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THE PRESIDENT HAS SEEN

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99 JAN 23 PM 3:27

THE WHITE HOUSE

WASHINGTON

January 23, 1999

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Reed  
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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Health Care -- Medicare Commission:** Senator Breaux released on Friday a draft proposal to reform Medicare by adopting a premium support program modeled on the FEHBP. Although the proposal contains some interesting and potentially constructive ideas, it has clear shortcomings: most notably, a weakening of Medicare's core benefit package; an increase in the eligibility age to 67, without any accompanying policy to guard against an increase in the uninsured population; and the lack of a prescription drug benefit. (Breaux has publicly said that he would like to see a prescription benefit, but his draft proposal does not include it.) This proposal has infuriated most Democrats, who perceive it as little better than the approach being advocated by Congressman Thomas. The Democrats also are upset with Breaux because he released the proposal without consulting them in the way he had promised. The Democrats' near-uncontrollable mistrust of Breaux places us in an awkward position. Democrats are suspicious (although wrongly) that we are sending positive signals about the Breaux proposal and that Laura Tyson and Stuart Altman will support it. At the same time, Breaux is anxious for us to help him develop his policy ideas and attract Democratic support for them. We will soon need to decide how to respond to these conflicting demands. The Commission is meeting on Tuesday and the tension between Breaux and the base Democrats may escalate into open confrontation at that meeting.

**2. Health Care -- Patients' Bill of Rights:** Congressman Dingell reintroduced his patients' rights legislation last week, but Congressman Ganske refused to cosponsor it, saying that he is developing an alternative to the bill's enforcement (i.e., liability) provisions. Other Republicans and some Blue Dog Democrats who co-sponsored the original Dingell-Ganske bill may follow Ganske's lead, in part because of a recent (and, to some, unsettling) \$116 million judgment against Aetna Health Plans of California in state court. We are currently discussing with House and Senate staff a number of compromise proposals concerning the legislation's enforcement provisions.

**3. Health Care -- Stem Cell Research:** HHS issued a legal ruling last week that the Congressional ban on federal funding of human embryo research does not apply to stem cell research because stem cells do not have the capacity to develop into a human being. The scientific community and patients' advocates welcomed the ruling, noting that it will allow federal funding of research with the potential for curing diseases like diabetes and

Alzheimer's. The only opposition to the announcement came from the National Conference of Catholic Bishops and other antiabortion activists, who fear that this research will create incentives for destroying embryos or fetuses (from which stem cells are derived). We believe that the rollout of this announcement went well and that the Administration's position on this issue advances medical research, while avoiding controversy to the extent possible.

**4. Health Care -- Wisconsin's BadgerCare Program:** HHS approved on Friday Wisconsin's BadgerCare program, which is a combined Medicaid waiver and CHIP plan that expands Medicaid coverage to families with incomes below 185 percent of the Federal poverty level. This administrative action resolved a longstanding dispute between HCFA and Governor Thompson. Wisconsin originally proposed to use its CHIP allotment (and federal matching dollars) to cover both children and adults. This approach conflicted with legal requirements restricting CHIP funding to children, and both Congressional Democrats and advocates vigorously opposed the proposal. Governor Thompson ultimately agreed to a Medicaid rather than CHIP waiver to implement his plan, in large part because HCFA promised that the State could roll back coverage if it finds that it has insufficient resources to maintain the expansion. (Thompson also agreed to the compromise because he wants to announce his BadgerCare program in his State of the State next week.) Congressmen Barrett and Kletchka, who defended our opposition to the State's initial proposal but pushed us to find an acceptable compromise, should welcome this resolution of the dispute. Wisconsin's program, when fully implemented, will provide health insurance coverage to over 23,000 children and 27,000 adults.

**5. Tobacco -- Farmers Agreement:** The four largest cigarette companies agreed Thursday to set up a \$5.15 billion trust fund to assist tobacco growers facing an anticipated decline in demand for their product. The companies had agreed to meet with state officials to discuss the trust fund for farmers as part of the \$206 billion state settlement last November. The funds will be distributed over 12 years, with companies contributing \$380 million in the first year, \$280 million in the second year, \$400 million in the third year, \$500 million in the fourth through tenth years; \$440 million in the 11th year, and \$150 million in the 12th year. Each state will receive a share of the fund equal to the amount of tobacco it grows. The eleven participating states are North Carolina, Ohio, South Carolina, Tennessee, Alabama, Florida, Georgia, Indiana, Kentucky, Virginia and West Virginia. USDA issued a statement congratulating state leaders for this positive step and reaffirming the Administration's commitment to protecting tobacco farmers and their communities. We communicated a similar message to leaders of the major tobacco farmer organizations. Although they are concerned that a federal lawsuit will further decrease demand for tobacco (see item below), they privately acknowledge that the threat of additional federal action aided them in negotiations.

