth) of minors included in an AFDC grant who become first-time minor parents;
- (d) to a child when parental custody has been legally transferred (i.e., legal transfer of custody or guardianship has been sanctioned by a court of the State; a voluntary private placement of a child by its parent has resulted in a legal transfer of custody or guardianship; or a placement has been made by the Department of Social Services (DSS) or an agency under contract with DSS); or
- (e) to a child who is no longer able to live with his or her parents as a result of:
 - (i) the death of the child's parent(s);
 - (ii) the incapacity of the child's parent(s) as documented by a physician such that the parent cannot care for the child;
 - (iii) the custody of the child is legally transferred to another individual;
 - (iv) incarceration of the parent(s), except that the child shall not receive assistance if the parent is subsequently released and reunited with the child; or
 - (v) the parent's institutionalization if expected to be for an extended period, as defined in State policies.

Further, a child born subject to a benefit cap will be considered an AFDC recipient for all purposes and will retain the same Medicaid eligibility he or she would have had in the absence of the AFDC waivers.

- (10) The State will require that AFDC applicants and recipients provide:
 - (a) the first and last name of the non-custodial parent/putative father and any known licenses which might be subject to revocation; and
 - (b) at least three of the following items for each named non-custodial parent and putative father;
 - (i) date of birth;
 - (ii) Social Security Number;

- (iii) last known home address;
- (iv) last known employer's address;
- (v) either of the non-custodial parent's parent's name and address;
- (vi) school last attended and location;
- (vii) date and place of any arrest;
- (viii) hospital admissions including date and location;
- (ix) driver's license number; or

other information that the State determines is likely to lead to the establishment of paternity.

The State will sanction the parent and the child for whom paternity is being sought by removing their needs in determining the amount of AFDC cash benefits if the applicant or recipient, without good cause (i.e., documentation of incest, rape, or the existence or the threat of physical abuse to the child or custodial parent), fails to provide the information above. The sanction will be removed when the custodial parent provides the required information. The State will establish criteria for determining cooperation in cases where the caretaker parent cannot reasonably be expected to know the identifying information related to the child's father.

If the parent provides the names of putative fathers which are subsequently excluded from paternity by genetic testing, the State will allow the custodial parent a second opportunity to provide the required information. If the putative fathers named during the second opportunity are excluded from paternity by genetic testing, the parent and child for whom paternity is being sought will be sanctioned until the State establishes paternity for the child. The State will make every effort to complete the paternity establishment process with reasonable promptness.

- (11) The State will require court-ordered unemployed non-custodial parents of children receiving AFDC to participate in JOBS.
- (12) The State will increase the resource limit to \$2,500, excluding homestead property, for applicants and recipients.

- (13) The State will disregard for applicants and recipients the value of one motor vehicle with a fair market value of up to \$10,000.
- (14) The State will disregard for purposes of eligibility determination and benefit calculation the earned income of dependent children attending school.
- (15) The State will disregard up to \$400 of income from interest and dividends for any person whose income must be counted when determining eligibility and benefit levels.
- (16) The State will exclude as a resource for applicants and recipients funds up to \$10,000 deposited into an Individual Development Account (IDA) and will disregard from income a lump sum payment of \$10,000 or less that is deposited in an IDA within 30 days of its receipt. The State will count any amount toward the family's resource limit that is transferred to a non-exempt account or withdrawn for other than allowable purposes, as defined by State policy, through the month in which the withdrawn funds are spent.

At least six months before the end of the demonstration, clients with IDAs will be given notice that the funds in the restricted accounts will count toward the personal resource limit after the end date of the demonstration. No new IDAs will be started during the last six months of the FIA demonstration.

- (17) The State will require AFDC recipients under the age of 18 to be enrolled in school and to maintain satisfactory attendance as defined by the South Carolina Department of Education, State Regulation No: R 43-274 (as it exists as of the date of demonstration approval). Individuals who do not maintain satisfactory attendance will have their needs removed in determining the amount of AFDC cash benefits until the failure to comply ceases. A sanctioned child will continue to be considered an AFDC recipient for all other purposes including Medicaid coverage. In an instance where the State determines that the parent(s) have done everything in their power to ensure that the dependent child attend school, no sanction will be imposed. The State will determine when to sanction an individual in the following manner:
 - (a) After three consecutive unlawful absences (as determined by South Carolina Department of Education, State Regulation No: R 43-274) or after a total of five unlawful absences during any time in the school year, school officials shall identify the reasons for the child's continued

absence and develop a plan in conjunction with student and parent/guardian to improve future attendance.

