

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 002 - FOLDER -003**

**[10/08/1996 - 10/22/1996]**

# Withdrawal/Redaction Sheet

## Clinton Library

| DOCUMENT NO.<br>AND TYPE | SUBJECT/TITLE                | DATE       | RESTRICTION |
|--------------------------|------------------------------|------------|-------------|
| 001. email               | Phone No. (Partial) (1 page) | 10/07/1996 | P6/b(6)     |

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**COLLECTION:**

Clinton Presidential Records  
 Automated Records Management System [Email]  
 OPD ([Kagan])  
 OA/Box Number: 250000

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**FOLDER TITLE:**

[10/08/1996 - 10/22/1996]

2009-1006-F

wr79

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### RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME: 8-OCT-1996 10:19:50.87

SUBJECT: fyi

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
 READ: 8-OCT-1996 11:26:17.20

TO: Keith J. Fontenot ( FONTENOT\_K ) Autoforward to: Remote Addre  
 READ: NOT READ

TO: Richard E. Green ( GREEN\_R ) (OMB)  
 READ: 8-OCT-1996 14:47:51.75

TEXT:

===== ATTACHMENT 1 =====  
 ATT CREATION TIME/DATE: 8-OCT-1996 09:48:00.00

ATT BODYPART TYPE:H

ATT CREATOR: Jeremy D. Benami

ATT SUBJECT: Agenda for Wednesday

ATT TO: Remote Addressee ( jmonahan@os.dhhs.gov@INET )

ATT TO: Emily Bromberg ( BROMBERG\_E )

ATT TO: Diana M. Fortuna ( FORTUNA\_D )

TEXT:

I'm sending the following to Carol as the agenda for Wednesday. John will be bringing five written Qs and As to the listed questions (John - the NGA list did have six questions -- see below). The fourth issue is one that Evelyn asked me to put on the agenda. There will be someone there from HCFA though John is not sure who. The state plan/45 day/completeness question I made a separate item because it is so important to be clear on this given last week. We may want to spend time discussing it as opposed to the other Q/As which are pretty straightforward.

PRINTER FONT 12\_POINT\_ROMAN

INTERGOVERNMENTAL WELFARE REFORM

MEETING

October 8, 1996

I. Outstanding Issues from Last Meeting

- HHS responses - state plan review process
- TANF - SSBG transfers
  - Spending on immigrants and MOE
  - Pro Rata Reductions
  - Claims and Disallowances

- \$50 Child Support Pass Through

II. State Plan Completeness/45 Days/When Does the Five Year  
Clock Start

III. Medicaid Fact Sheets - Review of Initial HCFA Answers

IV. Information Systems Process

V. New Questions

===== END ATTACHMENT 1 =====

# Withdrawal/Redaction Marker Clinton Library

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| 001. email               | Phone No. (Partial) (1 page) | 10/07/1996 | P6/b(6)     |

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**COLLECTION:**

Clinton Presidential Records  
Automated Records Management System [Email]  
OPD ([Kagan])  
OA/Box Number: 250000

---

**FOLDER TITLE:**

[10/08/1996 - 10/22/1996]

2009-1006-F

wr79

---

**RESTRICTION CODES****Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

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RR. Document will be reviewed upon request.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME: 7-OCT-1996 11:15:30.35

SUBJECT: thanks for your message

TO: Elena Kagan

( KAGAN\_E ) (WHO)

READ: 7-OCT-1996 11:28:26.80

TEXT:

I have asked Cindy Mann of the Center on Budget and Policy  
Priorities to call you and/or fax you something on their proposal  
on how to automatically preserve Medicaid for those legal  
immigrants losing SSI.

She is at P6/(b)(6) if you want to call her.

[00]

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Deborah F. Kramer@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME: 7-OCT-1996 17:15:00.00

SUBJECT: Meeting w/ Center on Budget

TO: BENAMI\_J ( BENAMI\_J@A1@CD ) (WHO)  
READ: 7-OCT-1996 18:00:51.32

TO: FORTUNA\_D ( FORTUNA\_D@A1@CD ) (OPD)  
READ: 7-OCT-1996 17:38:28.87

TO: KAGAN\_E ( KAGAN\_E@A1@CD ) (WHO)  
READ: 7-OCT-1996 17:20:53.45

TO: BROMBERG\_E ( BROMBERG\_E@A1@CD ) (WHO)  
READ: 7-OCT-1996 17:17:05.28

TO: CRAFT\_D ( CRAFT\_D@A1@CD ) (OPD)  
READ: 7-OCT-1996 17:20:10.13

TO: Keith J. Fontenot ( Keith J. Fontenot@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Cynthia M. Smith ( Cynthia M. Smith@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Lester D. Cash ( Lester D. Cash@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Jack A. Smalligan ( Jack A. Smalligan@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Jeffrey A. Farkas ( Jeffrey A. Farkas@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Barry White ( Barry White@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TEXT:

Message Creation Date was at 7-OCT-1996 17:12:00

Ken will be having a meeting on Wednesday, 10/09/96, @ 3:00 in his office, Room 260. Meeting will be with Bob Greenstein, David Super, Cindy Mann of the Center on Budget. Mark Greenberg will also be attending.  
Topic: Welfare reform implementation.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jill Pizzuto ( PIZZUTO\_J ) (OPD)

CREATION DATE/TIME: 7-OCT-1996 17:39:39.05

SUBJECT: WEEKLY MEETING

TO: Carol H. Rasco ( RASCO\_C ) (WHO)  
READ: 7-OCT-1996 21:52:02.30

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ: 8-OCT-1996 11:52:59.76

TO: Cathy R. Mays ( MAYS\_C ) (OPD)  
READ: 8-OCT-1996 09:22:26.50

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ: 7-OCT-1996 18:00:58.36

TO: Dorothy K. Craft ( CRAFT\_D ) (OPD)  
READ: 7-OCT-1996 17:41:36.91

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ: 7-OCT-1996 17:39:57.11

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ: 9-OCT-1996 09:44:37.83

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 7-OCT-1996 19:02:52.19

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: FAX (9624-5825,Ray Scheppach) ( TLXA1MAIL\_ \F:9624-5825\C:Ray Scheppach\\ )  
READ:NOT READ

TO: FAX (9624-5313,Evelyn Ganzglass) ( TLXA1MAIL\_ \F:9624-5313\C:Evelyn Ganzglass )  
READ:NOT READ

TO: FAX (9624-5313,Susan Golanka) ( TLXA1MAIL\_ \F:9624-5313\C:Susan Golanka\\ )  
READ:NOT READ

TO: FAX (9737-1069,Sheri Steisel) ( TLXA1MAIL\_ \F:9737-1069\C:Sheri Steisel\\ )  
READ:NOT READ

TO: FAX (9737-1069,Michael Bird) ( TLXA1MAIL\_ \F:9737-1069\C:Michael Bird\\ )  
READ:NOT READ

TO: FAX (9289-6555,Elaine Ryan) ( TLXA1MAIL\_ \F:9289-6555\C:Elaine Ryan\\ )  
READ:NOT READ

TO: FAX (9289-6555,Sydney Johnson) ( TLXA1MAIL\_ \F:9289-6555\C:Sydney Johnson\\ )  
READ:NOT READ

TO: FAX (9362-9214,John Monahan) ( TLXA1MAIL\_ \F:9362-9214\C:John Monahan\\ )  
READ:NOT READ

TO: FAX (9205-3848,Ann Rosewater) ( TLXA1MAIL\_ \F:9205-3848\C:Ann Rosewater\\ )

READ:NOT READ

TO: FAX (9305-0134,Bob Bach) ( TLXA1MAIL\_\F:9305-0134\C:Bob Bach\\ )  
READ:NOT READ

TO: FAX (9482-7105,Brian Coyne) ( TLXA1MAIL\_\F:9482-7105\C:Brian Coyne\\ )  
READ:NOT READ

TO: FAX (91410-965-9063,Carolyn Colvin) ( TLXA1MAIL\_\F:91410-965-9063\C:Carolyn Col  
READ:NOT READ

TO: FAX (9703-305-2454,Yvette Jackson) ( TLXA1MAIL\_\F:9703-305-2454\C:Yvette Jacks  
READ:NOT READ

TO: FAX (9720-8077,Cheryl Macias) ( TLXA1MAIL\_\F:9720-8077\C:Cheryl Macias\\  
READ:NOT READ

TO: Jill Pizzuto ( PIZZUTO\_J ) (OPD)  
READ: 7-OCT-1996 17:41:27.75

TEXT:

MEMO TO NGA/ NCSL/ APWA WELFARE REFORM GROUP  
FROM: CAROL H. RASCO  
JEREMY BEN-AMI  
DOMESTIC POLICY COUNCIL  
SUBJECT: WEEKLY meetings

-----  
The NGA/ NCSL/ APWA Welfare Reform group meetings will be held WEEKLY. These meetings will be held EVERY WEDNESDAY, 1:00p - 2:00p in the OEOP, ROOM 180. This Wednesday, Oct. 9th's meeting will focus on the questions from last week's meeting as well as an update on Medicaid by HCFA.

If you are not able to attend the meeting, please contact Jill Pizzuto at (202) 456-2249. Otherwise, Jill has a list of your names & date of births and will automatically WAVE you in the system weekly.

Please have your scheduler's mark the following dates on your calendar:

Wednesday's: October 9, 16, 23 & 30  
November 6, 13, 20 & 27  
December 4, 11 & 18

Weekly reminders will go out as well as notices of any potential cancellations.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME: 8-OCT-1996 12:17:07.57

SUBJECT: several items

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ: NOT READ

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 8-OCT-1996 13:56:33.73

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ: 9-OCT-1996 09:49:46.12

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ: 8-OCT-1996 12:49:17.53

CC: Carol H. Rasco ( RASCO\_C ) (WHO)  
READ: 8-OCT-1996 22:34:31.97

CC: Bruce N. Reed ( REED\_B ) (WHO)  
READ: 8-OCT-1996 12:24:15.80

TEXT:

(1) The Florida letter is going out today. Issue is settled to everyone's satisfaction. Note: this locks HHS into the position that the 45 day period can in fact be a process prior to the passage of the new bill. Interesting how these things work out.

(2) We have draft answers to the NGA/APWA questions from last week on issues such as how to determine completeness. I have sent those around to all of you (not Bruce or Carol - unless you want to see them). Please review and let me know if you see problems. We would hand these out tomorrow - in writing!

(3) It seems like a good idea to have Olivia come over and talk us through the process they are using to go over state plans. I'd like to set some time for that next week. I'll assume you all want to come and will invite you - no need to attend if you don't want to. (Carol - I will try to set this at a time you are available).

