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WELFARE REFORM

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JOBS, TIME LIMITS AND WORK

JOBS AND TIME LIMITS

1. EFFECTIVE DATE AND DEFINITION OF PHASED-IN GROUP

Specifications

- (a) The effective date for the legislation would be October 1, 1995. States could petition to delay implementation for up to one year after the effective date (i.e., until, at the latest, October 1, 1996) for circumstances beyond the control of the State IV-A agency (e.g., no meeting of State legislature that year). States would be required to have the program implemented statewide (in each political subdivision of the State where it is feasible to do so) within two years of initial implementation.
- (b) The phased-in group would be defined as custodial parents, including minor custodial parents, who were born after 1971 (in 1972 or later).
- (c) States would have the option to define the phased-in group more broadly (e.g., custodial parents born after 1969, born after 1971 and all first-time applicants), provided the phased-in group included at least the population described in (b).
- (d) States would be required to apply the new rules, including the time limit, to all applicants in the phased-in group as of the effective date of the legislation. Recipients (parents) in the phased-in group who were on AFDC prior to the effective date would be subject to the new rules, including the time limit, as of their first redetermination following the effective date.

2. PROGRAM INTAKE

Current Law

The Family Support Act requires a State agency to make an initial assessment of JOBS participants with respect to employability, skills, prior work experience and educational, child care and supportive service needs.

Vision

At the point of intake, applicants will learn of their specific responsibilities and expectations regarding the JOBS program, the two-year time limit and its relationship to JOBS participation and AFDC benefits not conditioned upon work. Each applicant will now be required to enter into a personal responsibility agreement with the State agency broadly outlining the obligations of each party. While the personal responsibility agreement will serve as a general accord, the employability plan will be focused on the specific employment-related needs of each applicant.

Rationale

States must change the culture of the welfare system by changing the expectations of both the recipient and the State agency. This calls for modifying the mission of the welfare system beginning at the point of intake to stress employment and access to needed services rather than eligibility and benefit determination. The mutual obligations of the State agency and the participant must be spelled out and enforced. JOBS programs must continue to link clients to services in the community.

Specifications

- (a) All applicants (parents) would be required as part of the application/redetermination process to sign a Personal Responsibility Agreement with the State IV-A agency specifying the general responsibilities of both the applicant and the State agency (for the applicant, following the employability plan; for the State, making available the services in the plan). Current recipients (parents), if they had not previously signed the Agreement, would be required to sign the Agreement as part of the redetermination process. The Personal Responsibility Agreement for persons in the not-phased-in group would make no reference to the time limit.
- (b) The Personal Responsibility Agreement would not be a legal contract.
- (c) The State IV-A agency would be required to orient each applicant to the AFDC program by providing information about the AFDC program, which would include (among other items) the nature and applicability of the two-year time limit, the JOBS participation requirement, the services provided under JOBS and the availability of such services to persons not in the phased-in group. Each applicant in the phased-in group would be informed of the number of months of cash assistance/JOBS participation for which he or she was eligible (e.g., 24 for first-time applicants). The orientation information could be provided as part of the eligibility determination process or in a subsequent one-on-one or group orientation session. States would be required to provide the orientation information prior to or as part of the development of the employability plan. The information would be imparted in the recipient's primary language pursuant to Federal law and regulation. Child care would be available as needed to enable an individual to receive the orientation information (as under CFR 255.2).
- (d) The State would have to obtain confirmation in writing from each applicant that he or she had received and understood the requisite orientation information.
- (e) Recipients who were already on assistance as of the effective date of the legislation would be provided with the requisite orientation information at the earliest possible date but in no event later than at the development or revision of the employability plan (see below) or as part of the redetermination process, whichever came first.

3. EMPLOYABILITY PLAN

Current Law

On the basis of the assessment described above, the State agency must develop an employability plan for the participant. The State agency may require participants to enter into a formal agreement which specifies the participant's obligations under the program and the activities and services to be provided by the State agency. The employability plan is not considered a contract.

Vision

The employability plan will be designed so as to help individuals secure lasting employment as soon as possible. Employability plans may be for less than 24 months and may include assignment, through JOBS, to work programs such as On-the-Job Training, Work Supplementation and CWEP.

