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**Welfare - Lobbying Disclosure**

THE WHITE HOUSE  
WASHINGTON

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*To Elena*  
*JLW*

MEMORANDUM FOR BOB DAMUS  
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FROM: STEVE NEUWIRTH

SUBJECT: NON-PROFIT LABELING PROVISION  
IN PROPOSED WELFARE REFORM LEGISLATION

Nan Aron of the Alliance for Justice has forwarded to me the attached materials from OMB Watch, concerning proposed welfare reform legislation.

The Senate version of that legislation provides that "whenever an organization that accepts federal funds under this Act ... makes any communication that in any way intends to promote public support or opposition to any policy of a Federal, State, or local government through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication shall state the following: 'This was prepared and paid for by an organization that accepts taxpayer dollars.'" According to OMB Watch, the House version of the bill contains a more limited variation of this provision, but it apparently could also apply to recipients of Medicaid funding if the House combines the welfare and Medicaid reform bills.

As you will recall, the Administration worked closely with the non-profit community last year to oppose the Istook amendment and its progeny, including provisions that would have required new disclosures by non-profit organizations that receive federal funds and engage in public advocacy. I understand that the non-profit community is now seeking White House and OMB assistance in defeating these new proposals.

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OMB WATCH

## THE NONPROFIT LABELING PROVISION: DISCLOSURE WITH A SCARLET LETTER

Both the House and the Senate have taken action on welfare reform legislation that would require tax exempt recipients of funds covered by the reform bill to make a new public disclosure if they attempt grassroots efforts to influence public policies. Furthermore, since the Republican leadership supports linking welfare and Medicaid reform through the first of three budget reconciliation bills, the disclosure requirement could be extended to nonprofit organizations providing Medicaid services.

### The Senate Version

Under the Senate welfare reform bill (the Work Opportunity Act, S. 1795), any 501(c) organization that receives money "under this Act" and makes a communication intended to promote public support or opposition to any governmental policy -- federal, state, or local -- through "any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising" must state on the communication: "This was prepared and paid for by an organization that accepts taxpayer dollars."

The ACLU has pointed out, as the bill in the Senate moved, that the provision would chill nonprofit organizations that participate in welfare programs from expressing their views on policy matters. The provision would even affect the organizations' expression on issues completely unrelated to their work on welfare. This restriction, in the view of the ACLU, is unconstitutional because it imposes a First Amendment restriction on certain nonprofit organizations receiving federal funds.

On June 26, the Senate Finance Committee linked Medicaid and welfare overhaul on an 11-9 vote. Doing this made the disclosure requirement apply to tax exempt recipients of funds under the Medicaid reforms, since the disclosure requirements apply to all funds "under this Act." Although Senate Major Leader Trent Lott (R-MS) and House Speaker Newt Gingrich (R-GA) have stated that they support linking the Medicaid and welfare overhaul, and the GOP governors support the linkage, there is a movement to keep them separate. President Clinton has stated that he will veto a reconciliation bill that contains the Medicaid reforms, which would eliminate the entitlement status of Medicaid. Accordingly, Lott was quoted on June 27 as saying, "We're going to continue to look at what our options may be... At this point our intent is keep welfare and Medicaid together."

The Senate bill will now go the Budget Committee, which will either link or separate the reform efforts. It is expected that the Senate bill will be on the floor around July 15. Whether it applies to the Medicaid overhaul or not, the disclosure requirement will be on the bill.

### The House Version

In the House, the disclosure provision in the welfare reform bill was identical to the Senate's. However, at a mark-up in the House Ways and Means Committee on June

12, the Committee accepted an amendment to the Nonprofit Labeling Provision by Rep. Benjamin Cardin (D-MD). The Cardin amendment excludes tax exempt organizations participating in programs under Ways and Means Committee jurisdiction from the labeling requirement. Specifically, the amendment exempts those tax exempt recipients receiving money under Title IV (AFDC), Title XVI (SSI), and Title XX (Social Services Block Grant).

