

WR-Displacement

AFSCME's proposed amendments:

TO BE PUBLISHED IN THE FEDERAL REGISTER:

States must include representatives of principal groups that would be potentially affected by a waiver in the discussion, planning, application, and implementation process of that waiver proposal from its inception and in a significant and substantive way.

In considering whether a state has significantly and substantively involved such groups, the Department will, prior to the exercise of its discretion, (a) consider whether the state has used a commission or other similar process whereby representatives of impacted groups participate in the development of the proposal and of statements as to its impacts, and of means to alleviate any adverse impacts; (b) assess whether the waiver application addresses significant issues raised by affected parties in a fair and equitable manner, and (c) determine whether the waiver implementation process provides for continued monitoring and oversight and involvement of affected parties.

Where it is determined that restructuring of the delivery system will result from the waiver, the state shall provide for a process of ongoing planning and participation by affected parties regarding operational and workforce issues in the delivery system. States shall state what steps will be taken to ensure that key components and assets of the delivery and medical education systems, including human resources, are preserved and enhanced in any restructuring.

States will retain final authority over the content of a waiver proposal.

TO BE ADDED TO HHS' DRAFT GUIDELINES FOR STATES ON WAIVERS:

Impact statements should include but are not limited to the impacts on : the health of beneficiary populations; providers, especially key safety net providers in underserved areas; and the employment of the workforce. Impact statements should address any restructuring of the delivery system that is likely to occur.

Definition of major interests include provider, consumer, and workforce representatives. Workforce representatives are unions and other employee organizations representing affected employees.

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New Waiver Guidelines
DRAFT

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ANTI-DISPLACEMENT PROTECTIONS

Recommendation:

Add the following to the attached anti-displacement protections in the administration's current welfare reform plan:

"No participant may be assigned to fill any established unfilled vacancy.

(-) The provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the [Personal Responsibility/Work First and Personal Responsibility Act] under section 1115."

1 "(8) Nondisplacement in Work Activities.—

2 " (A) In General.—A State program under this part
3 or under part G or H may not be operated in a manner
4 that results in—

5 " (i) the displacement of any currently
6 employed worker or position (including partial
7 displacement such as a reduction in the hours of
8 nonovertime work, wages, or employment benefits),
9 or the impairment of an existing contract for
10 services or a collective bargaining agreement;

11 " (ii) the employment or assignment of a
12 participant or the filling of a position when

13 " (I) any other individual is on layoff
14 from the same or an equivalent position, or

15 " (II) the employer has terminated the
16 employment of a regular employee or otherwise
17 reduced its workforce with the effect of
18 filling the vacancy so created with a
19 participant subsidized under the program
20 under this part or under part G or H; or

21 " (iii) an infringement of the promotional
22 opportunity of a currently employed individual.

23 Funds available to carry out the program under this
24 part or under part G or H may not be used to assist,
25 promote, or deter union organizing.

26 " (B) Enforcing Nondisplacement Protections.—

1 "(i) Grievance Procedure.—Each State shall
2 establish and maintain a grievance procedure for
3 resolving complaints alleging violation of a
4 prohibition or requirement of subparagraph (A). Such a
5 procedure shall include an opportunity for a hearing.
6 The procedure's remedies shall include, but are not
7 limited to, termination or suspension of payments to
8 the employer, prohibition of the placement of the
9 program participant, reinstatement of an employee, and
10 other relief to make an aggrieved employee whole.

11 "(ii) Other Laws or Contracts.—Nothing in clause
12 (i) shall be construed to prohibit a complainant from
13 pursuing a remedy authorized under another Federal,
14 State, or local law or a contract or collective
15 bargaining agreement for a violation of a prohibition
16 or requirement of subparagraph (A).

17 "(b) Annual Reports.—

18 "(1) Compliance with performance measures.—Each State
19 that operates a program under this part shall submit to the
20 Secretary annual reports on its performance relative to the
21 performance-based measures established under section
22 413(a)(4).

23 "(2) Compliance with participation rates.—Each State
24 that operates a program under this part for a fiscal year
25 shall submit to the Secretary a report on the participation
26 rate achieved by the State for the fiscal year.

