

# WITHDRAWAL SHEET

## Clinton Library

Collection: Domestic Policy Council-Reed, Bruce  
 OA/Box: OA 19843  
 File Folder: Legislative Specs (Comments) [2]

Archivist: RDS  
 Date: 5/12/04

DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
---------------------	---------------	------	-------------

1. memo	Michael Stegman to Wendell Primus re: HUD's comments on welfare reform proposals, 1p (partial)	5/26/94	P6/B6
---------	--	---------	-------

### RESTRICTIONS

- P1** National security classified information [(a)(1) of the PRA].
- P2** Relating to appointment to Federal office [(a)(2) of the PRA].
- P3** Release would violate a Federal statute [(a)(3) of the PRA].
- P4** Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P5** Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P6** Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].
- PRM** Personal records misfile defined in accordance with 44 USC 2201 (3).

- B1** National security classified information [(b)(1) of the FOIA].
- B2** Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- B3** Release would violate a Federal statute [(b)(3) of the FOIA].
- B4** Release would disclose trade secrets or confidential commercial financial information [(b)(4) of the FOIA].
- B6** Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- B7** Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- B8** Release would disclose information concerning the regulation of financial institutions [(b)(9) of the FOIA].
- B9** Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

WR SPECS  
(COMMENTS)

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO: Bruce Reed	Take necessary action	<input type="checkbox"/>
Kathi Way	Approval signature	<input type="checkbox"/>
Jeremy Ben-Ami	Comment	<input type="checkbox"/>
	Prepare reply	<input type="checkbox"/>
	Discuss with me	<input type="checkbox"/>
	For your information	<input checked="" type="checkbox"/>
	See remarks below	<input type="checkbox"/>

FROM: Chris Mustain  
(202) 395-3923 fax 395-6148

DATE: Fri Jun 17, 1994 12:12pm

REMARKS

FYI: Attached is HHS's response to Bruce's preliminary comments on the JOBS/WORK specs.

cc: { Taahal Sawhill  
Doug Steiger  
Bernie Martin  
Keith Fontanot  
Lester Cash  
Mike Ruffner  
Stacy Dean  
Chris Ellertson  
Richard Bavior  
Janet Forsgren

06/17/91

12:52

L-W-P BRANCH/OMB

002

06/17/91 00:55 202 690 6562 202 600 6602

DMIB/A61B/HSP

001

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ASSISTANT SECRETARY FOR PLANNING AND EVALUATION



PHONE: (202)690-6805 FAX: (202)690-6562

Date: 6/17

From: Ann Segal

To: Janet Forsgren

Division: \_\_\_\_\_

Division: OMB

City & State: \_\_\_\_\_

City & State: \_\_\_\_\_

Office Number: 690-8710

Office Number: \_\_\_\_\_

Fax Number: 690-6562

Fax Number: 395-6148

Number of Pages + cover 2

REMARKS: I forgot to send this response earlier.

EXECUTIVE OFFICE OF THE PRESIDENT

15-JUN-1994 07:36pm

TO: Isabel Sawhill  
 TO: Christopher J. Mustain  
 FROM: Bruce N. Reed  
 Domestic Policy Council  
 CC: Kathryn J. Way  
 CO: Jeremy D. Bonami  
 SUBJECT: Preliminary WR COMMENTS

We will provide more elaborate comments sometime Thursday, but I wanted to flag a few key issues in the JOBS/WORK specs now:

*Now in eye document*  
*check on last*

1. The JOBS/WORK specs should be Part A of the Leg. specs, with Child Support as Part B. (Work and Responsibility, not the other way around)

2. p. 7, #5(a). I thought our agreement Friday on substance abuse was that states MUST require people deferred for substance abuse ~~reasons to participate in treatment~~ provided such treatment was available. The current specs say states MAY require it.

3. p. 13, FIV. A key provision has been dropped from the Minimum Work standard, contrary to our agreement with HHS. The previous specs (June 6) included a provision requiring people working part-time to accept more hours if available. This was part of our compromise on part-time work, and HHS agreed to it. Without this provision, the deal is off. The provision must be added back:

*Yes*

Persons would be required to accept additional hours of unsubsidized work if available, provided such work met the relevant standards (e.g., health and safety) for unsubsidized employment. Individuals would also be prohibited from reducing the number of hours worked with the intent of receiving additional benefits.

*Yes*

4. p. 35, 36, #36(g) and 36(j)1. On Saturday, HHS agreed to define the refusal to accept a job offer as 20 hours, not whether or not it constitutes a net loss of income. It's not clear where the specs stand on this issue.

*Yes*

5. p. 54, #2(f). The waiver provisions include a non-waivable provision that "No participant may be assigned to fill any established unfilled position vacancy," which is stronger displacement language than anywhere else in the bill. I discussed

*Follow displacement language*

06/17/91 12:53

L-W-P BRANCH/OMB

001

08/17/84 08:38 202 080 0662  
08/17/84 10:17

DHHS/ASPM/HSP

0003

L-W-P BRANCH/OMB

633

this last week with David, and thought we had agreed to drop this sentence. We should not have a non-waivable provision that goes beyond the non-displacement provisions we have in JOBS AND WORK.

*Don*  
7. p. 100: A small point: To match the rollout document, Section B should be called "Incentives for Responsible Behavior" not "Responsibilities for School-Age Parents" -- since the family cap provision which follows is not really about school-age parents.

These are my initial comments on the specs. We will give you more when we review the legislative language. I'm glad to see we're nearing the finish line.

Thanks.

To: Bruce Reed, David Ellwood, Mary Jo Bane

From: Paul Offner

Subj: Welfare Task Force

Date: March 21

~~WR-SPECS~~  
WR-SPECS  
Comments

Below are a few comments on the latest Task Force report. I want to emphasize that they are my comments, and not Senator Moynihan's. So you are free to ignore them.

1. The political balance is a problem. It is too easy to characterize the report as proposing the expenditure of \$15 billion over five years, at the end of which period there will be more people on welfare and 2 1/2% of the caseload will be in WORK. Whatever the merits of the package (and I support many of the individual pieces), this won't fly.

2. I question statements like "a small percentage of those who start on welfare will hit the time limit without having found work", and "an issue arises around what is expected to be a relatively small number of people who continue to be unable to find unsubsidized employment after placement in a job slot . . ." What is the basis for this? I think such statements contribute to a general posture of over-promising which can only damage our case. Plus I don't believe them.

3. The phase in is too drawn out. We need to move slowly in the short term, particularly given the shortage of funds. But I really don't see why we have to take half a generation to phase in the plan (the Republicans will go after that). If my calculations are right, it will be 2010 before 75% of the caseload is in. That's too slow.

4. It would be a mistake to time-limit WORK. While I'm aware of the conflicting concerns, I don't see how we can say we're ending welfare as we know it if people who have been in WORK for 2-3 years are allowed to go back onto AFDC. Does that mean that some people could be in WORK in perpetuity? Yes. Isn't that expensive? You bet. But given Clinton's remarks on this subject over the last year and a half, I don't think we have too many options here.

5. It would be a mistake to outlaw CWEP. There are several reasons for this, but the one that matters most is that it would undermine the integrity of the system. We all know that there are people on AFDC who aren't that bright, have mental problems, etc., but don't qualify for SSI. If we go with a strict work-for-wages arrangement, many of these people won't make it. Mostly, though, the system will try desperately to find ways to exempt them, so that we don't have mothers with kids put out in the

streets. The beauty of CWEP is that these people can be placed in a sheltered environment where they are given certain expectations, but the results are not catastrophic if they mess up (as many of them will). I think work-for-wages is ok for many recipients, but not for others. The states should be given the flexibility to use both (possibly with incentives to use work-for-wages).

I'm sure you're getting lots of gratuitous advice on this subject, and I apologize for burdening you with mine. At least it's short. Anyway, good luck.

*WR. SHES -  
Comments  
(SHES)*

**OFFICE OF HUMAN SERVICES POLICY  
FAX SHEET**

**DATE:** May 26, 1994

**TO:** Bruce Reed/Kathy Way

**ORGANIZATION:** \_\_\_\_\_

**TELEPHONE NO.:** 456-6515

**FAX NUMBER:** 456-7028/7739

**Number of Pages:** 27  
**(Cover Included)**

**NOTE:**

① *First Half  
10 + Cover*

**FROM:** Wendell Primus

**ORGANIZATION:** DHHS/OS/ASPE/HSP

**TELEPHONE NO.:** 202/690-7409

**FAX NUMBER:** 202/690-6562

May 26, 1994

**MEMORANDUM**

To: David Ellwood  
Mary Jo Bane  
Bruce Reed  
Belle Sawhill  
Kathi Way

From: Wendell Primus *WSP*

Re: Comments on JOBS/T-L/WORK specifications

Attached are the comments we have received to date on the JOBS/Time Limits/WORK legislative specifications.

cc: Emily Bromberg



## DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

Office of the Secretary  
Administration on Aging

Washington, D.C. 20201

May 24, 1994

TO: Wendell Primus  
Deputy Assistant Secretary for Human Services Policy

FROM: Fernando Torres-Gil  
Assistant Secretary for Aging *FTG*

RE: Welfare Reform Legislative Specifications

I would, once again, like to thank the Co-Chairs and other members of the working group for allowing me the opportunity to view the legislative specifications. I am comfortable with the documents I have seen and concur with the language and substance of all three packages.

I am pleased with the outcome of the legislative specifications for the JOBS, time limits and WORK provisions of the welfare reform plan. I am especially pleased to see a number of requirements I feel are very important to a successful reform proposal:

- the inclusion of a Personal Responsibility Agreement between the State agency and the applicant;
- the possibility that orientation information would be imparted in the recipient's primary language whenever possible. We must make sure that this requirement remains in the welfare reform proposal as it makes its way through Congress;
- the State option to require participation in substance abuse treatment as pre-JOBS activity.

I do have some concerns I feel are worth mentioning. I question the portion of the specifications which state that the Personal Responsibility Agreement will not be a legal contract. What guidance do we give caseworkers? Would the eligibility of an applicant change if they do not follow the general conditions of the Personal Responsibility Agreement?

I am also concerned with the exemption from employment and training policy for those who are incapacitated. We must make sure we meet the needs of those in the disability community who

WANT to work. We must ensure the disability community that we do not consider the presence of a disability, an inability to work.

I would also like to bring your attention to the portion of the specifications addressing the Administration of JOBS/WORK. Throughout the reform process, I have been contacted by and in contact with a number of Hispanic groups concerned with various issues surrounding welfare reform. The inclusion of Community Based Organizations (CBOs) in the administrative processes of welfare reform is a very important issues for Hispanic leaders. How can we involve CBOs in the administrative process of reform? In states that do not choose to designate a IV-A agency as the administrator of JOBS/WORK, there is still the possibility of CBOs working in agreement with IV-A agencies. We must recognize the importance of CBOs in the fight for welfare reform and the place they have in helping achieve successful reform.

I thank you, again, for the opportunity to review the last portion of the legislative specifications. I look forward to hearing from you as our work continues.

MEMORANDUM

TO: Wendell Primus  
FROM: Larry Katz (phone 219-5108)  
RE: Some Minor Comments Based on a Quick Look at the Specs  
for "Jobs, Time Limits, and Work," May 20 Version  
DATE: May 21, 1994

1. What happened to the national countercyclical triggers for increasing the amounts of the capped entitlements in the JOBS and WORK programs? The last time I spoke with Emil, we discussed a trigger at 7% that led to a slight increase and then further increases of 0.2 percent for each 0.1 percentage point increase in the national civilian unemployment rate over 7%. Do we think the 10 percent change in the State Match rate for high and rising state unemployment rates will be sufficient to allow the WORK program to deal with a serious recession? Or is the assumption that states will not really spend all of the capped entitlement so we don't need to worry about the flexibility of the amount available being increased when the economy turns sour?

2. WORK FUNDING (p. 25): I take it that the assumption underlying the current approach is that one will be able to distinguish between wage subsidies and WORK operational costs (e.g, placement bonuses). While I previously objected to this approach as being inflexible, I now think it is reasonable.

3. NONDISPLACEMENT (p. 28, (5)): Do we really need to allow an entire 90 days before having the ability to go use a "budgeted vacancy"? Is there a precedent for the 90-day figure? Research with which I am familiar suggests the typical duration of a job vacancy is under 20 days. The types of jobs we will be trying to fill in the WORK program are not going to be professional, managerial jobs that take a long time to fill. I suspect that 60 days (or even a bit less) would be quite a reasonable waiting period.

4. (p. 29) Since we are not going all the way to a Union Concurrence requirement, we may want to expand a bit on the section on "Consultation with Labor Organizations."

5. (p. 34) Earnings from the WORK program are not counted as earned income for purposes of the Federal EITC. But I assume such earnings count as earned income (part of AGI) for the purposes of other aspects of Federal income tax and state and local income taxes. Certainly people who are in the WORK program for only part of the year could have incomes that are high enough to be paying taxes. Should we be explicit about this in the SPECS?

yes?

May 26, 1994

MEMORANDUM

To: Wendell Primus  
From: *Wendell Primus for*  
Dennis Hayashi  
Subject: Welfare Reform Legislative Specifications--Civil Rights Concerns.

I have three primary concerns with respect to civil rights issues.

1. On page 2, #2 Program Intake (c), the program intake specifications state that "information would be imparted in the recipients primary language whenever possible." I think that this provision is inconsistent with the requirements imposed by Title VI of the Civil Rights Act. The Title VI prohibition against discrimination on the basis of national origin requires the state agency to take reasonable steps to provide information in languages other than English where a significant number or proportion of the population eligible to be served speaks a primary language other than English and needs information in their primary language to be effectively informed of, or to participate in, the program. This obligation extends to person who do not speak English and to person whose ability to speak, read, or write English is limited. Regulations issued by the Department of Justice (28 CFR, Section 42.405 (d) (1)), and case law support this position.

