

NLWJC - Kagan

Counsel - Box 036 - Folder 005

Cuban / Haitian

Wraft

October 21, 1996

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ACTION

MEMORANDUM FOR ANTHONY LAKE
CAROL RASCO
FRANKLIN RAINES
MARSHA HALE

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FROM: ROB MALLEY

SUBJECT: Welfare Reform and Cuban/Haitian Entrants

Law prior to Welfare Bill (Fascell/Stone)

Unlike nationals from other countries, Cuban and Haitians paroled into the United States have traditionally been treated as refugees, and therefore have been eligible for all benefits and services. This special treatment is based on the numbers and circumstances of their arrival. This has been of particular importance since the signing of our migration agreements with Cuba, which provide that a minimum of 20,000 Cubans will be allowed to enter the United States every year and therefore arguably creates a special federal responsibility for their care.

Impact of Welfare Bill on Cuban-Haitian entrants

Under the welfare reform bill, refugees are excepted during their first five years in the United States from benefit restrictions that apply to most other legal immigrants. In other words, refugees are eligible for Food Stamps, SSI, Medicaid, and the successor program to AFDC (the Transitional Assistance for Needy Families, or TANF) for their first five years. However, this exception does not apply to Cuban and Haitian entrants.

Concretely:

- For Cuban-Haitians who were in the U.S. prior to enactment of the law (8/22/96): Unlike refugees, entrants who are current recipients will be ineligible for Supplemental Security Income (SSI) and Food Stamps immediately after redetermination of eligibility. Their eligibility for Medicaid, TANF, and Social Services Block Grants (SSBG) is at the States' option.
- For Cuban-Haitians who arrive after enactment: Unlike refugees, new entrants will not be eligible for SSI or Food Stamps. They also will be ineligible for Medicaid, TANF OR

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SSBG during the first five years after their arrival in the U.S.

In short, there now is a significant disparity in the treatment of refugees and Cuban/Haitian entrants. This is of great concern to the State of Florida which houses the vast majority of Cubans and Haitians, largely as a result of federal policy, and which is likely to cover some of these benefits strictly with State funds. Governor Chiles has pointed in particular to the treatment of Cuban and Haitian entrants who are lawfully admitted after enactment of the bill.

Proposed Interim Response:

At the time he signed the bill, the President announced that he would seek modifications of immigrant-related provisions. Pending such corrections, however, we can take some limited steps that will both mitigate the impact on state and local communities and provide a safety net to new Cuban/Haitian entrants. Specifically, INS and HHS would issue regulations, the combined effect of which would be to put -- for a limited period of time -- newly arriving Cuban-Haitians in roughly the same category as those who were here prior to enactment of the law. *In other words they would still be ineligible for Food Stamps and SSI, but would become eligible, at the States' discretion, for Medicaid, TANF, and SSBG.*

For technical reasons, this reclassification of Cuban/Haitian entrants would need to be undone at a later stage. This would thus be an interim measure, pending adoption by the Congress of a technical amendment to the welfare bill that would achieve the same result or of other appropriate Congressional action.

Justification:

- 20,000 Cubans are lawfully admitted in the United States every year as a result of our migration accord with Cuba. Federal government has a special responsibility toward citizens of Florida to minimize fiscal burden on State this creates. If we do not take this step, State in all likelihood will carry burden alone.
- Measure will provide safety net for Cuban/Haitian entrants and help them reach self-sufficiency.
- Interim measure is justified by what appears to be technical error in bill denying newly arriving Cuban-Haitians benefits available to those already here.

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³ *Ken Apfel*

Concurrence by: Stephen Warnath; ~~Jack Smalligan~~; Emily Bromberg

RECOMMENDATION

That we request DOJ/INS and HHS to issue regulations along the lines outlined above.

Approve _____

Disapprove _____

Discuss _____

DRAFT

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Ken Ap Sel

Concurrence by: Stephen Warnath; Jack ~~Smalligan~~; Emily Bromberg

RECOMMENDATION

That we request DOJ/INS and HHS to issue regulations along the lines outlined above.

