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TO: Elisa Millsap (CN=Elisa Millsap/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

I didn't. Am I invited??

December 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING
CHRIS JENNINGS

SUBJECT: Initiative to Reduce Racial Disparities in Health

To support your race initiative, we have developed proposals that would commit the nation to an ambitious goal of seeking to eliminate some of the most severe racial disparities in health care by the year 2010. African-Americans, Hispanics, Native Americans, and Asian Americans suffer from certain diseases up to five times as often as whites. To reduce these disparities, the government will have to make a sustained effort to find effective approaches and apply them across all health programs. We recommend that the FY 1999 budget take a two-pronged approach to this issue by (1) expanding our finest public health programs so that they can address the problem of reducing these disparities, and (2) funding competitive grants to thirty communities to test innovative and promising new approaches in this area.

Racial Disparities in Health Care

The initiative would focus on six of the most severe racial disparities in health care: infant mortality, cancer, heart disease and stroke, AIDS, immunization, and diabetes. Some of these disparities are quite startling. For example, infant mortality rates are 2 ½ times higher for African-Americans and 1½ times higher for American Indians and many Hispanic groups than they are for whites. African-Americans have a 35 percent higher cancer death rate than whites, and African-Americans under 65 suffer from prostate cancer at nearly twice the rate of whites. Similarly, Vietnamese women suffer from cervical cancer at nearly five times the rate of whites, while Latinos have two to three times the rate of stomach cancer. African-American men also suffer from heart disease at nearly twice the rate of whites. Native Americans suffer from diabetes at nearly three times the average rate, while African-Americans suffer 70 percent higher rates. Minorities account for 25 percent of the population yet make up 54 percent of all AIDS cases. The Demographic changes anticipated over the next decade magnify the importance of addressing these disparities. As minority populations grow, finding effective ways to close these gaps will become a critical aspect of improving the overall health of the nation.

Validation

An initiative that sets the ambitious goal of reducing these health disparities would receive overwhelming support from public health groups such as the American Public Health Association, the American Heart Association and the American Cancer Society, as well as from

minority groups such as the Intercultural Cancer Council, the American Indian Healthcare Association, the National Hispanic Council on Aging, and the National Council of Black Churches.

Proposal

HHS is proposing to spend \$200 million in FY 1999 for this initiative. OMB is currently recommending an investment of \$30 million (along with some retargeting of existing funding streams), with all the new money to go to established HHS programs, and none to the community grant proposal discussed below. (OMB believes that most communities do not have the infrastructure necessary to implement new public health projects in the most efficient manner.) OMB's lack of enthusiasm for this initiative results partly from a fear that we will not be able to reach our goals. DPC/NEC strongly support both parts of this initiative. We believe that the initiative will require an additional \$80 million and that \$30 million of this money should go to the new competitive grant program.

- **Applying Current Effective Public Health Approaches to Eliminate Disparities.** We recommend that you propose \$50 million to apply some of our most effective public health approaches directly to reducing racial disparities. Our best public health programs already use effective prevention and education strategies to improve health care. These programs would use additional funds to implement and adapt such proven public health strategies to eliminate racial disparities. For example, CDC's breast and cervical cancer screening program could use additional dollars to target minority communities better, as well as to extend its efforts to other cancers (e.g., prostate and colorectal) disproportionately afflicting minorities.
- **Community Grants to Develop New Strategies to Eliminate Disparities.** Eliminating racial disparities in health care will require not only the focused application of existing knowledge and best practices, but also the development of new approaches. We recommend that you propose \$30 million in FY 99 to enable thirty communities to develop innovative and effective ways to address racial disparities. Each community, chosen through a competitive grant process, would commence an intensive program to address one of the six health areas. (For example, a grant might go to a Native American reservation to test innovative approaches relating to diabetes.) These grants would fund education, outreach, and preventive approaches that have not been attempted elsewhere. HHS would hold periodic conferences to educate the public health and minority communities about effective strategies developed by these communities, with the aim of extending these approaches across the nation.
- **Beginning Today to Reduce Disparities.** To ensure that we begin this initiative immediately, we are identifying ways in which the FY 1998 increases in health care can be used to address racial disparities. For example, AIDS education and training centers are beginning a new partnership with the Indian Health Service to develop new approaches to educate health providers about training and prevention. In addition, the

National Cancer Institute will expand efforts to recruit more Hispanics into clinical trials.

December 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING
CHRIS JENNINGS

SUBJECT: Health Insurance Coverage Initiatives

Throughout your Administration, you have worked to enact legislation to expand access to affordable health insurance. The Balanced Budget Act included an unprecedented \$24 billion investment for state-based children's health insurance programs. This historic initiative will clearly reduce the number of uninsured. However, there are other deserving populations whom we could target in our step-by-step reforms. These include the pre-65 year olds (referenced in the Medicare memo), workers between jobs, and workers in small businesses. In addition, we are working on possible proposals to expand Medicaid coverage to people with AIDS and disabilities through pilot programs. The policy development of these proposals is still underway, so we have not included them here.

Taken together, these initiatives total around \$10 billion over 5 years. This amount is less than half of the health investments enacted as part of the Balanced Budget Act and less than 4 percent of the premium assistance proposed in the Health Security Act. Having said this, none of your advisors believe the Medicare and Medicaid savings left after last year's deficit reduction effort are sufficient to fund these initiatives. There may be \$0.5 to 1 billion over 5 years in Medicaid savings, but those savings will be difficult to achieve and there may be other claims on them (e.g., child care, benefits to immigrants). Another possible source of funds is the tobacco settlement, given the natural link between tobacco and health care.

Your advisors uniformly agree that we need to take all actions possible to achieve if not exceed your goal of increasing insurance coverage for 5 million children. A series of proposals are described in this memo to help accomplish that goal. There is less agreement on whether we should address a new group of uninsured people in this budget. The Department of Labor strongly supports the workers-between-jobs demonstration; of all health initiatives in the budget, it is their highest priority. OMB also supports that demonstration if sufficient funds are available. HHS believes that this proposal has merit, but is skeptical that it will attract any more support than it has in the past three years.

A. CHILDREN'S HEALTH OUTREACH

The Children's Health Insurance Program (CHIP) provides funds for coverage of millions of working families' uninsured children, a population that previously had trouble affording coverage. It also builds upon the Medicaid program, which covers nearly 20 million children. But important work remains to be done. In particular, we need to work with states to enroll the millions of uninsured children in these programs.

Medicaid eligible children are especially at risk of remaining uninsured. Over three million uninsured children are eligible for Medicaid. Educating families about their options and enrolling them in Medicaid has always been a problem, but it has recently become even more challenging. The number of children covered by Medicaid leveled off in 1995 and, according to the Census, dropped by 6 percent in 1996. While some of this decline may be due to the lower number of children in poverty, another part may result from families' misunderstanding of their children's continued eligibility for Medicaid in the wake of welfare reform.

Options to Increase Outreach for Medicaid and the Children's Health Insurance Program

To address the need for children's health outreach, we propose a series of policy options. Together, these initiatives could cost \$1 to 2 billion over five years (or more depending on policy choices about the enhanced match). Preliminary discussions with NGA and some children's advocates suggest they strongly support these efforts. In addition, the Administration is developing partnerships to encourage a complementary range of private outreach activities.

Enhanced match for outreach. One option for improving state outreach is to provide an enhanced match to enroll children who are eligible for but not previously enrolled in Medicaid. At the end of each year, if a state can document that it has increased its enrollment over its baseline, it would receive an increased matching amount per newly covered child (possibly through administrative payments). This policy rewards states only if they succeed in outreach, rather than matching activities that may or may not work. Depending on the amount of the incentive and the administrative design, this option could cost to \$0.5 to 1 billion over five years.

Moving outreach to schools and child care sites. We could build upon the "presumptive eligibility" provision in the Balanced Budget Act to make it easier to enroll children in Medicaid and CHIP. The BBA option allows limited sites (e.g., hospitals) to give low-income children temporary Medicaid coverage on the spot while they are formally enrolled in CHIP or Medicaid. This proposal would broaden these sites to include schools and appropriate child care sites, at the state's option. HCFA actuaries preliminarily estimate that this proposal would cost \$400 million over 5 years. Also, under the BBA, states that use presumptive eligibility must pay for its costs out of the CHIP allotment, reducing the amount available for other coverage. States have advised us that this requirement discourages them from taking advantage of the presumptive eligibility provision. HCFA actuaries preliminarily estimate that dropping this requirement would cost \$25 million over 5 years.

Accessing 90 percent matching funds for outreach. A third way to increase funding for children's health outreach is to increase states' flexibility in using a special Medicaid fund set aside in TANF for outreach for children losing welfare. This \$500 million fund is currently allocated to states with a 90 percent matching rate for outreach activities to certain children. We could expand its use to all children, not just welfare children. HCFA actuaries preliminarily estimate that this policy would cost \$100 million over 5 years. NGA supports this change.

Simplifying enrollment. A simple, accessible enrollment process could encourage more families to enroll their children in Medicaid or CHIP. To help create such a process, we propose several actions, all of which are inexpensive. First, we could streamline the application process by simplifying Medicaid eligibility and by encouraging the use of simple, mail-in applications. HCFA has already developed a model single application form for both Medicaid and CHIP. We could condition some of the financial incentives described above on using a single or simple application. Second, we are reviewing the feasibility and cost of a nationwide 1-800 number that will link families with their state or local offices. Such a number could be placed in public service announcements, on the bottom of school lunch program applications, and on children's goods like diaper packages.

Discussion

There is unanimous support across agencies for focusing on children's health outreach. HHS and Treasury believe that such outreach should be the Administration's first priority. NEC/DPC and OMB believe that aggressive outreach will be needed to meet or exceed the Administration's goal of covering 5 million uninsured children. Although OMB is supportive, it points out that because some children may be impossible to reach and some states may not use these options, we are unlikely to enroll all 3 million children. NEC, also supportive, raises the concern that spending on an outreach initiative may be a communications challenge so soon after the enactment of the \$24 billion base children's health program. However, policy experts, Governors, and children's advocates alike will endorse this initiative.

One great challenge is the difficulty of finding savings from Medicaid to offset the costs of this initiative. With this in mind, your advisors are considering the tobacco settlement as a financing source. Specifically, we are exploring the advisability of allowing states to retain the Federal share of the tobacco funds if they dedicate those funds to high-priority Administration initiatives like child care, education, and health care. Governor Chiles would support such an approach if we dedicate the funds to children's health care, not just outreach.

B. WORKERS BETWEEN JOBS DEMONSTRATION

Families who lose health insurance while they are between jobs are a small but important group of uninsured Americans. These people pay for health insurance for most of their lives, but go through brief periods without coverage when they are temporarily unemployed. If they experience a catastrophic illness during this transition, the benefit of their years' worth of premium payments is lost. In addition, they could lose protection under the provisions of the Kassebaum-Kennedy legislation once they regain coverage. Coverage at that point could be subject to a new pre-existing condition exclusion period.

Limited Demonstration

This policy option is a modification of the program that we have carried in our last two budgets. It would award grants to several states to provide temporary premium assistance to eligible low-income families. States would use this money to partially subsidize families' premium payments for up to 6 months. To test how best to address this population's needs, we would select states using a range of approaches like a COBRA-based subsidy, Medicaid, or covering the parents of children covered by CHIP.

Since it is a grant program, we could make this program as large or small as we want. To give a sense of the options, last year's \$10 billion proposal over four years covered about 3.3 million people with incomes below 240 percent of poverty. If we assume the same set of policy parameters, a demonstration of \$1 billion over 5 years would cover about 230,000 people; a demonstration of \$2.5 billion would cover about 600,000; and a demonstration of about \$3.5 billion would cover about 800,000 people. OMB has suggested that we could limit the costs by reducing the eligibility for assistance to people below poverty. However, NEC/DPC advisors oppose such a limitation because it shifts the target away from the middle-class families we originally intended to help.

Discussion

On policy grounds, all of the agencies support this policy. It has been in our last two budgets because of its merits. This policy remains Labor's first priority because it targets a particularly vulnerable group and addresses the worker insecurity issues that played such a large role in the debate over Fast Track. OMB would support this initiative if there are sufficient funds. HHS believes that this policy is no more viable this year than it has been in the past; HHS would also object to using Medicare and Medicaid savings to fund this proposal. DPC/NEC are concerned about dropping this policy altogether and support a demonstration that is large enough to be viewed as improving coverage. If resources are limited, however, we would prefer the children's outreach initiative to this proposal.

C. VOLUNTARY PURCHASING COOPERATIVES

Workers in small firms are most likely to be uninsured. Over a quarter of workers in firms with fewer than 10 employees lack health insurance — almost twice the nationwide average. While 88 percent of workers in firms with 250 or more workers are offered health insurance, only 41 percent of workers in firms with less than 10 workers are offered coverage. This disparity reflects the poor functioning of the small group health insurance market. Studies have shown that administrative costs are higher and that small businesses pay more for the same benefits as larger firms.

Grants to States

Given the disadvantages faced by small firms, the question is: are there policies that can make insurance more affordable for small businesses and their employees? In the last two budgets, we have included a policy to provide seed money for states to establish voluntary purchasing cooperatives. These cooperatives would allow small employers to pool their purchasing power to try to negotiate better rates for their employees. This year, we propose both the original policy and a variation: a competitive grant approach so that a more limited number of states could receive a smaller, but more targeted, pool of funds. The total costs would be \$50 to \$100 million over 5 years.