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Stephen C. Warnath ( WARNATH\_S ) (OPD)

CREATION DATE/TIME: 9-OCT-1996 10:27:21.29

SUBJECT: meeting

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 9-OCT-1996 10:36:25.01

TO: Keith J. Fontenot ( FONTENOT\_K ) Autoforward to: Remote Addre

READ:NOT READ

TEXT:

Are you available to meet with SSA tomorrow (Thursday) at 3pm to walk through their POMS? If not, let me know what your schedule looks like.

let me know as soon as you can so I can set this up with SSA.

thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Stephen C. Warnath ( WARNATH\_S ) (OPD)

CREATION DATE/TIME: 9-OCT-1996 10:49:37.41

SUBJECT: RE: meeting

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 9-OCT-1996 11:10:43.66

TEXT:

Elena -

thank you for your quick response. Diane Blackmun appears to be the main person we need to talk with to help us understand the approach that SSA sets out in the POMS. Unfortunately she is not available Friday through next Wednesday. So I wanted to see if you might be able to squeeze in some time tomorrow for this. Sorry if this causes problems for you -- Diane can meet at anytime Thursday that might work for you. What do you think?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Stephen C. Warnath ( WARNATH\_S ) (OPD)

CREATION DATE/TIME: 9-OCT-1996 11:53:21.45

SUBJECT: meeting

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 9-OCT-1996 14:36:02.42

TO: Keith J. Fontenot ( FONTENOT\_K ) Autoforward to: Remote Addre  
READ:NOT READ

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ: 9-OCT-1996 14:59:18.48

TO: Jack A. Smalligan ( SMALLIGAN\_J ) Autoforward to: Remote Addr  
READ:NOT READ

CC: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ: 9-OCT-1996 11:54:55.36

CC: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

CC: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ: 9-OCT-1996 12:20:25.58

TEXT:

Diane Blackmun will meet with us today at 5pm in rm 211 re: POMS.  
Thanks

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Stephen C. Warnath ( WARNATH\_S ) (OPD)

CREATION DATE/TIME: 9-OCT-1996 14:32:50.90

SUBJECT: meeting with SSA

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 9-OCT-1996 14:50:04.90

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ: 9-OCT-1996 14:36:44.05

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ: 9-OCT-1996 16:26:22.89

TO: Keith J. Fontenot ( FONTENOT\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Jack A. Smalligan ( SMALLIGAN\_J ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ: 9-OCT-1996 15:00:24.98

TEXT:

Diane Blackmun called to say that the meeting this afternoon has to be cancelled. I do not know what is going on, but I infer that SSA may view our meeting to try to understand what the POMS means as unwelcome. This is based upon Diane saying that we would hear from people "higher" than her about this. If anyone had any opportunity to glance at the POMS you will note, e.g. that it provides a preliminary definition of "means-tested programs" and instructs field workers how to verify eligible veterans, 40 quarters, etc. under the new law. I still don't understand how SSA attends meetings where these issues are being discussed and fails to flag the issue that an SSA operational manual that it has plans to distribute imminently has resolved these issues. They may very well have solved all of the issues and that would be great, but I don't know what they think all of these other meetings and attempts to figure out how to comply with the new law are about.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:10-OCT-1996 11:41:26.53

SUBJECT: FYI on Medicaid and waiver issue

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
 READ:10-OCT-1996 11:48:27.34

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
 READ:10-OCT-1996 14:49:33.51

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
 READ:10-OCT-1996 11:48:53.24

TO: Nancy-Ann E. Min ( MIN\_N ) Autoforward to: Remote Addressee  
 READ:NOT READ

TO: Mark E. Miller ( MILLER\_ME ) Autoforward to: Remote Address  
 READ:NOT READ

CC: Christopher C. Jennings ( JENNINGS\_C ) (WHO)  
 READ:15-OCT-1996 14:48:02.92

TEXT:

===== ATTACHMENT 1 =====  
 ATT CREATION TIME/DATE:10-OCT-1996 11:28:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Diana M. Fortuna

ATT SUBJECT: Medicaid and section 1931 b vs. d

ATT TO: Remote Addressee ( DChang@hcfa.gov@INET )

ATT TO: Remote Addressee ( JMonahan@os.dhhs.gov@INET@EOPMRX )

ATT TO: Remote Addressee ( JMoore1@hcfa.gov@INET@EOPMRX )

ATT TO: Remote Addressee ( SRichardson@hcfa.gov@INET )

TEXT:

Just ran into a furious Laurie Rubiner of Chafee's staff who says she is hearing from you guys that you are reading the waiver provisions of section 1931 in a way that would potentially gut 1931(b). She says there is a meeting Tuesday with her, some advocates, and Debbie Chang.

Since you guys have said you don't have an interpretation on this yet and that's why we haven't been briefed, I can't imagine that you are telling outsiders how you read this provision at this point. What is she hearing that is alarming her and why are we having to raise people's blood pressure before we know whether it's necessary?

Please call me.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dorothy K. Craft ( CRAFT\_D ) (OPD)

CREATION DATE/TIME:10-OCT-1996 16:09:02.22

SUBJECT: HHS's State Plan

TO: Bruce N. Reed ( REED\_B ) (WHO)

READ:10-OCT-1996 16:27:30.73

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

READ:10-OCT-1996 16:28:00.58

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse

READ:NOT READ

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)

READ:15-OCT-1996 08:53:21.33

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:10-OCT-1996 16:17:21.54

CC: Cathy R. Mays ( MAYS\_C ) (OPD)

READ:10-OCT-1996 16:14:53.06

CC: Deborah F. Kramer ( KRAMER\_D ) Autoforward to: Remote Address

READ:NOT READ

CC: Jill Pizzuto ( PIZZUTO\_J ) (OPD)

READ:10-OCT-1996 16:16:48.43

TEXT:

Carol and Jeremy would like to invite you to a meeting with Olivia Golden to discuss HHS's state plan review process on Monday, October 21 from 12:30 to 1:30 in Carol's office, 2nd FL, WW. Ken/Debbie: OMB is welcome to bring 1 - 2 people, whomever you think will be most interested/appropriate. Please RSVP me with your plans. Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dorothy K. Craft ( CRAFT\_D ) (OPD)

CREATION DATE/TIME:10-OCT-1996 16:20:19.00

SUBJECT: WELFARE SUBGROUP MEETING

TO: FAX (96905672,JOHN MONAHAN) ( TLXA1MAIL\_\F:96905672\C:JOHN MONAHAN\\ )  
READ:NOT READ

TO: FAX (96193437,DENNIS HAYASHI) ( TLXA1MAIL\_\F:96193437\C:DENNIS HAYASHI\\ )  
READ:NOT READ

TO: FAX (93050134,ROBERT BACH) ( TLXA1MAIL\_\F:93050134\C:ROBERT BACH\\ )  
READ:NOT READ

TO: FAX (914109659063,CAROLYN COLVIN) ( TLXA1MAIL\_\F:914109659063\C:CAROLYN COLVI )  
READ:NOT READ

TO: FAX (94827105,BRIAN COYNE) ( TLXA1MAIL\_\F:94827105\C:BRIAN COYNE\\ )  
READ:NOT READ

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:10-OCT-1996 16:17:41.25

TO: Deborah L. Fine ( FINE\_D ) (OPD)  
READ:11-OCT-1996 17:20:44.77

TO: Peggy A. Lewis ( LEWIS\_P ) (WHO)  
READ:10-OCT-1996 16:18:26.45

TO: Anne E. McGuire ( MCGUIRE\_A ) (WHO)  
READ:10-OCT-1996 16:40:53.99

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ:10-OCT-1996 19:25:37.44

TO: FAX (95140539,RANDY MOSS) ( TLXA1MAIL\_\F:95140539\C:RANDY MOSS\\ )  
READ:NOT READ

TO: FAX (95149112,KEVIN JONES) ( TLXA1MAIL\_\F:95149112\C:KEVIN JONES\\ )  
READ:NOT READ

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:10-OCT-1996 16:19:35.98

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:10-OCT-1996 16:51:54.71

TO: Dorothy K. Craft ( CRAFT\_D ) (OPD)  
READ:10-OCT-1996 16:21:05.03

TO: FAX (96222633,LOUISE SHEINER) ( TLXA1MAIL\_\F:96222633\C:LOUISE SHEINER\\ )  
READ:NOT READ

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:15-OCT-1996 08:54:07.76

TO: Barry White ( WHITE\_B ) (OMB)

READ:10-OCT-1996 16:16:24.60

TO: Remote Addressee ( MOSSR@JUSTICE.USDOJ.GOV@INET )  
 READ:NOT READ

TO: Remote Addressee ( RLBGOV@AOL.COM@INET )  
 READ:NOT READ

TO: FAX (914109658582,DIANE BLACKMAN) ( TLXA1MAIL\_\F:914109658582\C:DIANE BLACKMA  
 READ:NOT READ

TO: Remote Addressee ( BRIAN.COYNE@SSA.GOV@INET )  
 READ:NOT READ

TO: Remote Addressee ( MMOCKO@ACF.DHHS.GOV@INET )  
 READ:NOT READ

TO: Remote Addressee ( ASEGAL@OSASPE.DHHS.GOV@INET )  
 READ:NOT READ

TO: Remote Addressee ( JMONOHAN@OS.DHHS.GOV@INET )  
 READ:NOT READ

TO: FAX (96906562,ANN SEGAL) ( TLXA1MAIL\_\F:96906562\C:ANN SEGAL\\ )  
 READ:NOT READ

TO: FAX (96907380,MARY BOURDETTE) ( TLXA1MAIL\_\F:96907380\C:MARY BOURDETTE\\ )  
 READ:NOT READ

TO: FAX (97033052576,STEVEN CARLSON) ( TLXA1MAIL\_\F:97033052576\C:STEVEN CARLSON  
 READ:NOT READ

TO: FAX (97033052454,STACY DEAN) ( TLXA1MAIL\_\F:97033052454\C:STACY DEAN\\ )  
 READ:NOT READ

TO: Keith J. Fontenot ( FONTENOT\_K ) Autoforward to: Remote Addre  
 READ:NOT READ

TO: Jeffrey A. Farkas ( FARKAS\_J ) Autoforward to: Remote Address  
 READ:NOT READ

TO: Matthew D. McKearn ( MCKEARN\_M ) Autoforward to: Remote Address  
 READ:NOT READ

TO: Cynthia M. Smith ( SMITH\_CM ) Autoforward to: Remote Address  
 READ:NOT READ