Approve _____ Disapprove _____ Discuss _____

THE WHITE HOUSE
WASHINGTON

October 23, 1996

MEMORANDUM FOR DISTRIBUTION

FROM: Emily Bromberg, Intergovernmental Affairs

SUBJECT: Welfare and Cuban/Haitian Entrants

Please find the attached memo from Debbie Kilmer, the Director of Florida Governor Chiles' Washington Office, regarding welfare reform and Cuban/Haitian entrants.

If you have any questions, I can be reached at 6-2896.



LAWTON CHILES
GOVERNOR

STATE OF FLORIDA

Office of the Governor

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-0001

MEMO

TO: Debbie Kilmer, Washington Office
FROM: Patricia Grogan, Refugee Policy
DATE: October 22, 1996
RE: Welfare and Cuban Haitian Entrants

Presidentially-authorized Eligibility for Cuban/Haitian Entrants**Impact Analysis of Welfare Reform: (1995 Data)**

In 1995, 18,108 Cubans and Haitians parolees entered Florida

1,986 were under the age of 15

3,381 were under the age of 19

153 were over the age of 65

As a result of the welfare reform measures passed by Congress, Entrants entering Florida after August 22, 1996, are ineligible for any federal means tested public benefit. Entrants are eligible for Refugee Assistance, a program limited to only eight months, and emergency medical care. Thus, future Entrants will lose any non-crisis health care and access to subsistence within a very short time.

The U.S. - Cuba Accords will continue to impact Florida, allowing 9,000 - 15,000 new Cuban Entrants each year, plus more than 6,000 refugee and visa immigrants. Given the ineligibility of Entrants for federal means-tested public benefits, the State of Florida and local governments will inevitably incur costs related to absorbing these individuals into the community, including language services, employment assistance, non-emergency health care and social services such as child care.

Impact of Proposed Presidential Action:

Under Section 501(b) of the Refugee Education Assistance Act of 1980, as provisionally re-authorized by the welfare reform legislation, the President has the authority to make Cuban and Haitian Entrants eligible for many of the programs for which refugees are eligible. Under welfare reform, refugees will be eligible for all federal programs for the first five years. Legal counsel at HHS and INS are interpreting the welfare bill to not extend to the President the authority to expand eligibility for SSI and food stamps.

The option for the President, then, appears to be to issue a regulation making Cuban and Haitian Entrants eligible for means tested federal programs, excluding the "specified federal programs" of SSI and food stamps. If the President issues such a regulation, the 9,000 -15,000 Entrants coming to Florida each year would be eligible for Medicaid, TANF, and Title XX services. In addition, these Entrants would then be treated similarly to Entrants arriving prior to August 22, 1996, who are covered by virtue of Florida exercising its state option.

Limitation of the Proposal:

This proposal would not affect the loss of SSI for up to 100,000 Florida residents and the loss of food stamp benefits of 129,000 Florida lawful permanent resident recipients, many of who have been long term residents. The President has no authority to extend those benefits.

There is an option for these individual to re-qualify for benefits: citizenship. Many of the SSI recipients have been in the United States in legal status for more than 5 years, meeting the residency requirement for citizenship. New rules have been promulgated to allow those with mental or physical disabilities to be exempted from the language and citizenship requirements, thus removing one of the greatest impediments they have had.

Another limitation is that this proposal is designed to be an interim step moving towards a more permanent solution. INS and HHS prefer programs such as those authorized under the Wilson/Fish authorization, since they allow state options and equalize treatment of immigrants. Florida should explore this in the immediate future, but a program could not be crafted in time to cover individuals arriving every day who are ineligible for benefits.

A further limitation is that this proposal does not address legal immigrants who currently receive Medicaid. Many legal immigrants, including many Cuban permanent residents, will lose SSI benefits over the next year under the terms of the new welfare law. Those legal immigrants who previously qualified for Medicaid through SSI will now have to go through a redetermination process for Medicaid. It is likely that most will requalify for Medicaid through an existing category such as "medically needy". It is unknown how many of the estimated 80,000-100,000 current recipients of SSI and Medicaid will not qualify under the existing categories. Some may not qualify and could lose their coverage. For those that do requalify, the State will face an increased cost factor from the loss of SSI funds that now help to offset the costs of such services as nursing homes.