Discussion

All agencies remain supportive of this policy and believe it should be included in this year's budget. In the past, we have failed to enact this proposal because Congressman Fawell has pushed an alternative approach more attractive to small businesses. Fawell's proposal would help small businesses to self-insure and in so doing escape all state regulation. Governors and consumer groups have consistently opposed the Fawell approach, fearing that it would leave the small group market with only the most risky and expensive groups, as low-risk groups move into the self-insured, non-regulated market. Our recent conversations with Fawell suggest that he may be open to compromise this year in a way that he has not been in the past.

December 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING
CHRIS JENNINGS

SUBJECT: Reforms to Prepare Medicare for the Retirement of the Baby Boom Generation

The Balanced Budget Act (BBA) that you enacted took critically necessary steps to modernize the Medicare program and prepare it for the twenty-first century. It extended the life of the Trust Fund to 2010, invested in preventive benefits, provided more choice of plans for beneficiaries, strengthened our ongoing fraud activities, and lowered cost growth to slightly below the private sector rate through provider payment reforms and modest beneficiary payment increases. However, the BBA's policies were not intended to solve the long-term problems posed by the retirement of the baby boom generation.

The Medicare Commission was established to address the demographic challenges facing the program. However, a major policy and political question remains. Is there anything we can and should do prior to the March 1999 Commission deadline that could further strengthen the program and lay the groundwork for implementation of likely Commission recommendations?

The National Economic Council (NEC) and Domestic Policy Council (DPC) have led an interagency examination of several targeted policy options. This memo examines options for coverage for pre-65 year olds, Medicare coverage of patient care costs associated with clinical trials, and a project to increase awareness of private long-term care insurance. Financing options to pay for these proposals follow this description.

Your advisors have differing views on whether to pursue any new proposals while the Medicare Commission is active and which proposals to pursue if you choose to do so. OMB and to some extent Treasury have concerns about a pre-65 option, because it may open the door to subsidies for a costly population and have the unintended effect of reducing employer coverage. Both OMB and Treasury oppose the clinical cancer trials proposal because it could set a precedent for every other disease group asking for the same treatment. In addition, altogether, it may well be the case, that the traditional Medicare savings alone will not be sufficient to offset the costs of these proposals. As such, a decision to propose a pre-65 policy may be feasible only if the decision is made to propose an income-related premium or, much less likely, dollars from any residual tobacco tax. It is worth noting that an income-related premium would clearly be more politically acceptable to our Democratic base if it were linked to a benefit expansion.

A. PRE-65 HEALTH INSURANCE OPTIONS

Although people between 55 and 65 years old are generally more likely to have health insurance, they often face greater problems gaining access to affordable health insurance, especially when they are sick. Individuals in this age group are at greater risk of having health problems, with twice the probability of experiencing heart disease, strokes, and cancer as people ages 45 to 54. Yet their access to affordable employer coverage is often lower because of work and family transitions. Work transition increase as people approach 65, with many retiring, shifting to part-time work or self-employment, as a bridge to retirement. Some of this transition is involuntary. Nearly half of people 55 to 65 years old who lose their jobs due to firms downsizing or closing do not get re-employed. At the same time, family transitions reduce access to employer-based health insurance, as individuals are widowed or divorced, or as their spouses become eligible for Medicare and retire.

As a result, the pre-65 year olds, more than any other age group, rely upon the individual health insurance market. Without the advantages of having their costs averaged with younger people (as in employer-based insurance), these people often face relatively high premiums and, because of the practice of medical underwriting, may be unable to get coverage at any price if they have pre-existing medical conditions. While the Kassebaum-Kennedy legislation improved access for people with pre-existing conditions, it did not restrict costs.

These access problems will increase because of two trends: the decline in retiree health coverage and the aging of the baby boom generation. Recently, firms have cut back on offering pre-65 retirees health coverage; in 1984, 67 percent of large and mid-sized firms offered retiree insurance but in 1997, only 37 percent did (although this decline may be slowing). In addition, in several small but notable cases (*e.g.*, General Motors and Pabst Brewery), retirees' health benefits were dropped unilaterally, despite the firm's prior commitment to their retirees. These "broken promise" retirees do not have access to COBRA continuation coverage and could have difficulty finding affordable individual insurance. An even more important trend is demographic. The number of people 55 to 65 years old will increase from 22 to 30 million by 2005 and to 35 million by 2010, over a 50 percent increase. Assuming current rates of uninsurance, this trend could raise the number of uninsured in this age group from 3 million today to 4 million by 2005, without even taking into account the decline in retiree health coverage.

The last reason for considering the coverage issues of this age group is the likelihood of proposals to raise Medicare eligibility age to 67, consistent with Social Security. The experience with covering a pre-65 age group now will teach us valuable lessons if we need to develop policy options for the 65 to 67 year olds.

Policy Questions. Two central questions guide policy decisions in this area: what is the target population, and what is the best way to cover these people.

Whom to Target. As with any incremental reform, targeting is essential to reduce the chance that the policy does not unintentionally offset or reduce employer health coverage. While this policy will not affect employers' decisions to offer coverage to their current workers, it may affect employers' decisions to cover retirees, as well as employees' decisions to retire early. At the same time, the current level of employer dropping suggests that a policy for the affected people is needed. Although your advisors remain divided on the advisability of implementing a new policy in this area, we all agree that any policy protect against substitution by limiting eligibility to a subset of the pre-65 year olds. There are two design approaches to achieve this.

The first approach is to limit eligibility by age. We recommend an age break of 62, which is already the most common retirement age. The 6 million people ages 62 to 65, compared to people ages 55 to 59, work less (48 percent versus 74 percent), are more likely to have fair to poor health (26 versus 20 percent), and are more likely to be uninsured or buy individual insurance (28 versus 21 percent). In addition, it is also the age at which Social Security benefits can be accessed. Within this 6 million, we could limit eligibility to the 2 million without access to employer or public insurance, and would require that they exhaust COBRA coverage before becoming eligible. These steps should reduce the likelihood that the policy will lead individuals to retire or drop retiree coverage.

A second approach is to limit eligibility within a broader age group — e.g., 55 to 65 year olds — to individuals who lack access to employer-based insurance for particular reasons: (1) Displaced workers: About 60,000 people ages 55 to 65 lost their employer insurance when they became lost their job because a firm closed, downsized, or their position was eliminated. (2) Medicare spouses: As many as 420,000 people lost employer-based family coverage when their spouses (almost all husbands) turned 65 and retired. This number could grow if employers drop retirees' dependent coverage for these spouses as a result of this policy. (3) "Broken promise" people: A small but visible and vulnerable group is the pre-65 retirees who lost retiree health coverage due to a "broken promise" (ie., when the employer unexpectedly terminates coverage).

How to Provide Coverage. The second question is: what is the best way to increase access to affordable insurance? One approach is to extend COBRA continuation coverage for longer than 18 months. Currently, COBRA allows workers with insurance in firms with 20 or more employees to continue that coverage for 18 months by paying 102 percent of the premium. The major problems with extending COBRA are that (1) people in small firms are not eligible, (2) businesses will consider the policy an unfunded mandate, and (3) the policy could lead to discrimination against hiring older workers. In addition, firms could use this longer COBRA mandate as an excuse to not cover any employees. Despite these difficulties, a COBRA extension appears to be the best option for the "broken promise" people, since the former employer would bear some of the costs of its decision to terminate coverage and COBRA could then serve as a "bridge to Medicare" for this population.

A second option, preferable for most of the target groups, is a Medicare “buy-in.” Eligible people could buy into Medicare at the age-adjusted Medicare payment rate, plus an add-on for the extra risk of participants. Because the actuaries think that most participants will be sicker than average, this add-on will be costly. To attract healthier people and make it possible for more people to take advantage of the benefit, we could defer payment of the additional cost until age 65 by “amortizing” this payment. Under this scheme, Medicare would pay part of the premium as a loan up front, with repayment by the beneficiaries with their Part B premiums after they turn 65. The HCFA actuaries have estimated that this Medicare “loan” in a worse-case scenario would cost \$1.1 billion per year assuming participation of no more than 300,000 people. Because the preliminary estimates assumed that only sick people would participate and that all would enroll in one year, and because they did not take into account the pay-back from beneficiaries, the official estimates, expected soon, will probably be lower. Subsidies would be considerably more costly and your advisors agree that we cannot afford it.

Option 1. “Broken Promise” People Only. All your advisors recommend a policy that employers who break their promise of providing retiree coverage extend COBRA so that retirees can buy into their active employer plan at a higher premium as has been done for other special COBRA populations until age 65. This option has no cost to the Federal government.

Option 2. Medicare Buy-In for Select Groups. The second option is to allow a limited group of 55 to 65 year olds to buy into Medicare. If you decide to consider any of the Medicare buy-in proposals, OMB favors undertaking only the “Medicare spouses” — primarily uninsured women ages 55 to 65 whose husbands are already on Medicare. OMB argues that, if the goal is a limited test of a buy-in for the pre-65 year olds, this is a discrete group whose eligibility would likely have a smaller effect on the general trend in retiree health coverage or retirement. The Department of Labor strongly supports a policy to help displaced workers, in line with the broader theme of improving workers’ security. In the absence of a buy-in, Labor would support a COBRA extension, though this approach would help fewer people. HHS supports covering these select groups, but is concerned that the enrollment be sufficient to justify the administrative effort. The small size of these groups means that costs will be low.

Option 3. Medicare Buy-In for 62 to 65 Years Old Plus Selected Groups. The third option is to permit eligibility for 62 to 65 year olds plus a group like displaced workers. The cost of this option is not yet known but will likely be less than \$5 billion over 5 years. HHS and NEC/DPC think that this is a sufficiently narrow group to limit significantly the effects on retiree health coverage or retirement. This group is also more representative of the 65 to 67 year old population, giving a better sense of what would happen if Medicare eligibility were postponed to 67 years old. Although Treasury is concerned that this policy could become an underfinanced policy expansion, some concerns would be allayed if the buy-in participants were enrolled only in managed care, so that the insurers and not Medicare bore the risk. This approach, however, could be politically difficult given the distrust of managed care. OMB thinks that the 62 to 65 group is not narrow enough and that the “unsubsidized entitlement” (the subsidy is in the financing) will not stay that way for long. It is important to note that we are still waiting for actuarial analyses, which could alter the recommendations of your advisors.

B. PRIVATE LONG-TERM CARE OPTIONS

A second idea to improve access to insurance focuses on long-term care. Unlike acute care, long-term care is not primarily financed by private insurance, which pays only 6 percent of its costs. Medicaid pays for 38 percent, Medicare pays for 21 percent, and families pay for 28 of the costs out of pocket. This large government role may not be sustainable as the baby boom generation retires. Today, one in four people over age 85 lives in a nursing home. This could increase substantially as the proportion of elderly living to age 90 is projected to increase from 25 percent to 42 percent by 2050. Thus, it is important to encourage the development of private insurance options. The Kassebaum-Kennedy legislation took a step in this direction by clarifying that certain long-term care insurance is tax deductible. But because many people incorrectly assume Medicare covers all of their long-term care needs and do not know about private long-term care insurance, more action is needed. This action could include providing information to Medicare beneficiaries about private insurance, funding a demonstration program to improve the quality and price of private insurance, or both. None of these options includes a new Medicare entitlement or subsidy.

Information on Quality Private Long-Term Care Insurance

We propose to leverage our role in Medicare to improve the quality of and access to private policies. HCFA would work with insurers, state regulators, and other interested parties to develop a set of minimum standards for private long-term care policies. If a plan met these standards, Medicare would approve its inclusion in the new managed care information system. (As a reminder, the BBA included provisions to provide annual information on managed care choices to beneficiaries.) This proposal would build upon that system and cost up to \$25 million in discretionary funds over 5 years (\$5 million in FY 1999), distinct from the user fees currently authorized for the managed care information system. We also could propose a demonstration that would test the feasibility of a partnership between Medicare and private long-term care insurance on a limited basis. The cost of a demonstration would depend on its size and policy parameters, but could be limited to \$100 to 300 million over 5 years.

Discussion

We believe this proposal has significant potential and is worth further developing. There is some concern at HHS that coming to an agreement on a set of standards could be difficult and that insurers may argue that our standards drive up the cost of the policies, making them unaffordable. HHS also would prefer that any demonstration be funded through the mandatory budget. However, these concerns may not be insurmountable, especially since one objective of a demonstration could be to investigate high quality private options that are affordable. Finally, we are still looking into the feasibility and advisability of using tax incentives to encourage the purchase of private long-term care policies and/or the use of IRAs for long-term care financing.

C. MEDICARE COVERAGE OF CANCER CLINICAL TRIALS

Medicare has not traditionally covered patient care costs associated with clinical trials. Scientists and advocates believe that we are not making sufficient progress in treating cancer, in part because the lack of Medicare coverage limits participation in these trials. HHS and DPC have been working on an approach that covers patient care for a limited number of these trials. Because of concerns about its cost, OMB and Treasury strongly oppose this option.