TO: FAX (94827153,JUDY CHESSER) ( TLXA1MAIL\_\F:94827153\C:JUDY CHESSER\\ )  
 READ:NOT READ

TO: FAX (97033052454,YVETTE JACKSON) ( TLXA1MAIL\_\F:97033052454\C:YVETTE JACKSON  
 READ:NOT READ

TO: FAX (96222633,GLEN ROSSELLI) ( TLXA1MAIL\_\F:96222633\C:GLEN ROSSELLI\\ )  
 READ:NOT READ

TO: Remote Addressee ( JUDY.CHESSER@SSA.GOV@INET )  
 READ:NOT READ

TO: Remote Addressee ( JMOORE@HCFA.GOV@INET@INET )

READ:NOT READ

TO: FAX (914107860025,JUDY MOORE) ( TLXA1MAIL\_\F:914107860025\C:JUDY MOORE\\  
READ:NOT READ

TO: FAX (96907380,HELEN MATHIS) ( TLXA1MAIL\_\F:96907380\C:HELEN MATHIS\\ )  
READ:NOT READ

TO: Remote Addressee ( YVETTE\_JACKSON@FCS.USDA.GOV@INET )  
READ:NOT READ

TO: Remote Addressee ( BONNY.O'NEIL@FCS.USDA.GOV@INET )  
READ:NOT READ

TO: FAX (92609183,JON WEINTRAUB) ( TLXA1MAIL\_\F:92609183\C:JON WEINTRAUB\\ )  
READ:NOT READ

TO: Remote Addressee ( JON\_WEINTRAUB@ED.GOV@INET )  
READ:NOT READ

TO: Remote Addressee ( JESSICA\_LEVIN@ED.GOV@INET )  
READ:NOT READ

TO: FAX (94014353,JESSICA LEVIN) ( TLXA1MAIL\_\F:94014353\C:JESSICA LEVIN\\ )  
READ:NOT READ

TO: Remote Addressee ( STACEY.DEAN@FCS.USDA.GOV@INET )  
READ:NOT READ

TO: Jack A. Smalligan ( SMALLIGAN\_J ) Autoforward to: Remote Addr  
READ:NOT READ

TO: Daniel J. Chenok ( CHENOK\_D ) (OMB).  
READ:10-OCT-1996 17:24:19.98

TO: Wendy A. Taylor ( TAYLOR\_W ) Autoforward to: Remote Address  
READ:NOT READ

TO: Laura A. Oliven ( OLIVEN\_L ) Autoforward to: Remote Address  
READ:NOT READ

TO: Debra J. Bond ( BOND\_D ) Autoforward to: Remote Addressee  
READ:NOT READ

TO: FAX (96907383,JEFF MERKOWITZ) ( TLXA1MAIL\_\F:96907383\C:JEFF MERKOWITZ\\  
READ:NOT READ

TO: Remote Addressee ( jmerkowi@osaspe.dhhs.gov@INET )  
READ:NOT READ

TO: Betsy Myers ( MYERS\_B ) (WHO)  
READ:10-OCT-1996 16:53:58.31

TO: FAX (97033052486,ARTHUR FOLEY) ( TLXA1MAIL\_\F:97033052486\C:ARTHUR FOLEY\\  
READ:NOT READ

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:10-OCT-1996 16:17:33.34

TO: Mark E. Miller ( MILLER\_ME ) Autoforward to: Remote Address

READ:NOT READ

TO: Steven M. Mertens ( MERTENS\_S ) Autoforward to: Remote Address  
 READ:NOT READ

TO: FAX (95149077,GERRI RATLIFF) ( TLXA1MAIL\_\F:95149077\C:GERRI RATLIFF\\ )  
 READ:NOT READ

TO: FAX (95146897,DAVID OGDEN) ( TLXA1MAIL\_\F:95146897\C:DAVID OGDEN\\ )  
 READ:NOT READ

TO: FAX (92053848,ANN ROSEWATER) ( TLXA1MAIL\_\F:92053848\C:ANN ROSEWATER\\ )  
 READ:NOT READ

TO: Jill Pizzuto ( PIZZUTO\_J ) (OPD)  
 READ:10-OCT-1996 16:24:53.66

TO: FAX (92196896,MARK W. MORIN) ( TLXA1MAIL\_\F:92196896\C:MARK W. MORIN\\ )  
 READ:NOT READ

TO: FAX (96905600,JOAN LOMBARDI) ( TLXA1MAIL\_\F:96905600\C:JOAN LOMBARDI\\ )  
 READ:NOT READ

TO: FAX (97208077,CHERYL TATES-MACIAS) ( TLXA1MAIL\_\F:97208077\C:CHERYL TATES-MACI  
 READ:NOT READ

TO: FAX (67311,CARRIE WOFFORD) ( TLXA1MAIL\_\F:67311\C:CARRIE WOFFORD\\ )  
 READ:NOT READ

TO: Nicole R. Rabner ( RABNER\_N ) (WHO)  
 READ:10-OCT-1996 18:29:13.29

TO: Jennifer L. Klein ( KLEIN\_J ) (OPD)  
 READ:10-OCT-1996 16:16:55.32

TO: FAX (97080309,PAUL LEONARD) ( TLXA1MAIL\_\F:97080309\C:PAUL LEONARD\\ )  
 READ:NOT READ

TEXT:

MEMORANDUM TO WELFARE IMPLEMENTATION SUBGROUP

FROM: Jeremy Ben-Ami  
 Diana Fortuna  
 Domestic Policy Council

SUBJECT: Weekly Welfare Subgroup Meeting

We will hold the Weekly Welfare Implementation Subgroup Meeting on Tuesday, October 15 at 3:00 p.m. in OEOB 211.

If you never have attended a Tuesday Welfare Implementation Subgroup Meeting, please call Dorothy Craft at (202) 456-5571 to provide clearance information. Thank you.

Enjoy the weekend.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:10-OCT-1996 17:02:52.01

SUBJECT: Tuesday at 11

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:10-OCT-1996 17:14:28.31

TO: Mark E. Miller ( MILLER\_ME ) Autoforward to: Remote Address  
READ:NOT READ

TO: Nicolette Highsmith ( HIGHSMITH\_N ) (OMB)  
READ:10-OCT-1996 17:05:52.82

TO: Barbara E. Washington ( WASHINGTON\_B ) (OMB)  
READ:10-OCT-1996 17:13:17.31

CC: Laura Oliven Silberfarb ( OLIVEN\_L ) Autoforward to: Remote Address  
READ:NOT READ

TEXT:

Looks like I have roped HCFA (Sally Richardson) into coming over here this Tuesday 10/15 at 11am in room 211 to talk about this waiver issue (1931 b vs d). This is a major issue Hcfa is still working on, but the implications are so great that I have told them they must talk to us DURING their deliberation process, not after.

I really hope you guys can make it at that time. If I can't have Elena and enough OMB representation, I will have to reschedule. By the way, HCFA's concern that 1931(d) reads out of existence the protection of the Medicaid program that we thought we had secured is so great that they are already talking to the Hill and some advocates on this. I was talking to Chafee's person today on something else, and she bent my ear on this. She said she was appalled that HCFA's lawyers were even considering reading the law in such a way.

I have told HHS not to spread alarm and panic on this until we know more; they say they are fairly certain there is a major issue here and they need to be talking to the Hill about Congressional intent. However, we agreed that they should not be giving any interpretation of the law to outsiders at this time.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:11-OCT-1996 18:06:19.85

SUBJECT: Calif. and TANF issue

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:15-OCT-1996 09:26:51.73

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ:18-OCT-1996 11:08:00.31

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:11-OCT-1996 18:38:07.54

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:15-OCT-1996 08:56:50.12

TEXT:

Re: One of the issues Elaine Ryan raised in our Wed. meeting: California just filed its state plan. It asks that the state be permitted to enter the TANF program now so as to get the extra money but that, because they propose to spend only state dollars for a period, they not be subject to the work requirements, etc., until the first Federal dollar is drawn down. Logically, this could be 6 months.

HHS is examining this from a legal and policy standpoint. I don't think OMB cares. I have a feeling HHS may lean toward allowing this, because it would give Calif. more time to compile a "thoughtful" plan.

Hope I'm not micro-managing again, but what do you think?

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Kenneth S. Apfel@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:10-OCT-1996 19:11:00.00

SUBJECT: Definition of Means Tested Benefits

TO: BENAMI\_J ( BENAMI\_J@A1@CD ) (WHO)  
READ:15-OCT-1996 09:11:39.00

TO: FORTUNA\_D ( FORTUNA\_D@A1@CD ) (OPD)  
READ:11-OCT-1996 08:59:02.58

TO: KAGAN\_E ( KAGAN\_E@A1@CD ) (WHO)  
READ:NOT READ

TO: WARNATH\_S ( WARNATH\_S@A1@CD ) (OPD)  
READ:NOT READ

TO: KAGAN\_E ( KAGAN\_E@A1@CD@LNGTWY@LNGTWY@LNGTWY@EOPMRX)  
READ:10-OCT-1996 19:32:49.54

TO: WARNATH\_S ( WARNATH\_S@A1@CD@LNGTWY@LNGTWY@LNGTWY@EOPM)  
READ:11-OCT-1996 09:57:40.37

CC: Barry White ( Barry White@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

CC: Stacy L. Dean ( Stacy L. Dean@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

CC: Keith J. Fontenot ( Keith J. Fontenot@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

CC: Jack A. Smalligan ( Jack A. Smalligan@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

CC: Matthew McKearn ( Matthew McKearn@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

CC: Cynthia M. Smith ( Cynthia M. Smith@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

CC: Deborah F. Kramer ( Deborah F. Kramer@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TEXT:  
Message Creation Date was at 10-OCT-1996 19:03:00

Below is my staff's draft of a summary of this issue.

DEFINITION OF MEANS-TESTED BENEFIT PROGRAM IN WELFARE REFORM

The Personal Opportunity and Work Responsibility Reconciliation Act of 1996 bans all new immigrants from receiving Federal means-tested public benefits for the first five years they are in the country. After the five year ban, Federal means-tested benefit program are required to deem the income of sponsors for new immigrants. Earlier versions of the bill defined Federal means-tested benefits, however, the definition was deleted on the Senate floor

prior to Conference due to the Byrd rule. This memo addresses the key issue in implementing a definition -- whether to include discretionary programs.

