

## ***Campaign for Housing and Community Development Funding***

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November 12, 1996

Mr. Bruce Reed  
Domestic Policy Council  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

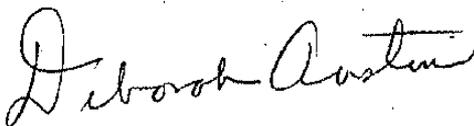
Dear Mr. Reed,

On behalf of the Campaign for Housing and Community Development Funding I forward the enclosed ***Statement and Recommendations on Housing and Welfare Reform***.

While a stated priority of the welfare initiative was to "make work pay", very little attention has been given during the welfare debate to the grim realities faced by poor families as they struggle to make meager incomes pay for housing. The inadequate and unaffordable housing these families live in poses serious barriers for those making the transition from welfare to work.

The 50 national organizations endorsing the ***Statement and Recommendations on Housing and Welfare Reform*** represent over 10,000 state and local affiliates that are concerned about these issues.\* We thank you in advance for your attention to our concerns and look forward to receiving your response.

Sincerely,



Deborah Austin  
*for*  
The Housing and Welfare Reform Task Force

***\*The papers attached to the Statement and Recommendations represent the positions of the organizations that prepared them. An endorsement of the Statement is not an endorsement of the positions taken in the attachments.***

*For more information contact (202)662-1530 ext.227.*

*Campaign for Housing and Community Development Funding*

*Organizations Endorsing  
the  
Statement and Recommendations on Housing and Welfare Reform*

Association of Community Organizations for Reform Now (ACORN)  
Alliance to End Childhood Lead Poisoning  
America Works Partnership  
American Association of Homes & Services for the Aging  
American Network of Community Options and Resources  
American Planning Association  
Association of Local Housing Finance Agencies  
Center for Community Change  
Center on Housing Rights and Evictions  
Child Welfare League of America  
Church of the Brethren, Washington Office  
Church Women United  
Coalition for Affordable Housing Preservation  
Consortium for Services to Homeless Families  
Economic Justice Office, Women's Division General Board of Global Ministries  
Friends Committee on National Legislation  
General Board of Church & Society of the United Methodist Church  
Habitat International Coalition  
Jesuit Conference, Office of Social Ministries  
Judge Bazelon Center for Mental Health Law  
Lutheran Office for Government Affairs  
McAuley Institute  
Mennonite Central Committee, Washington Office  
National Alliance to End Homelessness  
National Association of Protection & Advocacy Systems

National Association for County Community and Economic Development

National Association of Counties

National Association of Affordable Housing Lenders

National Law Center on Homeless & Poverty

National Coalition for Homeless Veterans

National Community Development Association

National Congress for Community Economic Development

National Council of Churches

National Council of La Raza

National Housing Law Project

National Housing Trust

National League of Cities

National Leased Housing Association

National Low Income Housing Coalition

National Neighborhood Coalition

National Urban League

NETWORK: A National Catholic Social Justice Lobby

North American Association for Jewish Homes & Housing for the Aging

SEEDCO

Single Room Occupancy Housing, Inc.

Surface Transportation Policy Project

The Schuyler Company

Unitarian Universalist Association

United Way of America

Wayne H. Sherwood

# Campaign for Housing and Community Development Funding

## Statement and Recommendations on Housing and Welfare Reform of the *Housing and Welfare Reform Task Force*

We the undersigned organizations and individuals believe that welfare reform will have a serious and largely unexamined impact on the housing needs of low income people, on low income housing, and on the economies of low income communities. We believe that welfare reform will exacerbate the existing affordable housing crisis for those families who are already the most vulnerable. We believe that no one should be forced from his or her home because of reductions in income brought on by welfare reform. Stable housing and economically healthy communities are essential for people to succeed in making the transition from welfare to work and maintaining self sufficiency. The following recommendations will protect low income people, their communities, and their housing, and will strengthen the likelihood that those on welfare will successfully make the transition to work. The first step in implementing these recommendations is the Administration's insistence upon and Congress' adoption of a FY98 budget level which assures these safeguards.

***Welfare and Housing:*** Housing is the largest on-going monthly expenditure of most households, particularly for those receiving welfare. Due to the limited supply of federal housing assistance, few recipients of welfare receive the housing assistance they need. Almost four out of every five families who currently receive AFDC benefits do not receive housing assistance and most are forced to pay disproportionately high proportions of their monthly income for housing.

While some households may improve their economic lot by replacing welfare income with work income, we expect that millions of people will confront decreasing incomes. Lawful immigrants will be particularly hard hit by cuts in food stamps and SSI benefits. Reducing the incomes of those households currently on welfare, in addition to the loss of other benefits, will seriously impact their ability to obtain or retain housing. Even for those who successfully make the transition from welfare to work, their housing problems will not disappear. In most areas of the country, a full time worker needs to earn more than double the minimum wage in order to afford housing without crowding out other necessary expenses.

***Impact on Those Who Are Housed But Do Not Receive Housing Assistance:*** According to a recent HUD study there are a record 5.3 million very low income families who currently pay over half of their incomes for rent or live in severely inadequate housing. None of these families receives housing assistance, almost 2 million are working and 1.2 million are elderly. These people are going to be hurt the most by welfare reform and have little hope of receiving housing assistance because there is virtually no new housing assistance available. As these families see their incomes drop and confront already unaffordable rents, they will face eviction and become even more vulnerable to homelessness.

***Impact on Those Who Are Housed and Receive Housing Assistance:*** While reductions in welfare benefits for households receiving housing assistance will lower tenants' contribution toward rent, lower incomes and minimum rent requirements will put added pressure on their dwindling resources. Thirty percent of a greatly reduced welfare grant is too much to pay for rent when the cash that is left has to cover other essentials. For example, 30 percent of \$500 is \$150, leaving \$350 for other essentials; but 30 percent of \$200 is \$60, and

leaves only \$140 for those same essentials. In addition to the impact on the household are the overall fiscal costs. According to preliminary estimates, HUD's budget will need to increase by an additional \$2.3 billion in the next five years in order to cover the shortfall resulting from decreased tenant incomes.

HUD has no authority to decrease rents based on food stamp benefits or eligibility. Therefore, paying a subsidized rent will still be a burden for those that have to absorb food costs into limited household budgets. There is an additional concern that some states may count housing assistance as income, resulting in reduced cash income, deeper crisis and more difficult choices between buying food, medicine, clothing, health care, day care, or paying rent. Many households will face homelessness and eviction.

***Impact on Those Who Are Not Housed:*** Housing assistance from the federal government (public housing or Section 8) is shrinking despite growing demand. Elimination of preference rules has lowered the likelihood that housing assistance available through turnover goes to homeless families. Homeless households will increasingly have to look to the private rental market for housing. With lower incomes, they will find it increasingly difficult to amass the funds needed for first and last months rents and deposits required for private sector housing. Without stable housing, they will continue to find it difficult to obtain and hold a job.

***Impact on the Elderly:*** Many elderly residents who are legal immigrants but not citizens will lose not only food stamps benefits but Supplemental Security Income (SSI) benefits as well. These reductions in income will drastically affect their ability to meet their basic needs. Additionally, the reduction in income used to calculate rent will increase the burden on the already strained Section 8 account.

***Impact on People with Disabilities:*** Assistance is essential for many people with disabilities and their families to secure decent, affordable and accessible housing. Welfare reform will result in significant reductions in children's eligibility for Supplemental Security Income (SSI), threatening the loss of benefits to 315,000 low income children with disabilities over the next six years. The loss of these benefits for children will result in many families suffering a dramatic reduction in the income that helps them obtain and maintain decent, affordable and accessible housing for their child with a disability.

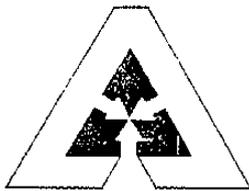
***Impact on Those Providing Housing:*** There will be a serious impact on public housing authorities and those who provide federally assisted housing. As incomes shrink and tenants pay lower rents, the subsidies needed to operate and maintain existing subsidized housing will grow. The government is unlikely to make up for the entire shortfall in rental income. Some housing providers will attempt to replace the lost rental revenues by renting to higher income tenants. Others housers will underfund maintenance and capital improvements, leading to a vicious cycle of deteriorating housing conditions. Either scenario will result in the loss of affordable housing stock to very low income people.

Housing providers, both public and private, will also be affected. As tenants lose benefits from Supplemental Security Income, food stamps, welfare and other assistance, they will be unable to pay their rents. Housing developers may face increased vacancy rates and foreclosures.

***Impact on Low Income Communities:*** If welfare reform is to succeed, people need to live in stable communities, have access to employment in their communities or access to transportation to get to jobs in other communities and earn livable wages. However, loss of income to many residents in low income communities will negatively impact the economies in these communities. Reductions in household incomes and cuts in programs like food stamps will starve community economies of cash. The result could be a spiraling decline of lowering incomes and local economic failure.

**Recommendations:** For families and individuals to maintain stable employment, they must have stable housing in economically strong communities. If we are to make welfare work, we must make certain that no one loses their housing because of loss of income due to welfare reform. The following recommendations are offered to support these principles:

- ▶ The Office of Management and Budget should propose, and the Congress should approve, a HUD budget for fiscal year 1998 and beyond that is sufficient, not only to fund existing (FY1997) activities and renew expiring Section 8 contracts, but also to increase housing assistance to those whose incomes decline due to changes in welfare status; to those who are trying to leave welfare for work, to those who are homeless, and other eligible households.
- ▶ The Administration, specifically the Office of Management and Budget, should ensure that HUD funding is used to fund existing, core housing and community development activities, and that other federal agencies assume their proper responsibility for activities such as transportation, child care and employment assistance.
- ▶ The Administration should encourage HUD to coordinate with other government agencies to assure the availability of federal housing and community development resources necessary for persons affected by welfare reform and develop a plan for strategic placement of housing, services and jobs.
- ▶ Public housing authorities should receive funding for and implement existing rent reforms that protect public housing tenants from employment-related rent increases. Such provisions and funding should be extended to Section 8 assisted tenants.
- ▶ People who are homeless and receiving income assistance through Temporary Assistance for Needy Families should not have such assistance counted toward their sixty month lifetime limit during their period of homelessness. Neither should homeless families be counted toward a state's 20% exempted population.
- ▶ Providers of housing assistance should receive incentives and resources to train and find employment for individuals who are making the transition from welfare to work.
- ▶ Special attention should be given to the inability of elderly and disabled populations to compensate for losses incurred in these welfare reform initiatives. Legislative and administrative actions should be taken to ensure that the housing status of the elderly, disabled and other special populations are not adversely affected by welfare reform.



