

NLWJC - Kagan

DPC - Box 062 - Folder-004

Welfare-Grandparent Provision



Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Cynthia A. Rice/OPD/EOP
Subject: Waters grandparents initiative

I just saw all this. I will try to figure out who on Sylvia's staff might call NGA/Scheppach and try to make sure we're in the middle of this.

----- Forwarded by Diana Fortuna/OPD/EOP on 12/22/97 02:28 PM -----



Record Type: Record

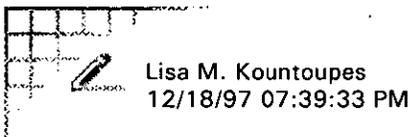
To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP
Subject: Waters grandparents initiative

In response to this note, Barry wrote that there is \$24 million already appropriated on the mandatory side, specifically to study welfare to work success or failure over the next few years. That's in addition to \$31 million on the discretionary side for welfare research annually and "more is not called for."

I noted that "child only" cases are not subject to the five year time limit and that many grandparents caring for grandchildren fall into this category.

But we are on notice that Rep. Waters is looking for more action in this area. Note that Sylvia plans to call Ray Scheppach.

----- Forwarded by Cynthia A. Rice/OPD/EOP on 12/19/97 09:59 AM -----



Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Diana Fortuna/OPD/EOP
cc: Janet Murguia/WHO/EOP, Barbara Chow/OMB/EOP, Barry White/OMB/EOP, Keith J. Fontenot/OMB/EOP
Subject: Waters grandparents initiative

its baaaack

At the meeting today with the Director, Sperling, the COS, and Sylvia Mathews, Mrs. Waters and

her staff reiterated their interest in doing something on this issue. She noted that these grandparents are subject to the time limits, that HHS had provided a lot of information, but that "we are not done" with this issue. Sylvia suggested that her staff contact Ray Shipock (sp?) at the NGA to see if they could get it into their policy mix for the new year's initiatives.

Also she was interested in getting funding for a study for welfare to work to see how we are doing with implementation. Everyone seemed to agree that was a good idea, but wondered if it had been included in the welfare bill by Shaw. Keith do you recall this? If it was in there are we funding it and moving on it?



03:04:48 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Bruce N. Reed/OPD/EOP, Cynthia A. Rice/OPD/EOP, Andrea Kane/OPD/EOP
Subject: Clarification on Waters grandparents initiative

One clarification to Cynthia's note: Sylvia doesn't plan to have her staff call NGA/Scheppach on this. She was merely suggesting that the Congressional Black Caucus might wish to do so.

----- Forwarded by Diana Fortuna/OPD/EOP on 12/22/97 03:03 PM -----



Cynthia A. Rice

12/19/97 10:03:07 AM

Record Type: Record

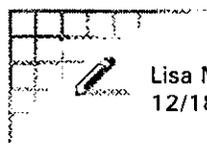
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----- Forwarded by Cynthia A. Rice/OPD/EOP on 12/19/97 09:59 AM -----



Lisa M. Kountoupes
12/18/97 07:39:33 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Diana Fortuna/OPD/EOP
cc: Janet Murguia/WHO/EOP, Barbara Chow/OMB/EOP, Barry White/OMB/EOP, Keith J. Fontenot/OMB/EOP
Subject: Waters grandparents initiative

its baaaack

At the meeting today with the Director, Sperling, the COS, and Sylvia Mathews, Mrs. Waters and

wp - grandparents



16

12:07:11 PM

Record Type: Record

To: Laura Emmett/WHO/EOP, Cynthia A. Rice/OPD/EOP

cc: Jennifer L. Klein/OPD/EOP

Subject: Briefing paper for grandparents/Waters

Here are talking points for Elena on the welfare part of the Waters equation. I can easily brief her in the car, so you don't have to force her to look at it before then.