Nearly half of all cancer patients are covered by Medicare, yet Medicare does not cover patient care costs associated with these trials. This care can often be prohibitively expensive for cancer patients and their families, perhaps explaining why only 3 percent of all cancer patients participate in trials. Expanding Medicare coverage could increase access to trials for the many beneficiaries with cancer. Historically most insurers have covered clinical trials for children. As a consequence, nearly 70 percent of children with cancer participate in clinical trials. Scientists agree that this participation rate has helped improve cancer treatments for children, and some argue that it is one reason for the dramatically higher survival rates for children cancer patients.

This problem has significant implications for research in all cancer areas, particularly for those cancers like prostate cancer where scientists still have no good answers and where clinical trials are particularly undersubscribed. According to a former National Cancer Institute director, if 10 percent of all cancer patients participated in such trials, trials that currently take three to five years would take only one year. Additionally, as the nation's largest insurer, Medicare plays a significant role in setting the standard for the insurance companies. A commitment from Medicare to cover clinical trials would go a long way to encourage private insurance companies to cover these trials.

Proposal

We have developed a proposal to expand Medicare to cover cancer clinical trials conducted at the NCI and trials with comparable peer review. In addition, we would require a National Cancer Policy Board to make further coverage recommendations, and HHS to assess the incremental costs of such trials compared to conventional Medicare-covered therapies. Assuming the true incremental costs are substantially less than the actuaries project, as we believe, additional trial coverage as recommended by the Board could occur. The initial coverage would cost \$1.7 billion over five years. Senators Mack and Rockefeller have developed a more expansive and expensive proposal (co-sponsored by 26 Senators), which covers all FDA trials, many of which the experts believe do not meet a scientifically-meritorious standard. However, we do believe that there may be some middle ground between our proposal and the Senators' proposal that could be justifiable on policy grounds but more costly.

A possible alternative way to cover clinical cancer trials' patient care costs is to dedicate resources from any significant increases that NIH / NCI receive in the upcoming budget. NCI could use these increases to simplify and centralize their clinical trials system, which has the potential to increase patient access. Although this option may be viable, the cancer community has clearly stated its preference for extending Medicare coverage. Another possibility is to require drug companies desiring Medicare coverage of additional clinical trials to contribute to the part of the patient costs.

Discussion

HHS is supportive of this policy and believes that it would not only give Medicare beneficiaries, who represent a significant portion of cancer patients, much-needed choices but would encourage the private industry to cover clinical trials as well. There is no question that this proposal is the highest priority for most of the cancer community as well as many in the women's community who believe it is an essential step to improve breast cancer treatment. However, the advocates have made it clear that they would strongly prefer the more expansive and expensive Rockefeller/Mack approach. Conversations with the Senators suggest that they would support this proposal as an important first step; this support will weigh heavily with patient groups and the cancer community.

OMB and Treasury oppose the Medicare coverage option strongly. They note that it would involve very substantial costs (\$1 to 3 billion per year) to provide medical services that are experimental, and therefore are unlikely to help the majority of beneficiaries. Once an exception has been made for experimental cancer drugs and therapies, they argue there is no reason that similar support won't be demanded for experimentation with Alzheimer's, Parkinson's, and other maladies. As a result, these costs will grow as other therapies are included. They also believe that Congress would likely expand the proposal beyond coverage of NCI trials and that this expanded coverage will be very costly (up to \$3 billion over five years). OMB also believes that rather than Medicare leading the way on clinical trials, drug companies should be the first to contribute to improving access for Medicare beneficiaries.

While recognizing the OMB and Treasury concerns, the DPC/NEC believes that this policy has potential to contribute to important expansions of clinical trials and possible break-throughs in cancer treatment. We believe that we should investigate the possibility of amending the current policy to tap into the drug industry as a financing partner. In addition, we believe that this policy will be even more attractive if we are unable to find the resources to double the NIH budget. Although we support the cancer clinical trial policy, if we have limited resources available in Medicare and it comes down to a choice between the pre-65 initiative and this one, we would recommend the former.

D. PAYING FOR INITIATIVES: MEDICARE ANTI-FRAUD AND AN INCOME-RELATED PREMIUM

We assume that the funding for these Medicare initiatives will require Medicare offsets. One approach is to use Medicare anti-fraud initiatives. HHS and OMB believe that these offsets could total about \$2 billion over 5 years. This could fund some, but not all of the initiatives described above. To fund a more expansive series of initiatives, you will probably have to consider an income-related premium. As you know, Medicare subsidizes 75 percent of the Part B premium for all beneficiaries, including the wealthiest. This policy is not only regressive; it ignores the fact that higher income beneficiaries actually cost Medicare more than poor beneficiaries. But the addition of an income-related premium would constitute a move away from the concept of social insurance.

Anti-Fraud Provisions

In our ongoing efforts to reduce Medicare fraud, we have identified a number of small but important policies that could sum to about \$2 billion over five years. Several of them address problems identified by the HHS Inspector General, such as the overpayment by Medicare for certain cancer drugs, highlighted in recent press reports.

Income-Related Premium

As you know, the Administration has publicly supported an income related premium. However, it is not clear whether we should carry through on this support by including it in the budget. The Medicare Commission will definitely consider and probably recommend this policy. Yet, there remains some Democratic opposition to this policy and some of your advisors would counsel not to move unilaterally in this direction. Because this issue is extremely controversial, this description is not intended to present recommendations but to begin a discussion of the topic.

Building from our position last summer, the income-related premium would be administered by the Treasury Department, not HCFA or the Social Security Administration. Eligible people would fill out each year a Medicare Premium Adjustment form (a separate form or a line on the 1040 form) and send a check to "The Medicare Trust Fund." The two open questions are: who pay and how much do they pay. The answers to these questions determine costs, but the more modest proposals generate about \$8 billion over five years.

Who pays. The income thresholds determine how many people are paying the higher amount. We proposed thresholds of \$90,000 for singles and \$115,000 for couples in the Health Security Act. Last summer, the Senate, including most centrist Democrats, passed a policy where the extra premium payment began at \$50,000 for singles and \$65,000 for couples. During the budget debate, we did not state publicly our support for any particular thresholds.

How much. The amount of the payment for the wealthiest beneficiaries is a second question. In the budget debate, we argued that a 100 percent premium (no subsidy) would cause some healthy and wealthy people to opt out of Medicare. However, an analysis by the Treasury Department this fall found that the effects of a 100 percent premium would be small. (About 5% of beneficiaries who pay the full premium would drop.) HHS would strongly object to changing our position and supporting an income-related premium that completely phases out the Part B subsidy. If we decide to change our past policy, it might be advisable to have a strategic discussion about the timing of announcing such a change. It could be an important in negotiating the give and take on this issue.

Discussion

The decision to include an income-related premium is a complicated one. On one hand, it is almost certain that this policy will be recommended by the Medicare Commission. At that point, however, we will have less opportunity to direct any of its revenue toward important Medicare reforms like a Medicare buy-in. On the other hand, many Democrats and possibly AARP will oppose the income-related premium as a beneficiary payment increase. A possible exception is if it is explicitly linked to a Medicare investment or possibly a pre-65 policy. In addition, Republicans might label it a new tax and use our support for it as an issue during the 1998 campaign.

Although our discussions are ongoing, the agencies believe that the decision to propose an income-related premium depends on the context. OMB's position ultimately depends upon the entire package of initiatives and savings being offered. OMB considers the income-related premium to be a sound policy option, but believes that it should be considered as a means to offset Medicare Trust Fund insolvency or provide benefit expansions for the currently eligible Medicare population. HHS believes that if an income-related premium is pursued, its savings should be used for Medicare. HHS further notes that Medicare has already contributed \$115 billion in savings and that we may wish to preserve this option for the Commission recommendations lest we have the Commission with no reasonable options. DPC/NEC will prepare for a separate meeting to discuss this issue.

December 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MIKE COHEN

SUBJECT: Proposed Budget Initiatives for Indian Education

Last July, a coalition of education-oriented groups from Indian Country proposed a Comprehensive Federal Indian Education policy statement, which emphasized the importance of Tribal governance of Indian Education, the preservation and revitalization of Native languages and cultures, and the need for equitable access to education resources. The coalition also proposed an Executive Order to implement this policy vision.

This proposal has been under review by DPC staff and the Domestic Policy Council Working Group on American Indians and Alaska Natives. Pending a determination as to whether the proposed Executive Order is desirable and likely to be effective in accomplishing its aims, we have begun to identify steps that can be taken right now to improve education for Native American students in schools controlled by the BIA and Tribes, as well as in the public schools attended by large numbers of Indian students.

The full set of initiatives we have developed is summarized below. Most involve ensuring that new education proposals and existing funding streams effectively target resources to schools in Indian Country. In one area -- school construction and maintenance -- we are going further by proposing a significant increase in funds over previous appropriations levels.

Tribal School Construction Proposal

The BIA operates 185 residential and day schools serving 51,000 Native American students, approximately 10% of all Native American students in grades K-12. Enrollment in all BIA schools has increased by 25% since 1987. Enrollment in just the day schools has increased 47% since 1987 and 24% since 1992. Consequently, BIA schools have experienced significant problems with overcrowding. In addition, according to a forthcoming GAO report, BIA schools, compared to schools nationwide, (1) are generally in poorer physical condition; (2) have more "unsatisfactory environmental factors"; (3) more often lack key facilities required for education reform (e.g., science labs); and (4) are less able to support computer and communications technology. Overall, they are in worse condition than even inner-city schools.

We are recommending an increase of \$51.4 million over the FY 1998 appropriations (and an increase of \$47.6 million over the Department of Interior FY 1999 request) for two Bureau of

Indian Affairs accounts for New School Construction and Facilities Improvement and Repairs. The proposed increase would double funding for new school construction and for significant improvements and repairs of existing facilities. Compared to the BIA FY 1999 request, this step would double the number of new schools to be built from 2 to 3, and increase the number of schools undergoing significant improvements or repairs from 6 to 22. The higher budget request also would provide funds for needed portable classrooms, roof replacements, and other repairs.

	FY98 Appropriations	FY99 BIA Request	FY99 DPC Recommendation
New School Construction	\$19.2 million	\$20.8 million	\$38.4 million
Facilities Improvement and Repairs	\$32.2 million	\$34.4 million	\$64.4 million
Total	\$51.4 million	\$55.2 million	\$102.8 million

The Tribes would view this proposal as a significant step forward in improving the quality of education for Indian students. Congressional delegations from the affected states also would receive the proposal warmly.

This proposal is especially important if you choose to propose a new school construction initiative on the tax side, because Tribes do not issue bonds for this purpose. Even if you choose to propose a school construction initiative on the spending side, this initiative would be valuable. In the Administration's school construction proposal last year, 2 percent of the funds were set aside for a direct appropriation for Tribal schools, over and above the accounts discussed here. This funding, however, is contingent on the passage of a school construction proposal, and in any event, is insufficient to meet the Tribes' needs.

We have developed this proposal with the involvement and support of OMB, the Department of the Interior and the Department of Education.

Other Initiatives

We are working to make sure that other education initiatives proposed for FY99 include an appropriate set-aside for BIA schools and, where feasible, for public schools that serve a large concentration of Native American students. These include:

- Education Opportunity Zones. A percentage of grant funds will be set aside for administration by the BIA, and the Education Department will be encouraged to provide at least one grant to a rural school district with a large percentage of Native American

students.

- Early Intervention College/School Partnerships. We are working to determine the best ways to ensure that Tribal Colleges can effectively participate in this initiative, as well as to fund other college/school partnerships in communities with a large percentage of Native American students.
- Child Care. The Child Care Block Grant already contains a set aside for administration by BIA. Proposed funding increases in this program will automatically benefit programs serving Native Americans on reservations.
- Technology. This year the BIA launched Access Native America, an initiative to implement the four pillars of your technology challenge and to connect all schools, classrooms, and libraries to the Department of Interior's Internet backbone by the year 2000. Within the past month, DPC arranged a meeting between BIA staff and the Schools and Libraries Corporation to help Tribal schools take advantage of the e-rate. As a result, the Corporation has agreed that BIA can apply for the e-rate on behalf of all Tribal schools, and BIA has begun to develop materials and plan training so that schools can complete the necessary applications.
- Teacher Preparation and Recruitment. This initiative, which you announced at the NAACP Convention on July 17, helps to prepare and recruit teachers to serve in high-poverty urban and rural communities. At the time this proposal was developed, we did not target funds to Tribal schools. We are in the process of preparing new legislative language to take care of that omission, and will work with our Congressional allies to incorporate it into our proposal.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-DEC-1997 11:22:34.00

SUBJECT: \$200 million Head Start increase

TO: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 12/12/97 11:22
AM -----

Emil E. Parker
12/12/97 10:47:51 AM
Record Type: Record

To: Barbara Chow/OMB/EOP, Elena Kagan/OPD/EOP
cc: Gene B. Sperling/OPD/EOP, Robert M. Shireman/OPD/EOP, Charles R.
Marr/OPD/EOP, Barry White/OMB/EOP
Subject: \$200 million Head Start increase

I spoke to Gene last night; he feels strongly that a \$150 million increase for Head Start (above the OMB-recommended level of \$4.489 billion) is inadequate. He is willing to accept \$400 million for the Early Learning fund only if there is also a \$200 million increase in Head Start (above the OMB recommendation, for a total increase of \$334 million over FY 98 enacted). As you know, DPC is recommending, as part of the child care initiative, about \$500 million over four years to expand Early Head Start. I have not seen this item in any OMB materials. A \$200 million overall increase for FY 99 would allow for an expansion of Early Head Start in that year, should we decide to go that way in the context of Head Start reauthorization.