Recommendation: Delete "whenever possible", insert "pursuant to Federal law and regulation."

2. On page 6, #4 Pre-JOBS specification (h), imposes a fixed percentage (10%) limit on the number of persons in phased-in group that a State would be permitted to place in pre-JOBS for "good cause". The bases on which a person could be assigned to pre-JOBS include "a severe learning disability or serious emotional instability" as well as an illness or incapacitation that prevents the individual from engaging in employment or training. Such a pre-determined cap, set by statute, could have an adverse impact against disabled persons, such that a disabled person could be denied pre-

JOBS status if the 10% cap has been reached, even though he or she would be otherwise eligible for Pre-JOBS. There would be an opportunity for a State to apply, in the event of extraordinary circumstances, to increase the cap, in cases of routine disabilities. However, a State should not be required to apply to increase the cap in such instances, and the time delay for the AFDC recipient could have a discriminatory impact.

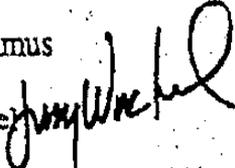
Recommendation: Delete cap with respect to various disabilities under good cause provision.

3. On page 13, #10 JOBS Services Available to participants (j), requires the State plan to include efforts to encourage the training and placement of women in nontraditional employment. I think that this section should also require the State plan to include efforts to encourage the training and placement of racial or ethnic minorities and the disabled in nontraditional employment.

Recommendation: Include women, ethnic and racial minorities, as well as the disabled under this provision.

NO!

To: Wendell Primus

From: Judy Wurtze 

Re: Department of Education Comments on Legislative Specifications

Date: May 25, 1994

Overall, we are quite pleased with the specifications and the extent to which the Department's input during the development of the legislation is reflected in the specifications. Below are our specific comments on the specifications, many of which are fairly minor.

**I. JOBS and Time Limits**

p. 6-7, section (h)

We assume that the examples of substantial barriers to employment given (severe learning disability or serious emotional instability) are given as examples only and are not intended to be the only conditions that are considered substantial barriers. The specifications should make that point clearer.

p. 9, section (a)

We are concerned about counting the 24 month time limit from the date of authorization. There may often be a delay of several months between being found eligible for AFDC and the completion of the IEP and commencement of job search or services. If the 24 month limit runs from eligibility, rather than the completion of the IEP or commencement of activities under the IEP, there appears to be little incentive for states to move expeditiously in developing an IEP and beginning activities that will lead to self-sufficiency.

No

p. 13, section (a)

On the issue of a minimum work standard, we strongly support Option B. The importance of parenting and allowing mothers to stay home with their children part-time cannot be stressed enough. Since most mothers work less than full-time, asking AFDC recipients with young children to work more than 20 hours a week would be demanding more from the mothers least able to do so.

On the issue of whether recipients whose grants are below a certain level should be exempt from the WORK program, we believe that they should be. Given how difficult it will be to create enough WORK slots for those who are entitled to full grants, it appears counterproductive to use some of those slots for those who are already working part-time and receiving only minimal benefits.

## p. 19, section (e)

We question why this section refers to extensions of "up to 10% of all adults and minor parents required to participate in JOBS." As we understand the provisions on minor parents, the time clock would not begin to run until the minor turns 18 and thus could not expire until the recipient turns 20 years old. Thus, there would be no circumstance in which a recipient would need an extension until she turns 20. At that point, the recipient is no longer a minor. For this reason, we suggest that the reference to minor parents be deleted from this section.

## p. 19, section (e)(1)

When recipients are enrolled in institutions governed by the Higher Education Act (HEA), the definition of satisfactory progress applied to them for purposes of AFDC receipt should be the definition in the HEA. That should be made clear either in a definitional section or each place that the term satisfactory progress is used (as you have already done on page 14, section c)

## Additional Comments on JOBS

1. Description of IEP in Section 482(b)

Section 482(b) does not specifically include education as a strategy for reaching employment goals. We believe that IEPs would be more useful instruments for recipients and for the education and training providers who serve them, if in addition to an explicit requirement for an initial assessment of the literacy level of the applicant, there was required consideration of the activities, such as job search, education or training, necessary for the individual to reach her employment goal.

2. Upfront Job Search

We have some concerns with defining job-ready as having non-negligible prior work experience. We believe that States should be permitted to make some differentiation between recipients with different levels of literacy and basic skills, as is being done now in GAIN. A key feature of GAIN is to differentiate recipients who lack a high school diploma or have extremely low skills. These individuals can choose job search or education as their first activity. Allowing States some flexibility in defining who is job-ready would ensure that States can provide the most disadvantaged recipients with appropriate services that will help assure long-term self-sufficiency.

## II. WORK

### p. 27, section (a)

We recommend that local School-to-Work programs be included in the list of entities that the WORK program coordinate with. Since the local programs will be serving out of school youth, they are likely to have structures, contacts and expertise that would support the WORK program.

## III. Demonstrations

### p. 43, Demonstration Grants for Paternity and Parenting Programs

We suggest that Even Start be added to the list of programs for high-risk families that are included in the demonstration. This family literacy program for families with children 0-8 shares much with the other programs listed -- including the same target population, the same family focus, and the same emphasis on community linkages.

(This same comment applies to the demonstration grant description on p. 59. Indeed, it is confusing that the same demonstration appears to be described twice.)

## IV. Performance Measures

We strongly support your proposals for outcome-based performance measures. We also believe that as we all work to improve the quality and coordination of education and training for AFDC recipients, performance measures developed under the welfare legislation as well as under JTPA, the reauthorized Adult Education Act and other education and training legislation, will be a driving force in improvement. For this reason, we propose that HHS consult with DOL and ED in the development of performance measures. Below are specific suggested changes to the specifications on this issue.

### p. 48, section (a)

This section should provide for the Secretary of HHS to consult with the Secretaries of Labor and Education in the development of outcome-based performance standards system. NO



**OFFICE OF HUMAN SERVICES POLICY  
FAX SHEET**

**DATE:** May 26, 1994

**TO:** Bruce Reed/Kath Way

**ORGANIZATION:** \_\_\_\_\_

**TELEPHONE NO.:** 456-6515

**FAX NUMBER:** 456-7028/7739

**Number of Pages:** \_\_\_\_\_  
**(Cover Included)**

**NOTE:**

*2nd Half*

*16 + Cover*

**FROM:** Wendell Primus

**ORGANIZATION:** DHHS/OS/ASPE/HSP

**TELEPHONE NO.:** 202/690-7409

**FAX NUMBER:** 202/690-6562

# OFFICE OF MANAGEMENT AND BUDGET

*Legislative Reference Division  
Labor - Welfare - Personnel Branch*

Facsimile Transmittal Sheet



FROM: Chris Mustain

DATE: 5/26

PHONE: 395-3923

FAX: 395-6148

TO: Wendell Primus

TIME: 11:15

PAGES SENT (including transmittal sheet): 11

COMMENTS: Preliminary OMB comments on the specs (Part II) for JOBS, Time Limits, Work, etc. More comments will probably be sent today.

PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.

SUBJECT: Preliminary comments on welfare reform JOBS/WORK c

A number of the provisions in the specs may result in costs or savings that were not reflected in the most recent IIIQ cost estimates we've seen. Because the specs and the cost-estimates are being handled separately, I'll wait to mention those until we are dealing with costs.

- p.3 The term "employability plan" suggests that a recipient is not employable until the activities in the plan have been completed and the services delivered. In light of concern that the Personal Responsibility Agreement and employability plan not be regarded as contracts, we probably don't want to suggest that a parent isn't employable. The name of the plan might be changed to an "opportunity plan," conveying the idea that completing it would increase the parent's opportunities for employment.
- p.4 It's unclear whether this document will be used in public at any stage. If so, the word "necessary" ought to be inserted between "and" and "child care" in the next to last sentence in the Current Law paragraph.
- p.5 Section (d) does not appear to be consistent with later specs on substance abuse treatment on page 8. (d) says parents may not be required to participate in activities in pre-JOBS, and may not be sanctioned for failure to participate. Later, the specs say that substance abusers may be put in pre-JOBS and required to participate in treatment on threat of JOBS-like sanctions.

Section (d) could be modified to refer to an exception for substance abusers. Alternatively, all substance abusers who the state will required to receive treatment could be placed in JOBS. That is an option in the current specs. It seems the effect would be the same if there were no exceptions to (d), but that states didn't assign any substance abusers to pre-JOBS unless they didn't expect to be able to require them to take treatment.

OK  
?

p.5,ff. Parallel construction is a problem in the series of deferral categories. If the specs document has a future, that probably should be fixed.

p.6 After item (7), I think the conjunction "or" is needed rather than "and."

p.7 The deferral cap and the extension cap will tend to be used for similar kinds of cases (those not qualifying as categorically exempt from JOBS and WORK, but who will have difficulty participating successfully in JOBS) and both may be waived by the Secretary. Moreover, the penalty for exceeding these caps is very stiff - no FFP for benefits to those deferred or extended beyond the caps. In combination, these provisions will create enormous pressure for the Secretary to waive the caps. The last caseload estimates HHS has shared showed 34 percent of those subject to the time-limits being categorically deferred in 1999. The deferral cap would add another 10 percent, extensions another 10, and waivers to the caps more yet. At some point, the number of those not subject to the two-year time-limit may get so large that the credibility of the reform is suspect. (?)

p.7 Does (k) refer to those in the discretionary deferral cap, or only to the categorically deferred?

p.9 What is the consequence if the state fails to "update each recipient subject to the time limit as to the number of months remaining"?

p.11 Are case management costs matchable as IV-A administrative costs currently? If so, will these costs continue to be matchable by that source?

p.12 Paragraph (a) refers to "new recipients." From discussions, I think this means parents who have recently been found to be eligible, not first-time recipients. Is that correct?

p.12 The logic of paragraph (a) is that, unless a person has "nonnegligible previous work experience" they cannot be "job-ready." That implies that a high-school, or even a college graduate who has not worked is not job-ready, and cannot be required to do up-front job search. If job-ready is the criterion to apply, then a high-school education (or equivalent) or work experience and the absence of any obvious deferring condition seems more appropriate. YES

p.13 Paragraph (m) places a stricter limit on Alternative Work Experience than the current statute places on CWEP. It isn't clear why, in a welfare reform package where work by recipients and state flexibility are two important objectives, the Administration would want to limit both in this context. Has there been some abuse of the AWE authority that warrants this

constraint?

p.13 The statement of the issue at the bottom of the page should help the reader see the connection of the \$100 minimum to the minimum work standard by noting that, if families with AFDC benefits below \$100 were excused from WORK, the effect would be to introduce a much lower minimum work standard in states with benefits below the median, and for parents who command wages much above the minimum.

p.14 I don't recall any discussion of activities "consistent with the individual's employability plan" that are not optional or mandatory JOBS services but that count towards JOBS participation. Some further detail about what qualifies here is needed.

p.15 Does paragraph (g)(1) give a volunteer a basis for legal action if a state will not pay for her activities (say, self-initiated post-secondary education or training) but has not drawn down all its federal JOBS funding? I don't think that was intended.

Shouldn't the bill say that states must serve the phased-in first, and that, to the extent that resources were available, it should then serve volunteers from among the deferred and not-phased-in? yes

p.16 Exactly how will states be permitted to get reimbursement from federal JOBS and WORK funds above their allotments?

p.17 Does paragraph (g) mean that a state's unemployment rate must be 110 percent of the rate for either of the two previous years (so that it meets the standard in Y1 with an unemployment rate of 10.5 percent compared to Y-1 with a rate of 10.2 percent and Y-2 with a rate of 10.0 percent)?

p.19 What are the consequences if, in (b), the recipient requests a hearing 20 days before the end of the 24 month time-limit, or the state fails to hold the hearing prior to the end of the individual's 24 months of eligibility?

States are not prohibited from writing and employability plans that plans for an extension for an individual (e.g., it might run to 36 months). Does everything in (b) just apply to 30 days before the end of the plan, whatever that is? ?

May a recipient ask for an extension of an extension on the same grounds of lack of services? Is the appeal process the same?

p.21 If a state elects to have some agency other than the IV-A agency run its JOBS/WORK program, is that other agency eligible for any regular IV-A administrative cost matching for performing those functions?

- p.24 Will employers be told that they may not pay WORK participants for periods when the "missed work," or is this just a way of saying that employers will treat WORK participants like their regular employees with respect to absences, and that participants may not apply for supplemental payments for wages lost due to absence?

When an WORK participant is docked for being absent, is the employer expected to return any subsidy for the employee's wages?

Similarly, if a participant is terminated from a WORK assignment during the month (for misconduct or otherwise), does the employer repay the WORK agency for any subsidy not included in wages so far? If so, is it pro rata? ... first-in-first-out? It's ok to leave things for regs, but some details have costs attached.

- p.22 Mary Jo Bane argued forcefully that JOBS funds should be allocated based on each state's share of adult recipients, as in current law. She acknowledged that other distributions might target funds with marginally greater efficiency, but argued that problems with necessary data and the uncertainty other formulas would create for states offset the better targeting. The specs adopt this formula for JOBS funding on page 16. However, WORK funding is to be allocated based on JOBS mandatories and WORK participants. How does the WORK program differ from JOBS in a way that explains the different allocation approaches?
- p.23 Do the specs mean to limit contracts with job placement agencies to unsubsidized placements? (The favorite example of such an agency is America Works, which I think uses work supplementation funds to subsidize their placements.)
- p.23 So far, cost estimates have assumed that 10 percent of WORK participants would be in slots that offset welfare reform costs - such as child care providers for other JOBS and WORK participants, and monitors of participation. If the bill does not require states to make such placements, it is doubtful that the associated savings can be scored.
- p.28 The JOBS specs loosened the displacement requirements on work supplementation jobs in the private sector, but kept them for CWEP. The displacement provisions for WORK adopt the stronger provisions for both public and private jobs. In addition, in (b) they add a new protection that WORK slots in non-profit agencies may not compete with public employees. The JOBS and WORK displacement policies do not appear consistent, with the WORK policies making it even harder for states to create WORK slots.
- p.32 What, exactly, does it mean for a WORK "participant" to be referred to a "placement contractor"? Could a referral be

?