On June 19, the House Budget Committee combined the Ways and Means welfare bill with Medicaid changes from the Commerce Committee and changes from other committees, creating the first of three reconciliation bills planned in the House. The bill goes next to the House Rules Committee and then to the House floor shortly after the July 4th recess.

### **Enforcement Under Both Bills**

If a tax-exempt organization does not make the disclosure on a communication intended to create grassroots influence on a governmental policy, then *the organization will become ineligible to receive federal funds authorized under the Act*. The requirements would go into effect immediately upon enactment for non-printed communications, and one year after enactment for printed communications.

The bill provides no detail on these severe penalties. For example, it makes no distinction between a first time offense and multiple offenses. It does not indicate whether, after a period of ineligibility, the organization can again receive federal funds under the programs covered by the Act. The bill leaves to federal agencies how to monitor and enforce the requirements.

### **Who Will Be Affected?**

Depending on which version of the disclosure requirement is sent to the President (and whether it is linked with Medicaid reform), the following nonprofit organizations are among the many that could be affected:

- Nonprofit Hospitals
- Migrant Health Centers
- Community Health Centers
- Community Resettlement Agencies
- Child Care Providers
- Nutrition Centers
- Some Mental Health Centers
- Public Schools

### **Next Steps**

If the budget reconciliation bill contains both the welfare and Medicaid overhaul, it is likely the President will veto the bill. It is less clear what will happen if the reconciliation bill contains only the welfare reform provisions. There has been very little discussion of the Nonprofit Labeling Provision.

If the reconciliation bill is vetoed by the President, Congress will likely drop the Medicaid provisions and attempt to make some changes to the welfare reform sections to find a compromise that the President can sign. Since there has been little discussion of the Nonprofit Labeling Provision, it is not known whether this would be a negotiable item.

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1           ence and Judiciary of the Senate within 1 year  
2           after the date of the enactment of this Act.

3 **SEC. 112. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS.**

4           (a) **IN GENERAL.**—Whenever an organization that  
5           accepts Federal funds under this Act or the amendments  
6           made by this Act makes any communication that in any  
7           way intends to promote public support or opposition to  
8           any policy of a Federal, State, or local government  
9           through any broadcasting station, newspaper, magazine,  
10          outdoor advertising facility, direct mailing, or any other  
11          type of general public advertising, such communication  
12          shall state the following: "This was prepared and paid for  
13          by an organization that accepts taxpayer dollars."

14          (b) **FAILURE TO COMPLY.**—If an organization makes  
15          any communication described in subsection (a) and fails  
16          to provide the statement required by that subsection, such  
17          organization shall be ineligible to receive Federal funds  
18          under this Act or the amendments made by this Act.

19          (c) **DEFINITION.**—For purposes of this section, the  
20          term "organization" means an organization described in  
21          section 501(c) of the Internal Revenue Code of 1986.

22          (d) **EFFECTIVE DATES.**—This section shall take ef-  
23          fect—

24                  (1) with respect to printed communications 1  
25          year after the date of enactment of this Act; and

1 (2) with respect to any other communication on  
2 the date of enactment of this Act.

3 **SEC. 113. MODIFICATIONS TO THE JOB OPPORTUNITIES**  
4 **FOR CERTAIN LOW-INCOME INDIVIDUALS**  
5 **PROGRAM.**

6 Section 505 of the Family Support Act of 1988 (42  
7 U.S.C. 1315 note) is amended—

8 (1) in the heading, by striking "DEMONSTRA-  
9 TION";

10 (2) by striking "demonstration" each place such  
11 term appears;

12 (3) in subsection (a), by striking "in each of  
13 fiscal years" and all that follows through "10" and  
14 inserting "shall enter into agreements with";

15 (4) in subsection (b)(3), by striking "aid to  
16 families with dependent children under part A of  
17 title IV of the Social Security Act" and inserting  
18 "assistance under the program funded part A of title  
19 IV of the Social Security Act of the State in which  
20 the individual resides";

21 (5) in subsection (c)—

22 (A) in paragraph (1)(C), by striking "aid  
23 to families with dependent children under part  
24 A of title IV of the Social Security Act" and in-  
25 serting "assistance under a State program