- (b) Each school district will develop additional plans for intervening when a student does not maintain satisfactory attendance. The district intervention plan for improving students' attendance will include but not be limited to:
- o reasons for unlawful absences;
 - o methods to resolve cause of unlawful absence;
 - o action to be taken in event unlawful absences continue;
 - o signature of parent/guardian or evidence that an attempt has been made to involve parent/guardian;
 - o documentation of involvement of other agencies, departments, organizations and personnel not part of the school system who assisted or are a component of the intervention plan.
- (c) If the intervention plan is not successful and further inquiry by school officials fails to cause the student or parent/guardian to comply with the plan or the student or parent/guardian refuses to participate in the intervention planning, school officials shall refer the case to Family Court. At the point the case is referred to Family Court, the State may sanction the non-complying individual.
- (18) The State will determine AFDC-UP eligibility on the basis of need of a dependent child without applying the 100-hour rule, connection to the labor force requirement, the 30 day unemployment prior to application condition, and principal wage earner criterion for applicants or recipients.
- (19) The State will increase the amount of child support to be passed-through to the AFDC recipient to \$75 and thereafter will increase the amount of the pass-through incrementally up to the amount of the monthly support obligation. Child support payments paid to the AFDC recipient will be disregarded in the determination of eligibility and benefit level.
- (20) The State will disregard the cash value of life insurance up to \$10,000 for any person whose resources

must be counted in determining eligibility until such insurance is converted to cash.

- (21) The State will disclose confidential information to agencies and entities which have contracts or Memoranda of Understanding with the Department of Social Services to provide services to recipients to enable them to become independent and self-sufficient. Such agencies and entities will protect the confidentiality of any material or information concerning an applicant or recipient of benefits or services funded by the State to meet the requirements of 45 CFR 205.50(a)(2)(ii).
- (22) The State will require that AFDC recipients make timely and accurate report of changes to earned income only if there is a change in source, hourly rate/salary, or employment status (part-time to full-time or full-time to part-time as defined by the employer) and unearned income only if there is a change in source or in the gross monthly amount if more than \$25 of the amount upon which the grant was originally calculated.
- (23) The State will extend Transitional Child Care to 24 months for an individual who leaves AFDC because of employment or who becomes employed after losing eligibility due to the 24 month AFDC time limit and whose earnings are less than the Federal Poverty Guidelines. For individuals who become employed after losing eligibility due to the 24 month AFDC time limit, TCC eligibility will begin in the first month that the individual earns income that would have been sufficient to make the family ineligible for AFDC.
- (24) The State will provide Transitional Child Care (TCC) for families without regard to AFDC receipt in 3 of the 6 months preceding ineligibility by reason of earnings and hours of work. Individuals who the State determines have voluntarily reduced their income in order to become eligible for AFDC within 90 days of applying for TCC will be ineligible for TCC for 6 months.
- (25) For purposes of AFDC, there will be no requirement that the State perform at least one redetermination of eligibility factors for a case every 6 months.

Medicaid

- (26) The State will require that Medicaid applicants and recipients provide:

- (a) the first and last name of the non-custodial parent/putative father and any known licenses which might be subject to revocation; and
- (b) at least three of the following items on each named non-custodial parent and putative father;
 - (i) date of birth;
 - (ii) Social Security Number;
 - (iii) last known home address;
 - (iv) last known employer's address;
 - (v) either of the non-custodial parent's parent's name and address;
 - (vi) school last attended and location;
 - (vii) date and place of any arrest;
 - (viii) hospital admissions including date and location;
 - (ix) driver's license number; orother information that the State determines is likely to lead to the establishment of paternity.