YES

YES

??

waiting for placement? Don't we want to know that, just the way we want to know about other waiting lists? Don't we need to know the status of those referred to placement agencies in order to measure the WORK participation rate on p.52, or are they all considered to be in the numerator?

- YES
- p.33 It is unclear here (and elsewhere) whether supplements to WORK wages are supposed to bring a family's income up to the level of an AFDC benefit for a similar family with no other income, or up to the level the family would receive if they remained eligible for AFDC. In gap states, I don't think that is the same amount.
- p.34 As written, paragraph (h) will result in costs when child support that otherwise would offset some IV-A benefits now is passed through to WORK participants. In addition, the difference between income from a WORK slot and from a regular job will be reduced if child support is passed through both ways. Given that we want WORK participants to take regular jobs if they are offered, is this pass-through a good idea?
- p.37 Does (g) ii impose a requirement on those not in WORK slots to report quitting a job? What is the consequence (for those in a WORK slot and for others) of not notifying?
- p.38 Are the penalties in (j) cumulative over a lifetime on welfare? For example, if a parent is sanctioned with a 50 percent reduction, but curbs it by accepting a slot, only to be fired after several weeks for absenteeism, are we back to the first occurrence, or is this now the second? How about if two WORK dismissals for misconduct are separated by a spell off the rolls entirely?
- YES
- p.42 Does paragraph (b) really mean the non-custodial parent must be "unemployed," or just not working? How about working intermittently, or part-time but steadily?
- The first sentence of (b) says that arrears are an eligibility requirement, while the third sentence says they are not.
- p.43 The word "be" should be inserted between "must" and "garnished" in (e) i.
- p.51 Over a six-month period, some families that leave welfare will return. Moreover, some families who are not on the rolls at the beginning of any six-month period but appear in the middle will have spent fewer than six-months off welfare since their last spell. In short, counting exits from a cohort but not allowing for re-entrants paints too favorable a picture of a state's program.
- p.51 HHS estimates that around 8 percent of those who otherwise would be subject to JOBS and WORK will meet the minimum work standard (between 20 and 30 hours of unsubsidized work per

week), and continue to receive AFDC without participating in JOBS or WORK. If the effective monthly participation standard is 35 percent (40 percent minus the 5 percent tolerance level), and 8 percent of the 35 may be in this employed-but-still-on-AFDC status, it appears that a state would meet the JOBS participation standard with 27 percent of its JOBS mandatories actually doing something.

Good

- p.51 What does the parenthetical "[or an increase in FFP for JOBS services]" mean? If FFP is increased in a capped entitlement, doesn't federal money just replace state funds?
- p.52 As I remember it, discussion of counting job search towards the WORK participation ((h)(i)) ended up with agreement that job search between WORK assignments would be counted, but not job search for those on waiting lists.
- p.52 What does (k)(i) add to (k)(ii)?
- p.55 The word "assistance" seems to be needed after the word "technical" in the second sentence of the "Rationale" paragraph.
- p.56 The references to evaluation standards are uniform now (at least for the demonstrations described in this section). However, the wording suggests that there may be non-experimental methods that meet the standards of the scientific community. The following seems better to me, because it states the reason for permitting something other than experimental design:
- using random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.
- p.57 The bill needs to specify exactly what costs of which demos in this and other sections the set-aside will fund.
- p.60 If WORK participants are not eligible for any AFDC in this demo, then "in place of the present AFDC system" doesn't seem like the right way to describe the cash supplements they may receive.
- p.62 "Unemployment insurance" should be spelled out in the last sentence of the first "Rationale" paragraph.
- p.66 The relation of the clearing house and NTAR was not clear to me. Where do states send what data? What is available to states on-line? What will be "maintained in the Registry?"
- p.66 What does "to determine service options to people" in (b) mean?

?

SUBJECT: Child Care provision in Welfare Reform

In the Child Care Section:

Delete the provision that States must have requirements that all children funded under these authorities are immunized at levels specified by PHS.

We explicitly made the decision NOT to do this in a rule recently promulgated by ACF.

?

**WELFARE REFORM PROPOSED LEGISLATIVE SPECIFICATIONS PART II****I. JOBS, Time Limits, and Work**

1 a. What other circumstances are acceptable? Page 1.

2. Will QC requirements reflect 1/4 modifying the mission of the welfare system at the point of intake process to stress employment and access to needed services rather than eligibility and benefit determination. 1/2 Page 2.

2 c. Do those phased-in who are redets receive less than 24 months under the time limit? Page 2.

3 a. Is the clock running from the date of application, eligibility, 90 days after application, or from the date of an agreed employability plan? What if the plan is appealed? p 3.

3 g. ii. From where is this technical assistance funded? p3.

3 g. iii. Are the phased on entitled to a fair hearing? Or only if the state provides it as a method of dispute resolution? p. 4

4. b. Is the clock running? p.4

4. f. 1. How will 1/4 conceived while the parent was on assistance 1/2 defined?, i.e. born 10 months after the date of application. p.5.

4. f. 4. Who determines if the SSI/DI application is made on a reasonable basis?

5. Would treatment count for participation? Whether or not the individual is in JOBS or pre-JOBS? p.6.

11.a Has an impact analysis or issue paper been developed on each

of these options? What are the cost implications? p.13.

12. f. If the not phased-in group is not required to participate, do we lose savings assumed in the baseline associated with this group receiving training? Is this factored into the cost estimates? p.15

15. c. Would this check be an advance? Would participants be required to pay funds back out of their first paycheck in excess of the earning supplementation? p.18

#### WORK

22. f. Has the Department of Labor assumed this will happen in their baseline? Is this assumed in the cost estimates? p.26

23. a. Do cost estimates reflect a requirement that states employ WORK participants as child care workers or an option? p.26

26.a. How will the State prevent slot subsidies? Will the Secretary issue regs to prevent this? p.28

30. f. Have these overpayments been factored into WORK estimates? Will the EITC be factored into an assessment as to whether an individual is ineligible for WORK? p.31

31. c. What proportion of the caseload is expected to be on the WORK waiting list? What proportion of those are expected to be participating in interim WORK activities? How does this affect child care estimates? p.32

32.a. What is the average number of hours expected per slot in the median state? average state? high benefit state? low benefit state? p. 33

34. b. Will WORK participants receive transitional Medicaid when they leave the rolls? p.33

36 c. Would these participants lose their Medicaid eligibility? Has this option been factored into the cost estimates? p. 35

36 e. How is 1/4a child conceived while the parent was in the WORK program 1/2 defined? p.35

37. Are sanctions for the JOBS/WORK programs factored into the estimates? Is it based on MDRC data? p.36

39. b. What percentage of participants is expected to fall into each category for each year of the program. Is this factored into the cost estimates? p.40

**PERFORMANCE MEASURES**

4 1. Is it a 50 percentage point reduction or a 1/2 reduction? Please provide a state fiscal impact analysis of a state not creating work slots.

6. It is not clear what is envisioned for the QC system? Please clarify.

**TECHNICAL ASSISTANCE, EVALUATION AND DEMONSTRATIONS**

A1a. This set aside appears to be funding admin. This may score as discretionary. Please provide more information on how exactly these funds are to be used. p.56

THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 1  
LISTED IN THE WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER.

THE FOLLOWING PAGE HAS HAD MATERIAL REDACTED. CONSULT THE  
WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER FOR FURTHER  
INFORMATION.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410-6000

May 26, 1994

ASSISTANT SECRETARY  
FOR POLICY DEVELOPMENT AND RESEARCH

MEMORANDUM FOR: Wendell Primus, Deputy Assistant Secretary  
for Human Services Policy, HHS

FROM: Michael A. Stegman *MAS*

SUBJECT: HUD's comments on the welfare reform proposals

HUD concurs with the welfare reform proposals incorporated in the May 20 package. Included in these is a proposal to ensure that housing assistance would not rise in response to penalties imposed on those who do not comply with their WORK or JOBS obligations. Since the current proposal assures that there would be no penalties for those who are able and willing to comply, but for reasons outside their control cannot comply, HUD is willing to support the provision. Our current reauthorization package does not include this language. Staff of the Office of General Counsel will assist HHS in drafting of the language.

The Department awaits financing proposals. There is a clear relationship between the substantive provisions of the package, and the means used to finance them. As you know, Secretary Cisneros has serious concerns about some financing options that have been suggested thus far, and will keep these concerns in mind as he reviews the final package in its entirety.

[REDACTED]



DEPARTMENT OF HEALTH & HUMAN SERVICES

Social Security Administration

Refer to:

Baltimore MD 21235

MAY 26 1994

NOTE TO WENDELL PRIMUS

SUBJECT: Welfare Reform Legislative Specifications, JOBS, Time Limits and WORK Performance Standards (Your Memo, 5/20/94) --REPLY

We reviewed the legislative specifications for the JOBS, time limits and WORK provisions of the welfare reform plan and have the following comments for your consideration.

Section 4(f)(4) of the specifications (page 6) would accord certain AFDC applicants/recipients pre-JOBS status if they had "an application pending for the SSI or SSDI program, if there is a reasonable basis for the application." Such an application "would be used as an alternate standard for incapacity."

We question whether the SSI/SSDI application alone should be grounds enough for such a finding of "incapacity"? Also, how would "a reasonable basis for the application" be determined before there was a formal SSA determination or adjudication of the title II and/or title XVI disability application? We believe that the criteria and procedures for finding statutory "incapacity" under this program could be clarified, but we would defer to the Administration for Children and Families regarding this essentially AFDC issue.

In addition, we suggest that section 34(a) (page 33) be revised to add SSI to the list of Federal and Federal/State programs that would treat wages from WORK assignments as earned income.

600D

Thank you for the opportunity to review this material.

*Louise Brown for*  
Richard A. Eisinger  
Senior Executive Officer

Attachments

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL		# of pages ▶ 4
To WENDELL PRIMUS	From SSA/OC/OEO	
Dept./Agency OS	Phone # 410-965-3433	
Fax # 690-6562	Fax #	

Welfare Reform Specifications

May 20

Specifications

- (a) Adult recipients (see Teen Parents below for treatment of minor custodial parents) who were not able to work or participate in education or training activities (e.g., due to care of a disabled child) could be assigned to the pre-JOBS phase either prior to or after entry into the JOBS program (or after entry into the WORK program; see WORK specifications below). For example, if an individual became seriously ill after entering the JOBS program, he or she would then be placed in pre-JOBS status.
- (b) The State agency would be required to make an initial determination with respect to pre-JOBS status prior to or as part of the development of the employability plan, since the determination would in turn affect the content of the employability plan. A recipient who is required to participate in JOBS rather than assigned to pre-JOBS status could request a fair hearing focusing on whether the individual meets one of the pre-JOBS criteria (see below). The time frame for completion of the employability plan (see above) would be waived in such cases.
- (c) Persons in the pre-JOBS phase would be expected to engage in activities intended to prepare them for employment and/or the JOBS program. The employability plan for a recipient in pre-JOBS status could detail the steps, such as locating suitable medical care for a disabled or ill adult or arranging for an appropriate setting for a disabled child, needed to enable the adult to enter the JOBS program and/or find employment.

Recipients not likely to ever participate in the JOBS program (e.g., those of advanced age) might not be expected to engage in pre-JOBS activities. The employability plan for such individuals might still include steps intended to, for example, improve the family's health status or housing situation. For individuals who were expected to enter the JOBS program shortly (e.g., mothers of young children), pre-JOBS services could be provided, when appropriate, to address any outstanding barriers to successful participation in JOBS (e.g., arranging for child care).

- (d) States could provide program services to individuals in the pre-JOBS phase, using JOBS funds, but would not be required to do so. Likewise, States could provide child care or other supportive services to persons in pre-JOBS status but would not be required to do so—there would be no child care guarantee for individuals in pre-JOBS. Persons in pre-JOBS status would not be subject to sanction for failure to participate in pre-JOBS activities. In other words, in order to actually require an individual to participate in an activity, a State would have to classify the individual as JOBS-mandatory.
- (e) Persons in pre-JOBS would not be subject to the time limit, e.g., months in which a recipient was assigned to pre-JOBS would not count against the two-year limit on cash benefits.
- (f) The criteria for pre-JOBS status would be the following:
  - (1) A parent of a child under age one, provided the child was not conceived while the parent was on assistance, would be assigned to the pre-JOBS phase. A parent of a child conceived while on assistance would be placed in pre-JOBS

Welfare Reform Specifications

May 20

for a twelve-week period following the birth of the child (consistent with the Family and Medical Leave Act).