## THE NATIONAL ALLIANCE TO END HOMELESSNESS, INC.

### Homelessness and Welfare Reform<sup>1</sup>

Changes in the welfare system will not automatically result in homelessness for every household whose benefits are affected. The changes will, however, increase the risk of homelessness for households that are already living on the brink. In fact, many people on welfare are already homeless. Approximately one third of homeless women with children currently receive AFDC but cannot afford housing. In a recent study in Massachusetts, 72% of homeless families received AFDC and/or food stamps.<sup>2</sup>

Changes in the welfare system (broadly defined) are likely to increase homelessness in several ways.

*Households whose benefits are cut off because they failed to meet work requirements may become homeless.* Eliminating assistance for a household can lead directly to homelessness. A study by the Michigan League of Human Services found that six months after the State of Michigan terminated General Assistance (GA) to single adults, 25% of the former recipients had become homeless.<sup>3</sup> A study of people terminated from the Pennsylvania General Assistance program found that while only 2.8% were evicted while on GA, 9.9% were evicted in the six months after termination.<sup>4</sup>

Very poor people can become homeless when they lose income because they have no resources to fall back on. Recent research has indicated that shelter admission is most likely to occur following some household crisis (job loss, benefit termination, utility disconnection, etc.) and generally occurs among those who have the least amount of familial, social and public support. It is also most likely to occur among households that live in very poor neighborhoods characterized by a disproportionate number of female-headed households, African American residents, doubled up households, restricted access to the

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<sup>1</sup>Prepared by the National Alliance to End Homelessness and the National Law Center on Homelessness and Poverty.

<sup>2</sup>Bassuk, Ellen L., Linda F. Weinreb, John C. Buckner, Angela Browne, Amy Salomon and Shari S. Bassuk, "The Characteristics and Needs of Sheltered Homeless and Low-Income Housed Mothers." *Journal of the American Medical Association*, August 28, 1996, Vol. 276, No. 6, p. 640.

<sup>3</sup>Michigan League for Human Services, "Final Report: The Impact on Individuals and Communities of the Reductions in Social Services in Michigan in 1991-1992." May 10, 1993, p. 31.

<sup>4</sup>Commonwealth of Pennsylvania Department of Public Welfare and the Office of the Budget, "A Study of Act 75: The Impact of Welfare Reform," June, 1984.

labor market, rent burden and housing crowding.<sup>5</sup> The residents of such neighborhoods are also most likely to have difficulty completing the transition to work and to have their benefits withdrawn.

*Households will be affected when States run out of welfare money either at the end of the year, because of diverting funds to other accounts, because of replacing grants with other forms of assistance, or during recessions.* States which run out of funds can either eliminate assistance (see above) or reduce assistance to stretch resources further. Either option can cause increased homelessness. In Ohio, homelessness increased by approximately 17% within six months of General Assistance program reductions in the state.<sup>6</sup> The Massachusetts study also revealed that poorer families are more likely to become homeless. "Overall, economic resources and social support are the most critical factors distinguishing [homeless and housed mothers]." The difference in incomes between homeless and housed mothers, though small (a mean annual income of \$7,910 for the former versus \$9,988 for the latter) was significant enough to determine whether or not the household could obtain housing. "These data suggest that welfare remains a protective factor against family homelessness."<sup>7</sup> A comparative study of women in high and low benefit states found that women in low benefit states were nearly twice as likely to become homeless (or experience one of ten other hardship experiences) as women in high-benefit states.<sup>8</sup>

*Households consisting of legal or illegal immigrants will lose benefits.* 500,000 elderly and disabled legal immigrants will lose SSI benefits and 900,000 will lose food stamps.<sup>9</sup> Others will lose welfare, food stamp and other benefits and possibly medicare. Such households could become homeless when they are cut off from benefits.

*Households receiving aid through the Emergency Assistance to Families with Children may no longer receive housing assistance.* This program is used in some states to provide emergency shelter (including hotel vouchers) or to help prevent long term homelessness. It quickly cycles people back into housing by paying their first and last months rents. States will have the option to discontinue this activity.

*Households receiving less in Food Stamps will be more at risk of homelessness.* Households paying more than 50% of their incomes for housing but receiving substantial Food Stamp support may have this support reduced because of changes in the shelter deduction. Childless, non-disabled, unemployed individuals aged 18-50 who now receive Food Stamps will have this benefit eliminated after three months. Such changes will result in these households becoming even more precariously housed as they have to divert funds from housing to food.

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<sup>5</sup>Culhane, Dennis P., Chang-Moo Lee and Susan M. Wachter, "Where the Homeless Come From: A Study of the Prior Address Distribution of Families Admitted to Public Shelters in New York City and Philadelphia." *Housing Policy Debate*, Vol. 7, Issue 2, Fannie Mae Foundation, 1996. pp. 327-365.

<sup>6</sup>Coulton et al., "Who Are the GA Recipients in Cuyahoga County: An Analysis of the Characteristics and Patterns of Participation of the September, 1991 Caseload." March, 1992.

<sup>7</sup>Bassuk et al, op.cit., p. 644.

<sup>8</sup>DeParle, Jason, "Less Is More: Faith and Facts in Welfare Reform," *The New York Times*. December 3, 1995.

<sup>9</sup>Super, David, Sharon Parrott, Susan Steinmetz and Cindy Mann, "The New Welfare Law." Center on Budget and Policy Priorities, Washington, D.C., August 14, 1996.

# National Low Income Housing Coalition

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Karen V. Hill, *Chair*

Helen Dunlap, *President*

## SECTION 8 HOUSING AND WELFARE REFORM

Changes in the welfare system will have a ripple effect on the broader economy of low income communities. Reductions in welfare grants, food stamps, and SSI will place a squeeze on all businesses that provide goods and services primarily to poor consumers. Rental housing providers that rely on rents from public assistance recipients in marginal rental markets can expect to see slim profit margins disappear and or increases in vacancy losses tightening operating budgets to the breaking point. Market rent reductions or disinvestment in neighborhoods where assisted housing predominates may well result.

As of 1995 HUD estimated that 47% of the households using Section 8 certificates or vouchers and 46% of those in project-based section 8 projects are receiving public assistance. While the long term goal and hopefully the impact of "real" welfare reform may be to improve the economic prospects and earnings of subsidy dependent populations, the near term budget implications are that more housing assistance may be needed to sustain currently assisted households. Moreover housing need among unsubsidized households can be expected to grow with the economic dislocation caused by the shredding of the traditional welfare safety net.

### Section 8 Reengineering

HUD has launched into an effort to reduce the ongoing costs of renewing section 8, project based FHA insured contracts, by reducing the debt on the project and lowering section 8 subsidy obligation to market levels. Assumptions regarding the savings for this effort must be recalibrated to account for the fact that unsubsidized "market" comparable may be effected by welfare reform in some market areas. Additionally, housing represents a key linkage to increase self sufficiency and any changes in rents or services should be considered in light of overall welfare reform implementation. Older subsidized projects in marginal markets are going to require a larger degree of public investment so that these projects can operate safely and support the transition of families from welfare.

Appropriations for HUD's contract amendments account, which is used to handle changes in tenant contributions during the contract period will also need to increase to account for greater losses.

Rethinking portfolio reengineering in the context of welfare reform, may offer some new opportunities to invest the subsidy more directly into people. Providing owners with accessible financing, adequate rent increases or incentives to produce healthy environments that facilitate self sufficiency is essential such as incorporating job development, opportunities, child care or other facilities which support education and work into the housing and then paying for some or all of these services as part of the rent will result in a stable, quality community. This will not come without a commitment to the community and an investment that may in many instances be beyond what a market analysis would support.

### **Demand for New Section 8 Subsidies Increase With Worst Case Housing Need and Welfare Reform**

Ignoring welfare reform, in all but two states, Vermont and Alaska, the maximum AFDC grant is less than the HUD fair market rent. In Vermont, a family receiving AFDC would have .63 per day left over to meet other needs after paying for housing. Currently only 36.5% of the families that qualify for housing assistance receive it. Despite the low level of welfare grants across the nation, (375.00/per month on average for a family of three) only 22.5% of active AFDC recipients are living in subsidized housing. \* Too many of the rest of these families are living tripled up in overcrowded housing or paying enormous amounts of their cash assistance grants for housing. Problems among the poor grow as states clamp down on the access of the poor to all forms of public aid. Worst case housing need increased to 5.3 million households in 1993 (almost 13 million individuals) These households are very low income renters who receive no federal housing assistance and either pay more than half of their income for rent, live in severely substandard housing or both. Unfortunately, the private market is not responding to this housing need. In the private rental market there are 1.7 million fewer units affordable to extremely low income renters than there are renters at that income level.

The lack of housing assistance is a major factor in this growing housing need. Despite the enormity of the crisis, Congress has failed to appropriate funds for new Section 8 assistance to help the growing ranks of assisted households with worst case needs in the last three budget cycles. Welfare reform can be expected to exacerbate the crisis. A study done before the welfare reform legislation passed Congress reviewed the impacts of reducing welfare grants by 26% (a proposal announced by the Governor last year) in the state of New York. The study estimates that New York city as a whole would lose 1 billion dollars which translate into economic stress for New York's landlords and neighborhood retailers. More Section 8 rental assistance is paramount to a) prevent a rapid downward spiral of unsubsidized projects in high cost urban areas and a malignant spread of neighborhood distress in our communities and b) across the nation to avoid massive increases in homelessness and or overcrowding.



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**ISSUE BRIEF:  
IMPACT OF THE WELFARE REFORM ACT ON ELDERLY HOUSING**

The Welfare Reform Act, which would radically reform eligibility for federal assistance by legal and illegal immigrants and change the level of food stamp assistance to all Americans, has been signed into law by President Clinton. This new law, which is just beginning to be evaluated by many Federal agencies and affected constituencies for its potential impact, is very complex. The loss of assistance from one source may well impact the income used to determine assistance levels from another, resulting in unbudgeted-for demands on these other programs. And these new reforms will further exacerbate the difficult choices many elderly families are already facing between buying food, medicine and health care, clothing, and paying rent.

The Welfare Reform Act may have direct and indirect implications with regard to federally assisted housing. Upon enactment of the bill, legal immigrants currently receiving SSI or foodstamps would have to be recertified for eligibility within a year. With the exception of refugees in the country for less than five years, immigrants who are not naturalized citizens by the time of this recertification would be ineligible for these specified federal programs and would lose their benefits immediately. The loss of SSI and the reduction in other forms of welfare assistance would result in reduced resident income which is used to figure the amount of rental assistance subsidy and would increase the amount of Section 8 rental assistance required. The reduction or loss of foodstamps will compound difficulties for elderly with reduced options.