Specifications

- (a) The State agency would be required to complete the assessment and employability plan (for new recipients) within 90 days from date of application. For recipients on assistance as of the effective date, the employability plan would have to be developed (or revised, if such a plan were already in place) within 90 days of the date the recipient became subject to the time limit (i.e., within 90 days of the redetermination; see above).
- (b) The employability plan will be developed jointly by the State agency and the recipient. In designing the employability plan, the agency and the recipient would consider, among other elements, the months of eligibility (for JOBS participation/AFDC benefits not contingent upon work; see DEFINITION OF THE TIME LIMIT below) remaining for that recipient (if that recipient were subject to the time limit).
- (c) An employability plan would be required for all recipients (parents) in the phased-in group, including those in pre-JOBS status (see below), and for all JOBS participants not in the phased-in group (e.g., volunteers).
- (d) The employability plan for persons required to participate in JOBS would include an expected time frame for achieving self-sufficiency and the activities intended to assist the participant in obtaining employment within that time period. The time frame would, in the case of many JOBS participants, be shorter than 24 months. For persons in pre-JOBS status (see below), the employability plan would, when appropriate, detail the activities needed to remove the obstacles to JOBS participation.
- (e) Amend section 482(b)(1)(A) by adding "literacy" after the word "skills."
- (f) The State agency would provide that if the recipient and the State agency staff member or members responsible for developing the employability plan cannot reach agreement on the plan, a supervisory level staff member or other State agency employee trained to mediate these disputes will intervene to provide further advocacy, counseling or negotiation support.
- (g) To resolve disputes (regarding the employability plan) not settled by the intervention in (f), a State may elect one or more of the following processes:
 - i. Permit the agency to establish an internal review board to arbitrate disputes. This board would have the final say. The Secretary would establish regulations for such boards.
 - ii. Permit agencies to employ mediation using trained personnel, rather than arbitration, to resolve the dispute. HHS would be responsible for providing technical assistance to States that wish to use mediation.
 - iii. Allow the recipient a fair hearing contesting whether the State agency had followed the established process for developing the employability plan. A fair

hearing could be the exclusive remedy or could be allowed in addition to the procedure in (i) or (ii).

- (h) Persons who refused to sign or otherwise agree to the employability plan after the completion of the process described above would be subject to sanction, curable by agreeing to the plan. In the event of an adverse ruling at a fair hearing concerning the employability plan, the individual would not have the right to a second fair hearing prior to imposition of the sanction for continued refusal to agree to such plan.

4. PRE-JOBS

Current Law

States must require non-exempt AFDC recipients to participate in the JOBS program to the extent that resources are available. Exemptions under the current JOBS program are for those recipients who are ill, incapacitated, or of advanced age; needed in the home because of the illness or incapacity of another family member; the caretaker of a child under age 3 (or, at State option, under age 1); employed 30 or more hours per week; a dependent child under age 16 or attending an educational program full time; women in the second and third trimester of pregnancy; and residing in an area where the program is not available. The parent of a child under age 6 (but older than the age for an exemption) who is personally providing care for the child may be required to participate only if participation does not exceed 20 hours per week and necessary child care is guaranteed. For AFDC-UP families, the exemption due to the age of a child may be applied to only one parent, or to neither parent if child care is guaranteed.

Vision

Under new provisions, a much greater percentage of AFDC recipients will be required to participate in JOBS. Single-parent and two-parent families will be treated similarly under the new JOBS system. The current exemption policy will be replaced with a policy under which persons not yet ready for participation in JOBS will be assigned, temporarily in many cases, to the pre-JOBS phase. Some of the criteria for placement in pre-JOBS status are based on current regulations concerning exemptions, but in a number of instances the definition is tightened significantly.

Rationale

In order to change the culture of welfare, it is necessary to maximize participation in the JOBS program. It is also critical to ensure that all welfare recipients who are able to participate in JOBS have such services made available to them by the States. Elimination of exemptions sends a message that participation in JOBS should be the normal course of events, and not the exception. The pre-JOBS policy does, however, give States the flexibility to consider differences in the ability to work and to participate in education and training activities in determining whether to require an individual to enter the JOBS program.

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 instances of a dispute concerning pre-JOBS status.
- (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 day care or school 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 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 (except with respect to participation in substance abuse treatment; see SUBSTANCE ABUSE AND ASSIGNMENT TO PRE-JOBS below).
- (e) Persons in pre-JOBS would not be subject to the time limit, i.e., 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) Is a parent of a child under age one, provided the child was not conceived while the parent was on assistance. A parent of a child conceived while on assistance would be placed in pre-JOBS for a twelve-week period following the birth of the child (consistent with the Family and Medical Leave Act).

(Under current law, a parent of a child under age three, under age one at State option, is exempted from JOBS participation, and no distinction is made according to whether or not the parent was on assistance when the child was conceived)

- (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) Is 60 years of age or older;
- (5) Is 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;
- (6) Is in the third trimester of pregnancy; or
(Under current law and regulations, pregnant women are exempted from JOBS participation for both the second and third trimesters)
- (7) Lives 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 generally 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 (parents), 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 barriers to employment—for example, a severe learning disability or serious emotional instability. The percentage cap on such good cause placements in pre-JOBS would be set, in statute, at 5% through FY 99 and 10% thereafter. A State would be able, in the event of extraordinary circumstances, to apply to the Secretary to increase the percentage cap on good cause placements. The Secretary would be required to respond to such requests in a timely manner (time frame to be established by regulation).
- (i) The Secretary would develop and transmit to Congress, by a specified date, recommendations regarding the level of the cap on good cause placements in pre-JOBS; the Secretary could recommend that the cap be raised, lowered or maintained at ten percent.