Jen, our general message here is we don't want to pursue this on the welfare side (i.e., a change to the work rules or time limits), but we are interested in talking on the child welfare side. But I'm not sure what Elena can say on the latter beyond a general willingness to talk. Olivia or Carol Williams and Mary Bourdette will probably be there, but they may not help Elena much is Waters presses her, since they always act pretty horrified at the notion of using the child welfare system in this way. Any guidance?



grandp.wpd

Grandparent/Family Caregiver Exemption from Welfare Work Requirements and Time Limits

Summary of Grandparent and Family Caregiver Support Act: Prohibits states from applying work requirements and time limits to grandparents and other family members caring for children on public assistance. Federal government would reimburse states for costs of supporting such families.

Talking Points

- States already have great flexibility to support these families in an appropriate way. Under welfare reform, states have the discretion to identify their most vulnerable populations -- battered women, people with AIDS, those too disabled to work, grandparent caregivers -- and decide who would be exempt from time limits and work requirements.
 - The law allows states to exempt up to 20% of the caseload from time limits.
 - The maximum work requirement is 50% of the caseload beginning in 2002.
 - States have some discretion to use state-only programs to help this group. [Note: we shouldn't overemphasize this, since we've wanted to close this loophole.]
 - States can make these families "child-only" cases, to which time limits do not apply.
- In the Balanced Budget Act debate, the Administration opposed a number of proposals to weaken the work requirements. These include:
 - a reduction in required work hours for states whose benefits can't support payment of the minimum wage; and
 - broadening the amount of vocational education that counts toward the work requirements [but this passed].
- There is also a real risk that this proposal would encourage parents to give their children over to grandparents or other relatives' care.
- The California TANF plan as passed by the state legislature included important steps to support these families, including:
 - Parents or caretaker relatives over 60 are exempt from time limits.
 - For caretaker relative of a child who is a dependent or ward of the court or at risk of placement in foster care:
 - exempt from time limits if the county determines that the caretaking responsibilities impair the recipient's ability to be employed;
 - exempt from work requirements if the county determines that these responsibilities are beyond those considered normal day-to-day parenting responsibilities such that

they impair the caretaker relatives' ability to be regularly employed.

08/15/97 14:47
8-15-1997 12:03PM

FROM MARY BOURDETTE 96905750

002/002

P. 2

WR - grandparent

cc Elena
Jen Klein, Janet Murguia
Full. - Diana

Note

To: Mary Bourdette
Fr: Patricia Savage
Re: California's State TANF Plan
Da: 8/14/97

We received a detailed summary of California's TANF plan which was recently passed by the California state legislature. Several aspects of the plan address concerns raised by Representative Maxine Waters regarding the needs of grandparent and other relative caregivers.

Time Limits

The California TANF plan exempts from the 60 month time limit several categories of recipients including: 1) parents or caretaker relatives who are 60 years of age or older, and 2) non-parent caretaker relatives who have primary responsibility for providing care for a child who is either a dependent or ward of the court or at risk of placement in foster care *and* the county determines that the caretaking responsibilities impair the recipient's ability to be regularly employed. 1

Work Requirements

The California TANF plan exempts parents or caretaker relatives from work requirements for months in which the parent or caretaker relative is a non-parent caretaker relative who has primary responsibility for providing care for a child who is a dependent or ward of the court, at risk of placement in foster care, *and* the county determines that caretaking responsibilities are beyond those considered normal day to day parenting responsibilities such that they impair the caretaker relatives' ability to be regularly employed.

WR - grandparent

▶ **Diana Fortuna**
07/25/97 09:23:55 AM
.....

Record Type: Record

To: Laura Emmett/WHO/EOP
cc:
Subject: Elena says she lost her material for the 9:45

and asked me to send it to you to print out asap. I am also faxing 3-4 pages to you that HHS. did.
----- Forwarded by Diana Fortuna/OPD/EOP on 07/25/97 09:24 AM -----

▶ **Diana Fortuna**
07/22/97 06:41:05 PM
.....