(Under current law, parents of a child under age three, under age one at State option, are exempted from JOBS participation, and no distinction is made between children conceived while on assistance and children while not on assistance)

- (2) Is ill, when determined by the State on the basis of medical evidence or another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training;
- (3) Is incapacitated, when verified by the State that a physical or mental impairment, determined by a licensed physician, psychologist or mental health professional, prevents the individual from engaging in employment or training;
- (4) Has an application pending for the SSI or SSDI program, if there is a reasonable basis for the application;  
(Under the proposed law, a pending SSI/SSDI application would be used as an alternate standard for incapacity)
- (5) Is 60 years of age or older;
- (6) Needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a licensed physician, psychologist or mental health professional, and no other appropriate member of the household is available to provide the needed care;
- (7) Third trimester of pregnancy; and  
(Under current law and regulations, pregnant women are exempted from JOBS participation for both the second and third trimesters)
- (8) Living in a remote area. An individual would be considered remote if a round trip of more than two hours by reasonably available public or private transportation would be required for a normal work or training day. If the normal round-trip commuting time in the area is more than 2 hours, the round-trip commuting time could not exceed general accepted standards for the area.  
(Same as current regulations, CFR 250.30))

- (g) Only one parent in an AFDC-UP family could be placed in pre-JOBS under f(1).
- (h) Each State would be permitted to place in pre-JOBS, for good cause as determined by the State, a number of persons up to a fixed percentage of the total number of persons in the phased-in group (which would include adult recipients, minor custodial parents and persons in the WORK program). These good cause assignments to pre-JOBS would be in addition to those meeting the pre-JOBS criteria defined in (f). Good cause could include substantial

Welfare Reform Specifications

May 20

32. HOURS OF WORK

Specifications

- (a) States would have the flexibility to determine the number of hours for each WORK assignment. The number of hours for a WORK assignment could vary depending on the nature of the position. WORK assignments would have to be for at least an average of 15 hours per week during a month and for no more than an average of 35 hours per week during a month.

Each State would be required, to the extent possible, to set the hours for WORK assignments such that the average wages from a WORK assignment represented at least 75 percent of the typical AFDC benefit for a family of three in the State. This would be a State plan requirement.

33. EARNINGS SUPPLEMENTATION

Specifications

- (a) In instances in which the family income, net of work expenses, of an individual in a WORK assignment were not equal to the AFDC benefit for a family of that size, the individual and his/her family would receive an earnings supplement sufficient to leave the family no worse off than a family of the same size on assistance (with no earned income).
- (b) The earnings supplement would be in the form of either AFDC or a new program identical to AFDC with respect to the determination of eligibility and calculation of benefits. The level of the earnings supplement would be fixed for 6 months. The level of the supplement would not be adjusted either up or down during the 6-month period due to changes in earned income or to non-permanent changes in unearned income, provided the individual remained in the WORK assignment.
- (c) The work expense disregard for the purpose of calculating the earnings supplement would be set at the same level as the standard \$120 work expense disregard. States which opted for more generous earnings disregard policies would be permitted but not required to apply these policies to WORK wages.

34. TREATMENT OF WORK WAGES WITH RESPECT TO BENEFITS AND TAXES

Specifications

- (a) Wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, Medicaid, public and Section 8 housing).
- (b) Participants in WORK assignments and their families would be treated as AFDC recipients with respect to Medicaid eligibility, i.e., they would be categorically eligible for Medicaid.

SSI

Should specify that SSI is included



## COMMENTS ON JOBS/TIME LIMITS/WORK

### 1. Effective Date/Phase In

### 2. Program Intake

No comments.

### 3. Employability Plan

*\*\* Editorial: Need to emphasize placement in less than 24 months and work options during first two years*

This section should have a vision piece as the others do – and it should clearly state that we intend plans to be developed that move participants to work as quickly as possible. It should explicitly say "Employability plans may be for less than 24 months and may include assignment at any time to work programs with JOBS such as CWEP, On the Job Training, and Work Supplementation as under current law."

### 4. Pre-JOBS

*\*\* Question: Isn't it a state option whether volunteers meeting pre-JOBS criteria are submit to time limit?*

### 5. Substance Abuse

No comments.

### 6. Definition of the Time Limit

*\*\* Editorial: Does (b) add anything to the definition of (a)?*

If not, it should be dropped.

### 7. Applicability of the Time Limit

### 8. AFDC-UP

No comments.

### 9. Teen Parents

*\*\* Policy Issue*

(c) Still maintain that there should be no exemption for anyone under 20 based on age of child (beyond 12 weeks).

10. JOBS Services

*\* Editorial*

(g) Add "microenterprise training and activities" as well as self-employment programs to the list of optional activities.

11. Minimum Work Standard

*\*\*\* Policy Issue*

Part time work issue remains to be resolved.

12. JOBS Participation

*\*Editorial*

(e) broaden the definition of satisfactory participation to include any microenterprise program --- not just SBA funded. HHS, Labor, Agriculture all have microenterprise programs.

*\*\*Policy Issue*

(g) needs clarification. Should be a state option whether to impose time limit on a broader class of AFDC recipients participating in JOBS.

13. JOBS Funding

14. Semiannual Assessment

No comments.

15. Transition to WORK

*\*Editorial*

We had discussed that the regulatory specs ((e) through (h)) were too detailed and did not need to be here.

16. Extensions

17. Qualifying for Additional Months of Eligibility

18. Administration of JOBS/WORK

19. Specific Responsibilities of the IV-A Agency

20. Other Areas of Responsibility

21. Establishment of a WORK program

No comments.

## 22. WORK Funding

### *\*\*\*Policy Issue*

The issue of two pots of money vs. one is still not decided. The specs maintain the division -- requiring that the former AFDC benefits be used only for wages, and the WORK subsidy of operational costs. This division is, on the one hand, artificial since subsidies can be disguised as other things, and, on the other, an unnecessary constraint on state flexibility in running the WORK program.

### *\*\*Question*

Note (c) now says WORK funds will include an extra amount for WORK opportunities for noncustodial parents.

## 23. Flexibility

### 24. Limits on Subsidies to Private Sector Employers

No comments.

## 25. Coordination

### *\*\*Questions re: public/private board:*

(1) Changes previous control of designation of board from local to state government  
(2) Allows state to make local area larger than JTPA SDA. Do we want that? This would allow state to make it a state board. How about state can make area smaller, but not larger?

(3) Board has no formal power or role. "Guidance," "work in conjunction with." If we really want this to have local input, there should be some local power -- "Local plan should be developed jointly by board and agency," or "Board shall develop plan, subject to agency approval," or vice-versa.

## 26. Retention Requirements

### 27. - 29. Nondisplacement, Grievance, Concurrence

No comments. Note: do not have latest consultation specs.

## 30. Number of WORK Assignments

### *\*\* Question*

Should count not only subsidized positions, but unsubsidized found through agents under contract to place WORK participants.

Current definition might not count placement contracts.

## 31. Eligibility Criteria

### 32. Allocation of WORK Assignments/Interim Activities

### 33. Hours of Work

### 34. Earnings Supplement

### 35. Treatment of WORK wages

### 36. Supportive Services

### 37. Wages and Working Conditions

No comments.

38. Sanctions

\*\*\* *Policy Issue*

(c) Suggest changing the standard for refusing a private sector job to 20 hours or less if leaves family no worse off.

\*\*\* *Question*

(f) Still say the term "willful misconduct" is too strong. "Willful" is unnecessary. Including it in the statute will only make it more difficult to sanction. Defining misconduct should suffice.

– (g) Same issue as (c) – change std. for refusal to 20 hours.

39. Job Search

No comments.

40. Time Limit on the WORK Program

\*\*\*\* *Policy Issue*

Under discussion.

41. Noncustodial Parents

42. Parenting Demos

No Comments.

May 26, 1994

WR SPECS -  
Comments  
(JOBS/WORK)

**MEMORANDUM**

To: David Ellwood  
Mary Jo Bane  
Bruce Reed  
Belle Sawhill  
Kathi Way

From: Wendell Primus <sup>WSP</sup>

Re: Additional comments on JOBS/WORK specifications

Attached are some additional comments on the JOBS/WORK specifications that came in late this afternoon from OMB, HCFA and FNS.

cc: Emily Bromberg

**OFFICE OF MANAGEMENT AND BUDGET**

*Legislative Reference Division  
Labor - Welfare - Personnel Branch*

**Facsimile Transmittal Sheet**

FROM: Chris Mustain

DATE: 5/26

PHONE: 395-3923

FAX: 395-6148

TO: Wendell Primus

TIME: 4:35

PAGES SENT (including transmittal sheet):

9

## COMMENTS:

Additional OMB comments. Please note that the first set of comments are simply an augmented version of some of the earlier comments. Please call if you have questions.

**PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.**

## WELFARE REFORM PROPOSED LEGISLATIVE SPECIFICATIONS PART II

## I. JOBS, Time Limits, and Work

## Section:

- 1 a. What other circumstances for permitting States to delay implementation of welfare reform are acceptable? Page 1.
2. Will QC requirements reflect "modifying the mission of the welfare system at the point of intake process to stress employment and access to needed services rather than eligibility and benefit determination"? How? Page 2.
- 2 c. Do those phased-in who are redeterminations receive less than 24 months under the time limit? Page 2. *good Q*
- 3 a. Is the time-limiting clock running from the date of application, eligibility, 90 days after application, or from the date of an agreed employability plan? What if the plan is appealed? p 3. *author*
- 3 d. What is the obligation to provide services to those in pre-JOBS (e.g. addiction treatment, psychological counselling, physical rehabilitations)? p. 3.
- 3 g. ii. From where is this technical assistance for mediating disputes funded? Is it advisable to add another layer of bureaucracy and multiple levels of appeal at this stage rather than a later stage (perhaps when benefit payments are at stake, or when persons are put into JOBS vs. pre-JOBS)? Large numbers of beneficiaries may appeal and clog up the system. p. 3.
- 3 g. iii. Are the phased-in entitled to a fair hearing? Or only if the state provides it as a method of dispute resolution? p. 4.
4. b. Is the clock running while an individual is appealing?
4. f. 1. How will "conceived while the parent was on assistance" defined?, i.e. born 10 months after the date of application. p.5.
5. f. 6. Who pays for the medical exams to determine whether an individual is JOBS or pre-JOBS eligible? p. 6.
4. f. 4. Who determines if the SSI/IDI application is made on a reasonable basis?
5. Would treatment count for participation? Whether or not the individual is in JOBS or pre-JOBS? p.6.
- 11 a. Has an impact analysis or issue paper been developed on each of these options?

What are the cost implications? p.13.

12. f. If the not phased-in group is not required to participate, do we lose savings assumed in the baseline associated with this group receiving training? Is this factored into the cost estimates? p.15

15. c. Would this check be an advance? Would participants be required to pay funds back out of their first paycheck in excess of the earning supplementation? p.18

## WORK

22. f. Has the Department of Labor assumed this will happen in their baseline? Is this assumed in the cost estimates? p.26

23. a. Do cost estimates reflect a requirement that states employ WORK participants as child care workers or an option? p.26

26.a. How will the State prevent slot subsidies? Will the Secretary issue regs to prevent this? p.28

30. f. Have these overpayments been factored into WORK estimates? Will the EITC be factored into an assessment as to whether an individual is ineligible for WORK? p.31

31. c. What proportion of the caseload is expected to be on the WORK waiting list? What proportion of those are expected to be participating in interim WORK activities? How does this affect child care estimates? p.32

32.a. What is the average number of hours expected per slot in the median state? average state? high benefit state? low benefit state? p.33

33. c. What impact will this work disregard have on Food Stamps benefits? p.33

34. b. Will WORK participants receive transitional Medicaid when they leave the rolls? p.33

36. c. Would these participants lose their Medicaid eligibility? Has this option been factored into the cost estimates? p.35

36. c. How is "a child conceived while the parent was in the WORK program" defined? p.35

37. Are sanctions for the JOBS/WORK programs factored into the data? Is it based on MDRC data? p.36

39. b. What percentage of participants is expected to fall into each category for each year of the program. Is this factored into the cost estimates?

#### PERFORMANCE MEASURES

4 i. Is it a 50 percentage point reduction or a 1/2 reduction? Please provide a state fiscal impact analysis of a state not creating work slots.

6. It is not clear what is envisioned for the QC system? Please clarify.

#### TECHNICAL ASSISTANCE, EVALUATION AND DEMONSTRATIONS

A1a. This set aside appears to be funding admin. This may score as discretionary. Please provide more information on how exactly these funds are to be used. p.56

## JOBS/WORK

**Intake and case management.** (p. 2 ff) There are a number of new administrative requirements related to the revised approach to case management. These include developing employment plans, semi-annual assessments, appeals processes, meetings 90 days before someone reaches the time limit, etc. It is not clear which program would pay these administrative costs. The legislation needs to specify whether they would be funded by AFDC or JOBS. If these will be AFDC costs, estimates need to be provided.

**Up front job search** (p. 12). This section suggests the definition of job-ready would be having non-negligible previous work experience. Recent graduates are unlikely to have this experience. Also, there are likely to be many others with more than adequate basic education who have not worked, but are job ready. true

**JOBS supplementation of wages** (pp 12-13). Now, for people in JOBS, AFDC grants can be diverted to supplement wages for up to 9 months in newly created jobs. The proposal would allow AFDC grants to be diverted for up to 12 months for almost any private job where the previous holder quit voluntarily. WORK slots (in the early years) would be limited to people who had been in AFDC at least two years (and thus not as likely to leave AFDC soon on their own). The work supplementation under JOBS, however, would be available to people on the rolls only a couple of months who might leave quickly on their own. People may be kept on the rolls for several months beyond the time they would normally leave AFDC. Given the high benefit matching rates the specifications would offer States with high JOBS participation rates, work supplementation may become an increasingly attractive way to increase those rates -- possibly increasing AFDC caseloads. Have these possible effect been considered and estimated? Also, the WORK program excludes WORK participants from receiving the EITC to give them an incentive to find unsubsidized employment. It seems a similar policy would be appropriate for work supplementation under the JOBS program. How would the EITC be treated? Would employers be eligible for the Targeted Jobs Tax Credit? NO

**Application for advance EITC:** (p. 18). Would the administrative effort to assist workers to obtain advance EITC become an allowable JOBS cost? If so, have the costs to Treasury been included in the estimates? YES

**Adjustments to JOBS matching rates** (p. 26). The Budget assumes some States will have unemployment rates high enough to trigger extended UI benefits through the outyears. Undoubtedly, some States will have increasing unemployment rates even if the national average continues to decline. Have these adjustments been included in the estimate of the Federal share of total program spending?