The Department of Health and Human Services and a number of advocacy groups (see attachment 1) argue that the definition should be limited to mandatory programs as defined under the BEA. HHS points to the fact that the definition was deleted due to the Byrd rule, which prohibits provisions that don't have an effect on direct spending in a reconciliation bill. The definition that was deleted was expansive, it defined a means-tested benefit as:

□&a public benefit (including cash, medical, housing, and food assistance and social services) of the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.□8

The Conference Report repeats this definition and states □&it is the intent of conferees that this definition is presumed to be in place for purposes of this title.□8

At our request, Department of Justice Office of Legal Counsel and Elena Kagen in White House General Counsel have reviewed the legislative history. They have concluded that a definition that is limited to mandatory programs would not be outside the legal parameters. The General Counsels of affected agencies have indicated that they would accept a definition limited to mandatory programs. Attachment 2 is a summary of the largest legal arguments for including or excluding discretionary programs from the definition.

While we are continuing to survey OMB branches, a definition that is limited to mandatory programs would affect very few programs. The key mandatory means tested programs (Food Stamps, SSI, Medicaid, TANF, SSBG) are addressed in another section of the Act and some other important mandatory programs (foster care, adoption assistance, benefits to almost all veterans, higher education assistance) are exempted by the Act.

ATTACHMENT: LEGAL ISSUES REGARDING DEFINITION  
OF FEDERAL MEANS-TESTED BENEFITS  
IN IMMIGRANTS TITLE OF WELFARE REFORM ACT

Arguments for the Exclusion of Discretionary Programs

The Senate signaled its intent to limit the provision to discretionary programs by deleting a broad definition that would have included mandatory and discretionary programs.

This interpretation is supported by a colloquy by Senator Chaffee in which he indicated that the Byrd Rule exclusion was appropriate because the definition extended to discretionary programs and therefore should be excluded from the bill because, to the extent that it did, there was no scorable cost effect.

While the statute includes exemptions for discretionary programs, these exemptions predate the Byrd rule action.

No legal precedents can be found to indicate that the Byrd rule action cannot be used to determine Congressional intent.

Arguments Against the Exclusion of Discretionary Programs

The plain language of the law suggests a broad reading of the term Federal means-tested benefits. Nothing in the language suggests that discretionary programs be excluded.

The statute lists specific programs exempted from the ban, including discretionary programs. This suggests that Congress intended for non-exempted discretionary programs to be included in the ban.

The Conference report states that the conferees intend that the definition deleted by the Byrd rule be "presumed to be in place for the purposes of this title." There was no objection to the statement during final deliberations on the bill in the House and the Senate.

An exhaustive review of federal statutory, regulatory and judicial contexts yielded few uses of the term; however, the citations found suggested a broad definition which includes mandatory and discretionary programs.

The Byrd Rule deletion of the definition occurred under procedural grounds. A search of judicial cases failed to identify any precedents where a court determined Congressional intent based on application of the Byrd Rule.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Stephen C. Warnath ( WARNATH\_S ) (OPD)

CREATION DATE/TIME:11-OCT-1996 13:14:20.54

SUBJECT: meeting with some NGOs re: welfare reform

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:11-OCT-1996 15:59:14.72

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:15-OCT-1996 09:19:42.69

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:11-OCT-1996 13:29:03.79

TEXT:

There will be a meeting with a group of NGOs on Tuesday at 1pm in rm 211. The primary purpose of the meeting is to focus on 40 quarters issues, but there may be other issues important to noncitizens and welfare reform discussed as well. Please share this information with others in your office (or other offices) who should attend.  
thanks

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:11-OCT-1996 17:55:54.81

SUBJECT: Meeting Tuesday at 11 with HCFA

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:11-OCT-1996 18:29:11.02

TEXT:

This is a note to explain what you'll be walking into at 11 on Tuesday w/HHS and HCFA. The issue in question is very heavily legal -- and a big deal politically. I have told HHS that I see this meeting as a chance for us (me, OMB, and particularly you) to get up to speed on this issue, prior to HHS making a decision on a legal interpretation.

Here's the issue: one of our proudest achievements in welfare reform was protecting Medicaid. That protection is contained in section 1931 (a) and (b) of the bill, and it says that states have to continue to do eligibility as they did in July 1996 for Medicaid purposes, and not continue to link Medicaid to welfare. A provision was added that was supposedly intended to give states a bit more flexibility -- section 1931(d). But the fear is that through what may or may not be faulty drafting, that provision could essentially gut the Medicaid protection, at least in certain states.

1931(d) was supposedly intended, according to the advocates, to let states deviate slightly from eligibility standards by continuing parts of their waivers. But it can also be read as a SUBSTITUTE for 1931(b), which creates the issue.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ellen S. Seidman ( SEIDMAN\_E ) (OPD)

CREATION DATE/TIME:15-OCT-1996 09:13:02.33

SUBJECT: RE: schlein's fax

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:15-OCT-1996 12:59:22.43

TEXT:

I will; I don't like it. Ellen

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jill Pizzuto ( PIZZUTO\_J ) (OPD)

CREATION DATE/TIME:15-OCT-1996 11:53:30.78

SUBJECT: REMINDER - TOMORROW MEETING

TO: Carol H. Rasco ( RASCO\_C ) (WHO)  
READ:15-OCT-1996 22:14:08.81

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ:18-OCT-1996 11:10:07.42

TO: Cathy R. Mays ( MAYS\_C ) (OPD)  
READ:15-OCT-1996 13:09:36.12

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:15-OCT-1996 14:12:29.09

TO: Dorothy K. Craft ( CRAFT\_D ) (OPD)  
READ:15-OCT-1996 11:55:14.19

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:15-OCT-1996 12:22:31.89

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:15-OCT-1996 12:34:37.03

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:15-OCT-1996 12:59:44.22

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: FAX (9624-5825,Ray Scheppach) ( TLXA1MAIL\_ \F:9624-5825\C:Ray Scheppach\\ )  
READ:NOT READ

TO: FAX (9624-5313,Evelyn Ganzglass) ( TLXA1MAIL\_ \F:9624-5313\C:Evelyn Ganzglass )  
READ:NOT READ

TO: FAX (9624-5313,Susan Golanka) ( TLXA1MAIL\_ \F:9624-5313\C:Susan Golanka\\ )  
READ:NOT READ

TO: FAX (9737-1069,Sheri Steisel) ( TLXA1MAIL\_ \F:9737-1069\C:Sheri Steisel\\ )  
READ:NOT READ

TO: FAX (9737-1069,Michael Bird) ( TLXA1MAIL\_ \F:9737-1069\C:Michael Bird\\ )  
READ:NOT READ

TO: FAX (9289-6555,Elaine Ryan) ( TLXA1MAIL\_ \F:9289-6555\C:Elaine Ryan\\ )  
READ:NOT READ

TO: FAX (9289-6555,Sydney Johnson) ( TLXA1MAIL\_ \F:9289-6555\C:Sydney Johnson\\ )  
READ:NOT READ

TO: FAX (9362-9214,John Monahan) ( TLXA1MAIL\_ \F:9362-9214\C:John Monahan\\ )  
READ:NOT READ

TO: FAX (9205-3848,Ann Rosewater) ( TLXA1MAIL\_ \F:9205-3848\C:Ann Rosewater\\ )

READ:NOT READ

TO: FAX (9305-0134,Bob Bach) ( TLXA1MAIL\_\F:9305-0134\C:Bob Bach\\ )  
READ:NOT READ

TO: FAX (9482-7105,Brian Coyne) ( TLXA1MAIL\_\F:9482-7105\C:Brian Coyne\\ )  
READ:NOT READ

TO: FAX (91410-965-9063,Carolyn Colvin) ( TLXA1MAIL\_\F:91410-965-9063\C:Carolyn Col  
READ:NOT READ

TO: FAX (9703-305-2454,Yvette Jackson) ( TLXA1MAIL\_\F:9703-305-2454\C:Yvette Jacks  
READ:NOT READ°

TO: FAX (9720-8077,Cheryl Macias) ( TLXA1MAIL\_\F:9720-8077\C:Cheryl Macias\\  
READ:NOT READ

TO: Jill Pizzuto ( PIZZUTO\_J ) (OPD)  
READ:NOT READ

TEXT:

Just a reminder that tomorrow is the weekly Welfare Reform NGA/APWA/NCSL meeting  
in RM 180 @ 1:00p. If anyone is NOT able to attend, please call Jill Pizzuto at  
456-2249.  
Thank you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: James A. Brown ( BROWN\_JA ) (OMB)

CREATION DATE/TIME:15-OCT-1996 13:01:53.78

SUBJECT: Is the Coast Guard (S. 1004) signing statement O.K.?

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:15-OCT-1996 14:51:49.85

TO: Michael D. Deich ( DEICH\_M ) (OPD)  
READ:15-OCT-1996 13:24:01.40

TEXT:

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME:15-OCT-1996 14:38:45.11

SUBJECT: agenda for tomorrow

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Addressee  
 READ:NOT READ

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
 READ:15-OCT-1996 14:40:12.89

TO: Remote Addressee ( jmonahan@os.dhhs.gov@INET )  
 READ:NOT READ

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
 READ:15-OCT-1996 14:52:16.65

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
 READ:15-OCT-1996 14:46:43.73

CC: Carol H. Rasco ( RASCO\_C ) (WHO)  
 READ:15-OCT-1996 22:24:05.10

TEXT:

Here's a draft agenda for tomorrow with the intergov'l groups.  
 Hopefully, we'll all be at the 3:00 and we can review what we  
 think works for tomorrow - what we're ready to discuss, etc.

PRINTER FONT 12\_POINT\_ROMAN

INTERGOVERNMENTAL WELFARE REFORM

MEETING

October 15, 1996

I. Outstanding Issues From Last Meeting

- OMB circulars issue: OMB might be prepared to give update this week
- Cost Neutrality/waivers (are we ready, OMB, to give an update?)
- Means tested benefits: (probably need to hold on telling them this week)

II. New Questions

- Transition rules on data collection under JOBS
- Definition of administrative costs
- HCFA: timetable for distribution/allocation formula on \$500 million
- Tribal Jobs

III. Food Stamps and 40 Quarters

- Are we ready to present this yet?

IV. New Questions

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:15-OCT-1996 14:47:06.70

SUBJECT: Call from Elaine Ryan

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:16-OCT-1996 12:19:29.92

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:15-OCT-1996 16:20:29.99

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:15-OCT-1996 14:55:45.10

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ:15-OCT-1996 17:23:23.16

TEXT:

FYI: I got a voice mail from Elaine Ryan saying the following:  
She hears that HHS is going to file a brief with the Supreme Court  
against some state's position (not sure which state) on an issue  
relating to a private right of action in a child support case.  
(And the brief will make some reference to the importance of  
private right of action in welfare reform??)  
She asked if this is true and if we can talk about it at  
tomorrow's 1pm meeting with them.  
I left her voice mail asking her to tell me the name of the case  
and the state.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:15-OCT-1996 14:56:27.17

SUBJECT: The case Elaine Ryan raised...