The State will sanction the custodial parent of the child for whom paternity is being sought by removing their Medicaid eligibility if the applicant or recipient, without good cause (i.e., documentation of incest, rape, or the existence or the threat of physical abuse to the child or custodial parent), fails to provide the information above. The sanction will be removed when the custodial parent provides the required information. The State will establish criteria for determining cooperation in cases where the caretaker parent cannot reasonably be expected to know the identifying information related to the child's father.

If the parent provides the names of putative fathers which are subsequently excluded from paternity by genetic testing, the State will allow the custodial parent a second opportunity to provide the required information. If the putative fathers named during the second opportunity are excluded from paternity by genetic testing, the parent will be sanctioned until the State established paternity for the child. The

State will make every effort to complete the paternity establishment process with reasonable promptness.

The State will not apply the sanction to the child's Medicaid benefits, nor will the State apply the sanction of Medicaid benefits to women during pregnancy (and during the 60-day period beginning on the last day of pregnancy).

- (27) The State will provide transitional Medicaid for 12 additional months, up to a total of 24 months, for AFDC recipients who lose eligibility because of employment or who become employed after losing eligibility, due to the AFDC time limit, and whose earnings are less than the Federal Poverty Guidelines and whose employment would be jeopardized by medical expenditures. For individuals who become employed after losing eligibility due to the AFDC time limit, transitional Medicaid eligibility will begin in the first month that the individual earns income sufficient to make the family ineligible for AFDC.
- (28) The State will provide transitional Medicaid without regard to AFDC receipt in 3 of the 6 months preceding ineligibility by reason of earnings and hours of work. Individuals who the State determines have voluntarily reduced their income in order to become eligible for AFDC within 90 days of applying for transitional Medicaid will be ineligible for transitional Medicaid for 6 months.
- (29) The State will allow Medicaid eligibility to individuals who are participating in an alcohol or drug treatment program for up to 90 days after termination of AFDC benefits due to the removal of the dependent child(ren) from the home because of abuse or neglect.

Food Stamps

The following provisions apply to public assistance (PA) food stamp households (i.e., households in which all members receive AFDC) participating in the demonstration. These PA households are considered categorically eligible for food stamps because of their status as AFDC recipients (unless the entire household is institutionalized or disqualified for any reason from receiving food stamps). This means that their resource limits, gross and net income limits, social security number information, sponsored alien information, and residency are "deemed" for food stamps and are established using AFDC guidelines.

Under no circumstances can categorical eligibility be extended to households in which: any member is disqualified from food stamps for an intentional program violation or for failure to comply with monthly reporting requirements; the entire household is disqualified because one or more of its members failed to comply with food stamp workfare; or the head of the household is disqualified for failure to comply with food stamp work requirements.

In "mixed" food stamp households (i.e., households consisting of both AFDC and non-AFDC recipients) resources owned by the AFDC recipients are not included when calculating the resources of the entire household.

The State must use its best judgement in handling situations where a resource, such as a motor vehicle, is owned jointly by an AFDC recipient and a non-AFDC recipient in a mixed household during the demonstration. The method selected by the State to deal with this circumstance must be applied statewide and may not be applied selectively on a case-by-case basis.

- (30) An amount up to \$400 in interest and dividend income paid to the household is excluded in the calculation of household eligibility and level of benefits.
- (31) A lump sum payment of \$10,000 or less deposited into a household's Individual Development Account (IDA) within 30 days of receipt is excluded as income. Any amount transferred from an IDA to a non-exempt account or withdrawn for other than allowable purposes, as defined by State policy, will be counted as a resource for the food stamp household, in accordance with the AFDC provision at 2.1(16) of the Waiver Terms and Conditions.

At least six months before the end of the demonstration, clients with IDAs will be notified that the funds in the restricted accounts will count as a household resource after the end date of the demonstration. No new IDAs will be started during the last six months of the FIA demonstration.

- (32) Demonstration participants who receive AFDC are exempt from food stamp work registration because they are subject to the Family Independence Act work requirements, including two-week applicant job search. If an applicant or participant fails to comply with a program requirement and his or her AFDC benefits are denied, suspended, or terminated in accordance with the sanctioning procedures established for the demonstration, the State may impose a Food Stamp

Program sanction if the noncompliant individual is not otherwise exempt from food stamp work registration and the requirement is comparable to a food stamp work registration or Food Stamp Employment and Training Program requirement.