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP, Elisabeth Stock/OVP @ OVP
Subject: Material for Waters meeting -- whenever it may ultimately be



Attached is a paper with some talking points: grandp.wpd

There appears to be another, fairly major option for addressing Waters' problem without a change in the law -- but we may not want to talk it up. States can choose to define these households as "child-only" cases under TANF, as Wisconsin has. The time limit does not apply to child-only cases. This trick has a more limited utility in getting around work requirements -- it allows you to exempt the grandparent from work, but child-only households are still counted in the denominator for the purposes of meeting the work requirements, so you have to make it up somewhere else in the caseload.

States are free under TANF to create a child-only category for whatever slice of the population they wish, e.g., grandparents, those over a certain age, or even parents. Presumably a state pays a lower benefit to a child-only case than to a two-person family, but that is not required. So TANF may encourage states to create more child-only categories -- although there will be a countervailing political pressure to be tough on work.

As CEA noted in its weekly report to the President last week, child-only cases are already a large and growing part of the caseload, increasing from 9.6% in 1988 to 21.5% in 1996. The cause is unclear. Child-only cases include households where the parent is on SSI, where the parent is an illegal alien, or where the parent has been sanctioned, as well as cases where the caretaker was a relative not eligible for AFDC.

By the way, Frank Raines is apparently interested in this as well, and has talked to Waters. Therefore, Keith wants to come or send someone to the Waters meeting.

Grandparent/Family Caregiver Exemption
from Welfare Work Requirements and Time Limits

Summary of Grandparent and Family Caregiver Support Act: Would prohibit states from applying work requirements and time limits to grandparents and other family members caring for children on public assistance.

Talking Points

- In welfare reform, we agreed to give states the discretion to identify their most vulnerable populations -- battered women, people with AIDS, those too disabled to work, grandparent caregivers -- and decide who would be exempt from time limits and work requirements.
 - The law allows states to exempt up to 20% of the caseload from time limits. The maximum work requirement is 50% of the caseload beginning in 2002. States also have some discretion to use state-only programs to help this group. [Note: we shouldn't overemphasize this, since we've wanted to close this loophole.]
- In the current reconciliation debate, the Administration is opposing a number of proposals to weaken the work requirements. These include:
 - a reduction in required work hours for states whose benefits can't support payment of the minimum wage; and
 - broadening the amount of vocational education that counts toward the work requirements.
- There is also a real risk that this proposal would encourage parents to give their children over to grandparents or other relatives' care.

Unrelated Note: The welfare law requires the Census Bureau to collect census data on grandparents who are primary caregivers for their grandchildren, with the Commerce Secretary required to take action to make this possible within 90 days after the law was signed. I am trying to learn if Commerce has done this, but I don't believe this would yield any data until the year 2000 census.

WR - grandparent

Grandparent and Family Caregiver Support Act

Talking Points

- In welfare reform, we agreed to give states the discretion to identify their most vulnerable populations -- battered women, people with AIDS, those too disabled to work, grandparent caregivers -- and decide who would be exempt from time limits and work requirements.
- This is not something we think we can re-open, but we'd be glad to speak to you about it further.

Background

The Grandparent and Family Caregiver Support Act would prohibit States from applying the work requirements and time limits in the welfare reform law to grandparents and other family members caring for children on public assistance. Currently, states can exempt up to 20% of the caseload from the time limits and must have 25 percent of the caseload working in 1997, 30% in 1998, 35% in 1999, 40% in 2000, 45% in 2001 and 50% in 2002.