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:16-OCT-1996 12:19:59.54

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:15-OCT-1996 16:20:50.75

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:15-OCT-1996 16:21:19.41

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ:15-OCT-1996 17:23:59.64

TO: Jeanine D. Smartt ( SMARTT\_J ) (OPD)  
READ:15-OCT-1996 14:58:11.50

TEXT:

is Blessing vs. Freestone. State is Arizona, but all states very interested.

I believe Jeanine Smartt has been working on this.

Question is whether a parent could sue the state for failure to get child support payments from non-custodial parent.

Jeanine, what's the scoop? Is it definite that HHS is doing this?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Emily Bromberg ( BROMBERG\_E ) (WHO)

CREATION DATE/TIME:15-OCT-1996 16:25:46.71

SUBJECT: ca

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:16-OCT-1996 08:47:25.78

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

READ:15-OCT-1996 17:15:54.44

TEXT:

randy from justice just told me that the state of ca sent justice a letter asking for its legal opinion on whether the "ineligible legal alien provisions take effect immediately". randy says his inclination was to answer by saying that the justice dept only gives legal advice to its client, the fed gov't. this sounds absolutely right. elena--can you get a copy of the letter and talk to randy? wilson is looking for a place to lay blame. we should be smart about this.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:16-OCT-1996 15:39:04.98

SUBJECT: FYI, I will send you the memo w/his marginal comments

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)

READ:16-OCT-1996 15:49:47.01

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:16-OCT-1996 17:57:55.53

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:16-OCT-1996 14:23:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Carol H. Rasco

ATT SUBJECT: Memo to POTUS on welfare reform

ATT TO: Jeremy D. Benami ( BENAMI\_J )

ATT TO: Diana M. Fortuna ( FORTUNA\_D )

ATT CC: Franklin D. Raines ( RAINES\_F )

ATT CC: Kenneth S. Apfel ( APFEL\_K )

ATT CC: Bruce N. Reed ( REED\_B )

ATT CC: Jeremy D. Benami ( BENAMI\_J )

ATT CC: Christopher C. Jennings ( JENNINGS\_C )

ATT CC: Elizabeth E. Drye ( DRYE\_E )

TEXT:

Upon my return today to the office I had a copy of the memo the President received from Frank Raines and myself on welfare reform. I am copying each of you as I feel his comments give us all validation for the approaches we are taking. Jeremy, please note the President's one question on food stamps on page four and let's do a quick follow up FYI memo to him in the next couple of days. Thanks, folks!

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Deborah F. Kramer@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:16-OCT-1996 22:47:00.00

SUBJECT: Waivers/Budget Neutrality

TO: BENAMI\_J ( BENAMI\_J@A1@CD ) (WHO)  
READ:17-OCT-1996 09:54:53.26

TO: CRAFT\_D ( CRAFT\_D@A1@CD ) (OPD)  
READ:17-OCT-1996 09:09:55.90

TO: FORTUNA\_D ( FORTUNA\_D@A1@CD ) (OPD)  
READ:17-OCT-1996 09:08:05.15

TO: KAGAN\_E ( KAGAN\_E@A1@CD ) (WHO)  
READ:17-OCT-1996 09:05:25.67

TO: WARNATH\_S ( WARNATH\_S@A1@CD ) (OPD)  
READ:17-OCT-1996 09:26:59.18

TO: Lester D. Cash ( Lester D. Cash@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Stacy L. Dean ( Stacy L. Dean@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Barry White ( Barry White@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Cynthia M. Smith ( Cynthia M. Smith@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TEXT:

Message Creation Date was at 16-OCT-1996 18:58:00

Ken would like to have a meeting tomorrow on waivers/budget neutrality. Unfortunately, Ken is only available between 10:30 - 12:00. Ken will be out on Friday and does not want to have this wait until next week.

Please let me know if you are available b/w 10:30 - 12:00.

Thanks.

P.S. -- I apologize for the short notice, but I just found out a few moments ago.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME:17-OCT-1996 09:32:21.71

SUBJECT: 40 Qs letter

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:17-OCT-1996 11:56:54.29

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:17-OCT-1996 11:59:47.42

TO: Wendy A. Taylor ( TAYLOR\_W ) Autoforward to: Remote Address  
READ:NOT READ

CC: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:17-OCT-1996 09:32:37.91

CC: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:17-OCT-1996 09:54:12.53

TEXT:

The new draft is coming to the three of you and the others of us have it.

We need to get comments to Yvette ASAP.

Please call either Diana or me with comments maybe in the next hour?

thanks.

Also, does everyone have the 18-50 guidelines. We need to comment on these asap also. How about comments on that by noon?

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Deborah F. Kramer@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:17-OCT-1996 10:04:00.00

SUBJECT: Waivers/Budget Neutrality Meeting

TO: BENAMI\_J ( BENAMI\_J@A1@CD ) (WHO)  
READ:17-OCT-1996 12:13:27.62

TO: CRAFT\_D ( CRAFT\_D@A1@CD ) (OPD)  
READ:17-OCT-1996 10:05:41.40

TO: BROMBERG\_E ( BROMBERG\_E@A1@CD ) (WHO)  
READ:17-OCT-1996 12:36:20.93

TO: KAGAN\_E ( KAGAN\_E@A1@CD ) (WHO)  
READ:17-OCT-1996 12:00:21.76

TO: DEAN\_S ( DEAN\_S@A1@CD ) (OMB)  
READ:NOT READ

TO: Mark E. Miller ( Mark E. Miller@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Margaret A. Murray ( Margaret A. Murray@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Cynthia M. Smith ( Cynthia M. Smith@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Lester D. Cash ( Lester D. Cash@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Barry White ( Barry White@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TEXT:

Message Creation Date was at 17-OCT-1996 09:37:00

Ken will be having a waivers/budget neutrality meeting this morning @ 10:30 in his office (260).

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Stephen C. Warnath ( WARNATH\_S ) (OPD)

CREATION DATE/TIME:17-OCT-1996 12:50:08.67

SUBJECT: 40 quarters and 10-year income estimates

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:17-OCT-1996 12:52:11.96

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:17-OCT-1996 15:47:05.84

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:17-OCT-1996 15:13:25.41

TEXT:

I believe that it is a mistake to require in our interim procedure the type of year-by-year sliding scale income estimates that we have in the draft letter now. It is simply too complex. This level of complexity conflicts with the reason for the interim procedure, which is to establish a reasonable approach to protect eligible individuals who may have moved around alot, had numerous employers and have very incomplete records. This also means that estimates of income year-by-year over a ten year period would be extremely difficult (and would be exacerbated if the individual needed to rely upon spouse or parent records).

On the State end of this, I think this would be extraordinarily complex for State workers to implement. If States howl about the interim procedure, we have not gained anything.

I certainly recognize the argument that we don't want this to be viewed as lax by some members of Congress or the public, but 1) we will be able to point to procedures for claims for overpayments and 2) this is an interim measure. Also, perhaps we can set something up so that will less formally work to help individuals accurately judge whether they are likely to meet earning requirements -- perhaps working with groups to help people understand that there are escalating minimum earning levels and they should take care before making their attestations.

thanks

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME:17-OCT-1996 18:42:02.02

SUBJECT: Monday meeting with Olivia Golden

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ:18-OCT-1996 11:06:07.83

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:18-OCT-1996 09:22:20.30

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:18-OCT-1996 10:00:00.27

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:18-OCT-1996 11:10:33.55

CC: Carol H. Rasco ( RASCO\_C ) (WHO)  
READ:18-OCT-1996 08:17:57.47

TEXT:

For those of you wondering what the Monday meeting with Olivia Golden at 12:30 is about - it is a meeting we had discussed a while back to get from her and some of the other HHS folks a better sense of how they are going to be reviewing state plans for completeness. What their process will be, the questions they will be asking etc. This is the opportunity to raise concerns about the level of information being obtained from states about what they are doing.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Cathy R. Mays ( MAYS\_C ) (OPD)

CREATION DATE/TIME:18-OCT-1996 12:36:08.66

SUBJECT: Room Change

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:18-OCT-1996 12:42:59.15

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:18-OCT-1996 12:42:25.37

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:18-OCT-1996 14:09:07.55

TO: Deborah F. Kramer ( KRAMER\_D ) Autoforward to: Remote Address  
READ:NOT READ

TEXT:

The HHS state plan review process meeting for Monday, October 21, is going to be held in ROOM 211, OEOB. (The time is unchanged -- 12:30.)

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:18-OCT-1996 13:49:44.64

SUBJECT: RE: Calif. and TANF issue

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:18-OCT-1996 16:36:07.55

CC: Bruce N. Reed ( REED\_B ) (WHO)  
READ:19-OCT-1996 10:23:42.31

CC: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:18-OCT-1996 14:51:50.93

CC: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:18-OCT-1996 14:27:41.60

TEXT:

I understand that they will both be there. I will tell Monahan that they should be prepared to discuss this.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME:18-OCT-1996 14:29:38.26

SUBJECT: final forty quarters

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:18-OCT-1996 16:36:39.08

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:18-OCT-1996 14:30:00.54

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:18-OCT-1996 14:35:06.57

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:18-OCT-1996 14:31:57.31

TEXT:

FYI attached is the final version of forty quarters material that USDA received last night.  
This is the version they are sending out! Without question marks, we hope!

=====  
ATT CREATION TIME/DATE:18-OCT-1996 14:28:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Jeremy D. Benami

TEXT:

PRINTER FONT 12\_POINT\_ROMAN

SUBJECT: FSP

□

-Verification of Noncitizen Eligibility  
TO: Regional Administrators  
All Regions

This memorandum provides guidance to State agencies in implementing section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Please transmit this information to your State agencies immediately.

Section 402 generally limits the eligibility of legal immigrants for the Food Stamp Program, but section 402(a)(2)(B) provides an exception for legal immigrants who have worked or can be credited with 40 quarters of qualified work. The law provides that quarters worked by a parent or a spouse can be credited to the individual in determining the number of qualifying quarters.

Implementing this requirement will be challenging for the Social Security Administration (SSA) which is the primary source of verification of quarters worked, eligibility workers, and the individual immigrants. While some immigrants may already have 40 quarters clearly established in their Social Security records, others may have been employed in jobs covered by Social Security

but earnings may not have been appropriately reported. Many immigrants, particularly migrant workers, may have difficulty obtaining verification of employment, and SSA will have to work with them to establish quarters. Finally, the definition of a "quarter" of work may cause some confusion as "quarters" are credited on the basis of annual earnings rather than on months worked.