**WORK subsidies to employers** (p. 27 ff). Would private employers be eligible to receive the Targeted Jobs Tax Credit for WORK slots that AFDC subsidizes? ??

**Length of time in an individual WORK slot.** (p. 27) While there is a limit of 12 months in any one WORK assignment, can an individual be reassigned to the same employer immediately (or shortly) after the expiration of the first 12 months? If so, WORK slots could start to resemble permanent jobs. /?

**Coordination with the Corporation for National and Community Service** (p. 28). Living stipends in the National Service Program are precluded from being counted as income for the purposes of AFDC, Food Stamps, and other means tested programs. It is not clear how WORK can coordinate with the National Service Program unless those stipends are counted as income.

**Semiannual certification for WORK.** (p. 31) People would be certified to participate in the WORK program for 6 months at a time. Unlike AFDC recipients, WORK participants would retain their eligibility no matter how their circumstances changed -- changes in family status, other part-time work, increases in child support payments, etc. This feature of the WORK program could keep people in the welfare system longer. Have the costs of this feature been estimated? True??

**WORK in fill-the-gap States and other disregards** (p. 33). Some States have a fill-the-gap AFDC benefit calculation that effectively gives an additional disregard of earned income in the AFDC program. These disregards may be 50% of earnings for low income workers. The WORK specifications would allow States to disregard a similar percentage of income from the WORK program. Since the WORK program is supposed to be less remunerative than an unsubsidized job with the same hours, it is unclear why this disregards over and above the \$120 work expense would be permitted. ??

**WORK and taxes** (p. 33). Would WORK income be subject to income taxes? While AFDC recipients generally have income too low to owe Federal taxes, States often levy income taxes at much lower income levels. It seems it would be inappropriate for States to tax WORK stipends that substitute for AFDC.

**Worker's compensation** (p. 34). Where WORK participants would not be covered by worker's compensation programs, they would be provided with comparable coverage. The legislation may need to specify how this would work -- would the WORK program self-insure (and risk owing claims at some time in the future when the WORK program may have been replaced)? Or would this be covered by an insurance premium with no future government liability?

**Employment and training programs for noncustodial parents** (p. 42). THIS is currently testing employment and training programs for absent parents, but results are not available yet. It is not clear why a new program would be started prior to knowing it is likely to work. It would be better to wait until it is known whether these approaches work before setting up a national program.

**Allowing absent parents to "work off" arrears** (p. 43). It appears that absent parents

participating in WORK would both get a Federally-subsidized wage and be forgiven debts they owe to the State and Federal governments. It is not clear why absent parents working in a government subsidized job would have their debts forgiven while those working in unsubsidized jobs would continue to be responsible for their debts. What benefit would the Federal government receive for forgiving these debts? This feature could have a significant "suction" effect, where absent parents prefer subsidized WORK slots over private employment. Therefore, absent parents in WORK slots should not have their debts forgiven.

Yes

#### PERFORMANCE MEASURES.

**Financial management.** This section indicates that current requirements for accurate financial management would be combined with future measures of how fast people leave AFDC, obtain employment, etc. Financial management measures are well defined, with most variation a result of State and local management. However, performance measures for moving people from welfare to work will be far less precise. Precise performance measures would require economic and demographic models of AFDC participation far more accurate than any yet devised. As a result, States with worse economies or a more disadvantaged population might have to meet more stringent financial management requirements than other States. We strongly recommend that performance standards be kept separate from payment accuracy. Otherwise, there could be a general perception that the Executive Branch places low priority on financial management and payment integrity in welfare programs.

**Interaction of future legislation and regulations in setting standards.** Pages 49 and 50 appear to set deadlines for final regulations that implement legislation that Congress would be expected to enact a year or two after welfare reform. This discussion should be clarified to make it clear that regulatory deadlines are for only those regulations that can be issued under the welfare reform bill's authority.

**Enhanced matching in AFDC for high participation rates.** We understand that past demonstrations found it difficult to have participation rates above 40% in well-designed programs. The enhanced matching for having more than 45% of the phased-in population may have two undesirable effects. First, States have incentives to further reduce services to non-phased in households to achieve the higher participation rates in this group. Second, States may perceive incentives to "park" recipients in long-term activities rather than put them through activities that help people obtain unsubsidized employment quickly. It appears this enhanced matching provides incentives for economically inefficient behavior and thus deserves reconsideration.

YES

#### TECHNICAL ASSISTANCE SET ASIDES

Federal administrative costs are normally reviewed in the annual appropriations process, and not prefunded years in advance through mandatory sources. The set-

asides that exist for Head Start and PHS, as discretionary funds, are not comparable to setasides in welfare reform. In addition, most of the 13% setaside in Head Start pays for the Head Start program on reservations and in the Territories. I.e., most of the Head Start setaside supports caseload, not Federal administrative activity. Federal administrative expenses should continue to be subject to annual review in the appropriations process.

If parts of the setaside are not deleted, any remaining portion should be specified as a fixed dollar figure rather than a percentage of other capped amounts. The section-by-section analysis should also compare this dollar amount with the amounts now spent on these and comparable activities.

The section is unclear whether the setaside fund all costs of the demonstrations, or whether some costs would be born by other sources. *All demonstrations with costs outside any setaside should have fixed limits on the number of cases to be involved.*

**Section 1115 waivers (p. 59)** This provision could be read as dropping the one statutory requirement on cost neutrality for waivers, or as writing into law the current policy that all waivers must be cost-neutral when aggregated across affected programs. The child support-specific provision should not be dropped unless it is replaced by a provision requiring government-wide cost-neutrality among the provisions being waived.

**Forgiving arrearages. (p. 59).** For the reasons outlined above, absent parents in subsidized WORK slots should not have arrearages forgiven when those in private jobs have to pay them.

**Work Support Agency Demonstrations.** Up to 5 entities would be authorized to set up work support agencies that focus solely on assistance to the working poor. This provision makes it a State option for States to develop entirely new infrastructures for providing Food Stamps, child care, advance EITC payments, and other activities. Separating these functions could add significant new administrative costs -- such as duplicative computer systems. Is it assumed that these added costs be funded through the setaside, or through open-ended matching? Until there is evidence that any benefits outweigh the higher costs, there should be a limit on the total size of the demonstrations -- not just on the number of sites.

#### **AUTOMATED SYSTEMS**

**Matching rates.** The 90% open-ended matching for computer systems has led to serious financial management problems as States had little stake in how well funds were used. As a result, the legislation should cap the total amount of State spending that can be matched at the higher rates, with the Secretary to develop regulations allocating this-capped amount based on the reasonable costs of developing an average system, and the hardware needs given the varying size of States.

YES

YES

**Costs of Federal computer systems and developing model systems.** (p. 68-9) It is not clear whether discretionary or mandatory funding is anticipated. This funding should be discretionary to maintain Congress' annual review of administrative spending.

**Special treatment for Federally-designed model systems or multi-State development** (p. 69). In the past, States have often been required to "transfer" systems from other States to receive 90% Federal matching. However, these "transfer" systems have frequently been completely rewritten at the code level. This provision would offer 80% matching for new multi-State systems, Federally-developed model systems a State adopts, or modifications to existing systems. Enhanced matching -- in all programs including child support -- should be available for only for either transfers, model systems or, occasionally, original multi-State undertakings where *all modules are identical at the code level* (except those interfacing with other State data bases or incorporating State options that were not in the model or original system). Generally speaking, this probably would be roughly equivalent to at least 90% of the code being identical to the code in the model or other State's system. Also, matching should not be available for multi-State systems that cover only one or two States -- systems should at least be regional.

**Subject:** FNS Comments on Legislative Specifications for JOBS, Time Limits and WORK; Performance Standards; Technical Assistance, Evaluations and Demonstrations; and Information Systems

**To:** Wendell Primus  
ASPE

Our comments are limited to the section on Information Systems, and follow below. If you have any questions, please call me or call Bob Dalrymple at 305-2135.

Mike Fishman

### **Information Systems**

The legislative specifications call for new development of information systems to capture and utilize information on services, time frames, national registries, and other aspects of the welfare reform proposals. Under certain circumstances, the costs of developing AFDC systems would be matched at a higher rate.

Virtually all States have integrated food stamp requirements into their existing systems. Last year enhanced matching rates were eliminated for computer system development for all welfare programs. In view of the integration of programs in these systems, we believe there also should be a higher match rate in the FSP to help ensure a balanced development in the different program requirements.

MAY 26 1994

The Administrator  
Washington, D.C. 20201

TO: Wendell E. Primus  
Deputy Assistant Secretary for Human Services Policy,  
ASPE

FROM: Administrator  
Health Care Financing Administration

SUBJECT: Welfare Reform Legislative Specifications -- JOBS,  
Time Limits and WORK Performance Standards, Technical  
Assistance, Evaluations and Demonstrations, and  
Information Systems (Your memorandum of May 20, 1994)

Thank you for the opportunity to review and comment upon these legislative specifications. We understand that the general goal of these sections is to devise ways to prepare and move welfare recipients from benefit to working status, with sanctions for non-cooperation involving loss of cash benefits but not loss of Medicaid coverage. We agree with this approach. However, we note that the previous set of specifications on preventing teen pregnancy, making work pay, and improving government assistance was written with the explicit assumption that health care reform would be enacted. This set of specifications does not mention health care reform and appears only to focus upon revisions to current law Medicaid. For the sake of consistency, it may be better, when referring to Medicaid benefits for current/former AFDC recipients, to use language that refers to Medicaid and/or other health benefits for this population provided as a result of health care reform.

We have several additional technical suggestions to offer to assure consistency with the strategy of using loss of cash (but not health) benefits as an incentive:

- Specifications for orientation of applicants for AFDC (p. 2) should include information regarding Medicaid benefits and the Medicaid transitional assistance available under current law.
- The specifications provide (in a number of places, e.g., pp. 3-4, 36, 38, 39) sanctions and fair hearing procedures for program participants who do not follow certain rules. Some of these provisions make clear that Medicaid benefits are not affected by loss of cash benefits for individuals otherwise eligible for Medicaid; other provisions are silent on this issue. We should make clear what effect on Medicaid status, if any, is intended in each instance. My staff would be happy to assist with drafting.

- The specifications for the treatment of WORK wages (p. 33) state that WORK participants would be treated as AFDC recipients with respect to Medicaid eligibility. Because WORK funds can be used not only to create public sector work but also to subsidize private and not-for-profit sector employment, we need to examine the question of whether Medicaid benefits during months of employment in some/certain WORK positions should be counted as months of Medicaid transitional benefits available under current law (sec. 1925).
- The specifications for supportive services (p. 35) indicate that WORK participants would be provided the same benefits, working conditions, and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with that employer. The sole exception, in terms of benefits, to this requirement is to permit, but not require, employers to provide health insurance benefits. This distinction is inconsistent in the context of this package. Moreover, it is inconsistent with the basic principle of health care reform that all employers should provide coverage for all employees with similar hours of work and tenure. We would prefer to see this distinction removed. In any case, we should make note that, under current law (sec. 1906) States are required to use Medicaid funds (where cost effective) to buy into employer group health insurance coverage for Medicaid eligible persons (including WORK participants) where the employer provides such coverage.
- The vision for WORK support agency demonstrations (p.61) indicates that health insurance subsidies might be included in the broad flexibility given to entities to provide coordinated employment related services. It goes on to state that payment of health-related expenses not covered by Medicaid might be included. The meaning of these provisions is unclear. We would appreciate clarification and an opportunity to discuss the intent of these provisions and their implications for the Medicaid program.
- The section of the paper dealing with information systems and infrastructure proposes to create a new National Transition Assistance Registry (p. 65). Because Medicaid and child care benefit extensions under current law are referred to as "transition assistance" confusion may be created by using so similar a term for the new registry. We recommend that some other term be used.

Page 3 - Wendell E. Primus

If you or your staff have any questions about these comments or would like additional information, please contact Tom Gustafson (690-5960), who is coordinating our efforts on these matters.

  
for Bruce C. Vladeck

**WORKING GROUP ON WELFARE REFORM,  
FAMILY SUPPORT AND INDEPENDENCE**

---

MEMORANDUM FOR MEMBERS OF THE WORKING GROUP ON WELFARE REFORM,  
FAMILY SUPPORT, AND INDEPENDENCE

FROM: MARY JO BANE  
DAVID T. ELLWOOD  
BRUCE REED  
WORKING GROUP CO-CHAIRS

RE: WELFARE REFORM LEGISLATIVE SPECIFICATIONS --  
JOBS, TIME LIMITS and WORK  
PERFORMANCE STANDARDS  
TECHNICAL ASSISTANCE, EVALUATIONS AND  
DEMONSTRATIONS  
INFORMATION SYSTEMS

DATE: May 20, 1994

Attached for your review and comments are the legislative specifications for the JOBS, time limits and WORK provisions of the welfare reform plan, as well as for the performance standards, technical assistance, evaluations and demonstrations and information systems provisions. As with our previous packages on child support enforcement and the prevention, making work pay, and improving government assistance portions of the plan, we invite you to review these specifications. To expedite this process, we need your comments no later than 9 am, Thursday,

May 26. Any major policy concerns identified by that time will be resolved and reflected in the legislative language on those provisions which we will submit to OMB for clearance within the Administration. Please address your comments to Wendell Primus. He can be reached by telephone at 690-7409, or fax at 690-6562.

This is the last of the three segments of legislative specifications we are distributing. Provisions affecting State waivers and financing will be submitted to OMB for clearance through normal channels. We appreciate your input. Thank you.