Wp - grand ~~parents~~
parents

Laura
Em

GRANDPARENT AND FAMILY CAREGIVER SUPPORT ACT OF 1997

Summary

The Grandparent and Family Caregiver Support Act of 1997 would prohibit States from applying the work requirements and time limits in the welfare reform law to grandparents and other family caregivers. The proposal contains the following provisions:

- Work Requirements. States would be barred from using their TANF grant to impose work requirements on families headed by a relative caregiver. These families would not be included in the calculation of the work participation rates and could not be required to work after two years. States could not sanction these families for refusing to work. If a State used the grant to require these families to work or penalized these families, the Secretary could reduce a State's TANF grant by 5 percent.
- Time Limits. States would be prohibited from establishing time limits for relative caregivers. In addition, in determining the number of months of assistance received, States would be required to disregard any months of assistance received by a family head who is a relative caregiver. If a State violated these provisions, the Secretary could reduce a state's TANF grant by 5 percent.
- Grants to States. States providing support for grandparent and other family caregivers would be eligible to receive a federal grant equal to the amount expended by states to provide assistance to these caregivers.

Background

The background information provided with the legislative proposal discusses 3.5 million children living in relatives' households. This figure overstates the issue somewhat, because in approximately half of these households the children's parents are also present. A much smaller, although still quite significant, number of children are living with relatives without a parent present. Multi-generational, extended family households are somewhat different from households in which a relative has taken over primary responsibility for the children and the parent is not present. (All the figures below are from an ASPE study to be released soon entitled *Informal and Formal Kinship Care*.)

In the period 1992-1993, an estimated 1.39 million children lived with relatives and without their parents. This includes 1.1% of white children, 6.1% of African American children and 2.7% of Hispanic children. Just under half of all U.S. children in relatives' care (without a parent present) live in the South, as defined by the Census Bureau. Since the early 1980s the number of such families has grown significantly among African Americans and has remained reasonably stable among whites. Relatively few of these children are in formal foster care arrangements with relatives. Most relative care consists of informal arrangements organized by the families themselves.

As the Congressman's background sheet on the bill points out, many relative caregivers are older than parents. Two thirds of the children in relatives' care live with grandparents. Of the relatives caring for children when parents are not present, 27% are age 60 or over; 29% are age 50-59; 24.5% are 40-50 years old; and 18% are under 40. Nearly 60% of these caregivers are employed, but nearly 40% of the children in relatives' care live in families with incomes below the poverty line. Approximately 27% of kinship care children live in families that receive public assistance or welfare, 31% receive Food Stamps, 14.5% receive SSI, nearly half receive free school lunches, and 35% live in households which receive income from Social Security.

Analysis

The needs of relative caregivers are real and important. Several aspects of this proposal, however, could have significant unintended consequences and are inconsistent with the President's proposals on welfare reform. In addition, current law and guidance provided to the States on maintenance of effort and the operation of separate programs with state-only money gives them flexibility to use their own funds to support relative caregivers should they choose to do so.

Potentially Weakens Family Stability. We must take care not to encourage parents to abandon their children. In the same way the welfare system has been accused of driving men out of families and contributing to the explosion in single parent households, making a single parent's departure from the household the key to continued family assistance may inadvertently create additional no-parent families. For a single mother facing the loss of assistance benefits because of time limits, work requirements, or other restrictions, abandoning her children to a relative's care may seem like the best option. In addition, States would have an incentive under this proposal to encourage this possible trend given that they would receive additional funding when assistance is provided to relative caregivers rather than parents.

Significant Costs. This proposal would have significant budgetary implications, given that States would receive Federal reimbursement for the full amount of assistance they provide to relative caregivers. States would have a strong incentive to use this new funding stream to maximum advantage.

Reduces State Flexibility. This proposal reduces State flexibility by banning States from establishing time limits or requiring work, even if States find that such requirements would be appropriate in certain circumstances. States currently have the flexibility to ease time limits for grandparents or other relative caretakers by including them under the 20 percent extension, by using State dollars to provide assistance, or by only providing assistance to the children in the family.

Weakens Work Emphasis. In many instances, it may be appropriate to require relatives to work in order to help them make the move to self-sufficiency. In circumstances where it may not be appropriate to require work because of age or disability, the State can choose under current law to exempt these individuals from the work requirements (and meet the rates by targeting other individuals) or serve them in separate State programs.