A demonstration household whose AFDC is terminated due to a work requirement sanction, time limit, or any other reason, will be informed of its right to apply for food stamps and will be given the opportunity to do so.

- (33) Food stamp regulations at 7 CFR 275.11(g) govern the treatment of demonstration project cases with regard to Quality Control error rates. USDA/FCS will address this issue in separate correspondence with the State.
- 2.2 All individuals in the demonstration will retain the same Medicaid eligibility they would have had in the absence of the AFDC waivers.
- 2.3 For purposes of AFDC Quality Control, the eligibility of and amount of benefits for treatment group cases in FIA will be reviewed against the rules of the demonstration, in lieu of the rules being waived.

SECTION 3: EVALUATION

- 3.0 The costs of approved evaluation activities will be matched by DHHS at 50 percent for the duration of the evaluation and are excluded from cost neutrality requirements. Evaluation components not approved by the Departments will not qualify for Federal matching funds. Evaluation costs will include all costs necessary to carry out the approved evaluation plan, including costs for evaluation activities carried out by State and local agencies as well as those carried out by the evaluation contractor.
- 3.1 Within 60 days after acceptance by the State of these Waiver Terms and Conditions, the State will submit to the Departments, for approval, a draft Request for Proposals (RFP) for a contract to conduct an evaluation of the demonstration. The RFP must specify, in sufficient detail, the objectives of the project, the evaluation design, the specific tasks to be conducted, the time frames for conducting those tasks, and a schedule and list of deliverables. The research questions to be studied, the major variables to be measured, the data collection methodology, and the major data analyses to be performed must be clearly described.

The evaluation contractor must be an entity independent of the Executive Branch of the State government (state universities qualify under this provision), and must be qualified and have experience in evaluating social experiments of the design, scale, and duration of that proposed by the State.

The RFP will also indicate that the selected contractor will be required to address in its evaluation plan any potential problems inherent in the evaluation design related to analyzing the impact of the program interventions under this demonstration and the methodology it will employ to minimize such problems. This must include methods of analysis which adjust for, or minimize, the potential influence of any factors which might bias conclusions concerning project impacts.

Possible confounding effects from other demonstrations, if any, running concurrently with FIA also must be addressed in detail. The RFP must indicate that the contractor will discuss the feasibility of evaluating the impact of individual provisions of FIA, as well as the impact of the project as a whole. The evaluation of the impact of individual provisions must be within the constraints of the existing control sample.

The RFP must indicate that the evaluation contractor will explain how entry effects can be determined and will describe the methodology which will be employed to determine the entry effects of FIA (i.e., how FIA affects the application rate for AFDC and Food Stamps and how that affects the AFDC and Food Stamps caseload).

- 3.2 The selected evaluation contractor will be required to develop an evaluation plan that will be submitted by the State to the Departments for approval not later than 60 days after contract award. The evaluation plan must present the research questions to be studied, the major variables to be measured, the sources of data for these variables, the data collection procedures, and the major data analyses to be performed. The evaluation plan will specify the data that will be gathered and the analyses that will be performed.
- 3.3 For the purposes of evaluation, the State will submit to the Departments for approval, not later than 30 days prior to the implementation date, a final sampling plan for AFDC and Food Stamps cases active in the month containing the implementation date and for new AFDC and Food Stamps applicant cases beginning with the implementation date. The plan will describe how families will be randomly assigned to the experimental and control groups (i.e., the research sample) in order to meet the objective that the families in

the control group are, to the extent possible, comparable to the families in the experimental group. The plan will also describe how the evaluation contractor will monitor random assignment in order to ensure that it is carried out during the project in such a way as to prevent crossover of individuals between the experimental and control groups.