Attachment

Addressees: see attached list

Addressees:

Eleanor Acheson  
Michael Alexander  
Ken Apfel  
Walter Broadnax  
Michael Camunez  
Robert Carver  
Norma Cantu  
Andrew Cuomo  
-Maria Echaveste  
Chris Edley  
Joycelyn Elders  
Maurice Foley  
Thomas Glynn  
Ellen Haas  
Elaine Kamarck  
Augusta Kappner  
Madeleine Kunin  
Avis LaVelle  
Marsha Martin  
Alicia Munnell  
Wendell Primus  
Doug Ross  
Isabel Sawhill  
Mike Smith  
Gene Sperling  
Michael Stegman  
Joseph Stiglitz  
Fernando Torres-Gil  
Jeff Watson  
Kathi Way

May 8, 1994

MEMORANDUM FOR WENDELL PRIMUS

FROM: Richard Bavier

SUBJECT: Comments on JOBS/WORK specs

Since we saw these in advance, and this may be the last specs meeting on JOBS/WORK, here are some written comments and questions. By their nature, they sound skeptical and critical. However, I think I have some appreciation of the amount and quality of analytical and creative effort that went into bringing such a radically different system to this stage.

- p.1 - 1.(c) I'm not aware of any modeling that includes states opting for an expanded phase-in group.
- p.2 - (a) To avoid misunderstanding about the Personal Responsibility Agreement being a contract, the following alternative might be substituted for the remainder of the first sentence after "IV-A agency specifying" -
- ... the general responsibilities of the applicant and the kinds of steps the state agency will take to increase the applicant's opportunities for employment.
- p.3 - 3. The term "employability plan" implies that, until the plan is completed, the recipient is not employable. The consequence of this mindset is that parents who reach their time-limits without completing something on their employability plans get an extension, despite the fact that they may be high-school graduates with work experience and be a lot more "employable" than other parents who are actually working to support their children (such as recent immigrants with little English and little formal education).
- The term "opportunity plan" or "self-sufficiency plan" might be substituted for employability plan.
- p.3 - 3.(b) Should we make it clear that the original version of an employability plan may not plan for activities beyond the recipient's time limit and must end with a period of job search?

p.3 - 3(d) To avoid the impression that everything in the employability plan is a necessary precondition of employment, the last sentence might be changed to read -

... detail the activities intended to make successful participation in the JOBS program more practical.

✓ p.3 - 3(g) Does the clock run during the arbitration and hearing phase of developing the employability plan? | ...

YES

p.5 - (b) May a recipient requesting a hearing on being assigned to JOBS claim that she should be deferred according to state criteria in (h), or only that she should be deferred under criteria in (f)?

p.5 - (d) Are assumptions about states opting for child care for JOBS-Prep parents included in cost estimates?

p.7 - (j) If volunteers can return to JOBS-Prep at any time, in what sense are they subject to the time-limit? |

?

p.7 - (k) Does "promptly inform" imply prior notification, making notice a precondition of changing status?

p.11 - 8.(d) Aren't we modeling case management for all JOBS and WORK participants? Is this an enhanced case management for teenaged parents? Do they get an extended time-limit if they claim that case-management was not provided?

p.11 - 9.(a) I don't recall a test of job readiness being part of the up-front job search proposal. In the last specs meeting I attended where this came up, there was tentativeness about whether there would be any screening (such as excusing those with newborns, or teenagers, or the disabled) or even whether states would wait until eligibility had been determined. Apparently, experience with applicant job search in San Diego led to the conclusion that paying for job search for all applicants probably was not cost-effective. Waiting to see who is found eligible, and maybe screening out the disabled, teenagers, and those with infants seems to make sense. However, the current specs want an employability test before the work test of job search.

GOOD ?

I am not sure why, in a two-year program, a limit should be placed on job search. There will be parents who are high-school graduates with some work experience who will not find jobs in 12 weeks. Do we insist

YES

that states spend JOBS funds for classroom or skills training for these parents?

p.12 - 10.(a) I expect that most states will choose the 20 hour option. IV-A agencies will be in the business of verifying hours worked. Do we imagine that employers will be asked to document hours worked in a month?

p.14 - (a) It seems that one JOBS/WORK capped entitlement is envisioned, rather than separate pots for JOBS phased-in and non-phased-in, and for JOBS and WORK. During phase-in, is the single JOBS allocation based on the phased-in plus the not-phased-in mandatories? If a state opts for an expanded phase-in group, does that affect the JOBS allocation?

p.17 - 15(a) What is the consequence if a state does not decide about an extension at least 90 days before the time-limit expires? This seems like a very impractical and toothless requirement. In some cases, the IV-A agency won't know an extension is needed until nearer the end of the time-limit.

p.17 - 15.(b) This again sounds like all the services in the employability plan are necessary preconditions of the recipient working to support his or her family. Some services may be preconditions, like child care. Others probably are not. Maybe we should try to distinguish between issues that are important enough to warrant extensions and those that aren't.

p.18 - (g) I think I know how the number in extensions was modeled in the cost estimates. I'm not clear about how the cap would work in practice. It seems that the denominator is the average number of phased-in adults in JOBS during some period. The numerator is the average in extension status. What happens if the state exceeds the cap?

p.19 - 16(a) The purpose of requalifying for cash benefits has never been clear to me. In light of the fact that, in most returns, there will be only a few months of cash eligibility (if any), then WORK, why not just return to the WORK program?

p.21 - 18.(a) Is this section consistent with 12. (a) and (b)?

The ASPE modeling of WORK wages has so far assumed them to be equal to baseline AFDC benefits for those on the rolls more than two years. As far as I can tell, this section of specs does not limit WORK wages to that amount. If subsidies are not limited to the baseline AFDC benefits for these families, it would seem that there have to be either costs, savings, or an argument why states would end up providing just the baseline amounts in subsidies.

I have never been very certain in my own thinking about how to model WORK wages. The baseline assumes that some on AFDC more than two years total will leave for work, receiving a reduced AFDC benefit for several months due to the earnings disregards and fill-the-gap policies. We seem to be assuming that these families will get the same jobs at the same time under reform, and leave their WORK slots. But they won't be eligible for any supplemental benefit under reform, will they? That seems to suppose a savings. On the other hand, if the WORK slots are nearly as attractive as the jobs we assume they would leave for in the baseline, the assumption that they will leave may be hard to defend. We have to assume that the EITC will tip the balance in favor of leaving WORK (with its guaranteed child care) for other employment. I'm not aware of much empirical basis for the assumption.

p.22 - (e) Do the WORK wages get distributed directly to the non-IV-A agency too?

p.23-4 - 24 There are many ways we have made the WORK program difficult and expensive for states. So, to prevent them from simply minimizing the number of participants in WORK slots, a substantial, immediate, and unavoidable penalty needs to be imposed if they do. The current specs refer to states with too few WORK slots losing out on a bonus. I don't think that will do it. In fact, as I've noted in the past, it won't be easy even to design a benefits matching rate reduction under which it would not be cheaper for states to just take the penalty, unless the matching rate were reduced for some larger pool of cases than those on the excess waiting list.

p.24 - 25 (a) A \$100 floor on the AFDC benefit that requires WORK participation has the effect of greatly reducing the minimum number of hours of part-time employment needed to avoid WORK. I tried to spell this out in an earlier memo. Is my thinking confused on this, or are we just adopting a different part-time policy by a back door?

YES

p.24 - 25 (b) What happens if the state doesn't notify recipients about the WORK program more than 90 days before the end of their time-limits?

p.25 - (f) I'm not aware that the kind of semiannual WORK program eligibility determination described here has been factored into the cost modeling. Is the assumption that this policy would have the same effect as the current IV-A redetermination policy?

p.25 - 26 (b) In the discussion of activities for those on the waiting list, several proponents, including me, referred to community service as a likely

option. Was there a decision to omit community service from the specs, or was it just overlooked? (YES)

p.26 - 27(a) It seems to me that states will be under pressure to produce WORK slots with higher wage rates. This would be done by creating slots with fewer hours but the same amount subsidy. A 15 hour per week WORK slot earning wages equal to the Connecticut AFDC benefit for a three-person family would look pretty attractive in comparison to a minimum wage job. If we don't think these higher wage rates will occur, or that they won't slow exits from welfare, we'll need to write down our rationale.

On a related point, we are setting up a system in which there are profits to be made by employing WORK participants, even if they don't show up for work. States can provide employers with the full AFDC benefit as a subsidy, plus the employers' share of FICA, plus some additional funding out of capped WORK entitlement for any number of purposes, such as hiring, training, and uniforms. If the WORK participants actually made any product or performed any service, that might add to the profit, but, on the other hand, maybe the most profitable business would be to just keep them all on the payroll and not have them show up for work at all.

As I've heard many times, with CWEP, there is a lot of make-work and poor attendance. It seems to me that we're proposing a system prone to the same problems, only now some one may profit from it.

p.26f - 28(b) I'm not sure that the cost estimates I've seen included unchanging six-month subsidies and supplements. Are we supposing that the only people who would receive these supplements are those who would not have left the rolls during this period? (YES)

p.27 - 29(e) I don't recall any discussion about workers compensation coverage. In light of the fact that AFDC will be available to families with an incapacitated parent, what is the advantage of requiring workers comp when the WORK slots are explicitly not tied to unemployment comp or EITC?

p.27 - (g) I'm not aware that the cost estimates reflected pass-through of child support collections to those in the WORK program. In such cases, it appears that the equivalent of a full AFDC benefit may be subsidizing the wages, and that passing through more than \$50 of child support collections would generate an additional IV-A benefit cost. (YES)

p.28 - 30.(a) How will a state know what the work expense disregard covered? If there is no supplemental benefit even with the disregard, is the state required to pay or reimburse for these things?

p.28f - 32 I think the effect of current law is that a parent doesn't have to accept an offer of employment if there would be a net loss of cash income not counting EITC. If that is correct, does the reform proposal intend to change the requirement to include EITC? That would seem to be consistent with our beliefs that EITC will enable many to leave AFDC.

YES

p.29 - (d) It seems that "except as in (c)" should be inserted between "such that" and "for sanctioned two-parent families."

p.30 - (g)ii. The purpose of this provision isn't clear to me.

p.33 - 34. In earlier discussions, it seemed that a separate allowance for JOBS-Prep referrals from the WORK program would be allowed, on top of the 10 percent in the deferral cap mentioned earlier. These specs do not appear to provide for an additional deferral allowance. Am I reading it correctly?

cc: Isabel Sawhill

June 9, 1994

TO: David Ellwood  
Mary Jo Bane  
Wendell Primus

FROM: Bruce Reed  
Kathi Way  
Jeremy Ben-Ami

CC: Janet Forsgren, OMB

SUBJECT: Comments on Welfare Reform Legislation and Specifications

## POLICY ISSUES

### JOBS PROGRAM

Employability Plan (draft bill, p. 15)

The language written into 482(a)(2)(A)(ii) should be changed to reflect that the purpose of the employability plan and of the program is to get the participant a job. We propose substituting, after the first sentence, the following language:

The purpose of the employability plan is to lay out the fastest and most effective way to help the participant find employment and become self-sufficient. The plan will indicate the overall period of time that is expected to be necessary to find employment and the services necessary to achieve that goal. The plan shall take into consideration, in the case of individuals to whom the provisions of section 417 apply, the maximum remaining period of time for which aid may be paid to such individual under the plan approved under part A. The plan shall specify the services including job search, employment training, education, and other employment activities in which the individual will be expected to engage, and for what periods of time. The plan must be reasonable in light of the individual's skills, needs, resources, literacy and the opportunities for employment within the community where the individual resides.

Then, continue with sentence "The employability plan shall also describe the child care, . . ."

Substance Abuse (Section 482(a)(7), p. 19)

We strongly favor a change in the policy along the following lines to bring the AFDC policy into closer conformity with the new SSI policy:

States have the option of allowing exemptions from JOBS for individuals in need of treatment for substance abuse. If an individual is exempted for that reason, they must be in treatment if it is available. If they refuse treatment, they lose their exemption. Those exempt because of substance abuse are limited to 36 months of benefit receipt during treatment. Months in exemption waiting for treatment would not count.

(7)

Exemptions (402(a)(19)(D)(v), p. 8 and specs #4(f), p. 6)

Language from specs and bill don't match on the issue of illness or incapacity. Illness and incapacity are put together in the bill and require medical professional or other medical evidence. Other appropriate professionals should also be allowed to certify - particularly for mental health. In specs, they are listed separately with different requirements.

*as certified by the state*

Job Search (483(g)(2), p. 23)

The specs and the legislation changed since we agreed to them. Our understanding was that anyone with "non-negligible work experience" would be required to take part in up-front job search, and we also had requested adding anyone with a high school degree. Instead, the new specs eliminate the work experience criteria and move the standard to those "judged job ready" per State definition. We would like to return to the language to which we had agreed which mandates that those with employment experience do job search. We would still like to include high school graduates.

We would also like the statute to include specific reference to the state option to mandate up front job search for those in the not phased-in group.

Child care as JOBS and WORK training and placement option

The specs call for encouraging the states to provide child care training in the JOBS program. We would like the draft to include a requirement that the states indicate in their plan whether and how they will do this.

The specs have dropped (as has the bill) any reference in the WORK program to child care positions. This is very important to us. The previous version of the specs was acceptable to us: #23 -- employ WORK participants as child care workers or home health aides. This should be put back in and should appear in the legislation as one of the examples of the types of placements available in Section 492(b). We would still recommend that the state be required in its plan for part G to indicate how it intends to create WORK positions in child care.

## Change to Work Supplementation

The revision to Section 482(e) on p. 33 of the legislative language seems to imply that the only supplemented jobs allowed under WSP will now be "nonpublic." Under the FSA, it appears WSP was available for public sector jobs. Why the change?

## Teen Parents

We seem to be allowing parents under 20 out of the participation requirements for the full range of (a)(19)(D) exemptions. We thought that teen moms had to participate with children as young as 3 months. [482(j)(2)(A), from the teen parent specs.]