Wp - grandparent provision

▶ **Diana Fortuna**
07/22/97 06:41:05 PM
.....

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP, Elisabeth Stock/OVP @ OVP

Subject: Material for Waters meeting -- whenever it may ultimately be



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Wp- grandmothers

▶ **Diana Fortuna**
07/10/97 03:36:15 PM
.....

Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Jennifer L. Klein/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: Meeting with Rep. Waters' staff on grandparents

I've followed up with Rep. Waters' staff, Katherine Atkins, to tell her that we would very much like to meet with her to discuss grandparents.

To remind Jen of the genesis of this issue, Waters has a bill to exempt grandparents who take care of kids on welfare from the welfare law's work requirements. HHS has told her (nicely) that we can't support that, and that we think the law has sufficient flexibility to take this population into consideration. However, her staff has now asked if we are interested in discussing other approaches or initiatives to supporting this group, and Elena asked me to send back a very clear "yes" signal to her, which I have done.

Unfortunately, Rep. Waters would really like the meeting to be next week, ideally Tuesday or Thursday. We need to decide which of us should go, both from DPC and from HHS. I am assuming we need you or Nicole, Jen, to be there to talk about the issue. I asked Atkins what agenda she envisions for the meeting -- she said she'd like to discuss what areas we have identified as needing work, and what initiatives we may be undertaking. She said perhaps we would undertake some activities together.

Please let me know your thoughts on who should attend. Elena, do you want to try to come? We need to start setting this up on Friday, either by Laura or by our new support person, Linda Cooper. From HHS, is it still Carol Williams? Elena, I assume you would be anxious to make this work for Waters at the time she wants. (I'm out next week, so I'd like to get this set.)

Welfare - grandparent
provision

▶ Diana Fortuna
07/07/97 06:55:53 PM
.....

Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP

cc:

Subject: Grandparents meeting

Here's what's been happening on this: Initially, HHS says they were having great difficulty setting up the meeting with Waters' staff because of problems coordinating schedules. So they decided -- without telling us -- to give up on a meeting and instead have an HHS-Waters phone call, with Waters' staffer Katherine Atkins.

This happened about 2 weeks ago, with Mary Bourdette of HHS, and she says it went very well. Mary said she explained that the Administration knows this is an issue, but we feel there is sufficient flexibility in the law, between the 20% exemption and the ability to set up state-only programs, to exempt grandparents where appropriate. Mary said HHS feared that Waters' approach could potential give an incentive for parents to leave their kids with grandparents; Waters' staff acknowledged that was an issue. Water's staffer asked what initiatives we are doing in this area; Mary told her about initiatives on kinship care, including an informal study HHS just did, and about the child welfare demonstrations that relate to this, and sent her some information on it. Mary told her that Ron Haskins and Deborah Colton would be important people to talk to on this.

I will call Atkins myself, and can either (1) offer her another meeting with us; or (2) take her temperature on whether she feels she got a full hearing with HHS and give her the opportunity to make her case to me or ask for a meeting. Let me know how you want me to proceed.

Diana (+ return) -

Let me know as soon
as you talk to Waters'
people. As you can tell
from my e-mail, Sylvia +
Mindy have been asking +
I want to be able to report
back to them. Elena
→ cc: Bruce / Cynthia

Grandparent and Family Caregiver Support Act

Background

The Grandparent and Family Caregiver Support Act, which Representative Waters and others in the Congressional Black Caucus support, requires states to exempt grandparents and other family members caring for children from the welfare law's time limits and work requirements. Currently, states have discretion to exempt these persons (or any others the state selects) from the law's time limits, up to 20% of the welfare case load. In addition, of course, the work rates are now set at only 25% of the caseload (going up to 50% in 2002).