Barbara, I know that you reached agreement with Bob Shireman and others on \$150 million for Head Start. I apologize for the late notice on this. Thank you.

Emil

December 15, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Elena Kagan

SUBJECT: New Initiatives on Discretionary Side of Budget

Assuming OMB can come up with another \$5 billion for discretionary spending, the DPC, NEC, and OMB all recommend that you propose to fund the new initiatives listed below in your FY 1999 budget. We already have given you detailed memos on most of these initiatives. If you approve the initiatives, you can announce them in the State of the Union.

Education

- 1. Education Opportunity Zones -- \$225 million:** This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.
- 2. College-School Partnerships -- \$170 million:** This initiative, which builds on the Eugene Lang model and Congressman Fattah's proposal, will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing until high school graduation. The first year's investment could reach as many as 200,000 seventh graders at 1,800 high-poverty schools. [check]
- 3. Teacher Recruitment and Preparation -- \$67 million:** This initiative, which you previewed last July, will provide scholarships to nearly 35,000 new teachers over the next five years for committing to work in high-poverty urban and rural schools. It also will upgrade the quality of teacher preparation programs serving these communities.
- 4. Technology Teacher Training -- \$80 million:** This initiative will provide intensive training in the use of technology to at least one teacher in every school and require that teacher to train his or her colleagues.
- 5. Hispanic Education Dropout Plan -- \$110 million:** This initiative will increase funding for a variety of existing programs -- Bilingual Education, TRIO College Preparation, Adult Education, Migrant Education, etc. -- and take certain administrative actions to help Hispanic

students complete high school and succeed in college.

6. After-School Program Expansion -- additional \$60-160 million: This part of a much larger child care initiative (most of which is funded on the mandatory side of the budget) will provide additional funding to the 21st Century Community Learning Center Program (now funded at \$40 million) for before- and after-school programs for school-age children at public schools. Depending on the exact funding level chosen, this investment will create programs in 1,500-4,000 new schools.

December 15, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Elena Kagan

SUBJECT: New Initiatives on Discretionary Side of Budget

Assuming OMB can come up with another \$5 billion for discretionary spending, the DPC, NEC, and OMB all recommend that you propose to fund the new initiatives listed below in your FY 1999 budget. We already have given you detailed memos on most of these initiatives. If you approve the initiatives, you can announce any or all of them in the State of the Union.

Because so many of the new initiatives involve education, we are attaching an appendix to this memo that shows recommended funding levels for the Department of Education's major base programs.

Education

- 1. Education Opportunity Zones (\$225 million):** This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.
- 2. College-School Partnerships (\$150 million):** This initiative, which builds on Eugene Lang's model of helping disadvantaged youth, will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing through high school. The six-year funding path would provide help to nearly 2 million students.
- 3. Campaign on Access to Higher Education (\$20 million):** This initiative will fund an intensive publicity campaign on the affordability of higher education. The goal of the campaign will be to make every family aware that higher education is now universally accessible -- and that it is the key to higher earnings. As part of this effort -- and to complement the college-school partnership program described above -- we will provide families at high-poverty middle schools with an official notification of the \$20,000 or more that is already available for their children to go to college.
- 4. Teacher Recruitment and Preparation (\$67 million):** This initiative, which you previewed

last July at the NAACP Conference, will provide scholarships to nearly 35,000 new teachers over five years for committing to work in high-poverty urban and rural schools. It also will upgrade the quality of teacher preparation programs serving these communities.

5. Technology Teacher Training (\$222 million): This initiative dedicates 30 percent of the Technology Literacy Challenge Fund to ensure that at least one teacher in every school receives intensive training in the use of technology for education, so that they can train their colleagues. An additional \$80 million will begin an effort to train every *new* teacher in the latest technology.

6. Hispanic Education Action Plan -- (\$195 million or more): This initiative will increase funding for a number of existing programs to improve education for Hispanic Americans and other limited English proficient (LEP) children and adults. It would double our investment in training teachers to address the needs of LEP children; boost the Migrant Education Program by 16 percent; increase the TRIO college preparation program by 10 percent; and create a 5-year, \$100 million effort to disseminate best practices in ESL training for adults. We would accompany these program increases with administrative actions to help Hispanic students complete high school and succeed in college.

Child Care

We recommend placing most of the child care initiative -- in particular, the proposed increase in the Child Care and Development Block Grant and the establishment of a new Early Learning Fund -- on the mandatory side of the budget. The smaller pieces of the initiative that we propose placing on the discretionary side are the following:

1. After-School Program Expansion (\$150 million): This program expansion will increase funding of the 21st Century Community Learning Center Program (now funded at \$40 million) for before- and after-school programs for school-age children at public schools. Depending on the exact funding level chosen, this investment will create new programs in 1,500-4,000 schools.

2. Standards Enforcement Fund (\$100 million): This new fund will support state efforts to improve licensing systems and to enforce health and safety standards, particularly through unannounced inspections of child care settings. The fund also will enable states to issue report cards, for use by consumers, on the quality of the facilities inspected.

3. Provider Training (\$51-60 million): A new Child Care Provider Scholarship Fund, which you proposed at the Child Care Conference to fund at \$50 million annually, will support 50,000 scholarships each year to students working toward a child care credential. The students will commit to remaining in the field for one year for each year of assistance received, and will earn increased compensation or bonuses when they receive their credential. An additional \$1-10 million will allow the Department of Labor to expand its Child Care Apprenticeship Training Program, which funds providers combining work toward a degree with on-the-job practice.

4. Research and Evaluation Fund (\$10-30 million): This new fund will provide grants for research projects, establish a National Center on Child Care Statistics, and set up a national child care hotline.

5. Paid Leave Demonstration Fund (\$10 million): This small evaluation and demonstration fund will support communities and organizations that are testing and/or studying innovative approaches to providing financial assistance to parents who wish to stay home with their newborns.

6. Early Head Start Expansion (\$284-334 million): This level of increased investment in the overall Head Start budget should permit doubling the set-aside for Early Head Start without reducing the resources available for children 3-5. The doubled set-aside would enable more than 35,000 additional children to receive Early Head Start services in 2002.

Welfare, Housing, Urban

1. Welfare-to-Work Housing Vouchers (\$283 million): This initiative will provide 50,000 new housing vouchers to help welfare recipients in public housing who need to move in order to find employment. HUD will distribute these vouchers on a competitive basis to public housing authorities working with local TANF agencies and/or grantees of the new \$3 billion welfare-to-work program. (A separate proposal, for which no new funding is needed, would allow families in public or assisted housing to use vouchers to buy a home; HUD expects this proposal to help some 25,000 people become homeowners over two years.)

2. Housing Portability/Choice (\$20 million): In addition to the new welfare-to-work housing vouchers discussed above, our proposed package on housing portability and choice expands Regional Opportunity Counseling sites and takes administrative actions to eliminate obstacles to portability in the Section 8 housing program.

3. "Play-by-the-Rules" Homeownership Proposal (\$30 million): This initiative would enable the Neighborhood Reinvestment Corporation to assist approximately 10,000 families to buy their own homes through downpayment assistance, interest rate buydowns, or rehabilitation loans. The assistance will go to families that have a perfect track record of paying their rent on time and otherwise "playing by the rules."

4. Homeownership Opportunity Fund (\$11 million): This initiative will allow HUD to develop a loan guarantee program to allow state and local governments to leverage current HOME funds with private-sector investments to fund large scale, affordable housing developments in distressed communities.

5. Community Empowerment Fund (\$400 million): This initiative establishes a public/private fund ("Eddie Mac"), which will invest in inner-city businesses and create a secondary market for economic development loans (like Fannie Mae).

Labor and Workforce

- 1. Child Labor (\$89 million):** This initiative is anchored by a \$30 million commitment to the International Program on the Elimination of Child Labor (IPEC). The initiative also will include funding to improve Customs Service enforcement of U.S. law banning the import of goods made with forced or bonded child labor (\$3 million) and to double the Department of Labor's enforcement of child labor laws in the agricultural sector (\$4 million). Finally, the initiative will provide additional funding to the Migrant Education Program so it can reach 50,000 more migrant children (\$50 million). We will develop non-budget items to fill out the package.
- 2. Community Adjustment (\$50 million):** This initiative will fund the creation of the Office of Community and Economic Adjustment (OCEA), which we proposed as part of the Fast Track debate. As you know, **this office will be modeled after the Defense Department's Office of Economic Adjustment -- the Administration's first point of contact with communities experiencing a military base closure or defense plant closing. We expect the Office to help 35-40 communities in its first year of operation. The initiative also will fund a variety of other efforts to assist communities that face sudden and severe economic dislocation.**

Health

- 1. 21st Century Trust Fund (\$1 billion):** This initiative will provide substantial additional funding to NIH (\$750 million) and NSC (\$250 million), ramping up substantially over time, for research activities, including into the treatment and cure of diseases. We will provide you with a separate memo on this initiative in the next day or two. Funding for this initiative will come from comprehensive tobacco legislation.
- 2. AIDS Programs Expansion (\$165 million):** A funding increase for the Ryan White Program of about 15 percent will go principally toward ADAP, to ensure that new and effective treatments of AIDS reach those who need them. Some of the funds will support education and prevention programs operated by states, cities, and community health centers, as well as by the CDC.
- 3. Racial Disparities in Health Care (\$80 million):** This initiative will address racial disparities in six areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. The proposal includes additional funding (\$50 million) to established public health programs to adapt and apply their prevention and education strategies to eliminate racial disparities. It also includes funding (\$30 million) for thirty local pilot projects to test innovative approaches to reach this goal.

Crime

- 1. Community Prosecutors (\$50 million):** This initiative will provide grants to prosecutors for innovative, community-based prosecution efforts, such as Eric Holder adopted in the District of Columbia. A full 80 percent of the grants will go to pay the salaries and training costs associated

with hiring or reassigning prosecutors to work directly with community residents.

Race

A number of the above proposals -- e.g., education opportunity zones, university-school partnerships, housing vouchers -- can be presented as part of the race initiative, because they target predominantly minority areas or provide disproportionate benefits to members of minority groups. Other proposals described above -- the Hispanic dropout plan and the race and health initiative -- have obvious and explicit race connections. In addition:

1. Civil Rights Enforcement (\$68 million): This initiative will fund reforms to the EEOC and the civil rights offices at DOJ, HUD, HHS, Education, and DOL. Most importantly, additional funding of \$37 million will allow the EEOC to expand its mediation program (allowing more than 70 percent of all complainants to choose mediation by the year 2000), increase the average speed of resolving complaints (from over 9 months to six) and reduce the EEOC's current backlog (from 64,000 cases to 28,000). The initiative also will fund a dramatic expansion of HUD's civil rights enforcement office (in the 30th anniversary year of the Fair Housing Act) and improve coordination among the government's civil rights offices. We are preparing a number of non-budgetary administrative actions, especially involving fair housing and lending, to accompany our budget proposals in this area.

Appendix -- Education Base Programs

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:16-DEC-1997 11:34:04.00

SUBJECT: Re: Policy memo

TO: Andrew J. Mayock (CN=Andrew J. Mayock/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
this afternoon

December 16, 1997

MEMORANDUM TO THE PRESIDENT

THROUGH: Sylvia Matthews

FROM: Bruce Reed
Diana Fortuna

SUBJECT: SSA Report on Implementation of Children's SSI Cutoffs

The Social Security Administration intends to release a report this Thursday on its implementation of the new definition of childhood disability for SSI. This report follows Commissioner Ken Apfel's promise, at his confirmation hearing in September, of a "top to bottom" review of SSA's process for redetermining the eligibility of children.

As you know, the welfare law tightened the definition of childhood disability for SSI, and required the Social Security Administration to redetermine the eligibility of approximately 288,000 children, out of about one million children now on the rolls. These reevaluations have led to almost 140,000 terminations to date. (At the time the welfare law was enacted, CBO estimated that 180,000 children would lose SSI; when SSA announced its interpretation of the law, it projected that 135,000 children would become ineligible.) Advocates charge that SSA has done a poor job on these reevaluations, causing eligible children to be dropped from the rolls.

The report concludes that SSA did a generally good job of redetermining eligibility for these children. The report, however, identifies three areas of concern and announces actions to address them.

First, SSA will review the cases of all children "coded" as mentally retarded who were cut from the rolls and have not appealed. This action addresses SSA's finding that some of these children may have been terminated incorrectly. Second, SSA will review a portion of every state's unappealed terminations, choosing the kinds of cases most needing review in each state and focusing heavily on states that SSA has found to have a relatively high error rate. This review will allow SSA to give special attention to states with the highest error rates, without singling them out as "bad actors." Third, SSA will offer all 70,000 families who did not appeal its termination decisions a new opportunity to do so. These actions, and the problems they address, are further described in an appendix attached to this memo.

In all, SSA will review the cases of 48,000 children dropped from the program. (Another 70,000 have appealed.) As a result of these actions, SSA now projects that approximately 100,000 children ultimately will lose SSI benefits.