The section of the bill limiting the eligibility of qualified aliens is silent to housing; therefore, presumably, housing assistance would not be cut off or restricted for legal immigrants who are already in the United States receiving assistance. Odd as it seems, there is a special exemption in the bill for illegal aliens to continue receiving assistance to live in subsidized housing.

In initial examination of the welfare reform legislation, it appeared that immigrants who already are in this country and living in subsidized housing would be subject to the bill's "deeming" provisions, which attempt to make immigrants' sponsors more responsible for supporting those they help to immigrate. Although the language of the bill is not crystal clear on this point, it may be that only immigrants who come to the United States in the future will be affected by these provisions, and that the income of sponsors for immigrants already living in subsidized housing cannot be "deemed" available to current immigrants in determining rental assistance subsidies.

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Noncitizens arriving after enactment of the bill would be ineligible for any "federally means-tested benefit" (which may or may not, depending on interpretation, include housing) within 5 years of arriving in the country. After the first five years, legal immigrants would become eligible to apply but may (again, depending upon interpretation) be subject to the sponsor-to-alien deeming provisions. Refugees and asylees are excepted from restrictions for their first five years in the country. After that time, they will no longer be eligible for federal means-tested benefits until and unless they become U.S. citizens. (see table attached)

The welfare reform legislation not only cuts off immigrants' access to food stamps, but also revises the benefits for other recipients (i.e. legal citizens) as well. It is estimated that half of the savings from the Welfare Reform Act come from changes in the food stamp program, and the aggregate level of assistance to the elderly may be cut by as much as one-quarter. What used to be the one benefit that all low-income persons could count on is now being drastically altered. Specifically, maximum benefit levels will be reduced, the deduction for excess shelter expenses will continue to be capped, and energy assistance will be counted as income for determining eligibility for food stamps.

#### AAHSA Recommendations

It is AAHSA's position that special attention should be given to the inability of the elderly and certain disabled populations to compensate for losses incurred in these welfare reform initiatives. Legislative and administrative actions should be taken to ensure that the elderly, disabled and other special populations are not catastrophically affected by welfare reform.

It is AAHSA's position that persons already in this country legally and who, prior to passage of this act, were receiving benefits should not be penalized by a change in the rules. States should be specifically encouraged to continue benefits to persons with limited income enhancing option, such as the elderly, who are currently receiving benefits.



## RESTRICTIONS ON PUBLIC ASSISTANCE TO IMMIGRANTS\* UNDER THE 1996 WELFARE REFORM LAW

Benefit	Alien not legally present in the U.S.	Legal alien arrived before August 22, 1996	Refugee	Legal alien arrived after August 22, 1996
Supplemental Security Income	Immediate cut-off	Cut off over the next year	Eligible for first five years after entry	Ineligible until naturalization
Food Stamps	Immediate cut-off	Cut off over the next year	Eligible for first five years after entry	Ineligible until naturalization
Medicaid	Immediate cut-off	State option to continue	Eligible for first five years after entry	Ineligible for first five years after entry, then subject to deeming
Housing Assistance	Continues, no cut-off	Continues, no cut-off	Eligible for first five years after entry	Ineligible for first five years after entry, then subject to deeming
State assistance	Immediate cut-off	State option whether to continue	Eligible for first five years after entry	State option whether to continue. State may require deeming

\*The term "alien" was used in the law.

# Housing Law Bulletin

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## NEW WELFARE LAW'S EFFECT ON WELFARE RECIPIENTS AND ON HOUSING PROGRAMS AND THEIR PARTICIPANTS

On August 22, 1996, President Clinton signed the new welfare bill into law.<sup>1</sup> With its enactment, the Congress and the President have radically revised our nation's welfare law, replacing a safety net with a tangle of rules and regulatory sanctions that will, for many, lead to an abyss. In the name of responsibility, they have devised a system that disqualifies many categories of people, erases eligible people's entitlement to assistance, empowers states to cut benefit levels, and imposes sanctions on people who do not comply with the rules, even in cases when they cannot.

The fundamental premise of the new system is that people who do not meet their moral responsibilities can be, and probably will be, turned out on the streets. The Congress has reserved to itself the power to determine what those responsibilities will be. These include limiting reliance on welfare to five years during one's adult life; engaging in work after two years of welfare benefits; staying in school and making sure that one's children stay in school; for those who are not high school graduates, getting a high school equivalency degree; for unmarried minor parents, living at home, cooperating in

efforts to establish paternity and to secure child support; and participating in a community service program.

The second basic premise of the system was supposed to be that people who do meet their responsibilities would get the assistance they need to become self sufficient. That would include education, job training, assistance in looking for and keeping employment, measures to create jobs for all who need them, as well as decent child care and medical coverage. Unfortunately, the Congress and the President have not fulfilled *their* responsibilities on this end of the bargain. Although they have authorized some more funding for child care, job training and job creation, they have done so at levels far lower than will be necessary to get the job done.

The end result of this will be severe adverse effects upon poor people and their housing situations. Poor people who are not already receiving housing assistance will have an even greater need for it as their incomes fall. They will face even greater competition for the limited housing assistance that is available, as hundreds of thousands of other families fall into poverty and apply for housing. Those who are now participating in the housing programs will face difficulties paying their rent if their welfare income falls, even if they are able to secure rent reductions. In addition, the housing budgets of both the federal agencies and of local landlords will come under increasing pressure as tenants' rental contributions drop and the claims for housing subsidies increase.

Aside from the changes to the welfare program itself, the new law also makes certain changes that directly impact the housing programs. These changes will either make some categories of people ineligible for housing programs or reduce their assistance or will decrease tenants' assistance under other benefit programs, such as food stamps, because of their receipt of housing assistance.

This article is intended to help people wade through this confusion. Before providing the bad news, it begins with a brief recognition of the benefits that the act may bring to some people and the housing implications of those benefits. It next shifts to the more troubling points, starting with a description of the major changes that the new law makes in the welfare programs, and then suggesting what some of the impacts will be on people participating in the housing

<sup>1</sup>H.R. 3734, Pub. L. No. 104-193, 110 Stat. 2105, 104th Cong., 2d Sess. (Aug. 22, 1996). In this article, unless otherwise noted, section references will be to the Public Law version of the Act.

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## 1996 SUPPLEMENT TO HUD MANUAL HAS ARRIVED!

See page 121 for details

programs or applying for them. Finally, it describes those provisions of the law that will directly affect operation of the housing programs themselves. A separate article in this *Bulletin* discusses the law's impact on the housing situations of immigrants, both legal and undocumented.<sup>2</sup>

### The Benefits That May Accrue to Some

The rhetorical arguments made in support of this legislation are that it will change the focus of our welfare programs to helping people become employed instead of merely helping them to survive. That impetus toward self sufficiency is supposed to come in two forms: support in securing and keeping employment and sanctions against not getting and keeping a job. The support is much more skimpy than is necessary to get the job done, but there will be more funding for job training and search and for child care than in the past. And, who knows, the sanctions may provide the impetus that moves some people from welfare to work.

Before turning to the negative effects, one should acknowledge the positive outcomes that this legislation may produce for a portion of the welfare population. Some people, in fact more people than might otherwise be the case, may move from welfare to jobs that pay a living wage. One can see the necessity for the housing system to get ready to meet the needs of these people.

If public housing agencies (PHAs) and Section 8 landlords want to keep tenants who move from welfare to work, even for a short transition period, they will have to make some modifications of their rent calculation systems. PHAs currently have the authority to cap people's rents at a level somewhat below the private market, *i.e.*, to create ceiling rents, so that tenants who succeed in the workplace do not face steep rent increases everytime they get a raise.<sup>3</sup> PHAs also now have the power to create deductions from earned income to cushion the transition to work and ensure that rent increases do not eat up all the extra income that tenants get by moving into the workplace.<sup>4</sup> These safeguards, however, are discretionary with the PHAs. Those that do not put them into place may find themselves losing tenants who have succeeded under the new welfare program.

Congress, however, has not created comparable safeguards for Section 8 tenants who move from welfare to work. In fact, last January it repealed its one effort in that direction — Section 957 of the 1990 National Affordable Housing Act — which had limited to 10 percent per year for three years any rent increases resulting from going to work.<sup>5</sup> Congress must now extend to Section 8 tenants the deductions from earned income that are needed to eliminate disincentives from going to work.

The positive outcomes from these changes in the welfare programs may also enable PHAs and Section 8 project-based landlords to achieve the economic mix that they have been

advocating for so many years. There has been fairly widespread recognition that PHAs can not achieve economic mix by relying on admissions alone, and even some candor that admissions policies are not likely to produce any economic mix at all. The way to have more employed tenants in public and assisted housing is to help current tenants get jobs and encourage them to stay, at least for a while, when they succeed. Some of the changes in the new welfare law open up that opportunity for PHAs and Section 8 landlords.

To take best advantage of those opportunities, PHAs and Section 8 landlords will have to work closely with welfare departments and job training and counseling agencies to ensure that public and assisted housing tenants get their fair share, if not more, of the employment support and child care funding that is made available, even if it is not enough for everyone. In addition, PHAs and Section 8 landlords should contribute something as well, *e.g.*, employment opportunities in the maintenance, renovation and management of their housing developments.

If this new approach is going to work well, even for some of the people on now welfare, all components of the system — housing, employment, education, child care and health care — are going to have to be involved. The people who run the housing programs should not turn their backs on welfare recipients. By actively supporting tenants in the move from welfare to work, they can improve the financial situations of their housing developments. At the same time, the housing programs must also be prepared to deal with the negative fallout from the changes in the welfare legislation. These negative effects may ultimately be of greater significance, and it is to these that we now turn our attention.

### Changes to the Welfare Program

The law repeals the welfare program — Aid to Families with Dependent Children (AFDC) — that we have had since the Depression, and replaces it with a block grant program called Temporary Assistance for Needy Families (TANF) under which the federal government will make a fixed amount of federal funding available to the states, divided up by a formula. The states may design their own programs for spending the allocated federal money and state funds. Between now and July 1997, the states will have to put their new programs in place. Families who used to have an entitlement to welfare assistance lose that entitlement under the new welfare law.<sup>6</sup> States also have lost their entitlement to as much federal funding for their welfare programs as they were willing to match with state funds.

