

9/19

NOTE TO: **Rahm Emanuel**
Bruce Reed
Emily Bromberg
Barry Toiv

FYI - Here are the Q and As I'll be using to explain the D.C. waiver decision. I won't be calling the press until 4:00. Call if you need more.

9/19/96

D.C. Waiver

Q What exactly is happening today with the D.C. waiver?

A We are modifying our offer to grant some of the waivers requested by the D.C. department of human services because we discovered an error in their waiver submission. Specifically, we are withdrawing our offer to grant a five-year time limit with "good faith" exemptions, and certain work requirements, because the public comment requirements of our waiver process were not met. Because the District has not yet accepted our original offer of terms and conditions, and we are withdrawing our offer for the time limit and work requirement components, they are no longer eligible for changes in those areas. However, the District may still receive the other waiver they requested dealing with teen parents; they simply need to notify us that they want them.

BACKGROUND: As of today, the District has been offered several waivers but has not accepted any of them by returning the terms and conditions. The process is thus not completed, and we have discovered the error in their submission before the waiver is final.

Q Why did you just notice this problem with the waiver submission? And whose fault is it - yours or the District's?

A At the time we received their waiver submission, we were told by the District in their written application that they had met the public notice requirement by having adopted legislation that was the basis for the waiver. We did not notice that the scope of the waivers they requested were broader than the legislation at the time the application was submitted, but we did find the problem during a recent final review of the application, and prior to the final acceptance of the waiver.

BACKGROUND: The latest review was conducted in order to find information necessary to respond to Congressional inquiries.

Q But whose fault is it - yours or the District's?

A We relied on the District's representation that the public notice requirements had been met. That representation was inaccurate, and we failed to notice the inaccuracy until a final review - which occurred after the terms and conditions were offered to the District, but before the waiver was officially granted.

Q Why didn't you notice this earlier?

A We followed our usual procedures for waivers, and did not notice at the time that the scope of the waivers were broader than the legislation. We only recently re-examined the submission and supporting paperwork, and then acted quickly to resolve this issue before the waiver was final.

(Remember, passage of the welfare reform bill means that the welfare programs of all 50

states and the District will now be governed by their state plan submissions, not by their waivers. The District was never under any obligation to move forward with the provisions in its waiver request.)

Q Critics charge that you only granted the D.C. waiver in the first place to effectively undermine the new bill. What's your response?

A The D.C. waiver was approved in a manner consistent with both our fast track procedures and the provisions in the new welfare law – as were the other 78 demonstrations we've granted to 43 states. In every case, the waivers were granted consistent with the principle employed by the administration and intended in the new law to give states maximum flexibility in the design of their welfare systems. We fully support the work requirements and time limits in the new bill, and were never acting in any way to undermine them.

Q Isn't this more evidence that you rushed the process for D.C.?

A No. We approved a fast track waiver for Idaho in roughly the same time period. We simply did not catch the error in their submission until now, and we are modifying the terms and conditions we have offered them. Remember, the waiver has not yet been officially granted.

Q Aren't you revoking this waiver because of congressional pressure?

A Absolutely not. As I've said, after receiving congressional inquiries about the waiver, we went back and reviewed D.C.'s submission to be sure it was complete, and in full compliance with our guidelines for fast track waivers. After we realized that the public notice provision had not been met, we acted quickly to withdraw our offer for the time limit waiver. We will continue to work with D.C. as they set up their plan to reform welfare.

Q Why are you picking on D.C.? Are you going to go back and review other states' submissions?

A At every step in the process, we have treated D.C. as we would have treated any other state. We know of no similar issues with other states. (But yes, as states submit their new state plans and tell us if they want to continue their approved demonstrations, we will be reviewing their original waiver submissions.)

Q But didn't D.C. have a 10 year time limit while the bill has a 5 year time limit? And isn't that unusual?

A The District requested and received approval for a 5 year time limit. The original length of the **demonstration** was 10 years which is similar to other states. Now, since we've modified our offer, the length of their demonstration (should they accept the remaining terms and conditions) would be five years - the length of the demonstration that was in the D.C. city council's bill.

BACKGROUND: A ten-year demonstration is not unusual. Massachusetts and Washington have 10 year and Tennessee and Wisconsin have 11 year demonstrations.

Q Didn't D.C.'s time limit have generous exemptions to the time limit?

A The District's time limit had exemptions similar to those in the 30 states that have time limits. All 30 states have a provision that if a parent "plays by the rules" and follows all the requirements of the demonstration and is unable to obtain a job through no fault of their own, then they will continue to receive benefits past the time limit. Recipients are subject to financial sanctions if they fail to participate in the demonstration, and if they refuse to work or look for work they can lose their benefits.