With the report, SSA also plans to release case studies of a random sample of 151

children who have lost benefits. This document is intended to explain to the public what kinds of children are no longer eligible. Most of the children have mental disabilities other than mental retardation, including learning disabilities and attention deficit disorder. Over a third have improved since they were first found eligible. The majority are teenagers; only a handful are age six or younger.

Advocates will probably have a mixed reaction to the report -- generally pleased about the actions, but still arguing that SSA's regulation interpreting the statute is needlessly strict. The report does not address the latter issue. The Republican leadership in Congress has been extremely supportive of SSA's implementation of the law to date, but probably will criticize this report on the ground that it bends over backwards to restore benefits.

SSA Report on Childhood Disability Process

SSA's report examined three areas of concern raised by advocacy groups:

I. Mental Retardation

Advocates' Charge: Too many children with mental retardation were cut from the rolls.

SSA Finding: Of the 136,000 children terminated to date, 42,000 were "coded" as mentally retarded (MR). However, most of these children do not actually have MR, because until recently SSA's systems did not have all the necessary codes. Instead, most of these children have other mental disorders, such as learning disabilities or "borderline intellectual functioning" (which falls short of full-fledged MR). Some unknown subset of the 42,000 do have MR, but either their impairments are not severe enough to qualify them for SSI, or they were denied incorrectly.

Even with these terminations, approximately 350,000 children coded as MR will remain on the rolls, out of the total of one million children on SSI.

SSA Action: SSA will review all cases terminated that were coded as MR, to ensure that all those decisions were made properly.

II. State Variations in Cutoffs

Advocates' Charge: Errors in cutoffs appear likely, since termination rates varied widely by state, from 32% in Nevada to 82% in Mississippi. Also, SSA may not have acquired all documentation, such as school records, needed to judge a child's disability. Finally, some states were disqualifying too many families for failure to cooperate without making adequate efforts to reach them.

SSA Findings: SSA data show that on average 93% of termination decisions were both accurate and complete (i.e., they included all required documentation). This exceeds SSA's required level of overall state performance for SSI, which is 90.6%. However, 10 states had accuracy/completion rates below 90%. Another 9 states had accuracy/completion rates below the national average. (SSA's experience is that about one-third of the errors identified in these measures will ultimately prove to be accurate decisions that simply lacked documentation.) SSA found that many inaccurate decisions stem from an overly strict interpretation of the new rules for children who exhibit maladaptive behavior.

Claims that SSA did not acquire all needed documentation were determined to be largely unfounded. However, SSA found wide state variations in the percentage of children cut off because their families did not cooperate with the redetermination. In a study of such cessations, SSA found that 68% of the cases did not include documentation that all required efforts to contact the family had been made.

SSA also performed a regression analysis to determine whether wide state-to-state variations in overall termination rates should be expected because of legitimate factors, such as the child's age and impairment and whether the child was initially added to the rolls based on the less strict criteria eliminated by the welfare law. SSA found that these factors would lead you to expect the cutoff rate to vary from 40% in Idaho to 78% in Mississippi. While this regression analysis does not fully explain the actual state-by-state variance, it does convince SSA that most of the variance among states is due not to errors, but to characteristics of the children.

SSA Action: SSA will review a portion of the decisions in all states, focusing more on states with lower accuracy rates. All cases terminated as a result of failure to cooperate will be reviewed. SSA will also provide more training on maladaptive behavior.

III. Appeal Rights

Advocates' Charge: Too few families are appealing because SSA's notice to families was confusing, and workers discouraged appeals. Also, SSA discouraged families from requesting that benefits be continued during the appeal, and didn't do enough to publicize free legal services.

SSA Finding: SSA found that its workers did not discourage appeals, although this may have occurred in isolated instances. At the same time, a survey conducted by SSA confirms that many families did not understand their appeal rights.

SSA Action: All 70,000 families of children who were terminated and did not appeal will be given a new opportunity to do so. In addition, all families of children who appealed but did not request continuation of benefits during the appeal will also be given a new opportunity to make that request. SSA will also publicize the availability of free legal services for families.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-DEC-1997 18:56:43.00

SUBJECT: Re: haitians

TO: Emily Bromberg (CN=Emily Bromberg/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

there is no policy and no decision. i was as surprised by the NYT as you. call me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:18-DEC-1997 13:41:19.00

SUBJECT: Re: Weekly Reports

TO: Phillip Caplan (CN=Phillip Caplan/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Michelle Crisci (CN=Michelle Crisci/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Suzanne Dale (CN=Suzanne Dale/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Jonathan A. Kaplan (CN=Jonathan A. Kaplan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Rahm I. Emanuel (CN=Rahm I. Emanuel/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Mickey Ibarra (CN=Mickey Ibarra/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: joshi_m (joshi_m @ a1 @ cd @ lngtwy [UNKNOWN]) (NSC)
READ:UNKNOWN

CC: Russell W. Horwitz (CN=Russell W. Horwitz/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I'm glad to know DPC is in such august company.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:18-DEC-1997 15:24:28.00

SUBJECT: Re: Weekly Reports

TO: Phillip Caplan (CN=Phillip Caplan/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

what did they threaten to do to you?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:18-DEC-1997 13:39:59.00

SUBJECT: Re: haitians

TO: Emily Bromberg (CN=Emily Bromberg/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

I think it's leaning that way, but yes.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:23-DEC-1997 14:18:00.00

SUBJECT: NEW DPC PHONE AND ISSUE LISTS

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

please print for me.

----- Forwarded by Elena Kagan/OPD/EOP on 12/23/97 02:17 PM -----

Paul J. Weinstein Jr.

12/23/97 01:22:01 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
Subject: NEW DPC PHONE AND ISSUE LISTS

PLEASE DISREGARD THE LISTS SENT EARLIER THIS WEEK. THEY HAD A COUPLE OF ERRORS. THESE LISTS ARE ACCURATE.

Message Sent

- To: _____
- BALDERSTON A @ A1 @ CD @ LNGTWY
 - Sarah A. Bianchi/OPD/EOP
 - Michael Cohen/OPD/EOP
 - Laura Emmett/WHO/EOP
 - Cathy R. Mays @ EOP @ LNGTWY
 - Leanne A. Shimabukuro @ EOP @ LNGTWY
 - Diana Fortuna/OPD/EOP
 - Thomas L. Freedman/OPD/EOP
 - Jose Cerda III/OPD/EOP
 - Christopher C. Jennings/OPD/EOP
 - Andrea Kane/OPD/EOP
 - William R. Kincaid/OPD/EOP
 - Jennifer L. Klein/OPD/EOP
 - Jeanne Lambrew/OPD/EOP
 - Nicole R. Rabner/WHO/EOP
 - Cynthia A. Rice/OPD/EOP
 - Christa Robinson @ EOP @ LNGTWY
 - Mary L. Smith/OPD/EOP
 - Todd A. Summers/OPD/EOP
 - Neera Tanden/WHO/EOP
 - Essence P. Washington/OPD/EOP
 - Julie A. Fernandes/OPD/EOP

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D7]MAIL49971565T.316 to ASCII,

December 21, 1997

December 21, 1997

Domestic Policy Council Staff/Issue List

Issue Area	Staffer	Phone	Fax	Room Number
AIDS	Sandy Thurman	632-1090	632-1096	470 OEOB
	Todd Summers	632-1090	632-1096	808 17th Street
Adoption	Jen Klein	6-2599	6-2878	WW 2FL
	Nicole Rabner	6-7263	6-2878	WW 2FL
	Neera Tanden	6-6275	7-2878	WW 2FL
Agriculture/ Rural Development	Carl Whillock	720-2406	720-9286	1400 Independ- ence Ave., SW, Room 216 Administration Building
Budget	Cynthia Rice	6-2846	6-7431	212R OEOB
Choice	Elena Kagan	6-5584	6-2878	WW 2FL
	Jen Klein	6-2599	6-2878	WW 2FL
Children & Families	Jen Klein	6-2599	6-2878	WW 2FL
	Nicole Rabner	6-7263	6-2878	WW 2FL
	Neera Tanden	6-6275	6-2878	WW 2FL
Civil Rights/Race Initiative	Elena Kagan	6-5584	6-2878	WW 2FL
	Julie Fernandes	6-6558	6-5581	217R OEOB
Communications/ Scheduling/Events	Christa Robinson	6-5165	6-7431	207 OEOB
Consumer Issues/ Food Safety	Tom Freedman	6-6587	6-7431	213 OEOB
	Mary Smith	6-5571	6-7431	213 ½ OEOB
Crime	Jose Cerda	6-5568	6-7028	224R OEOB
	Leanne Shimabukuro	6-5574	6-7028	224L OEOB
Community Development/ Housing	Jose Cerda	6-5568	6-7028	224R OEOB
	Leanne Shimabukuro	6-5574	6-7028	224L OEOB
	Paul Weinstein	6-5577	6-7028	214 OEOB
Disabilities	Diana Fortuna	6-5570	6-7431	212L OEOB
Drugs	Jose Cerda	6-5568	6-7028	224R OEOB
	Leanne Shimabukuro	6-5574	6-7028	224L OEOB
Education	Mike Cohen	6-5575	6-5581	218L OEOB
	Bill Kincaid	6-2857	6-5581	220 OEOB
	Tanya Martin	6-5228	6-5581	218R OEOB
Environment	Paul Weinstein	6-5577	6-5581	214 OEOB
Health Care	Chris Jennings	6-5560	6-5557	216R OEOB
	Jeanne Lambrew	6-5377	6-7431	209 OEOB
	Sarah Bianchi	6-5585	6-5557	216 OEOB

Immigration	Julie Fernandes	6-6558	6-5581	217R OEOB
Labor	Elena Kagan	6-5584	6-2878	WW 2FL
National Service	Diana Fortuna	6-5570	6-7431	212L OEOB
Policy Planning	Tom Freedman	6-6587	6-7431	213 OEOB
	Mary Smith	6-5571	6-7431	213 ½ OEOB
	Tanya Martin	6-5228	6-5581	218R OEOB
Political/Government Reform	Paul Weinstein	6-5577	6-5581	214 OEOB
Product Liability	Elena Kagan	6-5584	6-2878	WW 2FL
Public Health	Chris Jennings	6-5560	6-5557	216R OEOB
	Jeanne Lambrew	6-5377	6-7431	209 OEOB
	Sarah Bianchi	6-5585	6-5557	216 OEOB
Tobacco	Tom Freedman	6-6597	6-7431	213 OEOB
	Mary Smith	6-5571	6-7431	213 ½ OEOB
Welfare Reform	Cynthia Rice	6-2846	6-7431	212R OEOB
	Diana Fortuna	6-5570	6-7431	212L OEOB
	Andrea Kane	6-5573	6-7431	210 OEOB

**DOMESTIC POLICY
STAFF PHONE LIST**

<u>Person</u>	<u>Phone</u>	<u>Fax</u>	<u>Location</u>
BALDERSTON, Allison	65543	65581	217, OEOB
BIANCHI, Sarah	65585	65557	216, OEOB
CERDA, Jose	65568	67028	224R, OEOB
COHEN, Michael	65575	65581	218L, OEOB
EMMETT, Laura	65565	62878	2 FL/WW
FERNANDES, Julie	66558	65581	217R, OEOB
FORTUNA, Diana	65570	67431	212L, OEOB
FREEDMAN, Tom	65587	67431	213, OEOB
GEISBERT, Donna	65594	65557	216, OEOB
JENNINGS, Chris	65560	65557	216R, OEOB
KAGAN, Elena	67928/65584	62878	2FL/WW
KANE, Andrea	65573	67431	210, OEOB
KINCAID, Bill	62857	65581	220, OEOB
KLEIN, Jennifer	62599	62878	2 FL/WW
LAMBREW, Jeanne	65377	67431	209, OEOB
MARTIN, Tanya	65228	65581	218R, OEOB
MAYS, Cathy	66515	62878	2 FL/WW
RABNER, Nicole	67263	66244	2 FL/WW
REED, Bruce	66515	62878	2 FL/WW
RICE, Cynthia	62846	67431	212R, OEOB
ROBINSON, Christa	65165	67431	207, OEOB
SHIMABUKURO, Leanne	65574	67028	224L, OEOB
SMITH, Mary	65571	67431	213 1/2, OEOB
TANDEN, Neera	66275	66244	2 FL/WW
WASHINGTON, Essence	67732	67028	224, OEOB
WEINSTEIN, Paul	65577	67028	214, OEOB

RAINES, Ashley	62023	61655	145, OEOB
COMPUTER SUPPORT	57370		
WH COMMENT LINE	61111		
WAVES CENTER	66742		

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:29-DEC-1997 14:06:59.00

SUBJECT: Re: Needles/Embryos/Abortion and Other Selected L/HHS General Provisions

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

please print the attached chart.

----- Forwarded by Elena Kagan/OPD/EOP on 12/29/97 02:07
PM -----

Thomas Reilly
12/29/97 11:54:38 AM

Record Type: Record

To: Thomas Reilly/OMB/EOP

cc: See the distribution list at the bottom of this message

bcc:

Subject: Re: Needles/Embryos/Abortion and Other Selected L/HHS General Provisions

I'm told that some of you may not have access to WordPerfect 7, so here is the same file as below saved as WP 6.1.