The law will most likely lead to lower grant levels in most states, either soon or eventually, for several reasons. It also imposes numerous limits on families' eligibility for these federal funds and authorizes the states to create other eligibility limits and to impose sanctions for "irresponsible" conduct. In addition, the law also makes changes to other benefit programs like food stamps and Supplemental Security Income (SSI) that will have an effect on the money that people will have available to pay rent. The following discussion describes each of these changes.

<sup>2</sup> See *New Welfare Law's Effect on Immigrants*, elsewhere in this issue.

<sup>3</sup> 42 U.S.C.A. § 1437a(a)(2) (West Supp. 1996).

<sup>4</sup> Pub. L. No. 104-99, § 402(c), 110 Stat. 26, 41 (Jan. 26, 1996).

<sup>5</sup> *Id.* § 404, 110 Stat. 44.

<sup>6</sup> § 116(c).

### Factors Leading to Lower Benefit Levels

Over the past five years, welfare grant levels have been dropping in real dollars. Most states have not raised grants to offset inflation for more than a decade. Many states have gone further and have cut the already inflation-eroded grant levels. With this new welfare law, there are four reasons why those cuts are likely to continue into the future.

First, under the new program, a state will be allowed to cut by 25 percent the state funds it puts into its program without losing any federal dollars.<sup>7</sup> Up until now, if a state cut its funding, it would lose a corresponding amount of federal funding because federal dollars had to be matched with state dollars. The match varied from state to state in accordance with the economic conditions in each, but they ranged up to 50 percent of the total grant. In California, where the match was 50 percent, cutting each family's monthly welfare grant by \$100 saved the state only \$50 a month per family. Under the new system, a state like California can cut \$500 grants by \$60 and use the entire savings to cut the state contribution to welfare, dollar for dollar. When the deterrence of losing federal monies is lifted, many states will certainly be tempted to cut their contributions and grant levels to save state dollars.

Second, under the new program, states will not have to use all of their federal block grants to pay welfare benefits. States can use up to 30 percent of their federal funds to carry out programs under Title XX of the Social Security Act or under the Child Care and Development Block Grant Act.<sup>8</sup> Given the child care needs that the new welfare act will create, it is likely that some of the federal funds will be diverted from welfare grants to child care assistance. In addition, under Title XX, funds may be also spent on other activities for the benefit of more powerful constituencies, including the elderly, people with disabilities and people with incomes up to 200 percent of the poverty level.<sup>9</sup> Thus, additional funds could well be diverted to those activities.

Third, with the discretion granted states to devise their own welfare programs, they will be free to eliminate cash payments altogether or to combine some cash with in-kind assistance and vouchers for particular expenses.<sup>10</sup> In doing so, the states may reduce the money that families have to pay their rent.

Fourth, even though the federal dollars that the new welfare law appropriates for welfare do not represent a cut, that level is now fixed for the next seven years.<sup>11</sup> As inflation gradually eats into the value of those dollars, the real value of the federal funds that have been appropriated will fall, and it is unlikely that a Congress driven to balance the budget will make adjustments for inflation later. In addition, except for a contingency fund that is widely recognized as inadequate, there

is no provision to increase federal funding when the welfare rolls rise during future recessions. As more people apply for welfare, the state will have to cut the amount available to each family, because increased federal funds will not be available to meet the needs of greater numbers of families. The only alternatives will be increased state funding, which is not likely, or waiting lists, which people in the housing world are used to, but which should shock the nation's conscience if they were applied to welfare applicants.

Because of these four factors, it is most likely that welfare grants as a whole will be reduced in the future. Those reductions will have severe consequences for poor families as far as their housing situations are concerned, and indirectly for the housing programs themselves.

### Ineligibility of Different Categories of Families for Welfare

Beyond increasing the likelihood that welfare grant levels will be reduced across the board, the law will make certain categories of people ineligible altogether, both because it denies eligibility to some people and because it grants the states discretion to develop their own eligibility criteria that can disqualify even more people.

The federal disqualifications are numerous. First, any family that contains a person who has received assistance under this new program for a total of 60 months (five years) at any time during his or her adult life will be disqualified for any federal assistance.<sup>12</sup> This rule is prospective only, so no one will be disqualified under this provision until five years after August 1996, *i.e.*, September 2001 at the very earliest. In addition, states will be free to spend their own funds on people in this category if they wish to.<sup>13</sup> And, of course, the rest of the family can kick the ineligible person out of the household in order to preserve their eligibility for federal funds. But if they do not, everyone in the family is disqualified from federal funding, even if they have not reached the five-year cutoff themselves and even if they are children.

As another article in this *Bulletin* explains in more detail,<sup>14</sup> unqualified immigrants, *i.e.*, immigrants who have not been admitted for permanent residence or as refugees or been granted asylum or had their deportation withheld, are ineligible for federally and state-funded welfare assistance.<sup>15</sup> In addition, new lawfully admitted immigrants are disqualified for the first five years after their arrival, and thereafter their sponsor's income must be counted in determining whether they are eligible for welfare.<sup>16</sup>

Unmarried minor parents are also made ineligible for federal welfare benefits if they do not have or do not pursue a high school diploma and do not live in their parents' home.<sup>17</sup> The only exceptions are that the minor parent may live with

<sup>7</sup> Section 409(a)(7) of the Social Security Act (SSA), as rewritten by Section 103 of the Welfare Act. The changes to Title IV of the Social Security Act made by Section 103 are cited hereinafter as sections of the SSA.

<sup>8</sup> SSA § 404(d).

<sup>9</sup> 42 U.S.C.A. § 1397 (West Supp. 1996).

<sup>10</sup> § 104.

<sup>11</sup> SSA § 403.

<sup>12</sup> SSA § 408(a)(7).

<sup>13</sup> SSA § 408(a)(7)(F).

<sup>14</sup> *Supra* note 2.

<sup>15</sup> §§ 401 and 411.

<sup>16</sup> §§ 403 and 421.

<sup>17</sup> SSA §§ 408(a)(4) and (5).

another relative or in another adult-supervised living arrangement if she has no living parent or adult relative who will take her in or she or her children are being subjected to abuse. The states are also given general power to waive this disqualification in appropriate circumstances.

Children who are away from home for 45 consecutive days are ineligible for federally funded welfare assistance.<sup>18</sup> States may shorten the 45-day standard to 30 days or lengthen it to as long as 180 days. Once it becomes clear to a parent that a child will be away for the specified period, the parent must notify the state within five days and the state must reduce the grant accordingly.

Not surprisingly, the act also makes people who are fleeing the law to avoid prosecution or imprisonment ineligible for federally funded welfare, as well as people who are in violation of parole or probation.<sup>19</sup> In addition, unless pardoned by the President, a 10-year disqualification is imposed on anyone who is convicted of fraudulently trying to get welfare in more than one state.<sup>20</sup>

Beyond these federal restrictions, states are authorized to develop their own definitions of who is eligible for state and federally funded welfare. The statute specifically states that no individual or family is entitled to assistance under any state welfare program funded with the block grant.<sup>21</sup> If the states wish to shorten the time limit from five years they may; if they wish to make individuals who are not citizens ineligible, they may do that as well.<sup>22</sup> The eligibility criteria need only be objective and the applicants need only be treated fairly.<sup>23</sup> Thus many people who now are eligible for welfare under AFDC will have no guarantee that they will continue to be eligible under the new program.

### The Imposition of Sanctions on Individual Families

Individual families may also have their welfare grants reduced or entirely withdrawn if they fail to fulfill numerous responsibilities imposed upon them by the new welfare act and the states. First, adults in the household must engage in work when the state determines they are ready to or after receiving benefits for two years, even if the state has not determined them to be ready.<sup>24</sup> Many things count as engaging in work, including employment, searching for a job, vocational education and job training, going to high school and community service.<sup>25</sup> The mandatory hours per week range from 20 to 35, depending upon family configuration and year. States may, but do not have to, exempt single parents with

children under one year.<sup>26</sup> In addition, states cannot penalize parents with children under six years if they cannot secure child care.<sup>27</sup> All other parents who fail to engage in work, however, must have their grants reduced and may have them terminated, at the state's option.<sup>28</sup> Each state also must meet goals for ensuring that an ever increasing percentage of its welfare caseload is engaged in work.<sup>29</sup>

After being on the program for two months, all individuals who are not engaged in work must participate in community service, unless the state opts out of that requirement.<sup>30</sup>

Families must ensure that minor children attend school as required by the state's truancy laws. If a family does not, the state may reduce its grant.<sup>31</sup> If the family includes an adult between the ages of 20 and 51 who is not a high school graduate, the state may reduce the family's grant if that person does not work toward a GED.<sup>32</sup>

Parents must also cooperate with the state in efforts to establish the paternity of their children and to secure child support from the absent parent. If the parent does not cooperate, the state must deduct at least 25 percent from the grant and may deny the family assistance altogether.<sup>33</sup>

As indicated above, when a family knows that a child will be absent from the home for a significant time, as defined by the state, the parent must notify the state. If the parent does not notify the state, the state must deduct from the grant the amount that assists that parent.<sup>34</sup> The act does not specify whether that is a lifetime sanction or one that applies only to the month of the failure to report.

If a state wishes to, it may develop an individual responsibility plan for each adult recipient that sets an employment goal for that person, a plan for meeting that goal and any specific obligations, such as attending school, imposed on the individual by the plan. If the person does not comply with the plan, the state may reduce the family's grant unless there is good cause for the noncompliance.<sup>35</sup>

As with the new rules on eligibility, these powers to impose sanctions will increase the number of people who have less income to pay rent and who desperately need housing assistance. Their loss of income will also have an impact on their entitlement to housing assistance and on the housing programs' budgets.

<sup>18</sup> SSA § 407(b)(5).

<sup>19</sup> SSA § 407(e)(2).

<sup>20</sup> SSA § 407(e).

<sup>21</sup> SSA § 407(a).

<sup>22</sup> SSA § 402(a)(1)(B)(iv).

<sup>23</sup> SSA § 404(i).

<sup>24</sup> SSA § 404(j).

<sup>25</sup> SSA § 408(a)(2).

<sup>26</sup> SSA § 408(a)(10).

<sup>27</sup> SSA § 408(b).

<sup>18</sup> SSA § 408(a)(10).

<sup>19</sup> SSA § 408(a)(9).

<sup>20</sup> SSA § 408(a)(8).

<sup>21</sup> SSA § 401(b).

<sup>22</sup> SSA § 402(a)(1)(B)(ii).

<sup>23</sup> SSA § 402(a)(1)(B)(iii).