- (j) The State agency would be required to reevaluate the status of persons in the pre-JOBS phase at such time as the condition is expected to terminate (if the condition is expected to be temporary) but no less frequently than at each semiannual assessment (see SEMIANNUAL ASSESSMENT below) to determine if the individual should remain in pre-JOBS status or should enter (or re-enter) the JOBS or WORK programs.
- (k) Recipients who met the criteria for placement in the pre-JOBS phase would be permitted to volunteer for the JOBS program, subject to available Federal resources (see JOBS PARTICIPATION below). Such a volunteer JOBS participant would in general be treated as other JOBS participants except that he or she would not be subject to sanction or to the time limit. These volunteers would be distinct from volunteers from the not-phased-in group (see JOBS PARTICIPATION below), who could at State option be subjected to the time limit.
- (l) A State agency would be required to promptly inform a recipient of any change in his or her status with respect to JOBS participation and/or the time limit (e.g., movement from the pre-JOBS phase into the JOBS program).
- (m) The criteria for placing WORK participants in the pre-JOBS phase would be identical to the pre-JOBS criteria for persons who had not yet reached the two-year time limit. Persons who were assigned to pre-JOBS after reaching the time limit would be eligible for AFDC benefits. Such individuals would be treated exactly the same as persons assigned to pre-JOBS before reaching the time limit, except that if the condition necessitating placement in pre-JOBS ended, they would enter or re-enter the WORK program, rather than the JOBS program. Adult recipients placed from the WORK program into pre-JOBS for good cause would count against the cap on the number of good cause placements in pre-JOBS.

5. SUBSTANCE ABUSE AND ASSIGNMENT TO PRE-JOBS

Current Law

Current law does not specifically mention substance abuse. Under JOBS regulations, a recipient whose only activity is alcohol or drug treatment would not be counted toward a State's participation rate. Alcohol or drug treatment may, however, be provided as a supportive service using JOBS funds should a State choose to do so. Oregon currently has a waiver that permits the JOBS program to require participation in substance abuse diagnostic, counseling, and treatment programs if they are determined to be necessary for self-sufficiency.

Vision

States will be given flexibility to require recipients they determine to be unable to engage in employment or training because of a substance abuse problem to participate in substance abuse treatment as a pre-JOBS activity. Sanctions may be imposed for non-participation in substance abuse treatment provided that both treatment and supportive services, including child care, are made available.

Rationale

States report (on an anecdotal basis) substance abuse as a problem they encounter in their JOBS populations. It is a barrier to self-sufficiency for a number of AFDC recipients who will require treatment if they are to successfully participate in employment or training activities. It is estimated that approximately 4.5% of AFDC recipients have substance abuse problems sufficiently debilitating to

preclude immediate participation in employment or training activities. Nearly one-third of these have participated in some form of alcohol or drug treatment in the past year.

Specifications

- (a) States may require persons found unable to engage in employment or training due to substance abuse to participate in appropriate substance abuse treatment as a pre-JOBS activity.
- (b) Sanctions, equivalent to JOBS sanctions, may be levied for non-participation in treatment, provided such treatment is available at no cost to the recipient.
- (c) Child care and/or other supportive services must be made available to an individual required to participate in substance abuse treatment.
- (d) Provisions concerning the semiannual reassessment apply to persons in the pre-JOBS phase participating in substance abuse treatment as described in this section.
- (e) States may also require individuals in JOBS to participate in substance abuse treatment (in conjunction with another JOBS activity or activities) as part of the employability plan.

6. DEFINITION OF THE TIME LIMIT

Current Law

Some States (those which did not have an AFDC-UP program in place as of September 26, 1988) are permitted to place a type of time limit on participation in the AFDC-UP program, restricting eligibility for AFDC-UP to 6 months in any 12-month period (Section 407(b)). Thirteen states presently impose time limits on AFDC-UP eligibility. Under current law, however, no other type of time limits may be placed on participation in the AFDC program.

Vision

Most of the people who enter the welfare system do not stay on AFDC for many consecutive years. It is much more common for recipients to move in and out of the welfare system, staying a relatively brief period each time. Two out of every three persons who enter the welfare system leave within two years and fewer than one in ten spends five consecutive years on AFDC. Half of those who leave welfare return within two years, and three of every four return at some point in the future. Most recipients use the AFDC program not as a permanent alternative to work, but as temporary assistance during times of economic difficulty.

While persons who remain on AFDC for long periods at a time represent only a modest percentage of all people who ever enter the system, however, they represent a high proportion of those on welfare at any given time. Although many face very serious barriers to employment, including physical disabilities, others are able to work but are not moving in the direction of self-sufficiency. Most long-term recipients are not on a track toward obtaining employment that will enable them to leave AFDC.