This memorandum and the attached procedures provide guidance to State agencies in administering the 40 quarters determination. This procedure has been developed in cooperation with SSA, and we are drafting regulations to address 40 quarter verification be based on the procedures outlined in this memorandum. Until regulations are published, FCS and SSA strongly encourage State agencies to follow these procedures. Quality control review will be based on these certification procedures as well.

Verification of 40 quarters information for most applicants and current recipients will primarily be accomplished by an automated system SSA is developing to provide State agencies with

individual quarters of coverage information overnight through batch processing. SSA expects that system to be operational in January. Pending the implementation of the automated system, FCS and SSA have developed an interim procedure for processing households with immigrant members.

□

This procedure (attached) authorizes certification pending verification (CPV) for immigrants who have been in the country long enough to acquire 40 quarters of coverage and who state that they have met the work requirement. For individuals who meet this requirement, the individual's attestation to 40 quarters is sufficient. No further documentation of earnings is required at application pending SSA verification. Those individuals who do not have enough quarters of their own may also attest at application to quarters earned through the work of a parent or spouse.

Within 3 months after the month in which the SSA verification system is operational, the State agency shall submit the required information for each CPV individual to SSA. SSA will report back the number of quarters that can be credited to the individual and applicable family members.

If SSA's existing records cannot verify that an individual has 40 quarters, SSA will work with the individual to determine whether quarters can be established. Individuals in this situation should be advised of this option and that they will be allowed to participate for 6 more months provided SSA certifies that they are working to clarify their records. The individual will be required to provide a document from SSA indicating that the number of quarters is under review. SSA is developing a document to meet this requirement.

If SSA verification finally indicates that an individual does not have 40 qualifying quarters, the State agency shall establish an inadvertent household error claim for the overissuance.

We hope that these procedures will go a long way toward easing these difficulties and ensuring that the law is implemented in a fair and effective manner. Please let us know if you have any questions.

Yvette S. Jackson

Deputy Administrator  
Food Stamp Program

## Attachments

cc: Food Stamp Program Director  
All Regions

□

Certification Pending Verification Procedures  
For Legal Immigrants

The following procedures are for legal immigrants who believe that they have a work history that meets the forty quarters exemption in the law. These procedures need not be followed for those legal immigrants who qualify for other exemptions in the law (refugees, asylees, deportees, or applicants with a claim to eligibility based on military service.)

Second para -- In order to determine eligibility based on social security coverage, the state should ascertain the applicant's understanding as to the following:

1. How many years has the applicant, the applicant's spouse, or the applicant's parents (before the applicant turned 18) lived in this county.

(If the answer to question 1 is less than 10 years, the State agency does not need to ask question 2).

2. In how many of the years reported in answer to question 1, did the applicant, the applicant's spouse, or the applicant's parent earn money through work.

(To determine whether the applicant's earnings were sufficient to establish "quarters of coverage" in those years, the State agency may wish to refer to the attached chart.)

If the answer to the question 2 is 10 years or more, the State agency shall verify, from INS documents, the date of entry into the country of the applicant, spouse and/or parent. If the dates are consistent with having 10 or more years of work, no further documentation is required at this time; the State agency shall include the immigrant in the household pending verification from SSA. The State agency shall inform these recipients that a claim will be established for any benefits to which they were not entitled. The State agency shall keep a record of each individual certified pending verification from SSA.

If the dates of entry are inconsistent with having 10 or more years of work, the State agency shall determine the applicant ineligible. The State agency shall then inform the applicant of his or her fair hearing rights.

The applicant shall also provide, for purposes of future

verification, the full name, Social Security Number, date of birth, and sex of each individual (self, parent or spouse) whose work history is relevant to the determination of eligibility. In addition, the applicant shall provide a release form signed by each such individual (copy attached) giving SSA permission to release information on that individual to the state agency and/or the applicant. This form shall be retained in the case file to document the individual's consent.

SSA is drafting an addendum to the current Computer Matching and Privacy Protection Act agreement between SSA and each state agency. In accordance with that revised agreement, and within three months after the month in which the SSA verification system becomes operational, the state agency will send the identifying

information provided by the applicant to SSA for overnight processing. . In its response, SSA will provide information about qualifying quarters of work. If the immigrant believes the information from SSA is inaccurate or incomplete, the State agency shall refer the applicant to SSA for review. SSA will give the individual a document indicating that the number of quarters is under review. An immigrant who provides the state agency with this document can continue to receive benefits for six months from the date of SSA's initial response or until SSA has completed its review, whichever is earlier.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:18-OCT-1996 16:29:43.74

SUBJECT: Meeting Monday and Calif issue

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ:21-OCT-1996 10:19:10.46

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:21-OCT-1996 10:54:03.14

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:18-OCT-1996 17:00:21.96

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:18-OCT-1996 16:37:52.88

TEXT:

Monahan is saying that they don't want to discuss Calif. situation much at Monday's meeting. He says there are a lot of complex financial issues in the state plan, and we should discuss it later. Plus, they don't plan action on it for a few weeks. I just left him a message saying that we don't need to have a fulsome discussion of Calif's entire plan, but that Elena was interested in Harriet's read on what in the law makes this even a possibility; and that, since other states (NJ, maybe NY) may be picking up on this theme in the coming days and weeks, this does merit some earlier focus.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeanine D. Smartt ( SMARTT\_J ) (OPD)

CREATION DATE/TIME:18-OCT-1996 17:03:35.28

SUBJECT: Blessing v. Freestone

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:18-OCT-1996 17:46:44.51

CC: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:18-OCT-1996 17:07:31.60

TEXT:

I am forwarding a copy of the brief filed yesterday in the Blessing v. Freestone Supreme Court case, just in case you haven't already received a copy. I am also forwarding the brief APWA filed. APWA sent a letter to Carol Rasco indicating their disappointment with the Administration's position. Next week I will draft a response letter and ask in advance if you would review. Thanks!

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: M. Jill Gibbons@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:18-OCT-1996 17:13:00.00

SUBJECT: Signing statement on H.R. 1281, War Crimes Disclosure

TO: KAGAN\_E ( KAGAN\_E@A1@CD ) (WHO)  
READ:18-OCT-1996 17:46:54.85

TO: BURKE\_D ( BURKE\_D@A1@CD ) (OPD)  
READ:18-OCT-1996 18:23:41.10

TO: DAVIS\_W ( DAVIS\_W@A1@CD ) (NSC)  
READ:21-OCT-1996 12:06:59.91

TO: Maya A. Bernstein ( Maya A. Bernstein@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Bruce W. McConnell ( Bruce W. McConnell@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Steven D. Aitken ( Steven D. Aitken@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Robert G. Damus ( Robert G. Damus@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: David J. Haun ( David J. Haun@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

CC: Michael A. Fitzpatrick ( Michael A. Fitzpatrick@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TEXT:

Message Creation Date was at 18-OCT-1996 17:06:00

The following is a draft signing statement on H.R. 1281, the War Crimes Disclosure Act. According to WH/LA, this bill will be signed tomorrow. Please provide any comments or sign off by 6:00 today. Thanks

(This is also being sent to you in hard copy under LRM # 5750.)

STATEMENT BY THE PRESIDENT

I have today approved H.R. 1281, the "War Crimes Disclosure Act." This Act, sponsored by Representative Maloney of New York, urges United States Government agencies to make public any records concerning individuals alleged to have committed Nazi war crimes.

My Administration is committed to ensuring the widest possible disclosure of government documents. On April 17, 1995, I signed Executive Order 12958, which will make available certain previously classified national security documents while safeguarding information critical to our Nation's security. Additionally, my Administration worked closely with Congress on the recent passage of the Electronic Freedom of Information Act. I believe that our democratic principles require that the

American people be informed of the activities of their government.

Over half a century has passed since the conclusion of World War II and the end of the Holocaust, one of the most horrifying periods of genocide in world history. I strongly believe in the central finding of this Act, that it is important to learn all we can about this terrible era so that we can prevent such a catastrophe from ever happening again. To that end, the Act calls for more comprehensive disclosure of documents specific to Nazi war crimes. It is clearly in our public interest to learn any remaining secrets about the Holocaust.

I'm pleased that the Act recognizes the need not to disclose material that is still important to U.S. national security interests. I am hopeful that the Congress and the Executive branch will continue to work together to balance the public interests of disclosing government records with the national interests of keeping certain documents protected within the context of future initiatives in this area.

Ensuring a full accounting of United States records on Nazi war criminals is an important step in preserving the memory of those who died and honoring the sacrifices of those who survived. I am pleased to sign this Act into law.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeanine D. Smartt ( SMARTT\_J ) (OPD)

CREATION DATE/TIME:18-OCT-1996 18:49:59.23

SUBJECT: Welfare Web Page

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:19-OCT-1996 13:10:30.31

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:21-OCT-1996 10:54:55.77

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:18-OCT-1996 18:54:41.47

CC: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:19-OCT-1996 12:11:16.74

CC: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:19-OCT-1996 16:08:34.64

TEXT:

I am sending you a preliminary outline of the White House Welfare Reform Web Page. Please review the documents listed and let me know if there are any documents you know of that should be added. And, any hints on tracking down the document would be greatly appreciated.

The documents listed in bold are already on-line. The documents in plain type are not on-line and may or may not be approved for clearance by the appropriate agency.

This outline will be updated and distributed at Tuesday's meeting.  
I can be reached at 6-5228. Thanks!

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:21-OCT-1996 10:37:30.03

SUBJECT: Next NGA mtg/answers to questions

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:21-OCT-1996 12:09:24.14

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:21-OCT-1996 11:25:29.50

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:21-OCT-1996 11:09:40.73

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ:21-OCT-1996 12:21:22.90

TEXT:

You will recall that at our last NGA, etc., meeting we had a long list of their questions without answers. John Monahan tells me that HHS will get us draft answers by cob today; and asks that we get them our comments by cob tomorrow. If everyone is comfortable with the answers, this will give us a handy agenda for Wed. at 1. So you should expect to get these late today or early tomorrow.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ellen S. Seidman ( SEIDMAN\_E ) (OPD)

CREATION DATE/TIME:21-OCT-1996 16:07:28.44

SUBJECT: Small business Q&A for WSJ

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:21-OCT-1996 18:40:08.62

TEXT:

Attached are the quick answers I did for Gene. You can ignore the final one, having to do with independent contractors. Ellen

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:21-OCT-1996 16:07:00.00

ATT BODYPART TYPE:p

TEXT:

WPC

2BVWQZ

#|xcpi)?xxx,IXx6X@JQX@Canon LBP-8 IIIus/4M PlusCALB8III.WRSx

@ph!+CX@2C1SXR#|xCourier 12pt (10cpi)Courier 12pt (10cpi) (Bold)?xxx,IXx6X@JQX@

>?xxx,Xx `QXFy`

Times New RomanCe Horizontal LineCreate Vertical LineEdit Horizontal LineEdit Vertical LineBox2Issue: "Dole is for caps in punitive damages for trial la

U!zK

wyers in

product liability cases"

U!zK

(

U!zK

Presumably, what he really means is that "Dole is for capping punitive damages assessable against

[corporate] defendants in product liability cases but Clinton,

U!zK

at

the behest of the trial lawyers, is

U!zK

opposed to capping.")