<sup>24</sup> SSA § 402(a)(1)(A)(ii).

<sup>25</sup> SSA § 407(d).

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### The Disqualification of People from Food Stamps and SSI

In addition to the changes in the welfare program, the act also makes changes to the food stamp and SSI programs that will reduce some people's benefits and make others ineligible. For example, all immigrants, both unqualified and lawfully admitted, are made ineligible for the food stamp and SSI programs.<sup>36</sup> The only exceptions are for refugees and asylees, permanent residents who have at least 40 quarters of Social Security-eligible employment, veterans and people on active duty. States may also disqualify lawful immigrants from Medicaid, with the same exceptions as for food stamps and SSI.<sup>37</sup>

The new welfare law also modifies the standards for the SSI eligibility of children with disabilities, more narrowly limiting the categories of children who are eligible and restricting the methods for demonstrating eligibility.<sup>38</sup> Because of those more restrictive criteria, the law requires the Social Security Administration to reexamine within one year the eligibility of all children now receiving benefits.

As with welfare, fleeing felons, probation and parole violators and people who have fraudulently sought assistance from more than one state are disqualified from receiving SSI and food stamps.<sup>39</sup> Individuals sanctioned for not meeting responsibilities under the welfare program or any other means-tested public assistance program may also be disqualified for food stamps or have their food stamps reduced.<sup>40</sup>

They also are not allowed to have their food stamps increased if they lose income or other benefits as a sanction.<sup>41</sup>

Unemployed individuals who are fit for employment, who have no children, and who are between the ages of 17 and 51 may not receive food stamps for more than three months every three years.<sup>42</sup> Minor parents who live with their own parents no longer will be eligible to be treated as a separate household for purposes of establishing eligibility for and amount of food stamps.<sup>43</sup> All parents must cooperate in the establishment of paternity and the enforcement of child support obligations if they wish to receive food stamps. Parents not current on their own child support obligations are disqualified from food stamps.<sup>44</sup>

Earned income of students between 17 and 21, which previously was exempt, will now be counted in calculating food stamp benefits.<sup>45</sup> The cap on the standard deduction for excessive housing expenses, which had been scheduled to be lifted, will now be retained.<sup>46</sup>

These changes in the SSI and food stamp programs mean that more individuals will have less money available to pay for their housing expenses, either because their cash income drops or more of their income will be needed for other expenses, like food.

<sup>36</sup> SSA §§ 401 and 402(a).

<sup>37</sup> SSA § 402(b).

<sup>38</sup> § 211.

<sup>39</sup> §§ 202 and 821.

<sup>40</sup> § 819.

<sup>41</sup> § 829.

<sup>42</sup> § 824.

<sup>43</sup> § 803.

<sup>44</sup> § 823.

<sup>45</sup> § 807.

<sup>46</sup> U.S.C.A. § 2014(a)(7), as amended by § 809(a).

## The Impact of These Changes

In the long run, unless the welfare programs succeed in making all poor people financially self sufficient, these changes are going to create even greater demand for housing assistance than exists today. Welfare grants at their current levels do not enable poor people to secure decent housing on the private market, and in many places they are not high enough to secure and keep any private-market housing at all. Across-the-board cuts in grant levels will simply increase both the numbers of people who need housing assistance and the amount of housing assistance each household will need. Sanctions that reduce grants will similarly widen the gap between housing assistance that is needed and what is available. New federal and state provisions making people ineligible for welfare and SSI will create large categories of people who have no money at all to pay for their housing, thus increasing the already unmet demand for assisted housing.

When people are hit with these losses of income and other benefits, there will be even more cases where they are forced to move out owing large rent bills, and where they are evicted because they cannot pay the rent, where they become homeless because they cannot get another landlord to rent to them.

### Impact on People Without Housing Assistance

What people in this situation will need, other than a decent welfare system, is an effective program that can provide housing assistance. Yet what they will encounter is exactly the opposite. Our housing assistance system is in tatters. Already, more than half the people on welfare need housing assistance but do not get it. By the government's own admission, the federal housing programs assist less than half the people who have the worst case housing needs, *i.e.*, those who pay more than 50 percent of their incomes for rent or live in substandard housing, or both.<sup>47</sup> The very poorest applicants are now being barred from the programs because they cannot pay the \$25 minimum rent, which the PHAs are allowed to raise to \$50.<sup>48</sup> PHAs are given new power to direct the limited housing resources they have to moderate-income applicants instead of to the poor, and they are fighting for even more freedom to do that.<sup>49</sup>

The Congress is cutting funding for the housing programs, limiting public housing operating subsidies to 90-95 percent of what is needed, slashing funds for modernizing public housing, eliminating all funding that could be used to house more families than now can be housed now, and in fact reducing the funding for outstanding tenant-based assistance through attrition and delay of re-use of terminated certificates and vouchers. At the same time, HUD has embarked on the demolition of nearly 10 percent of the public housing stock — 100,000 units — and is encouraging the withdrawal

of other public housing and privately owned, HUD-assisted housing from the subsidy programs.

The result will be that poor people who are not already participating in the federal housing assistance programs will find it almost impossible to get into them in the future when their welfare assistance shrinks. The waiting lists will be too long. They will not qualify for preferences to improve their position on those lists and they may even be skipped over by others with higher incomes or jobs. Very little housing assistance will become available through turnover and probably none through incremental appropriations to enable people to move off the lists.

### The Impact on Those Receiving Housing Assistance

People who are already receiving housing assistance will be in better shape, but not without problems. If their incomes are cut because of across-the-board reductions in welfare grant levels, they will be entitled to rent reductions to reflect their lower income. If they lose welfare assistance or SSI because of the eligibility limits created by the new welfare law or by states exercising their new powers, they will again be entitled to rent reductions because of the reduced income. Even if they lose income because of the imposition of sanctions in a welfare program or SSI, they still will be entitled to a reduction in rent. The only program where a sanction imposed in welfare benefits may be carried over into another program is food stamps.<sup>50</sup> There is not a comparable provision stating that a loss of income caused by a welfare sanction cannot result in an increase in housing subsidies or a rent reduction. The only provision linking housing to welfare sanctions is the one that makes the commission of fraud in the welfare program grounds for terminating a person's housing subsidy or evicting them from public or assisted housing.<sup>51</sup> If there is no fraud, the imposition of a sanction on a welfare recipient is not a ground for penalizing the person on the housing side.<sup>52</sup>

Rent reductions in these cases will help, but they will not completely make up for the loss of the welfare or SSI income. Rent is only 30 percent of income, so the rent reduction offsets only 30 percent of the income loss. If a sanction or a new eligibility restriction leads to a loss of food stamps, there will not be any rent reduction at all, because food stamps are not considered in setting rent.<sup>53</sup> The loss of food stamps, however, will reduce the tenant's ability to pay rent, because some of the cash available for that purpose will now have to go toward buying food.

Many families facing these terrible financial straits because of a reduction in welfare or other benefits are likely soon to face eviction. Thirty percent of a greatly reduced

<sup>47</sup> § 819.

<sup>48</sup> § 911.

<sup>49</sup> A provision in the housing authorization bill now being negotiated by a conference committee considering H.R. 2406 and S.1260 does contain language that would withhold rent decreases from assisted tenants who lose income because of a welfare sanction. S.1260, § 106(b) (Aug. 30, 1996, draft).

<sup>50</sup> 7 U.S.C.A. § 2017(b) (West Supp. 1996).

<sup>47</sup> See HUD, *Rental Housing Assistance at a Crossroads: A Report to Congress on Worst Case Housing Needs* (Mar. 1996) (available from HUD's Office of Policy Development and Research, Washington, DC 20410-6000, for \$5.00). A brief summary of this report appeared at 26 HOUS. L. BULL. 68 (May 1996).

<sup>48</sup> Pub. L. No. 104-99, § 402, 110 Stat. 26, 40 (Jan. 26, 1996).

<sup>49</sup> *Id.* § 402(d).

welfare grant is too much to pay for rent when the cash that is left has to cover other essentials, like food. For example, 30 percent of \$500 is \$150, leaving \$350 for other essentials; but 30 percent of \$200 is \$60, and leaves only \$140 for those same essentials. If a family has also lost food stamps, its situation will be even more dire because more of the \$140 will have to go for food. The cash that such families have to pay the rent will also be called upon to pay for essentials that the \$140 cannot be stretched to cover. When there is no money for rent on the first, eviction follows.

Families that lose all of their cash income because of ineligibility or sanctions will even more quickly face eviction because of the minimum rent Congress imposed this year. That minimum is now set at \$25 but may be raised by PHAs to \$50. It used to be that families who lost all their income would be entitled to have their rents reduced to zero, so at least they would not be evicted. Now, their rent cannot be reduced below \$25. The only way to avoid eviction would be for the PHA or HUD to waive the \$25, but that can be done only for three months. If the family cannot get a waiver or the three months run out, it will be evicted.

### ➤ The Impact on the Housing Industry and the Housing Programs

The reduction or loss of welfare income will have consequences not only for the families but also for landlords and housing agencies. More landlord and PHA administrative time will have to be spent adjusting rents and subsidy levels, collecting rent from even poorer tenants, trying to help them through their financial difficulties, and securing evictions and terminating subsidies. Lower tenant incomes and lower rents will increase the demand for housing subsidies. In many situations, existing contracts will oblige the federal government to pay the increased subsidies without any further approval from Congress. For example, multi-year project-based Section 8 contracts and certificate and voucher Annual Contributions Contracts (ACCs) require HUD to pay the difference between the contract rent and 30 percent of the tenant's adjusted income, no matter how low it goes. The only cap is the total budget authority that was approved for the full life of the contract when it was first executed. Until that budget authority cap is reached, outlays will grow without additional appropriations.

In other cases, appropriations will be necessary to cover the additional subsidy needs. For example, when Section 8 contracts and ACCs reach their budget authority limit, amendments will be needed to continue to subsidize the tenants already participating in the programs. Those amendments will require congressional appropriations. Congress most likely will appropriate the funds to cover those amendments, but it will look for other places to cut outlays over which it has control. For example, in Fiscal Year 1996, Congress required PHAs to delay re-use of certificates and vouchers that became available when participating families left the program for any reason.<sup>54</sup> That reduced the Section 8 money HUD had to lay out under current Section 8 ACCs,

but also increased the time people on the waiting list had to wait before securing assistance.