Q Didn't D.C.'s waiver also include a definition of work that is easier than the bill? I've heard that activities like self-esteem classes and education are allowable. Do you agree that those type of activities should be called work? What happened to that part of the waiver?

A D.C.'s waiver did include defined work activities which are similar to the 35 states that have work activities under welfare reform demonstrations. The waiver is also similar to many states that have made more parents required to participate in work or work activities by lowering the age of the child exemption. Under D.C.'s waiver, a parent must participate in the project when the child is 12 weeks or older which is similar to New Hampshire's recently approved demonstration.

Because the work activities definition is attached to the time limits waiver, it too has been withdrawn.

Q I read in the Washington Post this weekend that Wendell Primus spoke with the District. Did he speak with District officials?

A I don't know.

Q Did anyone else at HHS speak with the District?

A In virtually all the waivers approved, HHS staff have had conversations with states, and, in this case, also with the District of Columbia prior to their submission of their welfare waiver applications.

Q Were other states called by HHS staff about waivers?

A In general, HHS and state staffs are frequently in communication about pending waiver applications. Over the past few months, there were conversations between HHS and state staffs on the status of pending waiver requests.

Q What happens now?

A The district - like the 43 states with waivers - is required to submit a state plan describing how they will operate their new welfare program. As part of that process, the District should decide whether or not to accept the waivers which are still being offered to them, and then notify us as to whether they believe any of those waivers are inconsistent with the new law. We believe they are not. (??) But we will work with the District, like all states, to identify those provisions in their demonstrations that they interpret as inconsistent and work with them and the Congress on clarifying those inconsistencies.

OFFICE OF INTERGOVERNMENTAL AFFAIRS
DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 Independence Avenue, SW
Room 630F
Washington, DC 20201



WR-D.C.

F A X C O V E R S H E E T

DATE: 9/19/96

TO: Bruce Reed

PHONE:
FAX:

FROM: John Monahan
Director

PHONE: (202) 690-6060
FAX: (202) 690-5672

RE:
CC:

Number of pages including cover sheet:

Message:



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

SEP 19 1996

Ms. Annie J. Goodson
Acting Commissioner
Commission on Social Services
609 H Street, N.E.
Washington, D.C. 20002

Dear Ms. Goodson:

We have reviewed again the application for the District of Columbia's Project on Work, Employment and Responsibility and have identified a significant flaw. Your application indicated that the Department's public notice requirements were met by "legislation." However, the D.C. Council legislation submitted with your waiver request, the Public Assistance Self-Sufficiency Program Amendment Act of 1995, did not reference either the Work Requirements or Time Limits components of your demonstration. While a demonstration project need not be based in whole or in part on legislation, the project as submitted must have obtained the public input required by Departmental policy. Because the scope of the demonstration is broader than the District's legislation in these two areas, and the legislation was identified as the basis for compliance with our public notice requirements, the legislation is not an adequate basis for achieving public input. The Department is, therefore, withdrawing those portions of the terms and conditions offered in my letter of August 19 that relate to the Work Requirements and Time Limits.

Please let us know if you wish to proceed with the remaining component of your demonstration, i.e., the Teen Parent component, which was covered by the District's legislation. Because the basis for our providing a ten-year project period, the Time Limits component, is no longer viable, the duration of the project for the remaining component would be five years.

Sincerely,

A handwritten signature in cursive script that reads "Mary Jo Bane".

Mary Jo Bane
Assistant Secretary
for Children and Families

Enclosures

cc: Mr. Martin Keely
Acting ACF Regional Administrator

09/19/96

D.C. Waiver

Q What exactly is happening today with the D.C. waiver?

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BACKGROUND: As of today, the District has been offered several waivers but has not accepted any of them. The process is thus not completed, and we have discovered the error in their submission before the waiver is final.

Q Why did you just notice this problem with the waiver submission? And whose fault is it - yours or the District's?

A At the time we received their waiver submission, we were told by the District in its written application that the public notice requirement was met by having adopted legislation that was the basis for the waiver. We did not notice, at the time the application was submitted, that the scope of the waivers it requested was broader than the legislation, but we did find the problem during a recent final review of the application, and prior to the final acceptance of the waiver by the District.

BACKGROUND: The latest review was conducted in order to find information necessary to respond to Congressional inquiries.

Q But whose fault is it - yours or the District's?

A We relied on the District's representation that the public notice requirements had been met. That representation was inaccurate, and we failed to notice the inaccuracy until a final review - which occurred after the terms and conditions were offered to the District, but before the waiver was officially accepted by the District.