- 3.4 In Sumter and Spartanburg Counties, all AFDC active in the month of implementation will be randomly assigned at the date of implementation to either the experimental group or the control group at a ratio of one to one.
- 3.5 Beginning with the date of implementation, all new AFDC applicant cases in Sumter and Spartanburg Counties will be randomly assigned to either the experimental group or the control group, using the same sampling ratios as were used for cases active in the month of implementation. Random assignment of new AFDC applicant cases will continue at least through the first 3 years of the demonstration. At the State's option, at the point at which random assignment to the research sample is ended, eligibility and benefit levels for new AFDC applicant cases will be determined either according to the State's approved AFDC and Medicaid State Plans and Food Stamps Plan of Operations or according to the FIA provisions. New AFDC applicants whose eligibility and amount of benefits for AFDC, Medicaid, and Food Stamps will be determined according to FIA provisions after random assignment has ended will be assigned to the non-experimental treatment group.
- 3.6 All AFDC and Food Stamp cases assigned to either the experimental or control group will maintain their assigned status for the full period of the demonstration as long as they reside in the Sumter and Spartanburg Counties. All AFDC and Food Stamp cases assigned to the non-experimental treatment group will maintain their assigned status for the full period of the demonstration as long as they reside in South Carolina. Specifically, if any case loses AFDC or Food Stamps eligibility and reapplies for AFDC or Food Stamps at any time during the demonstration, it must retain its originally assigned status. For cases that have been randomly assigned and then split (e.g., when minor parents start their own case), the prior status will be maintained for both cases and both cases will remain in the research sample. For cost neutrality purposes, split cases will be counted as one ever-assigned case and benefits for both cases will be included in determining cost neutrality. Procedures to resolve treatment assignments when AFDC or Food Stamps cases with different assigned statuses combine must be submitted to the Departments for approval in conjunction with the submission of the sampling plan described in 3.2 above. To the extent possible, the

designation of an AFDC or Food Stamp case as experimental, control, or non-experimental treatment group will follow the head of the original assistance unit.

- 3.7 Outcome data will be collected for all cases assigned to the research sample, to the extent possible, for the duration of the demonstration, regardless of whether the cases continue to receive assistance or, with regard to applicant cases, ever receive assistance. Data stored in automated data bases available to the State, such as AFDC, Emergency Assistance, Food Stamp and Medicaid benefits and wage data, will be collected for all cases assigned to the research sample for the duration of the demonstration. Data that must be collected through surveys or other non-routine data collection efforts, such as data regarding new applicant cases denied assistance, will be collected in sufficient quantity to produce meaningful evaluation results, as specified and approved in the evaluation plan. Data collection may cease after it is determined that a family in the research sample no longer resides in the State. The State will submit, for approval, not later than 30 days prior to the implementation date, a plan to track and collect data regarding cases in the research sample that no longer receive AFDC benefits.
- 3.8 The impact evaluation will compare the experimental and control groups for statistically significant differences on selected outcome measures and, at a minimum, will test the following research questions:
- o Does the demonstration promote self-sufficiency? Outcome measures related to this question include, at a minimum: employment rates; length of employment; amount of earned income; hours worked per month; child support collections; total family income; accumulated savings.
 - o Does the demonstration affect AFDC, Food Stamp, and Medicaid participation and program costs? Outcome measures related to this question include, at a minimum: incidence of AFDC and Food Stamp benefit receipt; AFDC and Food Stamp payments; exit and recidivism rates for AFDC and Food Stamps; receipt of Medicaid services; use of child care; child care payments under section 402(g); and sanction rates, including age and race of those subject to sanctions.
 - o Does the demonstration affect participation in JOBS? Outcome measures related to this question include, at a minimum: participation rates in JOBS, including participation rates in family skills training and substance abuse treatment.

- o Does the demonstration affect family structure and stability? Outcome measures related to this question include, at a minimum: marriage and separation rates; homelessness of children and adults; rate and use of foster care; and status changes between AFDC-UP and AFDC-Basic.
- o Does the demonstration affect the well-being of children, including their long-term prospects for self-sufficiency? Outcome measures related to this question include: measures of child well-being such as reported child abuse and neglect, health and insurance status as in extant data available from local records and medical records.

With the approval of the Departments, additional research questions and outcome measures may also be included.