Thomas Reilly
12/29/97 11:38:17 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: Needles/Embryos/Abortion and Other Selected L/HHS General Provisions

Josh Gotbaum does not have access to his e-mail system this morning and has asked me to forward this note to all of you for him.

Attached is a table of selected Labor/HHS General Provisions related to health that will require policy decisions in order to print the FY 1999 Budget Appendix. Traditionally, the Budget shows the prior year's (i.e., FY 1998 enacted) appropriations language, and brackets language proposed for deletion, and italicizes any new or revised language.

Due to the FY 1999 Budget print schedule, we are requesting your views/comments on these General Provisions by January 5. Please let us know by then whether or not you agree with the recommendations in the attached file, or if you think we need to meet on any of these issues.

The file to the right shows:

1. The FY 1997 enacted language.
2. Our proposed language in the FY 1998 Budget.
3. The FY 1998 enacted language.
4. OMB staff and HHS (where available) recommendations for the FY 1999 Budget.

The provisions we've included are:

1. Needle Exchange - Probably the stickiest issue this year. It will require extensive consultation within the Administration. Detailed background on this issue is included below.
2. Human Embryos/cloning - The recommendation would repeat the FY 1998 Budget policy of deleting the language with a footnote saying we don't recommend addressing this issue in legislation. However, the world of cloning has changed in the past year, and we may need to rethink our position. Detailed background on this issue is also included below.
3. Abortion/Hyde Amendment - We would repeat the FY 1998 Budget policy of deleting the language with a footnote saying we'll work with Congress to address the issue. Note that while the FY 1998 enacted language was more expansive than in past years, we would still recommend returning to the FY 1998 Budget policy.
4. Family Planning - We would repeat the FY 1998 enacted language.
5. Limitation of the use of funds for promotion of controlled substances - We would repeat the FY 1998 enacted language, which is the same as was proposed in the FY 1998 Budget.

CLICK ON THE SECTIONS BELOW FOR BACKGROUND ON NEEDLES AND CLONING

NEEDLE EXCHANGE

Statutory Restrictions on the Use of Federal Funds for NEPs:

Since 1988, US Appropriations or Authorization law has placed a conditional prohibition on the use of Federal funds for the operation of needle exchange programs.

Currently, there are three statutory restrictions on the use of Federal funds for the operation of needle exchange programs:

The Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) Reorganization Act of 1992, prohibits the use of Substance Abuse and Mental Health Services Administration Block grant funds for needle exchange programs unless the Surgeon General determines that they are effective in reducing the spread of HIV and the use of illegal drugs. The statute does, however, allow Federal research and evaluation of existing needle exchange programs.

Section 422 of the 1996 Ryan White CARE Act reauthorization places a flat prohibition on the use of Ryan White funds for needle exchange.

Sections 505 & 506 of the FY 1998 L/HHS / Ed Appropriations bill read:

505: Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

506: Section 505 is subject to the condition that after March 31, 1998, a program for exchanging such needles and syringes (referred to in this section as an "exchange project") may be carried out in a community if (1) the Secretary of Health and Human Services determines that exchange projects are effective in preventing the spread of HIV and do not encourage the use of illegal drugs; and (2) the project is operated in accordance with criteria established by such Secretary for preventing the spread of HIV and for ensuring that the project does not encourage the use of illegal drugs.

This limitation has been in Labor/ H appropriations language in some form since 1990. In the FY 1998 Appropriations bill, the Appropriators split the provision into two provisions and added the six-month moratorium on certification and the language requiring that the exchange programs must be operated in accordance with criteria established by the Secretary.

In the past, the Administration has worked to avoid an outright ban on the use of Federal funds for NEPs (like the current Section 505) and maintain the authority of the Secretary to certify that Federal funds can be used for such programs.

RECOMMENDATION:

There have been several studies done on the efficacy of NEPs in recent years, and there is current data available to meet the first requirement in this language (e.g. that NEPs are successful in preventing the spread of HIV), but HHS maintains that the data on the second provision (that NEPs do not encourage the use of illegal drugs) is still inconclusive. HHS is expecting the results of additional studies on NEPs in the coming year and wants to maintain the Secretary's authority to continue to evaluate the evolving scientific data on this issue and to certify that Federal funds can be used for NEPs.

To maintain maximum flexibility for the Secretary, we recommend bracketing (deleting) Section 506 and modifying Section 505 by re-proposing the language that was proposed in the FY 1998 Budget on this issue:

505: Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug unless the Surgeon General determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

[Note: The words "or syringes" were added in FY 1998 enacted language -- they were not proposed in the 98 Budget. Our recommendation would repeat "or syringes" in the FY 1999 Budget.]

ALTERNATE RECOMMENDATION:

In addition to bracketing section 506, we could add a footnote similar to that placed on the Hyde language deletions: The Administration proposes to delete this provision and will work with Congress to address this issue.

Also, rather than repeat the language in the FY 1998 Budget that gave the authority to certify NEPs to the Surgeon General to the Secretary of Health and Human Services, we could maintain the language that was made by Congress in the FY 1997 Labor/HHS/Ed Appropriations bill that gave such

authority to the Secretary of Health and Human Services. This may be something the Administration wants to consider given the upcoming confirmation hearings for Surgeon General nominee David Satcher.

Background on Human Embryos/Cloning

Both the House and Senate L/HHS bills for FY 1998 extended the FY 1996 and FY 1997 appropriations Act ban on using Federal funds on human embryo research, and modified it to include research involving "human diploid cells." NIH staff advise that in practice, this extension does not differ from the original ban on human embryo research and would have no effect on NIH's present research efforts. The words "human diploid cells" were apparently added in an attempt to address cloning.

A diploid cell is produced after fertilization occurs in humans -- it is one stage of a developing embryo. Diploid cells could theoretically be produced via somatic cell nuclear transfer, which is more commonly referred to as "cloning." The FY 1996 and FY 1997 L/HHS Acts barred Federal funding for the creation of human embryos for research purposes or performing research on human embryos that subjects them to significant risk. The prohibition on creating embryos for research purposes would, de facto, prohibit creating a human embryo through cloning technology. This is why including diploid cells in the embryo research ban does not differ practically from banning the creation of human embryos.

The FY 1998 Budget proposed to delete the embryo research ban, stating that the Administration "does not support addressing this issue in legislation." In December 1994, the President had issued a statement barring the use of Federal funds for creating human embryos for research purposes. On June 9, 1997, the President announced that he was sending proposed legislation to the Congress, the "Cloning Prohibition Act of 1997," which would prohibit any attempt to create a human being using somatic cell nuclear transfer. The Administration did not oppose the language in the FY 1998 bill in its letters or SAP's.

Observations: Last year's budget's proposal to delete this provision came before the cloning debate of last spring (e.g., Dolly).

Given the President's proposed legislation on prohibiting cloning, and the fact that SAP's did not oppose the language during the FY 1998 appropriations process, the Administration may not want to bracket the language again, even with the footnote that says the Administration does not support addressing this issue in legislation.

Message Sent

To: _____

Bruce N. Reed/OPD/EOP@EOP

Elena Kagan/OPD/EOP@EOP

Christopher C. Jennings/OPD/EOP@EOP

Maria Echaveste/WHO/EOP@EOP

Sandra Thurman/OPD/EOP@EOP

Janet L. Crist/ONDCP/EOP@EOP

Message Copied

To: _____

Joshua Gotbaum/OMB/EOP@EOP

L/HHS/Ed. General Provisions for FY 1999 Budget
"Side-by-Side" Comparison for Selected Provisions
Titles II and V of L/HHS Bill

FY 1998 Enacted Section No./ Provision	FY 97 Enacted	FY 98 President's Budget	FY 98 Enacted	Recommended FY 99 Language
Sec. 505. Needle Exchange	SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.	SEC. 505. Proposed transfer of authority from the "Secretary of Health and Human Services" to the "Surgeon General".	Sec. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.	OMB Staff: Repeat FY 98 Budget language. HHS: No position yet. Alternatives: (1) Give authority to Secretary as opposed to Surgeon General; (2) use footnote approach, i.e., delete provision and say the Administration will work with Congress to resolve.
Sec. 506. Condition on Needle Exchange			Sec. 506. Section 505 is subject to the condition that after March 31, 1998, a program for exchanging such needles and syringes for used hypodermic needles and syringes (referred to in this section as an "exchange project") may be carried out in a community if - (1) the Secretary of Health and Human Services determines that exchange projects are effective in preventing the spread of HIV and do not encourage the use of illegal drugs; and (2) the project is operated in accordance with criteria established by such Secretary for preventing the spread of HIV and for ensuring that the project does not encourage the use of illegal drugs.	OMB Staff: Delete. Alternative: Footnote saying we will work with Congress. HHS: No position yet.
Sec. 513. Use of funds for embryo research-- limitations	SEC. 512. (a) None of the funds made available in this Act may be used for— (1) the creation of a human embryo or embryos for research purposes; or (2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)). (b) For purposes of this section, the term "human embryo or embryos" include any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes.	Proposed deletion with a footnote that states that the Administration does not support addressing this issue in legislation.	Sec. 513. Same as FY 97 enacted except end of last sentence changed to "...or more human gametes or human diploid cells."	OMB Staff and HHS: Repeat FY 98 Budget, i.e., propose deletion with the same footnote: "The Administration proposes to delete this provision and does not support addressing this issue in legislation."

Hex-Dump Conversion

FY 1998 Enacted Section No./ Provision	FY 97 Enacted	FY 98 President's Budget	FY 98 Enacted	Recommended FY 99 Language
Sec. 509. Appropriation limitations for abortion procedures (Hyde language)	SEC. 508. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.	Proposed deletion with footnote that the Administration will work with Congress to address this issue.	Sec. 509. (a) None of the funds appropriated under this Act shall be expended for any abortion. (b) None of the funds appropriated under this Act shall be expended for health benefits coverage that includes coverage of abortion. (c) The term "health benefits coverage" means the package of services covered by managed care provider or organization pursuant to a contract or other arrangement.	OMB Staff and HHS: Repeat FY 98 Budget, i.e., propose deletion, and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
Sec. 510. Appropriation limitations for abortion procedures (Hyde language)			(New provision) Sec. 510. (a) The limitations established in the preceding section shall not apply to an abortion - (1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. (b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds). Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).	OMB Staff and HHS: Delete provision and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
Sec. 212. Appropriation of funds for entities under title X of the Public Health Service Act	SEC. 518. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless it is made known to the Federal official having authority to obligate or expend such funds that the applicant for the award certifies to the Secretary that it encourages family participation in the decision of the minor to seek family planning services.	SEC. 513 . Same as FY 97 Enacted.	Sec. 212. None of the funds appropriated in the Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.	OMB Staff: Repeat FY 98 enacted. HHS: No position yet.
Sec. 514. Use of funds for promotions of controlled substances-- limitations	SEC. 513. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity when it is made known to the Federal official having authority to obligate or expend such funds that the activity promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of	SEC. 511. Same as FY 97 enacted.	Sec. 514. Same as FY 97 enacted and FY 98 President's Budget.	OMB Staff: Repeat FY 98 Budget language. Same as enacted.

FY 1998 Enacted Section No./ Provision	FY 97 Enacted	FY 98 President's Budget	FY 98 Enacted	Recommended FY 99 Language
	the Controlled Substances Act (21 U.S.C. 812). (b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when it is made known to the Federal official having authority to obligate or expend such funds that there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that Federally-sponsored clinical trials are being conducted to determine therapeutic advantage.			

*Automated Records Management System
Hex-Dump Conversion*

Clinton Presidential Records Automated Records Management System [EMAIL]

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Hex Dump file is not in a recognizable format, has been incorrectly decoded or is damaged.

File Name: p_16251463_who_html_2.msoff

Attachment Number: [ATTACH.D57]MAIL45641526N.316

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 6-JAN-1998 15:52:18.00

SUBJECT: Re: Senator Robb Reply

TO: Andrew J. Mayock (CN=Andrew J. Mayock/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
yes and yes

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-JAN-1998 16:21:03.00

SUBJECT: Treatment of Abortion Provisions in the President's Budget

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Unable to convert ARMS_EXT:[MESSAGE.D58]MAIL467316602.026

The following is a HEX dump of the file:

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

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D58]MAIL467316603.026 to ASCII,

The following is a HEX DUMP:

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

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

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D58]MAIL487316604.026 to ASCII,

The following is a HEX DUMP:

===== END ATTACHMENT 2 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-JAN-1998 16:19:00.00

SUBJECT: Re: Affirmative Action guidance

TO: Dawn M. Chirwa (CN=Dawn M. Chirwa/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: William R. Kincaid (CN=William R. Kincaid/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I did finally manage to look at this -- you and bill and i should talk.
(and thanks for your patience)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 8-JAN-1998 14:09:56.00

SUBJECT: Re: Memo Julie and I need to you to clear

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Looks good to me, but (1) I think the Americorps glossery should go up front, so that he knows what Young Heroes, CityYear, etc. are as he's reading the options; (2) do we really need to give him 11 options? aren't the first five enough?; and (3) I don't think white and black are capitalized.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 8-JAN-1998 12:29:14.00

SUBJECT: Re: Needles/Embryos/Abortion and Other Selected L/HHS General Provisions SPEAK N

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 01/08/98 12:29
PM -----

JOSHUA
GOTBAUM
01/08/98 11:47:41 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Re: Needles/Embryos/Abortion and Other Selected L/HHS General
Provisions SPEAK NOW OR...