The proposal would establish, for adult recipients not placed in pre-JOBS, a cumulative time limit of two years on the receipt of AFDC benefits not contingent upon work, with extensions to the time limit to be granted under certain circumstances. Months in which an individual was placed in pre-JOBS status would not count against the time limit. Individuals who have left welfare for extended periods of time would be eligible for a cushion of a few months of AFDC benefits.

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency through work. This time limit gives both the recipient and the welfare agency a structure that necessitates steady progress in the direction of employment and economic independence. As discussed in the WORK specifications below, recipients who reach the two-year time limit without finding an unsubsidized job will be offered publicly subsidized jobs to enable them to support their families.

Specifications

- (a) The time limit would be a limit of 24 on the cumulative number of months of AFDC benefits an adult (parent) could receive before being required to participate in the WORK program (see Teen Parents for treatment of young custodial parents). In other words, the 24 months would begin with the initial AFDC payment (or with the first payment following redetermination, in the case of persons on AFDC prior to the effective date of the legislation). Months in which an individual was receiving assistance but was in pre-JOBS rather than in JOBS would not count against the 24-month time limit (see PRE-JOBS above).
- (b) The 24-month time clock would not begin to run until a custodial parent's 18th birthday. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (c) A record of the number of months of eligibility remaining would be kept for each individual subject to the time limit. Non-parent caretaker relatives would not be subject to the time limit.
- (d) The State agency would be required to advise each recipient subject to the time limit as to the number of months of eligibility remaining for him or her no less frequently than once every six months (see SEMIANNUAL ASSESSMENT below). In addition, the State agency would be required to contact and schedule a meeting with any recipient who was approaching the 24-month time limit at least 90 days prior to the end of the 24 months (see TRANSITION TO WORK/WORK below).

7. AFDC-UP FAMILIES AND THE TIME LIMIT

Specifications

- (a) In an AFDC-UP family, both parents would be subject to the time limit if the principal earner were in the phased-in group (see below). A separate record of months of eligibility remaining would be kept for each parent. If one parent in an AFDC-UP family were placed in pre-JOBS status, that parent would not be subject to the time limit--months in the pre-JOBS phase would not count against that individual's 24-month limit. The other parent, however, would still be subject to the time limit. Placements of a second parent in pre-JOBS would not count against the cap on good cause assignments to pre-JOBS.
- (b) If one parent had reached the time limit and the other had not, the parent who had reached the time limit would be required to enter the WORK program. If the parent who had reached the limit declined to participate in the WORK program, that parent's needs would no longer be considered in calculating the family's grant. His or her income and resources would still be taken into account. The family would still be eligible for the remainder of the benefit (essentially, the other parent and the children's portion) until the other parent reached the two-year limit.

- (c) If a parent in an AFDC-UP family reached the time limit but declined to enter the WORK program, the needs of that individual would (as above) not be taken into account in calculating either the AFDC benefit or any earnings supplement (if the other parent did enter the WORK program; see WORK specifications below). If such a parent subsequently reversed course and entered the WORK program, he or she would be considered part of the assistance unit for the purpose of determining the supplement and would also be eligible for a WORK assignment. As discussed in the WORK specifications below, a State would not be required to provide WORK assignments to both parents in an AFDC-UP family.
- (d) Months in which a parent in an AFDC-UP family met the minimum work standard would not count against that parent's time limit. If the combined hours of work for both parents were equal to an average of 30 or more per week, neither parent would be subject to the time limit (see MINIMUM WORK STANDARD).
- (e) If one of the two parents in an AFDC-UP family is sanctioned under the WORK program or under JOBS for refusing to accept an unsubsidized job and the other parent is also noncompliant (sanctioned under the JOBS or WORK program), the sanctions described below (see SANCTIONS/PENALTIES) apply. If one of the two parents is sanctioned under WORK but the other parent is participating satisfactorily in JOBS or WORK or is in the pre-JOBS phase, the needs of the noncompliant parent would not be considered in determining either the AFDC benefit or the earnings supplement (if the other parent were in the WORK program).
- (f) With respect to the phase-in, both parents in an AFDC-UP family would be considered subject to the new rules if the principal earner, or, if such a designation were not used in the State, the older of the two parents, were in the phased-in group. If the parents in an AFDC-UP family subject to the new rules subsequently separated, both would still be subject to the new rules.
- (g) States which already limited AFDC-UP eligibility to 6 months in any 13-month period would not be permitted to apply the two-year time limit or any related provisions to AFDC-UP families. In these States, all AFDC-UP families would be treated as part of the not-phased-in group, except that the current law AFDC-UP participation standards and associated penalties would remain in effect. The JOBS match rate (for all JOBS expenditures) for such a State which failed to meet the AFDC-UP participation standard would be reduced to the higher of FMAP and 60 percent.