- 3.9 To the extent that sample size allows, the impact evaluation will include the analysis of subgroups of the AFDC population with regard to the outcome measures described in 3.8. This subgroup analysis will include, but not be limited to, cases active in the month of implementation and new AFDC applicants and the characteristics of age and race.
- 3.10 The evaluation will include interim and final process studies that will describe how the parts of the demonstration were implemented and operated for both the experimental and the non-experimental treatment groups. This study will, as appropriate, examine the following aspects of the demonstration:
- o The organizational aspects, such as the planning process; staffing structure; funding committed; level of acceptance by field staff; and methods of project implementation at various organizational levels including ongoing monitoring, oversight and problem resolution.
 - o The service aspects, such as the characteristics, roles, and training of the field staff (e.g., eligibility workers and case managers); the exemption and sanctioning process; type and duration of services provided; and timeliness and scheduling in the provision of project components and services.
 - o The contextual factors, such as the social, economic, and political forces that may have a bearing on the replicability of the intervention or influence the implementation or effectiveness of the demonstration.

- o The differences between the experimental and control groups with regard to comparable resources, services, activities, staffing, etc.
- 3.11 The evaluation will include a cost-benefit analysis that will seek to determine whether the costs of the demonstration are justified by the benefits produced. Comparisons will be made from the viewpoint of the program participants, the various levels of government, and society as a whole. Analyses will involve quantifying program outcomes and projecting both costs and benefits into the future. Costs for all pertinent programs will be included, whether or not they are subject to the cost neutrality requirements in Section 4 of these Waiver Terms and Conditions. Data for the cost-benefit analysis will be from administrative and case records, as well as other sources to be determined by the State and the Departments.
- 3.12 Additional program changes that are not applied equally to treatment and control groups or that would substantially affect the evaluation of the demonstration must be approved by the Departments.
- 3.13 A final evaluation report integrating the impact study, the process study, and the cost-benefit analysis will be due 9 months after termination of the demonstration. The State will also have the evaluation contractor produce and make available public-use data tapes (or other electronically transferable means of storing data) including documentation, containing data collected during the demonstration. Prior to the conclusion of the fourteenth quarter ending after the implementation date, the State will submit two interim reports, one for the impact study, and one for the process study. Each report will cover the first twelve quarters of the demonstration. Additional reports may be proposed by the State and, subject to approval by the Departments, may be considered allowable components of the evaluation of the demonstration.
- 3.14 Public release of any evaluation or monitoring reports funded under this agreement will be made only by the Departments or the State. Prior to public release of such reports, the Departments and the State will have at least a 30-day period for review and comment.

SECTION 4: COST NEUTRALITY

- 4.0 For activities prior to the implementation date specified in 1.3 above, the Federal government will match the administrative costs related to development of the demonstration project (otherwise called developmental costs) at the 50 percent matching rate. Such costs may include

automated systems development and changes, policy procedures development, and staff training. Not later than 15 days after the State formally accepts these Terms and Conditions, the State will submit a plan, for approval by the Departments, designating which administrative costs will be treated as developmental costs for purposes of this section. This section is not intended to supersede other requirements for Federal approval for administrative costs of the programs involved in the demonstration.

- 4.1 Except for costs of evaluating and developing this project (as specified in 3.0 and 4.0 above), beginning with the deemed beginning date the operation of this demonstration is to be cost-neutral to the Federal government with respect to benefit and administrative costs for AFDC, Emergency Assistance, Food Stamps, and Medicaid. For purposes of calculating cost neutrality, child care costs made under section 402(g)(1)(A)(i) and (ii) of the Social Security Act, matchable at the Federal medical assistance percentage, are considered to be AFDC administrative costs. Also, for purposes of calculating cost neutrality: a) AFDC benefit costs will be net of child support collections retained by the State; and b) overpayments recovered from AFDC cases and Food Stamp claims collected from Food Stamp households will be considered as program savings to the applicable program.
- 4.2 Cost neutrality computations will be made by the State on a quarterly basis. These computations will determine the Federal share of excess costs or savings of the demonstration in total, as well as separately for each program, and separately for benefit and administrative costs. Excess costs or savings of the demonstration are relative to what costs would have been in the absence of the demonstration. All costs referred to in the rest of Section 4 are to be taken to mean the Federal share of costs. In the remainder of Section 4, the term "cumulative" in the context of costs will indicate that costs are to be summed for all quarters from the deemed beginning date through the quarter in question. Costs are to be accumulated only while a case remains within the research site. The term "total" in the context of costs will mean that all benefit and administrative costs are to be summed for the AFDC, Emergency Assistance, Food Stamp, and Medicaid programs.
- 4.3 At least 60 days prior to the implementation date of the demonstration, the State will submit, for approval by the Departments, a cost allocation plan concerning how AFDC, Emergency Assistance, Food Stamp, and Medicaid administrative costs will be determined and assigned to experimental and control cases.