## JOBS Sanctions

The refusal to accept employment should be modified to clarify that individual must accept an offer of 20 hours or more and must accept additional hours when offered. This was the part-time work compromise [402(a)(19)(G)(i)]. Also see WORK sanctions below.

## Jobs Performance Standards

Part time workers seem to count in both the numerator and the denominator for the JOBS participation standard. 403(k)(6). Since the states are not serving these people through JOBS, why would they count towards the service delivery standard? Shouldn't it be the percentage of people who are actually being served by JOBS? According to section 417, their months are not even being counted, so why are they in the JOBS program to begin with?

While the tolerance level is five percent above and below 50 percent, the sanction of 25 percent only applies to the percentage of the cases below 35 percent. Why is that? Shouldn't the sanction apply to below 45 percent?

## WORK PROGRAM

### WORK Assignments

We do not agree that the placement of WORK participants into WORK assignments should require that states take into account the skills, experience, etc. of the participant. There should be more flexibility. Any WORK assignment is a good WORK assignment, and just because someone has clerical training should not mean that they won't take a job at McDonald's if it's available. See 484(a).

Also, 493(c) implies that the WORK assignment should be made that "may reasonably be expected to lead to permanent, unsubsidized employment." It goes on to require an assessment of the individual's education and training so that appropriate assignments can be made.

We feel this language goes too far. The goal of the WORK program is to give someone the opportunity to earn money after their welfare benefits end. It would be nice if the position

leads to employment, but we should not express in statute that this is a goal. It puts more of a burden on the WORK program, than we had envisioned.

Also, both this section and 484(a) could be read to imply that individuals should only have to do work appropriate to their training, which again would be nice, but should not be a requirement of the states. You shouldn't be able to ask someone to do something more than they are trained to do: i.e., the WORK assignment can't be clerical when the person can't type, but if the person has clerical skills, but the only openings are unskilled, they should still have to take it.

We think both sections should be modified.

### Minimum Work Requirement

MAJOR ISSUE -- It seems that we now have a 15 hour minimum work requirement. Section 417(a) says time limit does not apply to anyone who has received 24 months of aid and is now in an unsubsidized job of 15 hours a week. Apparently a couple of hours of job search together with a 15 hour a week job and you not only stay on welfare, you count in the state's WORK participation as a success!! We disagree. There is a 20 hour a week minimum work requirement to continue getting AFDC beyond two years. People working part time in the private sector who have not been helped to find that job by the WORK program are not WORK participants and do not count toward the performance standard for the WORK program.

OK

*[Handwritten signature]*

### Earnings Supplements

We had intended there to be a limit of 25 percent on the part of the participant's monthly income that could be provided as an AFDC supplement to wages. The way that Section 493(d)(1)(A) has been written, this limit is undercut. First, the benefit against which wages are measured is a family of three. Second, the 75 percent is measured against the benefit exclusive of the \$120 disregard and any additional disregard that may be implemented.

OK

We would like to replace this section with:

(A) to ensure, to the extent practicable, that aid received as a supplement to wages earned from a WORK position does not exceed 25 percent of the total monthly income of the participant, and

?

OK

### WORK Assessment

Section 495(c), which covers the WORK assessment, should call for an assessment after the second and every subsequent WORK assignment.

The assessment is only required for people who have not obtained unsubsidized employment "in a position that meets the criteria for a WORK position." Since these criteria are not described anywhere, wouldn't it be better to make it: "in a position providing more than 20 hours a week of unsubsidized employment."

## WORK administration

The last version of the specs said that if the state had a one stop career center, that agency would operate the JOBS/WORK program. That is no longer the case. Now the specs say the JOBS/WORK program will participate in the operation of the one-stop center. What does that mean? What does DOL say? Where is this in the legislation?

### Definition of WORK position (Section 491(b))

WORK positions, as counted for performance standards, must include those where the wages themselves are not subsidized. Particularly since there will be such a discrepancy in match for wages versus other costs, positions which are found or created where there is no wage subsidy have to count as well. Suggest changing the language to:

(b) Definition -- As used in this part, a "WORK position" is a position of employment, in the private or public sector, located or developed by the WORK program, or its agent, for an individual registered as a WORK participant.

There is a similar problem with Section 492 which says that the WORK program shall be established to provide assignments to subsidized positions. The use of placement firms, temporary agencies or other mechanisms that do not involve subsidizing the position itself should not be ruled out by omission. Better language:

(a) Requirement -- Each state shall establish and operate a program to locate and create temporary positions of employment for individuals who have received aid for 24 months, as provided in section 417. Not later than October 1, 1997, . . .

**IMPORTANT:** Note that this suggestion eliminates yet another reference to 15 hours being a satisfactory minimum work standard. There is no need for this sentence since Section 417 already says that months in which individual works 20 hours or more do not count toward the time limit.

### WORK Sanctions

**MAJOR ISSUE:** The part-time work compromise included an agreement to change the standard for good cause to refuse an unsubsidized job to the number of hours the state uses to set the minimum work standard. Thus in states with a minimum work requirement of 20 hours, good cause would only encompass refusing a job of 19 hours or less (if that meant a loss in income). 496(c) does not reflect this agreement. In fact, by incorporating the current regs from 45 CFR 250.35 [as they exist 6/1/94], not only does it include the loss of income test that we agreed to replace, it includes as good cause refusing any job of more than 20 hours if your child is under six. This has to be changed to reflect our agreement. [Same with spec #36(c)].

This may be in a different section, but we could not find in the legislation a provision that the family's food stamps and other federal benefits do not rise to compensate for the loss of

AFDC at the time limit should the person choose not to enroll in the WORK program, go to work, or become subject to sanction.

496(f) – if a person accepts a job, they are eligible for an AFDC supplement, but they should still be subject to the WORK sanction. The drafting of the language -- "the person is not considered subject to sanction for any purpose under this title" is too broad. They are able to get the supplement, but they are still sanctioned, and the sanction counts for determining the penalty in future instances of misconduct and they are still ineligible for another WORK assignment during the sanctioned period [as drafted]. Language should read "the person is eligible for aid as long as they continue to meet the minimum work standard in the state. Acceptance of an unsubsidized job does not cure ineligibility for another WORK assignment during the sanction period."

496(a)(4) – failure to engage in required interim activities should also be sanctionable. This clause should include activities specified in 496(e) as well as 495. Sanction not available if reason for non-participation is same claim as reason for assignment to interim activity. [See spec #36(i)].

484(d)(2) – The guarantee of an income provided here does not work. The only exception provided is if there is a sanction. However, if a participant does not work the required number of hours, but is not sanctioned, their income will drop below their AFDC amount, and the state should not be required to assure that "no family with a member eligible to participate" will not lose income instead it should say "no family with a member who is participating fully in the State's program."

## WORK Performance Standards

The language in 403(l)(4) is confusing:

- the number of required positions is referenced as being set in 492(d)(1), but that is where the WORK advisory board is created.
- there does not appear to be a reference to the calculation of the state's standard by dividing its WORK \$ by the cost per job figure set by the Secretary
- the alternative to creating the minimum number of slots should be that 80 percent of those registered are in WORK slots. Why is job search, and those in unsubsidized employment for 15 hours included?
- the penalty is defined as being taken for the "number of individuals by which such state's WORK participation standard exceeds the average monthly number of individuals in its WORK program." What is "in its WORK program?" The participation standard is never defined as a number which can be measured, 403(l)(4)(B) only tells us when it is met – so how can one measure it against people "in its WORK program."

This section should be redrafted simply:

"(4)(A) Notwithstanding . . . shall be reduced for each month by 25 percent with respect

to the number of individuals by which such state's WORK program falls below its participation standard.

(B) For purposes of this paragraph, a state's WORK participation standard is the lesser of:

- (i) [the state's WORK allocation divided by the cost per slot determined by the Secretary]
- (ii) 80 percent of the average monthly number of individuals registered for the WORK program."

-- Part time workers, those in job search should not count. The figure is set at 80 percent precisely because the other 20 are expected to be in job search or other activities. We had never envisioned that states could run a compliant WORK program by having part-time workers do some job search.

-- The section where the Secretary sets the cost per slot still needs to be drafted, as far as we can tell.

## Job Search in WORK

We do not think that we should be making job search assistance available to sanctioned families in the WORK program. If they are ineligible for the WORK program, why would the WORK program be serving them as it does eligible participants. MO

## Health benefits

We thought, and the previous specs said, that it would be optional for employers to provide health benefits to WORK participants. The bill now requires employers to provide health insurance to WORK participants. Did we agree to the change??

## OTHER PROVISIONS

### Fraud

We would like to include the following fraud penalty:

"Anyone convicted of welfare fraud would be permanently ineligible for assistance under this Title."

If we do not include this language here, where should we include it?

### EBT

Should there be some mention somewhere in the specs of what is actually happening with EBT.

## STATEWIDENESS

Section 403(o)(1) needs to be changed. We have agreed that the states should not have to be implemented 90 percent statewide in order to get the enhanced match. We propose the following language:

(o)(1)(B) in which the number of individuals to whom the provisions of Section 417 are being applied is less than 90 percent of the number of individuals in the state who are custodial parents described in section 402(a)(19)(B)(i) unless the state has in place an approved plan for reaching 90 percent within two years of implementation.

#### MAINTENANCE OF EFFORT

Since we anticipate a shift of AFDC administrative costs to the enhanced match available under JOBS administrative reimbursement, shouldn't we at least include AFDC admin costs in the baseline that has to be maintained?

Aske  
Wendell

#### UP Provisions

We would like to review the two-parent rules carefully one last time:

- why are sanctions weaker for UP families than others. If single parent fails to take a job, whole family is sanctioned, why should only individual be removed when it's a two parent family?
- why are we applying current UP participation stds to the states that take the 6 mos. option, but not to those that don't. All the provisions should apply to all the UP families
- one set of rules, not two. Maintaining a different match rate will also be too complex.
- states should have option of having a higher minimum work standard for two parent families. Our suggestion: thirty with option to go to forty.

ok

Also, why are we denying the enhanced match to states that keep the 6 month UP option? If we are truly giving state flexibility on this issue, there should be no penalty. [403(o)(2)]

#### Noncustodial Parents

We thought eligibility was limited to unemployed fathers when they had AFDC child support arrears [see spec 1(b)(2)]. The legislation does not limit eligibility to fathers with AFDC child support arrearages, it allows any arrearages.

482(j)(6)(B) allows child support orders to be reduced or suspended for participation - and allows participation in training to be acceptable as credit towards the child support owed. We disagree and would like this provision deleted.

#### Performance Standards

We were under the impression that there would be a faster schedule for phasing in the performance measures and standards than indicated in the bill and specs. The following does

not look fast enough to satisfy Congress:

Oct 1, 1996 – measures for JOBS and WORK

Apr 1, 1998 – standards for JOBS and WORK for comment

Oct 1, 1998 – standards for application

Specs say year 2000 before implementation

## **TECHNICAL DRAFTING ISSUES**

The WORK sanctions section refers a couple of times to 496(a)(1) to (5), but there is not (5). (5) appears to have been redrafted as (b).

Please add "microenterprise programs" to Section 482(d)(1)(A)(IV) – where it currently only says self-employment. This will conform the legislation to the specs.

Purpose of the WORK program (Section 491(a)) implies that WORK program is there to help people who have not been able to find full-time work get full-time work. Since we have deliberately said that part-time work is good enough, shouldn't the language here drop the phrase "on more than a part-time basis"?

## June 16 Comments on Specs and Legislation

The following changes to the legislative language should be made to the sections indicated. Corresponding changes to the specs are also required.

### Substance Abuse

Section 482(a) (7) -- change "The state agency may require" to "must require." The sanction for failure to comply with the treatment requirement should be the loss of the 402(a)(19)(D) deferral. If substance abuse treatment is required and the person is not deferred, then sanctions under 402(a)(19)(G) would apply.

### Job Search

Add at the end of 482(g)(2): "... including individuals required by the State's exercise of its option under 402(a)(19)(B) to participate in the program under this part and including such other individuals receiving aid under this Part as the State shall choose to include in its job search requirement, regardless of their enrollment in the JOBS program.

### Minimum Work Requirements

The minimum work requirement needs to include a provision that individuals must accept additional hours of work if offered. This was part of the part-time work compromise and should be added somewhere in 402(a)(19)(G) or perhaps in 417:

An individual receiving aid and whose months of aid are not counting toward the 417 limit because they meet the part time work requirement must take additional hours if they are offered by either their current or another employer. They also cannot reduce the number of hours they work if that has the effect of increasing the level of aid they receive.

### Definition of WORK Position

Section 491(b) still defines a WORK position as "a position of employment subsidized with funds provided to the state under this part, in either the private or public sector."

We would like the following language substituted

(b) Definition -- a "WORK position" is a position of temporary employment located or developed by the WORK program or its agent, using funds provided to the state under this part, for an individual registered as a WORK participant.

## WORK Performance Standards

The provisions of 403(l)(4), pages 73-4 are still confusing:

(1) There is no clear definition for the state of the number of positions it is expected to create. The participation standard is indirectly defined by saying when it is met. Instead, the legislation should call on the Secretary to establish a target number of WORK positions for each state each year, at the same time that the allocation of WORK funds is made.

(2) The way in which the states meet their participation standard needs to be stated more directly. The following change should be made to 403(l)(4)(B):

For purposes of this paragraph, the state may satisfy its WORK participation standard if --

(i) the average monthly number of WORK positions to which WORK registrants are assigned is not fewer than the target established by the Secretary; or

(ii) if the number of WORK registrants is less than the target number of WORK positions, the state must have 90 percent of its WORK registrants in a WORK position, participating in job search as required by the state plan under part G following an assignment to a WORK position, but for a period of no longer than 3 months, being sanctioned, or in unsubsidized employment and not receiving aid (but who at some time within the preceding 3 months were participating in the WORK program).