Another situation where the demand for additional subsidies will have a significant impact involves public housing. As public housing tenants' incomes fall because of all of these changes in the welfare programs, the demand for operating subsidies will increase. Public housing operating subsidies are appropriated on a yearly basis, so the PHAs have no guarantee that Congress will make up the income they lose when tenants' rents drop.<sup>55</sup> Each year HUD, the PHAs and the tenants have to pressure Congress to appropriate the funds that PHAs need. Public housing operating subsidies were protected against cuts in the Fiscal Year 1995 rescission, were cut less than 4 percent in FY 1996, and are likely to be increased, in nominal dollars, a small amount in FY 1997. However, when inflation is considered, there is an increasing gap between what Congress appropriates and what PHAs need for operating subsidies. The price for keeping that gap from growing even wider has been cuts in public housing modernization funds. When the impact of welfare reductions hits, it will be very difficult to secure increases in operating subsidy appropriations from Congress to offset 100 percent of the lost PHA income.

Faced with that constraint, PHAs and their trade associations already are taking steps to save themselves and will take even more in the future. To enable them to rent to higher income applicants, they have gotten rid of federal preferences and the ban against skipping over applicants with lower incomes.<sup>56</sup> They have secured authority to take applicants with earned income before opening the doors to applicants who have only welfare income.<sup>57</sup> They are seeking authority not to rent to applicants with incomes beneath roughly \$10,000 per year until 60 percent of their tenants have incomes above that level, which they estimate will take at least five years.<sup>58</sup> The minimum rent will enable them to put the poorest tenants out on the street and replace them with higher income applicants. If they can get the Brooke Amendment repealed, they will be able to set flat rents that will be too high for even more tenants who also can be evicted and replaced. Finally, they are trying to demolish their worst projects, in which no one other than the poorest of the poor will live, to avoid losing money on them. Keeping them open to ensure the very poor a place to live is not part of the plan.

### Additional Changes to the Housing Laws and Other Direct Effects Upon Housing

Beyond these indirect impacts upon housing that the changes in welfare will bring about, the welfare legislation has also made some changes more directly relating to housing. One of the major changes regards the eligibility of people who are not citizens for HUD, RHS and state and local

<sup>54</sup> 42 U.S.C.A. § 1437g (West 1994).

<sup>55</sup> Pub. L. No. 104-99, § 402(d), 110 Stat. 26, 41 (Jan. 26, 1996).

<sup>57</sup> 24 C.F.R. § 960.205(a) (1996).

<sup>58</sup> Council of Large Public Housing Authorities, *Targeting on New Admissions Impedes Goal of Broad Range of Incomes in Public Housing* (July 26, 1996).

<sup>54</sup> Pub. L. No. 104-99, § 403(c), 110 Stat. 26, 44 (Jan. 26, 1996).

housing assistance programs. As a general matter, these changes make it harder for immigrants to qualify for housing assistance. The details are spelled out in the separate article in this *Bulletin*.<sup>59</sup>

Another change that most likely will not have much impact is the provision authorizing the eviction of public housing and Section 8 tenants who are fleeing prosecution or incarceration for a felony charge or who have violated parole or probation.<sup>60</sup> Maybe some fleeing felons manage to hide out long enough to work their way to the top of public housing and Section 8 waiting lists, but they are probably few and far between. If they are there, however, another provision will make it easier to find them. Under it, whenever a police officer shows up at a project officially asking for the address, Social Security number and picture of any tenant who is fleeing prosecution or violating parole or probation, the PHA will have to provide the information.<sup>61</sup>

The provisions relating to fraud in means-tested public assistance programs will probably have a greater impact. They provide that when a person loses income in one program because of fraud, the persons benefits under other programs may not be increased as a result of the income loss.<sup>62</sup> Public housing and Section 8 are included in the definition of means-tested program, but Rent Supplements, Section 236 RAP and RHS programs are not.<sup>63</sup> Tenants participating in the included housing programs who lose welfare payments because of fraud will not be entitled to a decrease in their rents to offset the loss of income. Similarly, if a person is evicted from public housing or loses Section 8 because of fraud, they apparently will not qualify for an increase in food stamps, even though their housing costs would otherwise entitle them to an excess shelter cost deduction in the food stamp program.

Some participants in the housing programs will be affected by the changes regarding treatment of housing subsidies as income for other programs. One section in the bill specifically repeals a provision that had excluded from the income of food stamp recipients any housing assistance paid to third parties on behalf of residents of transitional housing for homeless people.<sup>64</sup> That repeal most likely will mean that some such payments now will be treated as income in calculating food stamps. However, the payments will have to be made by a state or local government in lieu of regular welfare or general assistance and they cannot be made by a state or local housing authority or the federal government.<sup>65</sup> Thus it is not too clear what will be covered, but if payments to welfare motel owners are covered, then many people will lose food stamps.

Another provision repeals a statute that was enacted in 1983 to correct a problem that some public housing tenants who paid their own utilities were encountering in Washington state.<sup>66</sup> These tenants' welfare grants were so low and their utility obligations so high that they owed no rent to their PHA. The state treated them as if they had no shelter obligation and excluded the shelter component from their welfare grants. In contrast, public housing tenants whose utilities were included in rent got the full welfare grant. The 1983 amendment obliged the welfare department to treat the tenants' utility payments as shelter payments and thus to provide tenants who paid their own utilities the same welfare grants as those who did not. The repeal of that provision opens up the possibility that states exercising their new discretion in designing welfare programs will provide lower grants to assisted housing tenants who pay no rent because all their share goes to the utility company.

That, of course, may be the least of the problems that assisted housing tenants have with the new welfare programs. Historically there always has been a battle between welfare departments and HSS and PHAs and HUD over who should pay for the housing costs of welfare recipients. HHS and the welfare departments would like to pay as little as possible for the rent of welfare recipients living in HUD-assisted housing. HUD has always tried to prevent the housing subsidies it pays for welfare recipients from being any higher than those paid for other tenants. In most states there has been a truce for public housing since 1974, when the welfare rent statute was enacted,<sup>67</sup> and the same has been true since 1981 for Section 8, when that provision was extended to all HUD's rental programs.<sup>68</sup> There have been some skirmishes on the fringes, for example, with ratably reduced welfare grants.<sup>69</sup> In addition, welfare departments have had the power to count housing subsidies as income to the extent that their value duplicated the housing components of welfare grants, but few have done so, probably because of the complexities of that statute.<sup>70</sup>

Now, however, everything may be opened up again. The statute granting welfare departments authority to count housing subsidies as income, and the limits imposed on that authority, have been repealed.<sup>71</sup> Most of the federal restrictions on how a welfare department can design its program have been lifted. Flat grants are no longer encouraged. Cash grants are not even necessary now. Contracting with charitable, religious and private organizations for services is allowed, as is the provision of vouchers which recipients can redeem

<sup>59</sup> *Supra* note 2.

<sup>60</sup> See § 903(a), amending 42 U.S.C.A. §§ 1437d(l) and 1437f(d)(1)(B).

<sup>61</sup> § 903(b).

<sup>62</sup> § 911(a).

<sup>63</sup> § 911(b).

<sup>64</sup> § 811.

<sup>65</sup> *Id.*

<sup>66</sup> § 110(d) repealing § 221 of Pub. L. No. 98-181, 97 Stat. 1153, 1188 (1983), 42 U.S.C.A. § 602 note (West 1991).

<sup>67</sup> 42 U.S.C. § 1437(a), as rewritten by Pub. L. No. 93-383, § 201(a), 88 Stat. 654 (1974).

<sup>68</sup> Pub. L. No. 97-35, § 322, 95 Stat. 400 (1981).

<sup>69</sup> See, e.g., *White v. Pierce*, 834 F.2d 725 (9th Cir. 1987).

<sup>70</sup> 42 U.S.C.A. § 602(a)(7)(C)(ii) (West 1991).

<sup>71</sup> § 103(a)(1).

with such organizations.<sup>72</sup> It is quite possible that welfare departments may decide to provide smaller grants or reduced vouchers to tenants who are in public or assisted housing in comparison with tenants who are renting without subsidies on the private market.

Even if the state welfare departments do not go that far, the changes they make may create havoc with the rent formulas for the housing assistance programs that for the most part are based upon the family's cash income, either gross or adjusted. The housing statutes provide no direction on how vouchers or in-kind assistance should be treated. The one exception is the welfare rent provisions of the housing statutes. Under those provisions, assisted tenants who receive welfare grants that include a shelter component adjusted in accordance with actual housing costs must pay rent equal to that shelter component.<sup>73</sup> Possibly that provision would be read as requiring that the rent of a tenant who receives a housing voucher from a welfare department be set at the level of such a voucher.

Looking at it the other way, one beneficial provision of the Act is Section 404(h) which authorizes working welfare recipients to put some of their earnings into individual development accounts (IDAs). One of the purposes for which IDAs may be used is the purchase of a home. More importantly, funds placed in an IDA, including matching funds deposited by nonprofits or governments, and interest on those funds, cannot be counted as income when a person's rent is calculated under any federal housing assistance program.<sup>74</sup>

With the enactment of this welfare legislation, we are at a crossroads. We can make changes in the housing programs so that they will assist large numbers of people in making a successful transition to work. We can expand the housing programs so that those who fail will at least not be evicted from their homes, even if the rest of their safety net has been torn apart. Or we can turn the housing assistance programs the other way, changing them as the welfare program was changed, so that they serve only those who have succeeded, not those who fail. As a nation, the choice is ours to make. ■

## NEW WELFARE LAW'S EFFECT ON IMMIGRANTS AND THEIR HOUSING

The new welfare bill, H.R. 3734, which President Clinton signed on August 22, 1996, contains a number of provisions that will affect the eligibility of people who are not citizens for both the federal housing programs and comparable state

and local programs.<sup>1</sup> The provisions are complex. The article is intended to explain their intricacies as simply as is possible.

In summary, the bill would:

- Make ineligible for most federal, state and local housing assistance programs immigrants who are not permanent residents or who have not been admitted as refugees or granted asylum or had their deportation withheld (unqualified immigrants), unless they are already receiving assistance;
- Possibly make new qualified immigrants ineligible for most federal housing assistance for the first five years after they come to this country;
- Make many qualified immigrants ineligible for housing assistance even after the five years are up, by requiring their sponsors' income to be included when calculating eligibility for housing;
- Require housing providers to verify applicants' and tenants' eligibility and require HUD and PHAs, but not others, to report to INS the name, address and other identification of people they know are residing in the country unlawfully; and
- Extend to Rural Housing Services (RHS, formerly the Farmers Home Administration) housing programs the provisions of current federal law that make some undocumented people ineligible for some of HUD's programs.