8. TEEN PARENTS

Vision

Persons under 18 are not ready to be independent and should generally be in school. Under the proposed law, minor parents would not be allowed to set up independent households. They would receive case management and be expected to remain in school. A teen parent's time clock would not begin to run until he or she turned 18 (and could establish an independent household).

Specifications

- (a) States would be required to provide case management services to all custodial parents under 20.
- (b) All custodial parents under 20 who had not completed high school or the equivalent would be required to participate in the JOBS program, with education as the presumed activity. The 24-month time clock, however, would not begin to run until a custodial parent turned 18. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (c) Custodial parents under 20 who had not completed high school or the equivalent and who had a child under one would be required to participate in JOBS as soon as the child reached twelve weeks of age. States would be permitted to assign custodial parents under 20 to pre-JOBS status in the event of a serious illness or other condition which precludes school attendance.
- (d) Custodial parents who were eligible for and receiving services under the Individuals with Disabilities Education Act would receive an automatic extension up to age 22 if needed to complete high school. These extensions would not be counted against the cap on extensions.

9. JOBS SERVICES

Current Law

A range of services and activities must be offered by States under the current JOBS program, but States are not required to implement JOBS uniformly in all parts of the State and JOBS programs vary widely among States. The services which must be provided as part of a State's JOBS program are the following: educational activities, including high school and equivalent education, basic and remedial education, and education for persons with limited English proficiency; job skills training; job readiness activities; job development and job placement; and supportive services to the extent that these services are necessary for participation in JOBS. Supportive services include child care, transportation and other work-related supportive services. States must also offer, in addition to the aforementioned services, at least 2 of the following services: group and individual job search, on-the-job training (OJT), work supplementation programs and community work experience programs.

Vision

The definition of satisfactory participation in the JOBS program will be broadened to include additional activities that are necessary for individuals to achieve self-sufficiency. States will continue to have broad latitude in determining which services are provided under JOBS. Greater emphasis, however, would be placed on job search activities, to promote work and employment.

Specifications

Up-Front Job Search

- (a) All adult new recipients in the phased-in group (and minor parents who had completed high school) who were judged job-ready would be required to perform job search from the date of authorization. States would include a definition of job-ready in the State plan. The definition would have to exclude persons who met or appeared likely to meet one of the criteria for pre-JOBS. A formal determination of pre-JOBS status, however, would not be required at this point.
- (b) States would have the option of requiring all job-ready new recipients, including those in the not-phased-in group, to perform up-front job search. States would also be permitted to require job search from the date of application (as under current law, this requirement could not be used as a reason for a delay in making the eligibility determination or issuing the payment).
- (c) The permissible period of initial job search would be extended from 8 weeks to 12.

Other Provisions Concerning JOBS Services

- (d) States would be required to include job search among the JOBS services offered.
- (e) Clarify the rules so as to limit job search (as the exclusive activity, i.e., not in conjunction with other services) to 4 months in any 12-month period. The up-front job search (described above) and the 45-90 days of job search required immediately before the end of the two-year time limit (see TRANSITION TO WORK/WORK below) would both be counted against the 4-month limit.
- (f) Amend section 482(d)(1)(A) by replacing "basic and remedial education to achieve a basic literacy level" with "employment-oriented education to achieve literacy levels needed for economic self-sufficiency."
- (g) Self-employment programs, including microenterprise training and activities, would be added to the list of optional JOBS activities.
- (h) Increase the limit on Federal reimbursement for work supplementation program expenditures from the current ceiling, which is essentially based on a maximum length of participation in a work supplementation program of 9 months, to a level based on a maximum length of participation of 12 months.
- (i) Change the nondisplacement language to permit work supplementation participants to be assigned to unfilled vacancies in the private sector, provided such placements did not violate the other nondisplacement provisions in current law.
- (j) The State plan would be required to include a description of efforts to be undertaken to encourage the training and placement of women and girls in nontraditional employment, including steps to increase the awareness of such training and placement opportunities.
- (k) States would be encouraged to provide or arrange, for interested JOBS participants, training as child care providers.

- (l) Amend the language in Social Security Act section 483(a)(1) which requires that there be coordination between JTPA, JOBS and education programs available in the State to specifically require coordination with the Adult Education Act and Carl D. Perkins Vocational Educational Act.
- (m) Where no appropriate review were made (e.g., by an interagency board), the State council on vocational education and the State advisory council on adult education would review the State JOBS plan and submit comments to the Governor.
- (n) Alternative Work Experience would be limited to 90 days within any 12-month period.
- (o) The State plan would include procedures to ensure that, to the extent possible, (external) service providers promptly notify the State agency in the event of noncompliance by a JOBS participant, e.g., failure to attend a JOBS activity.