GOVERNMENT ACCOUNTABILITY/PRIVATIZATION

Recommendation:

Add the following requirement to all of the block grants (temporary assistance and any optional food stamp block grant):

"Certification by the chief executive officer of the State, that it is in compliance with requirements established by the Secretary to ensure fiscal accountability, prevent fraud and abuse and provide for proper and efficient administration of the program. Such requirements shall provide for the maintenance of personnel standards on a merit basis and selection of contractors through open and competitive bidding, taking into account all costs, including contract administration; individual contractor performance reviews and public disclosure of program performance; and other procedures to ensure against program abuses including, but not limited to, charging of fees to participants in the program; improper commingling of funds under the Act with funds received from other sources; failure to maintain sufficient, and auditable, or otherwise adequate records; kickbacks; nepotism; political patronage; violations of federal laws; and the use of funds for political or other activities which are not directly related to the proper operation of the program."

WR-Displacement

FAX COVER

Date/Time:

**Income Maintenance Branch****Executive Office of the President
Office of Management and Budget
Washington, DC 20503**

TO: Bruce Reed

FROM: Jeff Farber

Fax Destination**Organization:****Fax Number:****Number of Attached Pages:** Cover + 3**Notes:**

HE4 Displacement language

**Income Maintenance Fax Number:
Voice Confirmation:**202/395-0851
202/395-4686

HR 4 conference report

Sec. 407

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“(C) Unavailability of appropriate and affordable formal child care arrangements.

→“(f) NONDISPLACEMENT IN WORK ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity described in subsection (d).

“(2) NO FILLING OF CERTAIN VACANCIES.—No adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—

“(A) when any other individual is on layoff from the same or any substantially equivalent job; or

“(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

“(3) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

“(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

“(h) SENSE OF THE CONGRESS THAT STATES SHOULD IMPOSE CERTAIN REQUIREMENTS ON NONCUSTODIAL, NONSUPPORTING MINOR PARENTS.—It is the sense of the Congress that the States should require noncustodial, nonsupporting parents who have not attained 18 years of age to fulfill community work obligations and attend appropriate parenting or money management classes after school.

“SEC. 408. PROHIBITIONS; REQUIREMENTS.

“(a) IN GENERAL.—

“(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family, unless the family includes—

“(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

“(B) a pregnant individual.

“(2) NO ADDITIONAL CASH ASSISTANCE FOR CHILDREN BORN TO FAMILIES RECEIVING ASSISTANCE.—

“(A) GENERAL RULE.—A State to which a grant is made under section 403 shall not use any part of the grant to provide cash benefits for a minor child who is born to—

“(i) a recipient of assistance under the program operated under this part; or

“(ii) a person who received such assistance at any time during the 10-month period ending with the birth of the child.

NONDISPLACEMENT AMENDMENT

Need for Amendment

The conference report on H.R. 4 includes provisions (section 407(f) of the Social Security Act as amended) intended to prevent work program participants from displacing other workers. This nondisplacement language is, unfortunately, not adequate to the task. Workers are not protected from partial displacement such as a reduction in hours, wages or benefits. In addition, the bill does not establish any avenue for displaced employees to seek redress.

Description of Amendment

The proposed nondisplacement amendment addresses these flaws, broadening the protection of existing workers while allowing work program participants to be placed in unfilled vacancies-- provided such vacancies are not created by layoffs or firings. The amendment also requires States to establish a procedure for resolving displacement complaints. The amendment strengthens the language in the conference report, but, relative to current law, gives States more control over the enforcement procedure.

Welfare recipients may be available to employers at a lower cost than other employees, because their wages are subsidized or they are working in exchange for their grants. Anti-displacement provisions are needed to ensure that placements of welfare recipients do not come at the expense of other workers.

Section 407(f), which H.R. 4 proposes to add to the Social Security Act, should be amended to read as follows:

"(f) NONDISPLACEMENT IN WORK ACTIVITIES.--

"(1) IN GENERAL.--No work assignment to an adult in a family receiving assistance under a State program funded under this part shall result in--

"(A) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

"(B) the employment or assignment of a participant or the filling of a position when (i) any other individual is on layoff from the same or any equivalent position, or (ii) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program; or

"(C) any infringement of the promotional opportunities of any currently employed individual. Funds available to carry out the program under this part may not be used to assist, promote, or deter union organizing.

