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THE WHITE HOUSE

WASHINGTON

January 16, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Health Care -- Grijalva v. Shalala:** HHS and the Justice Department have decided to seek Supreme Court review of a Ninth Circuit decision holding that a Medicare HMO's decision to deny benefits is tantamount to government action and that beneficiaries challenging that decision are therefore entitled to constitutional due process. The departments are concerned about the Ninth Circuit's decision not because it gives Medicare beneficiaries strong appeal rights (as you know, we recently have strengthened these rights through regulation), but because its equation of a Medicare HMO's decision with government action has far wider implications -- perhaps even subjecting the government to the HMO's liability for malpractice. Our position in this case could create a public relations problem, with some in the media and elsewhere accusing us of retreating from our commitment to patients' rights. We believe, however, that we can cope with this problem as long as the brief focuses on the "state action" issue, rather than on the adequacy (or lack thereof) of the HMO's appeals process.

2. **Health Care -- Meeting with Congressman Dingell:** Congressman Dingell has requested a meeting with senior White House staff to discuss the Medicare Commission and the Patients' Bill of Rights. We expect him to express serious concern about the direction of the Commission -- particularly about Senator Breaux's advocacy of a premium support program modeled on the FEHBP. Dingell fears that the proposal will result in higher premiums and/or copayments for lower-income Medicare beneficiaries, and he will urge us not to provide cover for a flawed proposal. On the Patients' Bill of Rights, we expect Dingell to tell us that compromise on the bill's enforcement provisions will eventually be necessary, but that negotiations now would be premature. Dingell intends to reintroduce the Ganske/Dingell bill as soon as Congress returns, and he will ask us to do all we can to keep the pressure on Congress to pass strong legislation.

3. **Health Care/Crime -- Bioterrorism/Cyber-terrorism Initiative:** You are currently scheduled to announce on Friday a new budget initiative to combat two of the greatest threats to the nation's security -- bioterrorism and cyber-terrorism. The budget initiative, which we and the NSC developed in conjunction with HHS and the Justice Department, responds to two directives you issued in May instructing the Administration to develop and implement new counter-terrorism strategies. The initiative increases funding for

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these counterterrorism activities by \$1.2 billion. This funding increase will go toward: (1) new research and development of vaccines to protect against biological weapons; (2) a new public health surveillance system enabling doctors to recognize bioterrorist attacks as soon as possible; (3) new "computer intrusion detection networks," which will allow government computer systems to communicate with each other to contain and combat cyber attacks; and (4) a new Cyber Corps program, which will provide tuition assistance to college students studying computer science in return for a period of service safeguarding computers at agencies such as Social Security, FEMA, and FAA. These initiatives are strongly supported by virtually every national security expert in the country.

John!

4. **Crime -- National Instant Check System (NICS):** The FBI released new data on Monday showing that in its first 41 days of operation, the NICS blocked 11,584 gun sales, most to convicted felons. Operation of the system also enabled the FBI to inform relevant state and federal law enforcement authorities of 1,541 prospective gun buyers with outstanding arrest warrants. The NICS conducted a total of over 1 million background checks for the 26 states and territories for which it does all gun checks and the 11 states for which it does long gun checks only. States performed an additional 462,298 checks, but the FBI has no information on how many of these sales were denied.

5. **Crime -- Democratic Crime Bill:** Senator Leahy will introduce a Senate Democratic Leadership crime bill on Tuesday entitled "The Safe Schools, Safe Streets and Secure Borders Act of 1999." The bill extends and increases funding for many programs authorized in the 1994 Crime Act, including the COPS Program, VAWA, and drug courts. The legislation incorporates a scaled-back version of the Democratic juvenile crime bill including provisions on the federal prosecution of juveniles as adults; grants for states to incarcerate violent youths; prevention programs for at-risk youth; and various Administration-supported firearms measures, including "juvenile Brady." In addition, the bill contains provisions on money laundering, terrorism, and international crime.

6. **Abortion -- Clinic Safety:** We are planning to leak sometime this week your new \$4.5 million initiative to improve security for women's health clinics that provide abortions. As you know, violence against women's health clinics has escalated in recent years. Under your proposal, the Department of Justice would identify clinics at high risk of violence, assess what kind of security equipment they need, and actually provide this equipment. Such equipment could include closed circuit camera systems, improved lighting, motion detectors, alarm systems, or bullet-resistant windows. We have worked closely with the women's community on this initiative, and they are delighted at the results.

7. **Welfare Reform -- Wisconsin Study:** A major study of individuals leaving the welfare rolls in Wisconsin shows impressive employment results while also highlighting the challenges some people face as they leave welfare. The study is particularly important because it provides an early glimpse of how the least job-ready individuals are faring:

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Wisconsin's caseload had already declined by nearly 70 percent at the time the surveyed individuals left the rolls.

X/ A full 83 percent of those surveyed had worked for some period since leaving the rolls, and 62 percent were working at the time of the survey. Most were working full-time, with an average wage of \$7.42 per hour. The 38 percent who were not working at the time of the survey gave a variety of reasons including an inability to find a job that paid enough, individual or family health problems, child care problems, or work performance issues. Most of those who were not working received another kind of cash benefit (e.g., SSI or Unemployment Insurance) and/or non-cash benefits (e.g., housing subsidies, Medicaid, or Food Stamps), and nearly 20 percent of them lived with someone else who was working.

The study found that 87 percent of those surveyed had some kind of health insurance. The study also indicated, however, that Food Stamps may not be getting to everyone who is eligible. (As noted in our next item, USDA is taking steps to ensure that states provide Food Stamps to eligible individuals, even if they are no longer on welfare). These findings confirm that people are moving from welfare to work at unprecedented rates, but that there is a continued need to monitor their progress and to invest in the services that will help the least job-ready families make a successful transition. As you know, our budget proposes these investments, including a renewal of the Welfare-to-Work program, an expansive child care initiative, and significant increases in funds for transportation services and housing vouchers.

X/ **8. Welfare Reform -- Food Stamp Review:** As you may recall, both USDA and HHS began investigations in November of whether New York City is violating federal law by placing barriers in the way of people applying for Food Stamps and Medicaid. While HHS has not yet made any findings, USDA has documented a number of practices resulting in the improper delay (or termination) of Food Stamp benefits. The agency has shared its preliminary findings with the City and is expecting a response shortly. While this situation is being resolved, USDA is sending letters to all state commissioners to ensure that they understand the requirements of the Food Stamp law. We have asked HHS to send a similar letter about the Medicaid law.

X/ **9. Communities -- Better America Bonds:** Since the announcement of the Administration's livable communities agenda, Members of Congress from both sides of the aisle have expressed significant interest in our proposals, particularly Better America Bonds (BABs). Senator Daschle has indicated that he would like to introduce a Democratic Leadership bill on BABs, and Congressman Shuster, who chairs the House Transportation and Infrastructure Committee, announced support for the proposal. In addition, a number of Republicans and Democrats have formed a Senate working group on smart growth. Staff from DPC, NEC, OVP, Legislative Affairs, and Treasury are continuing to work on building bipartisan support for these proposals.

10. Education -- Accountability Proposals: We are submitting a separate memo to you this weekend on new accountability provisions we have developed at your request for inclusion in our ESEA reauthorization proposal.