In addition, and possibly of wider impact, the welfare bill will also make undocumented immigrants and many legal immigrants ineligible for Supplemental Security Income (SSI) and food stamps and, at the state's option, for most welfare programs. Even if they retain their eligibility for housing assistance, immigrants who lose all or part of their income and food stamps will have severe problems relating to housing.

### Unqualified Immigrants

The new law first separates out unqualified immigrants from qualified immigrants.<sup>2</sup> Immigrants are deemed unqualified unless they have:

1. Been lawfully admitted for permanent residence;
2. Been granted asylum;
3. Been admitted as a refugee;
4. Been paroled into the United States for at least one year;
5. Had their deportation withheld; or
6. Been granted conditional entry prior to April 1, 1980.<sup>3</sup>

Immigrants who do not fit into one of those six categories are not eligible for admission to federal public and assisted housing. These categories of ineligible undocumented people are virtually the same as the categories of people

<sup>72</sup> § 104(a)(1).

<sup>73</sup> 42 U.S.C.A. § 1437a(a)(1)(C) (West 1994).

<sup>74</sup> § 404(h)(4).

<sup>1</sup> Pub. L. No. 104-193, 110 Stat. 2105, 104th Cong., 2d Sess. (Aug. 22, 1996). Unless otherwise indicated, section citations refer to this newly enacted law. For a summary of the wider impact of this legislation on poor people in general and on the housing programs themselves, see *New Welfare Law's Effect on Welfare Recipients and on Housing Programs and Their Recipients*, elsewhere in this issue.

<sup>2</sup> § 401.

<sup>3</sup> § 431.

made ineligible for HUD's Section 8, Section 236, Section 235 and public housing programs by Section 214 of the 1980 Housing Act.<sup>4</sup> That ineligibility section was first implemented in June 1995.<sup>5</sup>

**Grandfathering.** One large exception to the welfare bill's provisions making these unqualified immigrants ineligible for the federal housing programs covers people who are already receiving housing assistance from HUD's programs or from the Rural Housing Service, formerly the Farmers Home Administration.<sup>6</sup> Undocumented people who are already receiving such assistance may fall into several categories. First there will be participants in programs such as HUD's Section 221(d)(3) program which were not covered by Section 214. Second, there will be undocumented members of mixed families, *i.e.*, families in which some members are undocumented but others are eligible, who were receiving HUD assistance when the regulations became effective (June 19, 1995), and whose assistance was continued. Finally, there will be other undocumented people who were not qualified for continued assistance but whose termination of assistance has been deferred under the HUD regulations. For these reasons, or any others, people who are receiving HUD or RHS assistance on the date of enactment will continue to be eligible for that assistance despite the changes in the welfare bill.

**Disaster relief.** Under the welfare bill, unqualified immigrants will also be eligible for disaster relief, as long as it is short-term and in-kind, non-cash assistance.<sup>7</sup> They would be allowed to stay in the shelters and tents set up for short-term relief, but they probably would not qualify for Section 8 certificates or vouchers. On the other hand, if 18 month-vouchers like the ones used for the 1994 Los Angeles earthquake were considered "short-term," they would fit within the welfare bill's exception for "short-term, non-cash, in-kind emergency disaster relief."<sup>8</sup>

**Homelessness programs.** Unqualified immigrants would also not be excluded from programs that provide services such as soup kitchens and short-term shelter. Those programs must be approved by the Attorney General, must deliver in-kind services through public agencies and nonprofits, must not be means-tested, and must be necessary for the protection of life or safety.<sup>9</sup> This exception seems aimed, at least in part, at some of the programs that provide assistance to people who are homeless; but programs that provide long-term solutions to homelessness will not qualify for this exception, at least not if they are means-tested.

**Verification and reporting.** Providers of housing assistance for which unqualified immigrants are ineligible are required to verify all applicants' eligibility for that assistance. The Attorney General is granted 18 months to issue regula-

tions requiring that verification. States that administer providing federal public and assisted housing are given two years after issuance of the federal regulations to put a verification system into effect.<sup>10</sup> It is not clear how this verification system and its implementation dates will be coordinated with the verification system HUD already has operating for Section 214 of the 1980 Act, nor is it clear how any inconsistencies between the two systems may be resolved. For example, under Section 214, any applicant or participant who chooses not to contend that he or she is an eligible alien and could thus avoid verification of his or her status with the INS. If the person does not claim eligibility, he or she is treated as not having the eligible status. Whether the same will be true under the welfare bill is unclear. Section 214 also includes hearing rights relating to verification, but they are not made explicit for the welfare bill disqualifications. Most likely the present housing verification system, with all its rules, will continue in place.

If HUD or a PHA learns that someone is unlawfully in the country, it is required to report that person's name, address and other identifying characteristics to the INS at least quarterly, and more often if requested by the INS.<sup>11</sup> This provision does not explicitly cover nonprofit and private, for-profit housing providers, even if they receive assistance from HUD, nor does it cover PHAs that do not participate in the public housing or Section 8 programs such as, for example, any PHAs that have only RHS-assisted housing. In addition, there will rarely be cases where HUD or a PHA "knows" that someone is in the country unlawfully merely from the documents and verifications HUD or a PHA has received under Section 214 of the 1980 Act or under this new welfare bill. All HUD or the PHA will know is that the person did not fit into one of the six immigration categories that are considered eligible for housing assistance. They will not know whether the person is lawfully in the country under some other provision of the immigration law and thus will have no duty to report.

**State and local programs.** Unqualified immigrants are also disqualified from non-federally funded, state and local housing assistance programs.<sup>12</sup> This disqualification does not apply to unqualified immigrants whose parole into the country is for less than one year. Nor does it apply to the types of disaster relief and homelessness assistance programs excluded from the list of federal programs from which unqualified aliens are disqualified. However, there is no exception to this disqualification for people who are already receiving state or local housing assistance when the welfare bill is enacted. The only way a state may override this disqualification is to pass a law after the welfare bill was enacted that affirmatively makes unqualified immigrants eligible for the state or local programs. Possibly regulations issued by a state agency or an executive order issued by a governor would qualify as such a law, even if the state legislature does not

<sup>4</sup>42 U.S.C.A. § 1436a (West 1994) (cited hereafter as "Section 214").

<sup>5</sup>24 C.F.R. Part 5, Subpart E (1996).

<sup>6</sup>§ 401(b)(1)(E).

<sup>7</sup>§ 401(b)(1)(B).

<sup>8</sup>*Id.*

<sup>9</sup>§ 401(b)(1)(D).

<sup>10</sup>§ 432.

<sup>11</sup>§ 404(d).

<sup>12</sup>§ 411.

pass a statute. There are also questions about whether this restraint on state power is constitutional.

**Section 214.** At the same time that the welfare bill makes unqualified immigrants ineligible for federal public and assisted housing, it also would amend Section 214 of the 1980 Housing Act.<sup>13</sup> Those amendments would add several more housing programs to the ones from which undocumented people are excluded. One is HUD's National Homeownership Trust Demonstration that was enacted in 1990 under the sponsorship of Representative Henry Gonzalez. The others are all administered by RHS in rural areas. They include the Section 502 homeownership program, the Section 504 program of loans and grants for home repairs, the interest credit program that is used both with Section 502 home loans and Section 515 rental housing, the program that provides rental assistance to public agencies and nonprofits that are preserving Section 515 projects, and the rural voucher program. These changes may not be too significant, because RHS has already limited the Section 502 and 504 programs to citizens and permanent residents.

#### Qualified Immigrants Here Less Than Five Years

The bill may also make some otherwise qualified immigrants ineligible for public and assisted housing for the first five years after they lawfully enter the country.<sup>14</sup> Qualified immigrants are people who fit into one of the six immigration categories described above. The disqualification applies only to people who enter the country after the welfare law was enacted. Thus qualified immigrants who are already here and either already receive housing assistance or subsequently apply for it will not be made ineligible by this provision. Nor will new qualified immigrants be made ineligible during the five-year waiting period for either the disaster assistance or the short-term assistance for homeless people described above for which unqualified immigrants are eligible.

**Exceptions.** This five-year waiting period also does not apply to people admitted as refugees or granted asylum or whose deportation is being withheld or to veterans, people on active duty or their spouses and children. Obviously it would make no sense to impose a waiting period on a refugee or someone who has been granted asylum, since they had little choice but to emigrate. Similarly, it would seem ungrateful to deny assistance to veterans and people on active duty and their families.

It is also quite possible that the five-year waiting period will not apply to any federal housing assistance program. The bill imposes the five-year waiting period on "federal means tested public benefits." The bill has no definition of that term, because the definition that the bill originally contained violated a Senate rule, known as the Byrd rule. For somewhat technical reasons, it is possible that housing assistance may not be interpreted to be a federal means-tested public benefit. If it is so interpreted, qualified aliens will not have to wait five years to be eligible for the federal housing programs.

**State and local programs.** States and local governments are authorized, but not required, to observe a five-year waiting period for qualified immigrants who want to participate in state or local housing assistance programs.<sup>15</sup> As with the federal programs, the state and local programs cannot make refugees, people granted asylum, veterans, or people on active duty and their families wait five years. States and local governments, however, may also establish other eligibility requirements for their housing programs that would altogether disqualify legal immigrants, other than refugees, veterans, their families and people with 40 quarters of employment in this country.

#### Deeming Sponsors' Income to Be the Immigrant's Income

Even after the five-year waiting period is over, qualified immigrants may still not qualify for public or assisted housing if they entered the country with the support of a sponsor whose income is high enough to meet the person's housing costs. This may result because of a provision that requires that the income of people who sponsored the immigrant be counted along with the immigrant's income in determining the immigrant's eligibility and level of assistance.<sup>16</sup> This deeming requirement does not apply to immigrants who entered the country before the welfare bill was enacted, nor does it apply to immigrants who have 40 quarters of employment that qualify them for Social Security coverage.

For the most part, this provision will not have a widespread immediate impact. Most of the people who eventually will be affected will be those who are not eligible during the first five years after enactment because of the five-year waiting period. One class of people exempt from this waiting period — refugees and asylees — will not be affected by deeming because they do not need sponsors to enter. The other class of people exempt from the five-year waiting period — sponsored immigrants who are United States military veterans or people on active duty and their families — are not likely to be in large enough numbers for anyone to apply the deeming requirement to them immediately.

#### Disqualification of Immigrants from the Income Programs

In addition, and possibly of wider impact, the welfare bill will also make undocumented immigrants and many legal immigrants ineligible for most welfare programs, SSI and food stamps. Even if they retain their eligibility for housing assistance, immigrants who lose part or all of their income and food stamps will have severe problems relating to housing.