Q Why didn't you notice this earlier?

A Although we followed our usual procedures for waivers, we did not notice at the time that the scope of the waivers were broader than the legislation. We only recently re-examined the submission and supporting paperwork, and then acted quickly to resolve this issue before the waiver was final.

(Remember, passage of the welfare reform bill means that the welfare programs of all 50 states and the District will now be governed by their state plan submissions, although

they have the option of continuing approved waivers. The District was never under any obligation to move forward with the provisions in its waiver request.)

Q Critics charge that you only granted the D.C. waiver in the first place to effectively undermine the new bill. What's your response?

A Action on the D.C. waiver, like action on the other 78 demonstrations we've granted to 43 states, was taken consistent with the principle employed by the administration and intended in the new law to give states maximum flexibility in the design of their welfare systems. We fully support the work requirements and time limits in the new bill, and were never acting in any way to undermine them.

Q Isn't this more evidence that you rushed the process for D.C.?

A No. We approved a fast track waiver for Idaho in roughly the same time period. We simply did not catch the error in D.C.'s submission until now, and we are modifying the terms and conditions we have offered them. Remember, the waiver has not yet been officially accepted by the District.

Q Aren't you revoking this waiver because of congressional pressure?

A Absolutely not. As I've said, we went back and reviewed D.C.'s submission to be sure it was complete, and in full compliance with our guidelines for fast track waivers. After we realized that the public notice provision had not been met, with respect to some of the requested waivers, we acted quickly to withdraw the offer of the relevant terms and conditions. We will continue to work with D.C. as they set up their plan to reform welfare.

Q Why are you picking on D.C.? Are you going to go back and review other states' submissions?

A At every step in the process, we have treated D.C. as we would have treated any other state. We know of no similar issues with other states.

(BACKGROUND: As states submit their new state plans and tell us if they want to continue their approved demonstrations, we will be reviewing their original waiver submissions. But we will probably not review the public notice provisions because we know of no similar issues with other states.)

Q But didn't D.C. have a 10 year time limit while the bill has a 5 year time limit? And isn't that unusual?

A The District requested and received approval for a 5 year time limit. The original length of the **demonstration** was 10 years which is similar to other states. Now, since we've modified our offer, the length of their demonstration (should they accept the remaining terms and conditions) would be five years - the length of the demonstration that was in the D.C. city council's bill.

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Q Didn't D.C.'s waiver also include a definition of work that is easier than the bill? I've heard that activities like self-esteem classes and education are allowable. Do you agree that those type of activities should be called work? What happened to that part of the waiver?

A D.C.'s waiver request did include defined work activities which are similar to the 35 states that have defined work activities under welfare reform demonstrations. The waiver language was also similar to many states that have made more parents required to participate in work or work activities by lowering the age of the child exemption. D.C.'s waiver request sought to require that a parent participate in the project when the child is 12 weeks or older which is similar to New Hampshire's recently approved demonstration.

The work activities waiver, like the time limit waiver, has been withdrawn because of D.C.'s failure to have adequate public notice.

Q Did anyone at HHS speak with the District in advance?

A In virtually all the waivers approved, HHS staff have had conversations with states, and, in this case, also with the District of Columbia prior to their submission of their welfare waiver applications.

Q Were other states called by HHS staff about waivers?

A In general, HHS and state staffs are frequently in communication about pending waiver applications. Over the past few months, there were conversations between HHS and state staffs on the status of pending waiver requests.

Q What happens now?

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WR-DC

9/19

NOTE TO: Rahm Emanuel
Bruce Reed
Emily Bromberg
Barry Toiv

FYI - Here are REVISED, FINAL Q and As . Please replace the first set. Stories expected in the Post, Washington Times, AP, Reuters. Call if you need more.

Melvin

09/19/96

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DEPARTMENT OF HEALTH & HUMAN SERVICES

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39-0

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

SEP 19 1996

Ms. Annie J. Goodson
Acting Commissioner
Commission on Social Services
609 H Street, N.E.
Washington, D.C. 20002

Dear Ms. Goodson:

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Please let us know if you wish to proceed with the remaining component of your demonstration, i.e., the Teen Parent component, which was covered by the District's legislation. Because the basis for our providing a ten-year project period, the Time Limits component, is no longer viable, the duration of the project for the remaining component would be five years.

Sincerely,

A handwritten signature in cursive script that reads "Mary Jo Bane".

Mary Jo Bane
Assistant Secretary
for Children and Families

Enclosures

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Acting ACF Regional Administrator