Talking Points

- In welfare reform, we agreed to give states the discretion to identify their most vulnerable populations -- battered women, people with AIDS, those too disabled to work, grandparent caregivers -- and decide who would be exempt from time limits and work requirements.
- We are reluctant to reopen this issue and ask for particular exclusions. For one thing, we think Congress would use our attempt to reopen the law as an opportunity to push for proposals we disagree with. But we are glad to talk with you further about this proposal.

WR - grandparent provision

GRANDPARENT AND FAMILY CAREGIVER SUPPORT ACT OF 1997

Summary

The Grandparent and Family Caregiver Support Act of 1997 would prohibit States from applying the work requirements and time limits in the welfare reform law to grandparents and [other family caregivers.] The proposal contains the following provisions:

- **Work Requirements.** States would be barred from using their TANF grant to impose work requirements on families headed by a relative caregiver. These families would not be included in the calculation of the work participation rates and could not be required to work after two years. States could not sanction these families for refusing to work. If a State used the grant to require these families to work or penalized these families, the Secretary could reduce a State's TANF grant by 5 percent.
- **Time Limits.** States would be prohibited from establishing time limits for relative caregivers. In addition, in determining the number of months of assistance received, States would be required to disregard any months of assistance received by a family head who is a relative caregiver. If a State violated these provisions, the Secretary could reduce a state's TANF grant by 5 percent.
- **Grants to States.** States providing support for grandparent and other family caregivers would be eligible to receive a federal grant equal to the amount expended by states to provide assistance to these caregivers.

Background

The background information provided with the legislative proposal discusses 3.5 million children living in relatives' households. This figure overstates the issue somewhat, because in approximately half of these households the children's parents are also present. A much smaller, although still quite significant, number of children are living with relatives without a parent present. Multi-generational, extended family households are somewhat different from households in which a relative has taken over primary responsibility for the children and the parent is not present. (All the figures below are from an ASPE study to be released soon entitled *Informal and Formal Kinship Care.*)

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As the Congresswoman's background sheet on the bill points out, many relative caregivers are older than parents. Two thirds of the children in relatives' care live with grandparents. Of the relatives caring for children when parents are not present, 27% are age 60 or over; 29% are age 50-59; 24.5% are 40-50 years old; and 18% are under 40. Nearly 60% of these caregivers are employed, but nearly 40% of the children in relatives' care live in families with incomes below the poverty line. Approximately 27% of kinship care children live in families that receive public assistance or welfare, 31% receive Food Stamps, 14.5% receive SSI, nearly half receive free school lunches, and 35% live in households which receive income from Social Security.

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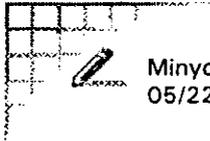
Potentially Weakens Family Stability. We must take care not to encourage parents to abandon their children. In the same way the welfare system has been accused of driving men out of families and contributing to the explosion in single parent households, making a single parent's departure from the household the key to continued family assistance may inadvertently create additional no-parent families. For a single mother facing the loss of assistance benefits because of time limits, work requirements, or other restrictions, abandoning her children to a relative's care may seem like the best option. In addition, States would have an incentive under this proposal to encourage this possible trend given that they would receive additional funding when assistance is provided to relative caregivers rather than parents.

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WR - grandmothers provision



Minyon Moore
05/22/97 10:54:15 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Franklin D. Raines/OMB/EOP, Victoria Radd/WHO/EOP, Sylvia M. Mathews/WHO/EOP

Subject:

As a follow-up to our conversation, I did speak with Congresswoman Waters about the Grandmother's exemption. I informed her that we were aware of the issue and that you would contact the appropriate person in her office to discuss it further to avoid using her time in the larger CBC meeting. Apparently this commitment was made to her once before and her staff person has received the "run around." Well I must say, I wasn't sure if she was going to keep it off the table but she did. I have given no indication that there is a resolution -- but I do think that it is important that we follow-up in good faith. The contact person for the Congresswoman is

Cathy Atkin (202) 225-2201.

Thanks for your help on this!