10. MINIMUM WORK STANDARD

Specifications

- (a) The minimum work standard would be an average of 20 hours of (unsubsidized) work per week during the month, with a State option to increase to an average of 30 hours per week.
- (b) Months in which an individual met the minimum work standard would not count against the time limit. In an AFDC-UP family, if one parent met the minimum work standard, he or she would not be subject to the time limit. Months in which the combined hours of both parents equaled or exceeded 30 would not count against the time limit for either parent.
- (c) An individual who had not reached the time limit and was meeting the minimum work standard would be counted as a JOBS participant (see JOBS PARTICIPATION below).
- (d) A person who had reached the time limit but was working at least an average of 15 hours per week would be eligible for an earnings supplement (see EARNINGS SUPPLEMENTATION below). Such a person would be counted as a WORK participant (see performance measures specifications). Individuals working between 15 and 20 hours per week could be required to engage in job search, providing the combined hours of job search and unsubsidized work did not exceed an average of 35 per week.
- (e) A State would be required to offer a WORK assignment to an individual working less than 15 hours per week in an unsubsidized job (provided the person were otherwise eligible for the WORK program). The WORK assignment would be structured, to the extent possible, not to interfere with the unsubsidized employment. The combined hours of unsubsidized and subsidized employment would not exceed 35 (except with the agreement of the individual).
- (f) 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.

MUST
KEEP

11. JOBS PARTICIPATION

Current Law

Under the Family Support Act of 1988, which created the JOBS program, minimum JOBS participation standards (the percentage of the non-exempt AFDC caseload participating in JOBS at a point in time) were established for fiscal years 1990 through 1995. States face a reduced Federal match rate if those standards are not met. In FY 1993 States were required to ensure that at least 11% of the non-exempt caseload in the State was participating in JOBS (in an average month). The standard increased to 15% for FY 1994 and will rise to 20% for FY 1995. There are no standards specified for the fiscal years after FY 1995. Individuals who are scheduled for an average of 20 hours of JOBS activities per week and attend for at least 75% of the scheduled hours are countable for participation rate purposes. States are required to meet separate, higher participation standards for principal earners in AFDC-UP families. For FY 1994, a number of AFDC-UP parents equal to 40 percent of all AFDC-UP principal earners are required to participate in work activities for at least 16 hours per week. The standard rises to 50 percent for FY 1995, 60 percent for FY 1996 and 75 percent for each of the Fiscal Years 1997 and 1998.

Vision

To transform the welfare system from an income support system into a work support system, the JOBS program must be expanded significantly. This substantial increase in the number of JOBS participants will be phased in over time.

Specifications

- (a) The JOBS program targeting requirements would be eliminated. Similarly, the separate AFDC-UP participation standards would be abolished, except in those States which elected to limit AFDC-UP eligibility to 6 months in any 13-month period.
- (b) Individuals in self-initiated education and training activities (including, but not limited to; post-secondary education) would receive child care benefits if and only if such activities were approved through the JOBS program. Costs of such education and training would not be reimbursable under JOBS. Child care and supportive services expenditures, however, would be matchable through IV-A and JOBS, respectively.
- (c) The definition of participation would be altered such that an individual enrolled half-time in a degree-granting post-secondary educational institution who was making satisfactory academic progress (as defined by the Higher Education Act) and whose enrollment was consistent with an approved employability plan would be considered to be participating satisfactorily in JOBS, even if such a person were scheduled for fewer than 20 hours of class per week.
- (d) The definition of JOBS participation would be broadened to include working in jobs that meet the minimum work standard (see above).
- (e) The broadened definition of participation would include participation in a structured microenterprise program. As above, satisfactory participation in such a microenterprise program would meet the JOBS participation requirement, even if the scheduled hours per week were fewer than 20.

JOBS Participation for the Not-Phased-In Group

Specifications

- (f) States would be required to continue providing services to a person already participating in JOBS as of the effective date, consistent with the employability plan in place as of that date.
- (g) States would be given substantial flexibility regarding JOBS services for persons not in the Federally-defined phased-in group (custodial parents born after 1971), as discussed below:
 - i. A State would be required to serve volunteers from the not-phased-in group to the extent that Federal JOBS funding was available (i.e., the State had not drawn down its full JOBS allotment). States would have the option of subjecting such JOBS volunteers to the time limit. A State would be required to describe in the State plan its policy with respect to volunteers.
 - ii. States could define the phased-in group more broadly, e.g., parents born after 1971 and all new applicants (see EFFECTIVE DATE AND DEFINITION OF THE PHASED-IN GROUP above). In addition, a State could *require* recipients who were not in its phased-in group to participate in JOBS, but could not apply the time limit to such JOBS-mandatory persons (as opposed to volunteers above). In other words, a State that defined the phased-in group as parents born after 1969 could require a person born in 1968 to participate in JOBS, and sanction such an individual for failure to comply, but that person would not be subject to the time limit. An individual in either the phased-in or the not-phased-in groups who met one of the pre-JOBS criteria could not be required to participate in JOBS.