Response: Contrary to Senator Dole's assertions, there is no punitive damages

explosion. A recent Rand

U!zK\*

Institute for Civil

Justice

U!zK\*

study stated: "Despite the attention they have received from policymakers and from the media, punitive damages are rarely awarded." The same study found that

punitives are most

U!zK3

often

awarded in intentional tort and

U!zK5  
business cases, not in product  
liability cases.  
U!zK8

President Clinton has consistently opposed caps on punitive damages not only because there is no need for one, but also because punitives, when they are awarded, constitute an effective means for a jury of citizens to deter egregious misconduct that has put at risk the lives and health of other American citizens.

yxPddd  
U!zK\

Issue: "Dole is for changes that would make it more difficult for shareholders to file securities fraud lawsuits."

Response: President Clinton believes that our capital markets will operate more efficiently if corporations make the maximum amount of information available to investors and do so without fear of frivolous lawsuits. The President therefore agrees that it is appropriate to make it more difficult for lawyers to file frivolous securities lawsuits, including in particular suits filed on behalf of solicited plaintiffs. Many of the provisions in last year's Securities Litigation Reform Act should have this effect, and the President has asked the SEC to monitor the law to determine whether it effectively deters frivolous while at the same time protecting the effective access of defrauded investors to the courts. President Clinton has recently stated his opposition to California Proposition 211, which would increase the likelihood of frivolous securities lawsuits being filed.

yx8#dddjy

Issue: "Dole is for a clearer definition of independent contractors."

Response: The Small Business Job Protection Act, which President

Clinton signed into law on August 20, contains an improved definition of independent contractor. However, this is a complex issue, implicating questions far beyond simply taxes, including worker protections (such as under the Fair Labor Standards Act) and benefits (under ERISA). Allowing employers simply to choose whether their workers will get the benefit of these statutes, as some of the proposed "clearer definitions" would do, is bad for workers and, ultimately, bad for business and for the economy.===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dorothy K. Craft ( CRAFT\_D ) (OPD)

CREATION DATE/TIME:21-OCT-1996 16:15:09.79

SUBJECT: MEETING REMINDER

TO: FAX (96905672,JOHN MONAHAN) ( TLXA1MAIL\_\F:96905672\C:JOHN MONAHAN\\ )  
READ:NOT READ

TO: FAX (96193437,DENNIS HAYASHI) ( TLXA1MAIL\_\F:96193437\C:DENNIS HAYASHI\\ )  
READ:NOT READ

TO: FAX (93050134,ROBERT BACH) ( TLXA1MAIL\_\F:93050134\C:ROBERT BACH\\ )  
READ:NOT READ

TO: FAX (914109659063,CAROLYN COLVIN) ( TLXA1MAIL\_\F:914109659063\C:CAROLYN COLVI )  
READ:NOT READ

TO: FAX (94827105,BRIAN COYNE) ( TLXA1MAIL\_\F:94827105\C:BRIAN COYNE\\ )  
READ:NOT READ

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:21-OCT-1996 18:40:55.02

TO: Deborah L. Fine ( FINE\_D ) (OPD)  
READ:21-OCT-1996 16:17:35.74

TO: Peggy A. Lewis ( LEWIS\_P ) (WHO)  
READ:21-OCT-1996 16:14:58.72

TO: Anne E. McGuire ( MCGUIRE\_A ) (WHO)  
READ:21-OCT-1996 16:39:22.81

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ:21-OCT-1996 16:55:12.57

TO: FAX (95140539,RANDY MOSS) ( TLXA1MAIL\_\F:95140539\C:RANDY MOSS\\ )  
READ:NOT READ

TO: FAX (95149112,KEVIN JONES) ( TLXA1MAIL\_\F:95149112\C:KEVIN JONES\\ )  
READ:NOT READ

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:21-OCT-1996 18:39:30.73

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:21-OCT-1996 16:25:03.77

TO: Dorothy K. Craft ( CRAFT\_D ) (OPD)  
READ:21-OCT-1996 16:29:21.88

TO: FAX (96222633,LOUISE SHEINER) ( TLXA1MAIL\_\F:96222633\C:LOUISE SHEINER\\ )  
READ:NOT READ

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:21-OCT-1996 16:11:25.10

TO: Barry White ( WHITE\_B ) Autoforward to: Remote Adresse

READ:NOT READ

TO: Remote Addressee ( MOSSR@JUSTICE.USDOJ.GOV@INET )  
READ:NOT READ

TO: Remote Addressee ( RLBGOV@AOL.COM@INET )  
READ:NOT READ

TO: FAX (914109658582,DIANE BLACKMAN) ( TLXA1MAIL\_\F:914109658582\C:DIANE BLACKMA  
READ:NOT READ

TO: Remote Addressee ( BRIAN.COYNE@SSA.GOV@INET )  
READ:NOT READ

TO: Remote Addressee ( MMOCKO@ACF.DHHS.GOV@INET )  
READ:NOT READ

TO: Remote Addressee ( ASEGAL@OSASPE.DHHS.GOV@INET )  
READ:NOT READ

TO: Remote Addressee ( JMONOHAN@OS.DHHS.GOV@INET )  
READ:NOT READ

TO: FAX (96906562,ANN SEGAL) ( TLXA1MAIL\_\F:96906562\C:ANN SEGAL\\ )  
READ:NOT READ

TO: FAX (96907380,MARY BOURDETTE) ( TLXA1MAIL\_\F:96907380\C:MARY BOURDETTE\\ )  
READ:NOT READ

TO: FAX (97033052576,STEVEN CARLSON) ( TLXA1MAIL\_\F:97033052576\C:STEVEN CARLSON  
READ:NOT READ

TO: FAX (97033052454,STACY DEAN) ( TLXA1MAIL\_\F:97033052454\C:STACY DEAN\\ )  
READ:NOT READ

TO: Keith J. Fontenot ( FONTENOT\_K ) Autoforward to: Stacy L. Dea  
READ:17-NOV-1996 17:16:47.40

TO: Jeffrey A. Farkas ( FARKAS\_J ) Autoforward to: Remote Address  
READ:NOT READ

TO: Matthew D. McKearn ( MCKEARN\_M ) Autoforward to: Remote Address  
READ:NOT READ

TO: Cynthia M. Smith ( SMITH\_CM ) Autoforward to: Remote Address  
READ:NOT READ

TO: FAX (94827153,JUDY CHESSER) ( TLXA1MAIL\_\F:94827153\C:JUDY CHESSER\\ )  
READ:NOT READ

TO: FAX (97033052454,YVETTE JACKSON) ( TLXA1MAIL\_\F:97033052454\C:YVETTE JACKSON  
READ:NOT READ

TO: FAX (96222633,GLEN ROSSELLI) ( TLXA1MAIL\_\F:96222633\C:GLEN ROSSELLI\\ )  
READ:NOT READ

TO: Remote Addressee ( JUDY.CHESSER@SSA.GOV@INET )  
READ:NOT READ

TO: Remote Addressee ( JMOORE@HCFA.GOV@INET@INET )

READ:NOT READ

TO: FAX (914107860025,JUDY MOORE)  
READ:NOT READ

( TLXA1MAIL\_\F:914107860025\C:JUDY MOORE\\ )

TO: FAX (96907380,HELEN MATHIS)  
READ:NOT READ

( TLXA1MAIL\_\F:96907380\C:HELEN MATHIS\\ )

TO: Remote Addressee  
READ:NOT READ

( BONNY.O'NEIL@FCS.USDA.GOV@INET )

TO: FAX (92609183,JON WEINTRAUB)  
READ:NOT READ

( TLXA1MAIL\_\F:92609183\C:JON WEINTRAUB\\ )

TO: Remote Addressee  
READ:NOT READ

( JON\_WEINTRAUB@ED.GOV@INET )

TO: Remote Addressee  
READ:NOT READ

( JESSICA\_LEVIN@ED.GOV@INET )

TO: FAX (94014353,JESSICA LEVIN)  
READ:NOT READ

( TLXA1MAIL\_\F:94014353\C:JESSICA LEVIN\\ )

TO: Jack A. Smalligan  
READ:NOT READ

( SMALLIGAN\_J ) Autoforward to: Remote Addr

TO: Daniel J. Chenok  
READ:21-OCT-1996 16:50:00.62

( CHENOK\_D ) (OMB)

TO: Wendy A. Taylor  
READ:NOT READ

( TAYLOR\_W ) Autoforward to: Remote Address

TO: Laura A. Oliven  
READ:NOT READ

( OLIVEN\_L ) Autoforward to: Remote Address

TO: Debra J. Bond  
READ:NOT READ

( BOND\_D ) Autoforward to: Remote Addressee

TO: FAX (96907383,JEFF MERKOWITZ)  
READ:NOT READ

( TLXA1MAIL\_\F:96907383\C:JEFF MERKOWITZ\\ )

TO: Remote Addressee  
READ:NOT READ

( jmerkowi@osaspe.dhhs.gov@INET )

TO: Betsy Myers  
READ:21-OCT-1996 18:34:44.85

( MYERS\_B ) Autoforward to: Susan L. Powell

TO: FAX (97033052486,ARTHUR FOLEY)  
READ:NOT READ

( TLXA1MAIL\_\F:97033052486\C:ARTHUR FOLEY\\ )

TO: Stephen C. Warnath  
READ:21-OCT-1996 16:43:38.94

( WARNATH\_S ) (OPD)

TO: Mark E. Miller  
READ:NOT READ

( MILLER\_ME ) Autoforward to: Remote Address

TO: Steven M. Mertens  
READ:NOT READ

( MERTENS\_S ) Autoforward to: Remote Address

TO: FAX (95149077,GERRI RATLIFF)