On 12/29, we sent to you the attached note seeking input on several sensitive L/HHS General Provision issues that we need to address to complete and print the FY 1999 President's Budget. We really need to hear from each of you by tomorrow (1/9) in order to meet the Budget print schedules. My main concern is that there may be differing views on some of these (e.g., Needle Exchange) and follow-up discussions may be necessary. If so, they would have to occur as early next week as possible.

We also sent to you yesterday morning an e-mail on the treatment of abortion provisions throughout the Budget. As requested yesterday, we'd appreciate hearing from you on these by tomorrow as well.

[This file is a WordPerfect v.6.1 version of the original table.]

Thomas Reilly
12/29/97 11:38:17 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Needles/Embryos/Abortion and Other Selected L/HHS General
Provisions

Josh Gotbaum does not have access to his e-mail system this morning and has asked me to forward this note to all of you for him.

Attached is a table of selected Labor/HHS General Provisions related to health that will require policy decisions in order to print the FY 1999

Budget Appendix. Traditionally, the Budget shows the prior year's (i.e., FY 1998 enacted) appropriations language, and brackets language proposed for deletion, and italicizes any new or revised language.

Due to the FY 1999 Budget print schedule, we are requesting your views/comments on these General Provisions by January 5. Please let us know by then whether or not you agree with the recommendations in the attached file, or if you think we need to meet on any of these issues.

The file to the right shows:

1. The FY 1997 enacted language.
2. Our proposed language in the FY 1998 Budget.
3. The FY 1998 enacted language.
4. OMB staff and HHS (where available) recommendations for the FY 1999 Budget.

The provisions we've included are:

1. Needle Exchange - Probably the stickiest issue this year. It will require extensive consultation within the Administration. Detailed background on this issue is included below.
2. Human Embryos/cloning - The recommendation would repeat the FY 1998 Budget policy of deleting the language with a footnote saying we don't recommend addressing this issue in legislation. However, the world of cloning has changed in the past year, and we may need to rethink our position. Detailed background on this issue is also included below.
3. Abortion/Hyde Amendment - We would repeat the FY 1998 Budget policy of deleting the language with a footnote saying we'll work with Congress to address the issue. Note that while the FY 1998 enacted language was more expansive than in past years, we would still recommend returning to the FY 1998 Budget policy.
4. Family Planning - We would repeat the FY 1998 enacted language.
5. Limitation of the use of funds for promotion of controlled substances - We would repeat the FY 1998 enacted language, which is the same as was proposed in the FY 1998 Budget.

CLICK ON THE SECTIONS BELOW FOR BACKGROUND ON NEEDLES AND CLONING

NEEDLE EXCHANGE

Statutory Restrictions on the Use of Federal Funds for NEPs:

Since 1988, US Appropriations or Authorization law has placed a conditional prohibition on the use of Federal funds for the operation of needle exchange programs.

Currently, there are three statutory restrictions on the use of Federal funds for the operation of needle exchange programs:

The Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) Reorganization Act of 1992, prohibits the use of Substance Abuse and Mental Health Services Administration Block grant funds for needle exchange programs unless the Surgeon General determines that they are

effective in reducing the spread of HIV and the use of illegal drugs. The statute does, however, allow Federal research and evaluation of existing needle exchange programs.

Section 422 of the 1996 Ryan White CARE Act reauthorization places a flat prohibition on the use of Ryan White funds for needle exchange.

Sections 505 & 506 of the FY 1998 L/HHS / Ed Appropriations bill read:

505: Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

506: Section 505 is subject to the condition that after March 31, 1998, a program for exchanging such needles and syringes (referred to in this section as an "exchange project") may be carried out in a community if (1) the Secretary of Health and Human Services determines that exchange projects are effective in preventing the spread of HIV and do not encourage the use of illegal drugs; and (2) the project is operated in accordance with criteria established by such Secretary for preventing the spread of HIV and for ensuring that the project does not encourage the use of illegal drugs.

This limitation has been in Labor/ H appropriations language in some form since 1990. In the FY 1998 Appropriations bill, the Appropriators split the provision into two provisions and added the six-month moratorium on certification and the language requiring that the exchange programs must be operated in accordance with criteria established by the Secretary.

In the past, the Administration has worked to avoid an outright ban on the use of Federal funds for NEPs (like the current Section 505) and maintain the authority of the Secretary to certify that Federal funds can be used for such programs.

RECOMMENDATION:

There have been several studies done on the efficacy of NEPs in recent years, and there is current data available to meet the first requirement in this language (e.g. that NEPs are successful in preventing the spread of HIV), but HHS maintains that the data on the second provision (that NEPs do not encourage the use of illegal drugs) is still inconclusive. HHS is expecting the results of additional studies on NEPs in the coming year and wants to maintain the Secretary's authority to continue to evaluate the evolving scientific data on this issue and to certify that Federal funds can be used for NEPs.

To maintain maximum flexibility for the Secretary, we recommend bracketing (deleting) Section 506 and modifying Section 505 by re-proposing the language that was proposed in the FY 1998 Budget on this issue:

505: Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug unless the Surgeon General determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

[Note: The words "or syringes" were added in FY 1998 enacted language -- they were not proposed in the 98 Budget. Our recommendation would repeat "or syringes" in the FY 1999 Budget.]

ALTERNATE RECOMMENDATION:

http://172.28.127.30:8082/ARMS/servlet/getEmailArchive?URL_PATH=/nlcp-1/Arms405/who/WHO_1998...

In addition to bracketing section 506, we could add a footnote similar to that placed on the Hyde language deletions: The Administration proposes to delete this provision and will work with Congress to address this issue.

Also, rather than repeat the language in the FY 1998 Budget that gave the authority to certify NEPs to the Surgeon General to the Secretary of Health and Human Services, we could maintain the language that was made by Congress in the FY 1997 Labor/HHS/Ed Appropriations bill that gave such authority to the Secretary of Health and Human Services. This may be something the Administration wants to consider given the upcoming confirmation hearings for Surgeon General nominee David Satcher.

Background on Human Embryos/Cloning

Both the House and Senate L/HHS bills for FY 1998 extended the FY 1996 and FY 1997 appropriations Act ban on using Federal funds on human embryo research, and modified it to include research involving "human diploid cells." NIH staff advise that in practice, this extension does not differ from the original ban on human embryo research and would have no effect on NIH's present research efforts. The words "human diploid cells" were apparently added in an attempt to address cloning.

A diploid cell is produced after fertilization occurs in humans -- it is one stage of a developing embryo. Diploid cells could theoretically be produced via somatic cell nuclear transfer, which is more commonly referred to as "cloning." The FY 1996 and FY 1997 L/HHS Acts barred Federal funding for the creation of human embryos for research purposes or performing research on human embryos that subjects them to significant risk. The prohibition on creating embryos for research purposes would, de facto, prohibit creating a human embryo through cloning technology. This is why including diploid cells in the embryo research ban does not differ practically from banning the creation of human embryos.

The FY 1998 Budget proposed to delete the embryo research ban, stating that the Administration "does not support addressing this issue in legislation." In December 1994, the President had issued a statement barring the use of Federal funds for creating human embryos for research purposes. On June 9, 1997, the President announced that he was sending proposed legislation to the Congress, the "Cloning Prohibition Act of 1997," which would prohibit any attempt to create a human being using somatic cell nuclear transfer. The Administration did not oppose the language in the FY 1998 bill in its letters or SAP's.

Observations: Last year's budget's proposal to delete this provision came before the cloning debate of last spring (e.g., Dolly).

Given the President's proposed legislation on prohibiting cloning, and the fact that SAP's did not oppose the language during the FY 1998 appropriations process, the Administration may not want to bracket the language again, even with the footnote that says the Administration does not support addressing this issue in legislation.

Message Sent

To: _____
Bruce N. Reed/OPD/EOP@EOP

Elena Kagan/OPD/EOP@EOP
Christopher C. Jennings/OPD/EOP@EOP
Maria Echaveste/WHO/EOP@EOP
Sandra Thurman/OPD/EOP@EOP
Janet L. Crist/ONDCP/EOP@EOP

Message Copied

To: _____

Joshua Gotbaum/OMB/EOP@EOP
Charles E. Kieffer/OMB/EOP@EOP
Jacob J. Lew/OMB/EOP@EOP
Janet Himler/OMB/EOP@EOP
Barry T. Clendenin/OMB/EOP@EOP
Richard J. Turman/OMB/EOP@EOP
Mark E. Miller/OMB/EOP@EOP
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Ann Kendrall/OMB/EOP@EOP
Jill M. Pizzuto/OMB/EOP@EOP
Richard P. Emery Jr./OMB/EOP@EOP

Message Copied

To: _____

bruce n. reed/opd/eop@eop
elena kagan/opd/eop@eop
christopher c. jennings/opd/eop@eop
maria echaveste/who/eop@eop
sandra thurman/opd/eop@eop
janet l. crist/ondcp/eop@eop
joshua gotbaum/omb/eop@eop
charles e. kieffer/omb/eop@eop
jacob j. lew/omb/eop@eop
janet himler/omb/eop@eop
barry t. clendenin/omb/eop@eop
richard j. turman/omb/eop@eop
mark e. miller/omb/eop@eop
corey g, lee/omb/eop@eop
ann kendrall/omb/eop@eop
jill m. pizzuto/omb/eop@eop
richard p. emery jr./omb/eop@eop

Message Sent

To: _____

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Christopher C. Jennings/OPD/EOP
Maria Echaveste/WHO/EOP
Sandra Thurman/OPD/EOP
Janet L. Crist/ONDCP/EOP

Message Copied

To: _____

Charles E. Kieffer/OMB/EOP
Jacob J. Lew/OMB/EOP
Janet Himler/OMB/EOP
Barry T. Clendenin/OMB/EOP

**L/HHS/Ed. General Provisions for FY 1999 Budget
"Side-by-Side" Comparison for Selected Provisions
Titles II and V of L/HHS Bill**

FY 1998 Enacted Section No./ Provision	FY 97 Enacted	FY 98 President's Budget	FY 98 Enacted	Recommended FY 99 Language
Sec. 505. Needle Exchange	SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.	SEC. 505. Proposed transfer of authority from the "Secretary of Health and Human Services" to the "Surgeon General".	Sec. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.	<p>OMB Staff: Repeat FY 98 Budget language.</p> <p>HHS: No position yet.</p> <p>Alternatives: (1) Give authority to Secretary as opposed to Surgeon General; (2) use footnote approach, i.e., delete provision and say the Administration will work with Congress to resolve.</p>
Sec. 506. Condition on Needle Exchange			Sec. 506. Section 505 is subject to the condition that after March 31, 1998, a program for exchanging such needles and syringes for used hypodermic needles and syringes (referred to in this section as an "exchange project") may be carried out in a community if - (1) the Secretary of Health and Human Services determines that exchange projects are effective in preventing the spread of HIV and do not encourage the use of illegal drugs; and (2) the project is operated in accordance with criteria established by such Secretary for preventing the spread of HIV and for ensuring that the project does not encourage the use of illegal drugs.	<p>OMB Staff: Delete.</p> <p>Alternative: Footnote saying we will work with Congress.</p> <p>HHS: No position yet.</p>
Sec. 513. Use of funds for embryo research--limitations	SEC. 512. (a) None of the funds made available in this Act may be used for— (1) the creation of a human embryo or embryos for research purposes; or (2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)). (b) For purposes of this section, the term "human embryo or embryos" include any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes.	Proposed deletion with a footnote that states that the Administration does not support addressing this issue in legislation.	Sec. 513. Same as FY 97 enacted except end of last sentence changed to "...or more human gametes or human diploid cells."	<p>OMB Staff and HHS: Repeat FY 98 Budget, i.e., propose deletion with the same footnote: "The Administration proposes to delete this provision and does not support addressing this issue in legislation."</p>

FY 1998 Enacted Section No./ Provision	FY 97 Enacted	FY 98 President's Budget	FY 98 Enacted	Recommended FY 99 Language
Sec. 509. Appropriation limitations for abortion procedures (Hyde language)	SEC. 508. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.	Proposed deletion with footnote that the Administration will work with Congress to address this issue.	Sec. 509. (a) None of the funds appropriated under this Act shall be expended for any abortion. (b) None of the funds appropriated under this Act shall be expended for health benefits coverage that includes coverage of abortion. (c) The term "health benefits coverage" means the package of services covered by managed care provider or organization pursuant to a contract or other arrangement.	OMB Staff and HHS: Repeat FY 98 Budget, i.e., propose deletion, and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
Sec. 510. Appropriation limitations for abortion procedures (Hyde language)			(New provision) Sec. 510. (a) The limitations established in the preceding section shall not apply to an abortion - (1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. (b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds). Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).	OMB Staff and HHS: Delete provision and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
Sec. 212. Appropriation of funds for entities under title X of the Public Health Service Act	SEC. 518. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless it is made known to the Federal official having authority to obligate or expend such funds that the applicant for the award certifies to the Secretary that it encourages family participation in the decision of the minor to seek family planning services.	SEC. 513 . Same as FY 97 Enacted.	Sec. 212. None of the funds appropriated in the Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.	OMB Staff: Repeat FY 98 enacted. HHS: No position yet.
Sec. 514. Use of funds for promotions of controlled substances-- limitations	SEC. 513. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity when it is made known to the Federal official having authority to obligate or expend such funds that the activity promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of	SEC. 511. Same as FY 97 enacted.	Sec. 514. Same as FY 97 enacted and FY 98 President's Budget.	OMB Staff: Repeat FY 98 Budget language. Same as enacted.