**6. Tobacco -- Federal Lawsuit:** Your announcement that the Department of Justice is preparing to take the tobacco companies to court came as a welcome surprise to anti-tobacco

advocates and members of Congress. The Campaign for Tobacco-Free Kids and Senators Durbin and Kennedy made especially strong statements in support of the announcement. Most public officials from the tobacco states, however, expressed disagreement with the action, asserting that it would harm the region's economy. The announcement seemed to catch the tobacco companies themselves off-guard and caused about an eight percent dip in their stock prices. A joint statement by the companies called the announcement a "political gesture" and the continuation of "a witch hunt against a legal industry." We and Bruce Lindsey will meet with DOJ lawyers this week to discuss next steps. Perhaps the first order of business is to decide who should head up the Justice Department's new tobacco litigation task force (many people are suggesting bringing in an outsider with experience in handling litigation against the companies) and who should replace Frank Hunger as head of the Civil Division (to whom the head of the task force will report).

*agree*

**7. Education -- Ed-Flex:** At the direction of the Republican Leadership, Chairmen Jeffords and Goodling have made plans to mark up Ed-Flex legislation next week. In the Senate, Democrats probably will oppose all legislative activity until impeachment proceedings are concluded. If a mark-up does occur, the Democrats will offer a number of unrelated amendments (including our class size proposal), but also will engage on the details of Ed-Flex and may well end up supporting the legislation. In the House, Goodling has expressed a desire to work on a bipartisan basis, but Congressman Clay and most other Democrats have shown little enthusiasm for any Ed-Flex proposal. As you recall, we supported a version of Ed-Flex last year, and cannot now oppose legislation meeting the standards we laid down at that time. We would prefer, however, to take up Ed-Flex legislation in the context of ESEA reauthorization, so as to consider all flexibility and accountability proposals at one time. We will communicate this preference to Democrats on the Hill, and at least try to ensure that Ed-Flex legislation does not tie our hands in the upcoming debate on the ESEA.

*X*

**8. Welfare Reform -- Welfare-to-Work Event:** You are scheduled to do a welfare-to-work event on Monday to highlight the successes of welfare reform while underscoring the need for continued efforts. You will release new data showing that the welfare rolls have decreased by 44 percent (from 14.1 million to just below 8 million) since you took office. You also will recognize the 10,000 businesses that have joined the Welfare to Work Partnership in the last two years (5,000 since May alone). Most important, you will announce a new set of budget initiatives to ensure that those remaining on the welfare rolls make a successful transition from welfare to work. You will call on Congress to extend the Welfare-to-Work initiative for another year, at a cost of \$1 billion. Our reauthorization proposal places a new focus on fathers by requiring states and communities to use a minimum of \$150 million to provide job placement and retention assistance to low-income fathers who sign personal responsibility contracts committing them to work and pay child support. The reauthorization proposal would direct remaining funds toward long-term welfare recipients with the greatest barriers to employment, such as limited English proficiency, substance abuse problems, or disabilities. You also will announce budget proposals for 75,000 welfare-to-work housing vouchers (compared to 50,000 last year), \$150 million in welfare-to-work transportation funds

(compared to \$75 million last year), and a one-year extension of the Welfare to Work and Work Opportunity Tax Credits.

**9. Welfare Reform -- Legal Immigrant Benefits:** The Vice President will announce on Monday the Administration's \$1.3 billion budget proposal to restore health, disability, and/or nutritional assistance benefits to certain legal immigrants. This proposal builds on the progress we made in the Balanced Budget Act of 1997, which restored SSI and Medicaid benefits to 420,000 legal immigrants who were in this country before welfare reform became law (August 22, 1996), and the Agricultural Research Act of 1998, which provided Food Stamps to 225,000 legal immigrant children, senior citizens, and people with disabilities in this country before that date. The new budget proposal would (1) restore eligibility for SSI and Medicaid to legal immigrants who enter the country after August 22, 1996 if they have been in the country for five years and become disabled after entry; (2) provide food stamps to legal immigrants in the country on August 22, 1996 who turn 65 after that date; and (3) give states the option to provide health coverage through CHIP or Medicaid to legal immigrant children and pregnant legal immigrant women who enter the country after August 22, 1996. These proposals would provide SSI and Medicaid to 54,000 legal immigrants, food stamps to 15,000 legal immigrants, and maternal and child health care to 78,000 legal immigrants by 2004.

**10. Immigration -- English Language/Civics Initiative:** The Vice President also will announce on Monday an initiative in your FY 2000 budget to provide English language and civics instruction to recent immigrants. This \$70 million competitive grant program, which is one part of your larger adult education proposal, will help states and communities provide about 150,000 immigrants with access to high-quality English-language instruction, linked to instruction in civics and life skills. The initiative will help meet the great demand for English and civics instruction in immigrant communities and demonstrate a commitment to integrating immigrants fully into the nation's social and civic life. Hispanic and other groups strongly support the initiative.