Calculation of Excess Costs or Savings

- 4.4 The calculation of the baseline benefit and administrative costs for the experimental group described in steps (1) and (2) below will be performed to obtain separate baseline costs for benefits for each program (AFDC, Emergency Assistance, Food Stamps, and Medicaid) and administrative costs for each program. This will yield eight separate baseline costs, which will be determined cumulatively each quarter as follows:
- 1) Calculate the average cost per control group case by dividing the cumulative costs for control cases by the number of ever-assigned control cases.
 - 2) Multiply the average derived in step (1) above by the number of ever-assigned experimental cases. The result is the cumulative baseline cost for experimental cases, as applicable, for each program's benefit and administrative costs.
- 4.5 Each quarter the total cumulative excess costs or savings will be calculated for the experimental group as follows:
- 1) For each program, for benefit and administrative costs, subtract the cumulative baseline costs, as derived in step (2) of 4.4 above, from the cumulative actual costs for those in the experimental group. This will yield a cumulative excess costs or savings figure for each program for benefits and administrative costs. If the resulting amounts are positive in value, the amount reflects an "excess cost;" if negative, the amount reflects "savings."
 - 2) Calculate the total cumulative excess costs or savings for the experimental group by summing the excess costs or savings derived from the six calculations in step (1) above. In summing excess costs or savings, savings will be taken to be negative.
- 4.6 The total cumulative excess costs or savings for all cases will be calculated quarterly as follows:
- 1) Divide the total cumulative excess costs or savings for the experimental group derived in step (2) of 4.5 above, by the sum of the cumulative AFDC benefit costs for experimental cases to derive a single excess costs or savings ratio which is to be used to determine total cumulative excess costs or savings for all treatment cases.

- 2) Multiply the ratio derived in step (1) above by the amount of the sum of the cumulative AFDC benefit costs of all treatment cases in the State.

The result is the total cumulative excess cost and savings of the demonstration. Excess costs or savings will be reconciled as described in 4.7 through 4.12 below.

Reconciliation of Costs or Savings

- 4.7 For the period through the fourth quarter ending after the deemed beginning date the Federal government will provide Federal financial participation (FFP) and will not, during that period, recover excess costs.
- 4.8 Starting with the fifth quarter ending after the deemed beginning date, FFP will be limited so that the total cumulative excess costs will be recovered from the State and eliminated by the end of the demonstration. The State will not be allowed to owe the Federal government more than an allowable overage for any quarter. For each of the 5th through the 14th quarters ending after the deemed beginning date, the total allowable overage is \$10 million. The allowable overage for each of the remaining quarters is:
 - 1) the total cumulative excess costs at the end of the 14th quarter (adjusted for any net amount of excess costs reimbursed in prior quarters);
 - 2) multiplied by the ratio of the number of quarters remaining in the demonstration to 14.

In no case will the allowable overage be less than zero.

Reimbursement will be made for the 5th through the 28th quarters ending after the deemed beginning date such that the total cumulative Federal payments through the quarter in question will equal the lesser of:

- 1) the total cumulative actual costs or
 - 2) the total cumulative actual costs, minus the total cumulative excess costs, plus the allowable overage for that quarter.
- 4.9 A report showing the total cumulative allowable actual costs of the demonstration to date by program and calculations of the total cumulative excess costs or savings shall be submitted to the Departments within 60 days following the end of each quarter.