( TLXA1MAIL\_\F:95149077\C:GERRI RATLIFF\\ )

READ:NOT READ

TO: FAX (95149368,DAVID OGDEN) ( TLXA1MAIL\_\F:95149368\C:DAVID OGDEN\\ )  
READ:NOT READ

TO: FAX (92053848,ANN ROSEWATER) ( TLXA1MAIL\_\F:92053848\C:ANN ROSEWATER\\ )  
READ:NOT READ

TO: Jill Pizzuto ( PIZZUTO\_J ) (OPD)  
READ:21-OCT-1996 16:24:39.21

TO: FAX (92196896,MARK W. MORIN) ( TLXA1MAIL\_\F:92196896\C:MARK W. MORIN\\ )  
READ:NOT READ

TO: FAX (96905600,JOAN LOMBARDI) ( TLXA1MAIL\_\F:96905600\C:JOAN LOMBARDI\\ )  
READ:NOT READ

TO: FAX (97208077,CHERYL TATES-MACIAS) ( TLXA1MAIL\_\F:97208077\C:CHERYL TATES-MACI  
READ:NOT READ

TO: FAX (67311,CARRIE WOFFORD) ( TLXA1MAIL\_\F:67311\C:CARRIE WOFFORD\\ )  
READ:NOT READ

TO: Nicole R. Rabner ( RABNER\_N ) (WHO)  
READ:21-OCT-1996 16:11:17.76

TO: Jennifer L. Klein ( KLEIN\_J ) (OPD)  
READ:21-OCT-1996 18:21:16.83

TO: FAX (97080309,PAUL LEONARD) ( TLXA1MAIL\_\F:97080309\C:PAUL LEONARD\\ )  
READ:NOT READ

TO: Stacy L. Dean ( DEAN\_S ) Autoforward to: Remote Addressee  
READ:NOT READ

TO: FAX (96320390,BEVERLY GODWIN) ( TLXA1MAIL\_\F:96320390\C:BEVERLY GODWIN\\ )  
READ:NOT READ

TO: Molly Brostrom ( BROSTROM\_M ) (WHO)  
READ:21-OCT-1996 16:13:32.12

TEXT:

MEETING REMINDER TO WELFARE IMPLEMENTATION SUBGROUP

From: Jeremy Ben-Ami  
Diana Fortuna  
Domestic Policy Council

We will hold the Weekly Welfare Implementation Subgroup meeting  
this Tuesday, October 22 at 3:00 p.m. in OEOB 211, as usual.  
Thank you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME: 21-OCT-1996 18:57:59.81

SUBJECT: latest HHS q and a

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ: NOT READ

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ: 22-OCT-1996 11:12:14.58

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ: 22-OCT-1996 09:27:16.74

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 21-OCT-1996 19:08:05.32

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ: 22-OCT-1996 10:54:48.29

CC: Barry White ( WHITE\_B ) Autoforward to: Remote Adresse  
READ: NOT READ

TEXT:

John M just faxed over the HHS responses to the outstanding questions from the intergovernmental groups.

These would be the basis for the meeting on Wednesday. I will get these around first thing on Tuesday. Can we do a quick review and collect comments by 5:00 Tuesday?

Ken: they have apparently included something on waivers and cost neutrality that we may want them to take out. Do you want to regroup by phone based on staff discussions these past couple of days to see what we say on Wednesday?

Elena: anything to be said yet on means tested? What time frame can we publicly say we'll have an answer?

Ken: on the circulars/apportionment question, are we ready to give an answer yet?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME:22-OCT-1996 09:03:29.68

SUBJECT: outstanding items

TO: Kenneth S. Apfel ( APFEL\_K ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:22-OCT-1996 10:56:05.97

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:22-OCT-1996 09:30:40.18

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:22-OCT-1996 10:59:44.14

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:22-OCT-1996 09:17:17.75

TEXT:

Just a quick update

Meetings this week: Implementation subgroup today at 3:00;  
intergovernmental meeting tomorrow at 1:00.

Items on our plate here at the WH:

(1) Steve/Diana/Elena -- the one page memo from USDA on the April 1 date's impact on noncitizens -- Steve: can you consolidate comments from Diana and Elena and call Yvette this morning?

(2) 18-50 guidance -- Ken, I know you are briefing Raines today. My sense is we could use a WH meeting on this topic. Does that sound right to everyone. We need to give reaction to USDA. Please advise.

(3) Cost Neutrality -- Ken, where are we? What can we tell intergov groups tomorrow on timing? What was agency reaction.

(4) Means Tested -- Elena: what's new. Latest word from HHS? Are they redrafting memo to DOJ? How are contacts with the GCs going?

(5) HHS q/a -- You all are getting copies of HHS q/a for tomorrow's meeting on a variety of topics hopefully early this a.m. Ten pages of stuff for clearance TODAY!

Should we set a WH meeting to go over 2-4 and 5, if necessary, maybe following the implementation group today? Let me know what you guys think.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME:22-OCT-1996 12:59:33.68

SUBJECT: technical corrections package

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)  
READ:22-OCT-1996 19:21:55.28

TO: Emily Bromberg ( BROMBERG\_E ) (WHO)  
READ:22-OCT-1996 14:26:29.26

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:22-OCT-1996 13:39:46.15

TO: Richard E. Green ( GREEN\_R ) (OMB)  
READ:23-OCT-1996 09:16:49.72

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:22-OCT-1996 13:58:53.48

TEXT:

PRINTER FONT 12\_POINT\_COURIER

Rich Tarplin called me to update me on the technical corrections package. He says that HHS now has an internal process underway on the technical corrections package, with documents being worked on by ACF, HCFA, and immigration folks at HHS. They expect to clear it internally by the end of this week. They have talked to SSA; I advised them to talk to USDA and DOJ/INS as well.

There are format questions and strategic questions.

Strategically, Rich said he thought it would be better to dispose of as many items as possible now, deferring fewer things to next year's more substantive legislative package, so that that package is cleaner, with fewer items to trade off and more focus on the key changes we want.

Also, we need to bring in Hilley's office at the appropriate time.

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: GOLAS\_S@MRGATE@CD

CREATION DATE/TIME:22-OCT-1996 16:08:00.00

SUBJECT: Search Results file #2

TO: SMARTT\_J@A1 (OPD)

READ:22-OCT-1996 16:22:20.19

TEXT:

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Diana M. Fortuna ( FORTUNA\_D ) (OPD)

CREATION DATE/TIME: 6-SEP-1996 18:44:02.18

SUBJECT: You probably know about this, but...

TO: Elena Kagan

( KAGAN\_E ) (WHO)

READ: 6-SEP-1996 18:45:04.26

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 6-SEP-1996 18:41:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Jeremy D. Benami

ATT SUBJECT: fyi

ATT TO: Diana M. Fortuna

( FORTUNA\_D )

TEXT:

===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE: 6-SEP-1996 15:36:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Jeanine D. Smartt

ATT SUBJECT: APWA Child Support Case Update

ATT TO: Carol H. Rasco

( RASCO\_C )

ATT CC: Jeremy D. Benami

( BENAMI\_J )

TEXT:

With about 98.9% certainty the Solicitor General will file a "Friend of the Court" brief that supports the plaintiff in the Blessing v. Freestone case on either September 26th or 27th.

Background

The plaintiff (Freestone) is actually 6 individual plaintiffs who sued Arizona for failure to administer an adequate child support system. The case was thrown

out of District court on August 12, 1993. The plaintiffs found success on October 12, 1995 when the 9th Circuit reversed the decision. On May 3, 1996 Arizona appealed under the Supreme Court - where we are now.

Freestone's Argument

There arguments range from the state's failure to establish a child support order to the state's failure to enact wage withholding even when given the employment information of the non-custodial parent. The plaintiffs simply want action. Please note, nothing in this suit entitles the plaintiffs to success, ie. receiving child support payments. A positive outcome for the plaintiff can only force Arizona to take some action.

Arizona's Case and APWA's Argument

(Linda Blessing is the Director of Arizona's Dept. of Economic Security) As you know, APWA sent a letter to you encouraging the Administration not to file a brief. The argument of Arizona and APWA is that according to IV-A statutes states only have to "substantially comply" which means adequately serve 75% of the population. (Please note that IV-D does not have compliance language therefore IV-A is used since states must run a child support system in order to receive IV-A funds.) APWA is also saying that the federal government is imposing additional requirements.

HHS General Counsel and Solicitor General Perspective

The dilemma here is that to a certain degree the state is accurate. The definition of "substantially comply" is ambiguous. However, since states have clearly stated Congressional guidelines as well as federal incentives to provide better services, they should do so. Thus, while the Administration files a brief that is diplomatic and outlines the complexity of this case it will support the plaintiff. (HHS Counsel really wants the case to be pushed back to the 9th Circuit for further consideration, particularly given the new welfare rules.)

One of the issues is that states currently have no fair hearing requirements. (some states may have volunteer systems) So there is no way for an individual to complain about the system and have action taken on their behalf. In this particular case Arizona has had one of the worst child support programs and have been both penalized and audited in the past by HHS.

I hope this is helpful. If any additional issues come up during the Sept. 9 -10 conference please let me know. HHS Counsel stands ready to assist if it becomes a major issue.

=====  
===== END ATTACHMENT 2 =====  
===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE:22-OCT-1996 16:08:00.00

ATT BODYPART TYPE:D

TEXT:

VMSmail To information: MRGATE::A1::SMARTT\_J  
=====  
===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Barry White@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:22-OCT-1996 17:51:00.00

SUBJECT: HHS Q&A

TO: KAGAN\_E ( KAGAN\_E@A1@CD ) (WHO)  
READ:22-OCT-1996 19:28:33.27

TO: REED\_B ( REED\_B@A1@CD ) (WHO)  
READ:22-OCT-1996 18:15:15.35

TO: FORTUNA\_D ( FORTUNA\_D@A1@CD ) (OPD)  
READ:22-OCT-1996 18:04:56.15

TO: BROMBERG\_E ( BROMBERG\_E@A1@CD ) (WHO)  
READ:22-OCT-1996 18:11:10.75

TO: Kenneth S. Apfel ( Kenneth S. Apfel@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TEXT:

Message Creation Date was at 22-OCT-1996 17:45:00

Our lawyers will provide a Q&A on the circulars issue. Lester is working with them. (Rest easy, Emily, it will not quote David Stockman). Cost neutrality will come out.

Lester Cash is working with HHS to correct several other questions. With HHS people hard to reach, this may not be done until early in the a.m.

(Diana, Lester is also trying to reach you).