12. JOBS FUNDING

Current Law

Under current law, the capped entitlement for JOBS is distributed according to the number of adult recipients in a State, relative to the number in all States. State expenditures on JOBS are currently matched at three different rates. States receive Federal matching funds, up to the State's 1987 WIN allocation, at a 90 percent Federal match rate. Expenditures above the amount reimbursable at 90 percent are reimbursed at 50 percent, in the case of spending on administrative and work-related supportive service costs, and at the higher of 60 percent or FMAP in the case of the cost of full-time JOBS program staff and other program expenditures (apart from spending on child care, which does not count against the JOBS capped allotment and is matched at the FMAP). The JOBS entitlement (Federal funding) is capped at \$1.1 billion for FY 94, \$1.3 billion for FY 95, and \$1 billion for FY 96 and each subsequent fiscal year.

Specifications

- (a) The capped entitlement for JOBS would be allocated according to the average monthly number of adult recipients (which would include WORK participants) in the State relative to the number in all States (similar to current law).
- (b) The JOBS capped entitlement (Federal) would be set at ___ billion for FY 1996, ___ billion for FY 1997 and ___ billion for each of the fiscal years 1998, 1999 and 2000. [This capped

entitlement includes funding to cover the cost of JOBS services to participants from both the phased-in and not-phased-in groups, an additional amount for services for noncustodial parents and funding to address the cost of providing case management to teen parents. The level of the JOBS capped entitlement for the fiscal years after 2000 would be set by adjusting for caseload growth, inflation and the increase in the size of the phased-in group.]

- (c) The Federal match rate (for each State) for all JOBS expenditures under the proposed law would be set at the current law JOBS match rate (direct program cost) plus ten percentage points, i.e., FMAP plus ten percentage points, with a floor of 70 percent. Spending for direct program costs, for administrative costs and for the costs of transportation and other work-related supportive services (apart from child care) would all be matched at the single rate. The current law hold harmless provision, under which expenditures up to a certain level are matched at 90 percent, would be eliminated. The enhanced match rate would become effective upon statewide implementation of the new legislation. Statewide for this purpose would be defined as a number of persons subject to the time limit that equaled or exceeded 90% of the Federally-defined phased-in group. The numerator for this calculation would be individuals in the State's phased-in group and subject to the time limit; the denominator would be custodial parents born after 1971.
- (d) To qualify for the enhanced match rate, a State's total spending (State share) for JOBS, WORK (matchable from the WORK capped entitlement) and for IV-A, Transitional and At-Risk Child Care for a fiscal year would have to equal or exceed the State's total spending for JOBS and for IV-A, Transitional and At-Risk Child Care for Fiscal Year 1994 but could in no event be less than the total of such spending for Fiscal Year 1993. If a State did not meet this standard, its Federal match rate for JOBS and WORK (WORK operational costs) for the fiscal year in question would be reduced to a rate equal to the higher of FMAP and 60 percent (for all JOBS spending) and its Federal match rate for spending on the child care programs for that fiscal year would be reduced to FMAP.
- (e) A State would be permitted, beginning in FY 97, to reallocate an amount up to 10% of its combined JOBS and WORK allotments (WORK allotment from the capped entitlement) from its JOBS program to its WORK program and vice versa. The amount transferred could not exceed the allotment for the program from which the transfer was made.

EXAMPLE:

A State with a \$5 million JOBS allotment and a \$6 million allotment from the WORK capped entitlement (see WORK FUNDING below) can allocate \$1.1 million from JOBS to WORK or vice versa. The State finds that spending on the JOBS program is running higher than expected and so it opts to reallocate \$600,000 from WORK to JOBS. The State can now draw down up to \$5.6 million, rather than \$5 million, in Federal funding for JOBS expenditures. On the other hand, the State can now receive only \$5.4 million in Federal matching funds, at the higher rate, for spending on WORK costs.

- (f) If the States did not claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State could draw down Federal funds for JOBS and/or WORK in excess of its allotments. The additional Federal funding would be drawn from the unobligated balance (JOBS and WORK money not spent by other States). A State would have to draw down its full allocations for both JOBS and WORK to be able to draw down unspent funds beyond these allotments (for spending on either program). This would require legislative authority to distribute unobligated funds from one fiscal year during the subsequent fiscal year and to distribute unliquidated obligations from a fiscal year during, not the succeeding fiscal year, but the one after that (two years afterward).