- 4.10 Within 60 days after the end of the demonstration period, a final reconciliation will be done to ensure that there are no remaining excess costs. If there are savings at the time of final reconciliation, the Departments agree to authorize FFP for approved and matchable demonstration expenses to the extent that the FFP provided does not exceed the amount of savings. If there are remaining excess costs at the time of reconciliation, the State agrees to repay the excess costs in equal quarterly amounts over the next four quarters. At the State's request, the final reconciliation can be adjusted for a period of up to 2 years after the termination of the project if additional cost data become available.
- 4.11 Reimbursements of Federal excess costs in accordance with 4.8 and 4.10 above, or 6.2 below, shall be made as adjustments to AFDC, Medicaid, and Food Stamp claims submitted quarterly by the State (e.g., Form FSA-231 for AFDC claims), beginning with the fifth quarter ending after the deemed beginning date. The State will send the appropriate claim forms to the agencies as required under current Federal procedures; in addition, the State will send the Federal Project officer a copy of such forms, showing adjustments made. The Departments will provide the State with a methodology for appropriately allocating the costs among the affected Federal programs.
- 4.12 If, at the time costs are calculated under 4.5 and 4.6 above, the data on Medicaid costs are incomplete, then another method, approved by the Departments, of estimating Medicaid costs will be used.

SECTION 5: MONITORING

- 5.0 For the purpose of monitoring the demonstration, the State will submit to the Departments, for review and acceptance, an interim implementation status report prepared by the evaluation contractor.

At a minimum, the State will report on critical implementation tasks necessary for the operation of the demonstration as approved, interim factors associated with outcome measures, and tasks or data necessary to support the evaluation. The report is to include findings on:

- o implementation tasks, including but not limited to: the development and implementation of automated systems required to carry out the demonstration provisions; adequate staffing levels; staff training; and issuance of revised policies and procedures;

- o interim implementation factors that may affect outcomes as well as interim outcome data or impact findings, including but not limited to: changes in the employment take-up rate during the interim period; changes in the take-up rate of training programs; changes in sanction rates due to child support cooperation requirements, school attendance requirements, and ISSP requirements; the number and proportion of sanctions that progress from adult-only to whole-family sanctions; number of case denials due to the applicant job search requirement; the placement rate of cases subject to the time limit; the number and proportion of cases that might reach the time limit; and the number of children born subject to the family cap; and
- o evaluation issues, including but not limited to: research sample attrition rate; the availability and reliability of data required to conduct analyses as proposed in the approved evaluation plan; and the adequacy of the random assignment methods implemented.

The report will cover the first six quarters ending after the implementation date and must be submitted no later than 120 days after the end of the sixth quarter.

- 5.1 The State shall submit quarterly progress reports throughout the project period summarizing project and evaluation activities and accomplishments during the quarter as well as outcome data and interim impact findings including, at a minimum, data available from administrative systems as well as the number of demonstration participants who have reached the time-limit; the number of sanctions; the number of children born subject to the family cap; and any other information that the State considers useful or important, such as the outcome and impact information to be included in the interim implementation status report in 5.0 above. Cost neutrality data shall be reported in an integrated format approved by the Departments. The quarterly monitoring reports shall indicate issues or problems and resolutions regarding the implementation of the demonstration or evaluation as approved. These reports are due no later than 60 days after the conclusion of each quarter.

Every four quarters, the State will include with the quarterly report an annual overview, summarizing the progress over the previous four quarters in implementing provisions of the demonstration and carrying out the evaluation.

SECTION 6: TERMINATION PROCEDURES

- 6.0 Federal financial participation in demonstration activities requiring waivers will not be provided beyond the period approved by the Departments.
- 6.1 No later than 90 days after acceptance of these Waiver Terms and Conditions, the State will provide, for the Departments' approval, a plan to phase down and end the demonstration to ensure there are no waiver-related Federal costs incurred beyond the period approved by the Departments. All activities requiring waivers must cease on the date decided by the Departments if the project is terminated prior to the end of the 28th quarter ending after the deemed beginning date.
- 6.2 If for any reason the demonstration is terminated either by the State or by the Departments prior to recovery of all of the total cumulative excess costs (as defined in Section 4: Cost Neutrality), the State agrees to repay the Federal government for all such remaining excess costs. Repayment will be achieved through adjustments to AFDC, Food Stamp, and Medicaid grant awards. Repayments will be made in no more than eight equal payments, starting with the first quarter after completion of the phaseout.