(3) The penalty should be 25 percent of benefits for the number of cases by which the state misses its target (in i above), and 25 percent of benefits for the number of registrants by which the state falls below 90 percent in the activities described in (ii) above.

## WORK Sanctions

(1) Section 496(a)(1) should be modified:

(1) failing or refusing to accept a bona fide offer of unsubsidized employment of at least 20 hours a week or less if the the job meets the criteria specified in section 484(d)(2)

This should be drafted not as a minimum for establishing good cause regs, but as the actual standard on the issue of hours and income. Good cause regs can address other issues such as "appropriate skills, travel time" but should not be allowed to modify the hours/income test. Therefore, drop 496(c)(1), and indicate that those are not issues to be addressed in regs.

(2) 496(f) should provide that sanction can be cured only by taking a job that meets the standard in 496(a)(1), not 493(d)(1). That section indicates that 75 percent of income must come from wages and is not relevant to the sanctions issue.

## Employability Plan

482(a)(2) -- The sentence beginning "The plan will detail the specific types. . ." should be replaced by the following sentence: "The plan will detail the activities in which the individual will be expected to engage in order to find employment, including job search, employment training and preparation, or education."

## **Exemptions**

The determination of incapacity should be allowed to be made by other professionals besides medical -- psychologists, for instance, are not strictly speaking medical professionals.

## **Child care WORK placements**

Section 492(b) should include child care workers on the specific list of suggested possible WORK positions, as the specs do now.

## **WORK Assessment**

We would still suggest that there be a mandatory assessment after the second and each subsequent WORK assignment, not just after the second. 495(c)

## **JOBS and WORK Administration**

We just want to be sure that DOL is comfortable with the language in the specs on the interrelationship between JOBS/WORK and one-stop. The issue does not appear in the legislation. Old specs had said that JOBS/WORK would have to be run through the one-stop if one existed. Current specs say JOBS/WORK will participate in running the one-stop.

## **5. Nondisplacement in Demonstrations**

Spec #2(h) on p. 54 goes further than other non-displacement language when it says that "no participant may be assigned to fill any established unfilled position vacancy." This language should be made consistent with the agreed-upon nondisplacement language used elsewhere.

## **7. Health Benefits**

Specs (35c) still require employers to provide health insurance. This should be written as an option, not a requirement.

## June 16 Comments on Specs and Legislation

### Substance Abuse

The specs on substance abuse did not change. We had asked that if a person is deferred from Section 417 time limits because of the need for substance abuse treatment, they should be required to accept that treatment, if available. If they refuse treatment, they should not be eligible for the deferral.

We had also suggested a 36 month limit on treatment.

### Job Search

Some changes were made to this language. The only question (perhaps technical, perhaps substantive) is whether the language as drafted is explicit enough in allowing states to extend job search requirements to all applicants and recipients, even those who are not phased in.

Applicant job search is optional. Recipient job search mandatory. Is that correct?

### Minimum Work Requirements

The minimum work requirement needs to include a provision that individuals must accept additional hours of work if offered. This was part of the part-time work compromise and should be added somewhere in 402(a)(19)(G).

### Interaction between Time Limit and Part-time Work

Months in which an individual meets the part-time work standard do not count against the time limit. 417(a)(2)(B)(IV):

482(a)(2)(A)(iii) indicates that those individuals are in the JOBS program and have employability plans where the primary activity is their job.

403(k)(6) includes part time workers as successful JOBS participants in measuring participation rates.

Our question is why these individuals are in the JOBS program at all. Shouldn't they be outside the program, not costing the JOBS program resources, and not counting in their participation standards since the months in which they are working part time don't count towards the time limit? Shouldn't our resources and focus be on those folks who are not working?

## Earnings Supplement

The change to the WORK supplement language is an improvement, but still contains two qualifiers: "to the extent practicable," and "on average." The rule should be enforced for each individual, not on the average.

## Definition of WORK Position

Section 491(b) still defines a WORK position as "a position of employment subsidized with funds provided to the state under this part, in either the private or public sector."

We had suggested the following language:

(b) Definition -- a "WORK position" is a position of temporary employment located or developed by the WORK program or its agent, using funds provided to the state under this part, for an individual registered as a WORK participant.

## WORK Performance Standards

The provisions of 403(l)(4), pages 73-4 are still confusing and do not work.

(1) There is no clear definition for the state of the number of positions it is expected to create. The participation standard is indirectly defined by saying when it is met, but this is a hard definition to apply to the sanction which is 25 percent reduction in match for the number of people below the standard.

(2) 403(l)(4)(B)(i) in particular is very unclear (I think a verb is missing).

(3) The 80 percent performance standard still includes job search, those in sanction, and people who found unsubsidized employment in the last three months.

Our suggestion continues to be what we have been discussing all along:

- The Secy sets a target number for each state each year based on their \$ allocation and the cost/job.
- The state must create the lesser of
  - (a) its target number
  - (b) 80 percent of those enrolled in WORK

## WORK Sanctions

(1) 496(c)(1) still incorporates a loss of income test (by referencing 484(d)(2)) -- the test says the person cannot be left with less income than AFDC would provide them (assuming no other income). This may actually be stricter than a straight 20 hour rule, so we may be OK with that.

- (2) Important to note that definition of good cause for all WORK sanction purposes is left to the Secretary and that any standards articulated in the bill are actually only minimums. So, for instance, the standard of 484(d)(2) is only a minimum, the bill leaves open the possibility that the Secretary's regs could require more of the job -- and incorporate the tests in the current regulations, for instance.
- (3) -- NOTE: p. 64 -- sanction for not accepting an unsubsidized job can be cured by accepting an offer that provides 75% of the participant's income in wages (the supplement standard) instead of 484(d)(2) which is the standard for the sanction in the first place. Unfortunately, I did not catch this one last time, but the standard for curing a sanction should obviously be the same as for incurring it.

## MINOR ISSUES

### 1. Employability Plan

The current draft adopted some of our language. We would still prefer that the list of services to be provided not put education first. We would prefer that the list be: "job search, employment training, education, and other employment activities. . ."

### 2. Exemptions

The specs and the language do conform now, but we still suggest that the determination of incapacity be allowed to be made by other professionals besides medical -- psychologists, for instance, are not strictly speaking medical professionals.

Child care training/WORK placements

### 3. WORK Assessment

We would still suggest that there be a mandatory assessment after the second and each subsequent WORK assignment, not just after the second. 495(c)

-- Did not include child care positions in list of WORK positions on p. 46 (Sec 492(b)). It has been included in the specs, but not in the legislation. In fact, we wanted a specific percentage of the positions. That, of course, has not been included.

### 4. JOBS and WORK administration

The language in the specs is still confusing on the interrelationship between JOBS/WORK and one-stop. The issue does not appear in the legislation. Old specs had said that JOBS/WORK would have to be run through the one-stop if one existed. Current specs say JOBS/WORK will participate in running the one-stop.

### 5. Nondisplacement in Demonstrations

Spec #2(h) on p. 54 goes further than other non-displacement language when it says that "no participant may be assigned to fill any established unfilled position vacancy." This language should be made consistent with the agreed-upon nondisplacement language used elsewhere.

## 6. Performance Standards

The dates have not been pushed up beyond '96 and '98. Wasn't there agreement to do this. The language requested by CEA has not been included.

## 7. Health Benefits

Specs (35c) still require employers to provide health insurance. Isn't this optional?

## QUESTIONS

- (1) UP cases: we are not requiring UP parents in the states exercising the 6 mo. option to be under the time limit? -- (p. 7 legislation)
- (2) Why add the language on p.8 of legislation regarding children under 16 since B only applies to custodial parents?
- (3) What does the new language on p.9 (iii) mean re: child care? What is the section (g)(1)(A)(i)(II) referred to???

EXECUTIVE OFFICE OF THE PRESIDENT

14-Jun-1994 09:25am

TO: (See Below)

FROM: Janet R. Forsgren  
Office of Mgmt and Budget, LRD

SUBJECT: Welfare Reform Transmittal Message and Fact Sheet

Could you please let me know the status of the transmittal message and fact sheet for welfare reform?

We expect to get the revised bill language and legislative specifications from HHS around 11:00 AM this morning. If at all possible, I would like to circulate the transmittal message and fact sheet with the bill language and legislative specifications.

Distribution:

TO: Bruce N. Reed

CC: Kathryn J. Way  
CC: Jeremy D. Benami  
CC: Isabel Sawhill  
CC: Douglas L. Steiger  
CC: Bernard H. Martin  
CC: Keith J. Fontenot  
CC: James C. Murr  
CC: Christopher J. Mustain

EXECUTIVE OFFICE OF THE PRESIDENT

15-Jun-1994 07:36pm

TO: Isabel Sawhill  
TO: Christopher J. Mustain

FROM: Bruce N. Reed  
Domestic Policy Council

CC: Kathryn J. Way  
CC: Jeremy D. Benami

SUBJECT: Preliminary WR comments

We will provide more elaborate comments sometime Thursday, but I wanted to flag a few key issues in the JOBS/WORK specs now:

1. The Jobs/WORK specs should be Part A of the Leg. Specs, with Child Support as Part B. (Work and Responsibility, not the other way around)
2. p. 7, #5(a). I thought our agreement Friday on substance abuse was that states MUST require people deferred for substance abuse reasons to participate in treatment provided such treatment was available. The current specs say states MAY require it.
3. p. 13, #10. A key provision has been dropped from the Minimum Work Standard, contrary to our agreement with HHS. The previous specs (June 6) included a provision requiring people working part-time to accept more hours if available. This was part of our compromise on part-time work, and HHS agreed to it. Without this provision, the deal is off. The provision must be added back:  

Persons would be required to accept additional hours of unsubsidized work if available, provided such work met the relevant standards (e.g., health and safety) for unsubsidized employment. Individuals would also be prohibited from reducing the number of hours worked with the intent of receiving additional benefits.
4. p. 35, 36, #36(g) and 36(j)i. On Saturday, HHS agreed to define the refusal to accept a job offer as 20 hours, not whether or not it constitutes a net loss of income. It's not clear where the specs stand on this issue.
6. p. 54, #2(f). The waiver provisions include a non-waivable provision that "No participant may be assigned to fill any established unfilled position vacancy," which is stronger displacement language than anywhere else in the bill. I discussed

this last week with David, and thought we had agreed to drop this sentence. We should not have a non-waivable provision that goes beyond the non-displacement provisions we have in JOBS and WORK.

7. p. 100: A small point: To match the rollout document, Section B should be called "Incentives for Responsible Behavior" not "Responsibilities for School-Age Parents" -- since the family cap provision which follows is not really about school-age parents.

Those are my initial comments on the Specs. We will give you more when we review the legislative language. I'm glad to see we're nearing the finish line.

Thanks.

- (1A) work shd be Part A of Specs
- (1) p. 35, 36: where is 20-hr defn. of must-accept?  
of prev., p. 36 (36c)
- (2) p. 13 (#10): Require to accept add'l hours.  
see prev. specs, p. 13 (10f)
- (3) p. 54 Waivers 2(b): estab. unfilled vacancy.
- (4) ~~p. 102 (100)~~: p. 100: Incentives for Resp Behavior
- (5) p. — Substance: must vs may
- (6) Earning supplement

MEMORANDUM

COUNCIL OF ECONOMIC ADVISERS

June 15, 1994

TO: Chris Mustain, OMB  
FROM: Bill Dickens, CEA  
SUBJECT: HHS Failure to Make Promised Changes to Draft Legislation

On Friday June 10th, at a meeting chaired by Alice Rivlin in the OMB conference room, HHS agreed to make four changes to the draft legislation. Although the legislation has been redrafted in two cases, none of the four issues has been adequately addressed. Those issues are:

1) **Job Search Assistance** -- It was agreed that Title I, SEC. 103 (g)(2) (p 26 of draft) should be modified to note that anyone with a high school diploma or more than 100 hours of paid work experience will be presumed to be ready for employment. This language has been added, but up-front job search has been made a state option rather than a requirement ("(2) The State agency may require ..."). The "may" must be changed to "shall."

2) **Adequate Incentives for Outcome Standards** -- HHS agreed to insert the following language (or something like it) in Title IV, SEC. 401 amending SEC. 487 (c) (p 111-112 of draft):

The penalties and incentives set shall be sufficient to insure that a state which incurs the costs necessary to obtain the desired outcomes is financially better off than one that does not.

No language of this sort was added.

3) **WORK Performance Standard** -- HHS agreed to change the language in Title II SEC. 202 amending (4)(B) (p 73-74 of draft). We did not agree on specific language, but my understanding was that the bill would be changed to read:

"(B) For the purposes of this paragraph, a State's WORK participation standard is met if the number of people registered for the program receiving wages for work is greater than or equal to the lesser of --

(i) <as previously drafted>

(ii) 80 percent of the average monthly number of individuals registered for the WORK program."

The draft language counts people doing job search towards the states performance standard. There is no need for this. The main reason why states are only required to place 80% of people registered for the program in work slots is because the 20% are supposed to be doing job search. Everyone in the work program should be working or doing job search. If job search is included in the numerator the standard should be 100%. The addition of people placed in unsubsidized work to the numerator and the denominator in the current draft is a good idea.

4) **Mental Health and Pre-JOBS** -- Although CEA likes the current language, it was agreed in the Friday meeting that language should be added under Title I, SEC. 101 (1)(D) (p 11 of draft) which specifies that mental health professionals may certify people as exempt, but only after an examination by an assigned mental health workers drawn from a list prepared by the state. The current language requiring the certification of a medical professional is inconsistent with our position on health care. The additional restrictions on which mental health professionals may certify someone as not job ready are necessary to ensure that recipients can not "shop around" for someone who will certify them.

CC: LT,JS,AB,MM,Isabel Sawhill (OMB),Alicia Munnell (Treas.),Bruce Reed (DPC),Kathy Way (DPC)