FY 1998 Enacted Section No./ Provision	FY 97 Enacted	FY 98 President's Budget	FY 98 Enacted	Recommended FY 99 Language
	the Controlled Substances Act (21 U.S.C. 812). (b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when it is made known to the Federal official having authority to obligate or expend such funds that there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that Federally-sponsored clinical trials are being conducted to determine therapeutic advantage.			

Automated Records Management System
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Clinton Presidential Records Automated Records Management System [EMAIL]

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Hex Dump file is not in a recognizable format, has been incorrectly decoded or is damaged.

File Name: p_16251463_who_html_2.msoff

Attachment Number: [ATTACH.D57]MAIL45641526N.316

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 8-JAN-1998 14:40:20.00

SUBJECT: Re: Child Care & Disability

TO: William H. White Jr. (CN=William H. White Jr./OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Not that I particularly want to have a meeting ever (I have to say that these advocates should work on their phone manner), but next week is better than this one.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 9-JAN-1998 10:53:29.00

SUBJECT: Re: OMB's latest on child support budget proposal

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Emil E. Parker (CN=Emil E. Parker/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Emily Bromberg (CN=Emily Bromberg/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

sounds generally ok, though I would say that we'll work with Congress on legislation, rather than send it ourselves.

January 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Child Care -- Response to Announcement: We are pleased with the response so far to your child care initiative. Children's advocates and child care experts are overjoyed at both the level of funding and the composition of the package (e.g., the ratio of subsidies to tax cuts). Hill Democrats and some moderate Republicans are enthusiastic about the package, as you heard at Thursday's congressional meeting. Governors -- including a few Republicans -- have praised the extent of state flexibility in the plan. Even conservative Republicans in Congress had a hard time attacking your proposal. Rep. Pryce, whom Speaker Gingrich asked to respond to the proposal for the House Republican leadership, admitted that you had "resisted the urge to have the federal government control child care." Some Republicans alternated between accusing you of spending too much money and claiming that they had spent even more for child care in the past.

The most serious criticism, which we knew we would face, is that the package does little to help parents who want to stay at home to care for their children. (A similar point was made in the opinion piece by David Blankenhorn appearing in the New York Time that you asked us about; as you recall, he criticizes tax cuts for child care and supports expanding the child tax credit to help parents of young children stay at home.) As you know, we can blunt this charge somewhat by coming out for an expansion of the FMLA in the State of the Union to allow more workers to stay at home for longer periods with their newborns. We are also open to discussing with members of Congress an expansion of the child tax credit, although we found such proposals too expensive to incorporate into our package. Most important, we cannot let anyone forget your record of providing families with real choices -- for example, through the child tax credit, FMLA, EITC, minimum wage, and CHIP.

2. Health -- Response to Medicare Buy-in Announcement: Your Medicare buy-in proposal provoked a great deal of comment. Some Republicans, including Senator Gramm and Rep. Bill Thomas, were extremely critical of the proposal: they argued that it would only exacerbate Medicare's financial problems. (Gramm compared Medicare to the Titanic and warned about putting extra passengers on.) The base Democrats were very pleased with the proposal -- particularly after Republicans strongly opposed it. Though liberal groups also were pleased that we are addressing this issue, they believe we must include some kind of subsidy for low-income Americans. Elite validators gave this policy mixed reviews: while uniformly

recognizing the need of this population for affordable insurance, some (including the New York Times) praised the self-financing feature of the program, while others expressed concern that the proposal would create the demand for further, less fiscally responsible subsidization.

3. Drugs -- Substance Abuse and Prisoners: The National Center on Addiction and Substance Abuse released a study on Thursday finding that drug or alcohol use helped lead to the incarceration of 80 percent of all inmates in the nation's prisons and jails. According to the report, 1.4 million prisoners (out of a total 1.7 million) were high when they committed their crimes, stole property to buy drugs, and/or had a history of drug and alcohol abuse.

As you know, the 1994 Crime Law mandates that 100 percent of all federal prisoners defined as eligible receive substance abuse treatment by 1997. According to the Bureau of Prisons, the federal prison system has met this requirement. Since 1994, we have made some form of substance abuse treatment available in every federal prison facility, tripled the total number of inmates treated in the federal system, and increased the number of residential treatment centers in federal prisons by 30 percent (from 32 to 42). In addition, legislation you offered requires states to submit comprehensive plans of testing, sanctions, and treatment by March 1998 as a condition of receiving prison construction funding.

To build on these efforts, we are preparing a directive from you to the Attorney General to: (1) require states, as part of their testing and treatment plans, to estimate current drug use in prisons and measure progress yearly; (2) draft legislation to allow states to use prison construction funds to implement their testing and treatment plans; and 3) draft legislation to require states to enact increased penalties for smuggling drugs into prisons as a condition of receiving prison construction monies. An event focusing on this directive is tentatively scheduled for Monday.

4. Drugs -- Anti-Drug Media Campaign: The anti-drug media campaign began on Thursday in Washington, D.C. -- the first city in the 12-city pilot. Anti-drug advertisements have started to air in the District during prime-time network television shows, with radio and Internet ads to commence next week. ONDCP will roll out the media campaign in the remaining pilot cities throughout the month of January. The other 11 pilot cities and rollout dates are as follows: Atlanta (1/20), Baltimore (1/13), Boise (1/13), Denver (1/16), Hartford (1/23), Houston (1/15), Milwaukee (1/21), Portland (1/22), San Diego (1/9), Sioux City (1/20), and Tucson (1/15).

5. Crime -- Brady Checks: As you know, Arkansas remains the only state that is not conducting background checks prior to handgun sales. Although Attorney General Winston Bryant issued an opinion saying that state police have the legal authority to conduct checks, Governor Huckabee has ordered the police to refuse to do so. In response, Bryant has asked the Treasury and Justice Departments to make him (rather than the state police) the designated chief law enforcement officer for the entire state; under this scheme, federally licensed dealers would refer the names of potential purchasers to the AG's office, and employees of that office would check the names in the FBI's NCIC (rather than the state police's) database. Justice and Treasury

are currently inclined to grant Bryant's request later this month. This action may provoke a strong response from Huckabee, who is currently not aware of Bryant's request.

6. Crime -- Slain Officers: The National Law Enforcement Officers Memorial Fund (NLEOMF) reported last week that the number of officers killed in the line of duty increased by nearly 40% in 1997, from 116 in 1996 (the lowest number since 1959) to 159 last year. The 1997 figure exceeds the 1990s average of 151 line-of-duty deaths per year. NLEOMF attributes the rise in deaths to: (1) an increase in firearms-related deaths (70 in 1997, as compared to 56 in 1996); (2) an unusually high number of traffic fatalities; and (3) 10 multiple-death incidents, in which a total of 22 officers were killed.

7. Welfare -- Child Support Computer Systems: We are working closely with a House-Senate group convened by Rep. Clay Shaw's staff on the child support computer systems issue you discussed with Senator Feinstein this fall. Our goal is to put in place a new system of penalties that are large enough to ensure that states develop effective computer systems, but not so large as to disrupt states' child support collection efforts. As you know, current law requires us to withhold all federal child support funds from a state without a statewide child support computer system -- a penalty we intend to retain in the legislation (at least as a threat) for egregious cases. Shaw's initial proposal, which we think makes sense, would impose an initial penalty of 4 percent of federal child support funds in the first year, with higher penalties in later years. Once a state's system is complete, it could earn back a portion of the penalty. Shaw wants to introduce legislation the first day of Congress and move it through the House by the second week of February. As always, the Senate is expected to move more slowly, but could pass the legislation by April. By then, HHS expects nine states to remain without statewide computer systems: California, Michigan, Illinois, Ohio, Pennsylvania, Indiana, Hawaii, Oregon, and New Mexico.

8. Welfare -- Welfare Recipients in College: You recently asked us about a report in the Washington Post that some college students on welfare are dropping out of school to meet new work requirements. As you know, the welfare law does not count education that is not directly related to a job toward the work participation rates. States, however, have significant flexibility to excuse college students from work, given that the required participation rate is now at 30 percent and peaks at 50 percent. In addition, welfare recipients can combine work with their studies (as most college students do), particularly if work-study jobs are available. To encourage this result, we asked Secretaries Riley and Shalala to write to the nation's college presidents in September to explain the law and stress the importance of providing work-study jobs to welfare recipients enrolled in their schools. (Most work-study jobs are only 10 hours per week, but the letter explained that this is not a legal requirement.)

9. Welfare -- Delaware Evaluation: Governor Carper released on Monday an evaluation of the state's welfare reform waiver program called A Better Chance (ABC). The program began in 1995 as one of the first comprehensive statewide waivers granted by the Administration. Initial results are encouraging: by the fourth quarter after the program started,

program participants had 24 percent higher employment, 16 percent higher earnings, and 18 percent lower average benefits than the participants in the control group. The evaluation found a fairly high rate of sanctioning: 49 percent of the participants were sanctioned at least once for failing to comply with the program's employment or family responsibility (immunization, school attendance) requirements. It is interesting to note in evaluating these results that Delaware's caseloads have not gone down as dramatically as those of many other states; the decline since January 1993 has been 21 percent. This relatively low decline may result from ABC's "make work pay" incentive that allows recipients to keep more earnings and still remain eligible for welfare.

10. Education -- California Math Standards: Proposed new math standards in California have provoked a heated debate in the last few months, pitting educators who emphasize problem solving against those who favor a more basic skills approach. The California State Board of Education last month adopted the more conservative view, over the objection of Superintendent Delaine Eastin. The head of the Education Directorate at the National Science Foundation subsequently sent a letter to the Chair of the California State Board strongly criticizing the decision and implying that it would jeopardize continued NSF funding for six Urban Systemic Improvement sites in California. The letter upset conservatives (and others), who viewed it -- in our view, correctly -- as an example of inappropriate federal intrusion in state curriculum matters. Diane Ravitch warned us immediately that it could give Bill Bennett a pretext for withdrawing his support of your national testing initiative. As a result, we worked with NSF this week to draft a letter from NSF Director Lane to the California State Board clarifying that NSF would not second-guess state standards and emphasizing the importance of basic skills. Based on recent conversations with Ravitch, we believe this step has been sufficient to prevent Bennett's reversal.

11. Education -- Urban Education Report: Education Week issued its annual report on education reform in the 50 states on Thursday, focusing on the progress in urban school districts. The study noted that approximately 40 percent of students in urban districts reached the basic level on the most recent NAEP 4th grade reading and 8th grade math and science exams in 1994 and 1996, compared to over 60 percent in each of these subjects in non-urban areas. The study also found discrepancies in resources, with urban districts spending about \$500 less per child annually than non-urban districts. The Education Week issue also detailed a dozen promising reform strategies to raise achievement in districts around the nation -- e.g., setting high standards; holding schools accountable for results and giving schools greater flexibility; creating small, more intimate schools or schools-within-schools; recruiting well-prepared teachers and providing them with continuing training and support; training principals to be effective school leaders; and promoting school choice. Your existing and planned initiatives -- including the new Education Opportunity Zones proposal that you previewed in December -- match up very well with these reform prescriptions.

12. Education -- Life-long Learning Card: You recently asked us about Bob Reich's idea of a life-long learning card -- essentially a bank card consolidating all federal education

benefits (Pell, IRAs, education tax credits and deductions, and job-training funds), against which education expenses could be credited. DPC and NEC staff have begun to look into this proposal, but we do not yet have a specific recommendation. The Education Department is currently intending to begin a pilot project by October 2000 to use bank cards to disburse federal aid to post-secondary students. Our instinct is that bank cards may be effective to deliver grants and loans, but less useful for tax credits and deductions. DPC and NEC will continue to explore this issue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 9-JAN-1998 08:11:12.00

SUBJECT: weekly

TO: Phillip Caplan (CN=Phillip Caplan/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

when is he away until? I'm going away for the weekend and want to figure out what I need to do by when. thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 9-JAN-1998 08:09:32.00

SUBJECT: You're right...

TO: John Podesta (CN=John Podesta/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Sara M. Latham (CN=Sara M. Latham/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
Nothing ventured, nothing gained. Let's go for it. And thanks.

PS: I suspect Melanne would also be supportive.

**Domestic Policy Council
Follow-Up on Small Farmers Meeting
January 8, 1998**

Working Group on Highlighting Issues in Farm Policy

The DPC is establishing a working group to research and promote issues of interest to farmers. The group will emphasize finding issues of importance to rural communities that deserve to be part of the President's public agenda. Tom Freedman of DPC will coordinate the working group, which will include representatives from USDA, NEC, CEA, Treasury and OPL.

Meetings With Tobacco Farmers and Response to Senator Robb

Bruce Reed and/or Elena Kagan will hold meetings with interested tobacco farm representatives, including Ralph Paige, to explain the Administration's position on tobacco and consider ways to meet the needs of tobacco farmers. DPC staff also has drafted a response from you to Senator Robb on his tobacco farmer proposal.