"(2) ENFORCING NONDISPLACEMENT PROTECTIONS.--

"(A) GRIEVANCE PROCEDURE.--Each State shall establish and maintain a grievance procedure for resolving complaints alleging violations of any of the prohibitions or requirements of paragraph (1). Such procedure shall include an opportunity for a hearing. Remedies shall include termination or suspension of payments, prohibition of the placement of the client, reinstatement of an employee, and other relief to make an aggrieved employee whole.

"(B) OTHER LAWS OR CONTRACTS.--Nothing in subparagraph (A) shall be construed to prohibit a complainant from pursuing a remedy authorized under another Federal, State, or local law or a contract or collective bargaining agreement for a violation of any of the prohibitions or requirements of paragraph (1).

WR - Displacement

Rush to workfare costs jobs of working poor

OUR VIEW Welfare laws need to be fine-tuned; they're hurting those most vulnerable to job loss.

Schools in Baltimore are bringing in welfare recipients to do janitorial work at \$1.50 an hour, less than one-third the minimum wage, rather than renew contracts with agencies that supplied custodians at \$6 an hour. The new workers continue to receive federally financed welfare benefits, at no cost to the schools.

It's a sweet deal for the money-short schools and useful work experience for people who soon must get off welfare. But what about those janitors who were displaced? How many are unemployed and candidates for the welfare rolls?

As Washington and the states push welfare recipients to work, they've created a way for employers, public and private, to replace regular employees with cheaper labor. The losers are folks who had stayed off welfare with low-income work. They're vulnerable to reduced hours, disappearing jobs and lesser wages and benefits.

A Jersey City, N.J., hospital is cutting full-time aides while hiring people on welfare as "volunteers" to do the same work.

In Nassau County, N.Y., a custodian laid off in 1992 and ultimately forced onto welfare returned to the same job last year — but as a welfare "trainee" at lower pay, no benefits and no vacation.

No one has yet quantified the problem. But the vulnerable population is large: 38 million working poor who at \$7.50 an hour or less often have no health insurance. And even with the economy thriving, most states are short of the low-wage, low-skill jobs that the working poor hold and welfare recipients need. Yet welfare reform requires that by the turn of the century, nearly 50% of all adults getting welfare assistance — 4 million people — must spend at least 30 hours a week in some sort of work.

The law bars employers from firing existing workers to hire welfare recipients whose compensation is subsidized by the state. But its intent can be defeated by re-

The job gap

State studies document the challenge of placing welfare recipients in jobs:

California: More than 1 million people have to be moved into a job market where 2 million people not on welfare are already looking for work and another half-million part-timers want more work. State's economy is growing by only 300,000 jobs a year.

New York: 1.2 million potential job seekers, including adults on welfare, for 242,000 job openings.

Maryland: Of 44,000 new jobs created in 1994, more than 38,000 were high technology or professional work requiring college degree or better. Yet work must be found for 79,000 welfare recipients.

Minnesota: Ratio of job seekers to job openings is 2.7-1; for jobs with a "livable wage," 6-1.

ducing hours, wages or benefits for existing workers or terminating outside contracts; workfare recipients can then fill vacancies.

Backers of the 1996 welfare reform minimize the problem. They fear a backlash could reverse momentum running their way. On the other side, unions trumpet scare stories, not research. But anecdotal evidence is accumulating. In addition to subtle and overt job displacement, employers from Salt Lake City to Richmond, Va., report the flow of welfare recipients into the workforce is helping keep pay rates down.

And when the inevitable economic slowdown arrives, with shrinkage in low-income jobs, the situation is likely to resemble a nasty game of musical chairs with far more players than wage-paying seats.

Welfare reform was long overdue. But the 1996 law, driven by simplistic budget-cutting politics, did little to spur the job growth needed to deal with underlying poverty and lack of opportunity. President Clinton wants to spend \$3 billion for job-training grants and tax breaks to employers who hire welfare recipients. First, some spadework is needed. Moving welfare recipients to work is a fine objective. But throwing the working poor out on the street is an unacceptable price.

Reform that risks throwing the working poor out of work and onto the welfare rolls is not worthy of the name.

THE PRESIDENT HAS SEEN
4-24-97

Bo Reed

What about the

I thought all these support to have protections against job replacement —

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Reed
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WEDNESDAY, APRIL 23, 1997