**From what are they disqualified?** The provisions that make immigrants ineligible for the income and other benefit programs are the same ones that make them ineligible for housing assistance, with variations in the details. Unqualified immigrants, many of whom are in the country lawfully, are made ineligible for the new welfare program and for SSI, unemployment benefits, food stamps and other nutrition programs, and Medicaid and other health programs.<sup>17</sup> No

<sup>13</sup> § 441.

<sup>14</sup> § 403.

<sup>15</sup> § 412.

<sup>16</sup> § 421.

<sup>17</sup> § 401.

exception is made for unqualified immigrants who are already receiving assistance. Unqualified immigrants are also excluded from state-funded programs, unless the state passes a law after the welfare law's enactment, making them eligible.<sup>18</sup>

Legal immigrants, *i.e.*, qualified immigrants, including those who are already here and receiving assistance, will be disqualified from SSI and food stamps unless they are refugees, asylees or veterans or are on active duty.<sup>19</sup> People currently receiving SSI or food stamps will lose their benefits when their eligibility is redetermined in the first year after enactment. New qualified immigrants will also be barred from all other federal means-tested benefit programs for the first five years after they enter, unless they are refugees, asylees, veterans or people on active duty.<sup>20</sup> That will disqualify them from Medicaid and welfare during those five years. After the five-year waiting period, many will still be disqualified because their sponsors' incomes will be deemed to be theirs when eligibility is determined.<sup>21</sup> In addition, states are given the option of disqualifying these immigrants from welfare and Medicaid even if they would be eligible under the deeming rules.<sup>22</sup> That state option even includes disqualifying from welfare and Medicaid immigrants who are already here.<sup>23</sup> States are also authorized, as of January 1, 1997, to terminate legal immigrants from any state-funded programs.<sup>24</sup>

**Who is eligible for housing but ineligible for other assistance?** There will be families participating in federal and state housing programs who will be directly affected by these disqualifications even though they retain their eligibility for housing assistance. Because there are no grandfathering clauses for most of the other assistance programs, people who retain eligibility for housing assistance because of grandfathering will lose income and other benefits because of the other disqualifications. Whenever states exercise their discretion to disqualify legal immigrants from their welfare and Medicaid programs, some recipients of housing assistance will lose welfare and Medicaid eligibility. If the five-year waiting period is not interpreted to apply to federal housing assistance, some new legal immigrants will be eligible for housing assistance, but not welfare or Medicaid. Because of the pro-ration of housing assistance, there will be some families in housing programs who will have less income to pay their rent because their undocumented family members have been terminated from other programs.

**Rent reductions.** This loss of income and other assistance by both qualified and unqualified immigrants will produce severe ramifications in their housing situations. They certainly will be less able to pay rent, both because they will have less cash in-

come and some of that cash will be needed for other expenses, such as food and health care, that previously would have been covered by other benefit programs. Where households participate in housing programs in which rent is based upon income, the loss of cash income should mean a decrease in rent.<sup>25</sup> Even in cases where the housing programs have minimum rent requirements, there at least should be a rent decrease to the minimum rent level and possibly a three-month waiver of the minimum rent to afford a transition in hardship cases.<sup>26</sup> It is very important for housing providers and tenants advocates to be prepared to implement these rent decreases immediately.

When other non-cash benefits are lost, it will not be as easy to soften the blow somewhat with decreased rents. A loss of food stamps will not affect rent levels, because food stamps are not counted when rent is calculated.<sup>27</sup> A loss of Medicaid may have some effect upon rent. Households headed by people who are elderly or who have disabilities are allowed to deduct medical expenses that exceed 3 percent of their incomes when their rents are calculated.<sup>28</sup> Medical expenses covered by Medicaid or other benefit programs may not be counted in calculating the deduction. People who lose Medicaid or other coverage will be able to include those medical expenses in their rent calculations and qualify for a rent decrease. Again, it will be important for housing providers and advocates to secure rent adjustments immediately once the other benefits change.

**Avoiding evictions.** In situations where tenants get into financial difficulties because of disqualification for other benefits, but rent decreases are not authorized or are insufficient to overcome the difficulty, housing providers must be understanding of these situations when collecting the rent. The Notice that HUD sent to PHAs and other HUD-assisted landlords describing ways to avoid evictions in minimum-rent hardship cases should be followed where immigrants have been disqualified from other benefit programs.<sup>29</sup>

Disqualification of immigrants from income and other benefit programs may also have some impact on HUD's budget, as less rental income means that PHAs and Section 8 landlords draw more on their operating subsidies and housing assistance payments. In calculating the needs for Section 8 contract amendments and public housing operating subsidies, HUD must consider these additional needs and include them in its budget request to Congress. ■

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<sup>18</sup> § 411.

<sup>19</sup> § 402(a).

<sup>20</sup> § 403.

<sup>21</sup> § 421.

<sup>22</sup> § 402(b).

<sup>23</sup> *Id.*

<sup>24</sup> § 412.

<sup>25</sup> See, e.g., 42 U.S.C.A. § 1437a(a) (West 1994) (rent based on monthly income).

<sup>26</sup> See Pub. L. No. 104-99, § 402, 110 Stat. 26, 40 (1996); § 229 of Section 101(e) of Pub. L. No. 104-134, 110 Stat. 1321 (1996).

<sup>27</sup> See 24 C.F.R. § 813.106(c)(11) (1995).

<sup>28</sup> See 24 C.F.R. § 813.102 (1995) (adjusted income).

<sup>29</sup> See HUD Notice PIH 96-12, *Managing the Minimum Rent Requirements* (Mar. 21, 1996).



## Center for Community Change

### Jobs and Affordable Housing in Low-Income Communities

by Jerry Jones

The passage of welfare reform this past August has focused renewed attention on the need for greater employment opportunities in low-income communities. Of central importance in this debate, particularly for housing and homeless advocates, is the ability of people with low wages or declining welfare benefits to afford adequate housing and the extent to which the nonprofit housing sector can be utilized as a job producer.

#### *The Impact of Welfare Reform*

While Congress and the White House have responded to broad popular support for welfare reform by abolishing Aid to Families with Dependent Children (AFDC), the question of how to replace welfare with work in areas of high unemployment remains unclear. The interconnection between income subsidies and access to affordable housing suggests the need for a more comprehensive approach to urban poverty, if welfare reform is to succeed.

There are at least two immediate implications of welfare reform that will affect low-income residents. First, the reduction of welfare benefits for residents of public housing will also impose a significant reduction in operating income for the public housing complexes in which they live. Rents in public housing and other rental programs are typically collected as a percentage of income. As household incomes are reduced through a loss of welfare benefits, public housing officials will see a corresponding drop in operating resources. The consequence of these lowered rent collections will be less maintenance and fewer services in housing complexes that are already seriously underfunded. Reductions in rent will be especially severe in the case of the estimated 100,000 legal immigrants who now live in federally assisted housing, for whom virtually all income assistance will be terminated under the new welfare law.

Secondly, the cost of housing will also become a greater burden for those welfare recipients who do not live in subsidized housing. Only one in five low-income families actually receive federal housing assistance, given the limited resources allocated by Congress for those programs. For the millions of low-income families living in unsubsidized housing, welfare benefits are

already too low to guarantee a decent place to live. In 1994 for instance, the monthly AFDC benefit for a family of three was about \$420.<sup>1</sup> If one assumes a thirty-percent-of-income affordability standard for housing costs, then a family at poverty level could expect to pay \$247 a month in rent, representing more than half of this AFDC subsidy amount.<sup>2</sup> In reality, however, average rents in metropolitan areas were much higher. The "fair market rent" for a modestly priced rental unit averaged \$529 in 1994, well above the total AFDC amount and twice as high as the affordability level for poor families.<sup>3</sup>

Under the new welfare law, assistance will be reduced even further. The Urban Institute estimates that welfare reform will reduce benefits by an average \$108 a month for low-income families.<sup>4</sup> This loss of income will mean that housing which was barely affordable under the old system will now be out of reach for many families in the future.

#### *Job Availability in Urban Communities*

Jobs are in extremely short supply in many low-income communities. At present, there are about four and a half million families on welfare. At the same time, there is a national jobs gap of 7.7 million positions — the difference between the total number of people who need employment and the number of people who have jobs.<sup>5</sup> This national jobs gap means that the families who will soon be forced off welfare face tremendous competition in their search for work. A recent study of the labor market in Chicago, for instance, found that six job seekers exist for every entry-level job opening.<sup>6</sup> In the state of Minnesota, about three applicants contend for each opening.<sup>7</sup>

As these statistics reveal, there is simply not enough work for everyone. Most urban neighborhoods continue to experience very high rates of unemployment despite a strong economy elsewhere. Jobless rates in the central neighborhoods of Detroit and Camden exceed 20 percent, for example, some four times higher than the national average.<sup>8</sup>

The shortfall in jobs has created tremendous competition within the entry-level labor market for those positions which do exist, especially in low-income communities with high concentrations of welfare dependency. Researchers Newman and Lennon spent three years tracking 200 employees of the fast food industry in central Harlem.<sup>9</sup> These fast food outlets were found to have ratios of applicants to hires of an astonishing 14:1, while offering only minimum wage jobs with few prospects for promotion.

### *The Need for Community Job Creation*

The passage of welfare reform this year, despite the lack of adequate jobs and the absence of a specific job creation plan, suggests the need for a comprehensive national strategy to increase employment opportunities in low-income neighborhoods. Since the private sector has been unable to create enough entry-level jobs even during this time of strong economic growth, the federal government must ensure that jobs are there for the people who need them.

One practical solution is for Congress to create community jobs for welfare recipients in the nonprofit and small business sectors. Nonprofit agencies are addressing overwhelming housing and social needs in inner city communities but typically cannot afford enough staff to meet these challenges, while small businesses are the anchors to economic revitalization. Congress should consider a community jobs initiative that would provide employment opportunities for welfare recipients through these two sectors. Funding would come from the federal level to support livable wages for individuals willing to work in these jobs, while planning and administration would be coordinated on the local level through public-private partnerships.

The cost of community jobs could well be afforded by redirecting a fraction of the \$62.3 billion that Congress already spends annually to support the business sector through corporate subsidy programs.<sup>10</sup> These business subsidies have been justified by the argument that they will expand the economy and create jobs, but all too often are awarded to the very companies that are laying off thousands of workers and destabilizing communities. Congress should instead apply a portion of these limited resources towards a real job creation strategy for urban communities.

### *End Notes*

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