EXAMPLE:

During FY 99, seven States spend on JOBS and WORK at a level that would draw down Federal funding in excess of their allotments. The FY 99 JOBS and WORK allotments for the seven States total \$100 million, but the level of State match contributed for the two programs would enable the seven to draw down \$110 million in Federal funds, absent the limitations on State allocations, for a difference of \$10 million. The total amount of unobligated JOBS and WORK funding for FY 99 (based on States' drawing down JOBS and WORK funding only up to the level of their allotments) is \$7 million. Each of the seven States would receive 70 cents for each dollar of Federal funding it could potentially have drawn down beyond the level of its JOBS and WORK allotments. State A, which would have drawn down an additional \$1 million in Federal funding above its allocations, in the absence of any limitations, would receive \$700,000 in additional Federal funding. If the amount of unobligated JOBS and WORK funding exceeded \$10 million, the seven States would receive the full \$10 million in additional Federal funding.

- (g) If the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for extended unemployment compensation (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent (not by ten percentage points; e.g., from 30 percent to 27 percent, not from 30 percent to 20 percent). The adjustment to the match rate would become effective only if the State obligated sufficient funding to draw down its full allotments for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rate. The State could then, as described above, draw down unspent JOBS and WORK funds at the higher match rate.

EXAMPLE:

State A obligates sufficient funding to draw down its full allocations for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rates. The State match rate for JOBS and WORK is 25%, the total State contribution to both programs is \$1 million and its total Federal allotment for both programs is \$3 million. If the unemployment rate in State A for the fiscal year exceeded the trigger level (described above), the State match rate would be reduced from 25 to 22.5 percent. State A could then potentially draw down an additional \$450,000 (\$3.45 million minus \$3 million) in Federal funds. Referring to the example above, the \$450,000 would be placed in the pool with the \$10 million the seven aforementioned States could potentially draw down beyond the level of their allotments. If the unobligated balance for the fiscal year were sufficient, State A would receive the full \$450,000 and the seven other States would receive the full \$10 million. If not, each of the eight States would receive a pro-rated amount (e.g., 65 cents on the dollar).

- (h) The capped entitlement for JOBS for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the cap would be increased by an additional .25 percent. For example, if the unemployment rate for the last two quarters of the preceding fiscal year were 8.1 percent, the JOBS cap for the fiscal year would be increased by a total of 5.25 percent (2.5 percent for reaching 7 percent plus an additional 2.75 percent for the 1.1 percentage points over 7). Each State's allotment would increase accordingly.

In other words, a determination would be made at the beginning and in the middle of the Federal fiscal year as to whether the JOBS cap should be increased (i.e., whether the unemployment trigger level had been reached). If the cap were increased at the beginning of the year, an adjustment would not also be made at the middle of the year.

- (i) Funding for teen case management (see TEEN PARENTS above) would be provided not as a set-aside, but as additional dollars within the JOBS capped entitlement.

13. SEMIANNUAL ASSESSMENT

Specifications

- (a) The State agency would be required to conduct an assessment (in person) of all JOBS participants and all those in the pre-JOBS phase (i.e., all adult recipients and minor parents in the phased-in group and all JOBS participants not in the phased-in group) on at least a semiannual basis to evaluate progress toward achieving the goals in the employability plan. This assessment could be integrated with the annual AFDC eligibility redetermination. Persons in pre-JOBS status found to be ready for participation in employment and training could be assigned to the JOBS program following the assessment. Conversely, persons in the JOBS program discovered to be facing very serious obstacles to participation could be placed in the pre-JOBS phase. Other revisions to the employability plan would be made as needed.
- (b) The assessment would entail an evaluation of the extent to which the State was providing the services called for in the employability plan. In instances in which the State was found not to be delivering the specified education, training and/or supportive services, the agency would be required to take steps to ensure that the services would be delivered from that point forward.

14. TRANSITION TO WORK/WORK

Specifications

- (a) Persons would be required to engage in job search during a period of not less than 45 days (up to 90 days, at State option) before taking a WORK assignment. The employability plan would be modified accordingly. In most cases, the job search would be performed during the 45-90 days immediately preceding the end of the time limit.
- (b) The State agency would be required to schedule a meeting with any recipient approaching the end of the 24-month time limit at least 90 days in advance of that individual's reaching the limit. The State agency would, as part of the 90-day assessment, evaluate the recipient's progress and employability to determine if an extension were appropriate to, for example, complete a training program in which the recipient was currently enrolled (see EXTENSIONS below). The State agency would be required to inform the recipient, both in writing and at the face-to-face meeting, of the consequences of reaching the time limit—the need to register for the WORK program in order to be eligible for further support, in the form of a WORK assignment. Recipients would also be apprised of the requirement to engage in job search for the final 45-90 days and of the State's extension policy.
- (c) States would have the option of providing an additional month of AFDC benefits to individuals who found employment just as their eligibility for AFDC benefits/JOBS participation ended, if necessary to tide them over until the first paycheck.

- (d) The State agency would notify the recipient, either by phone or in writing, of the purpose and need for the 90-day meeting, and the State agency would be required to make additional attempts at notification if the recipient failed to appear.
- (e) For persons re-entering the JOBS program (including those previously assigned to pre-JOBS) with fewer than six months of eligibility remaining, the development/revision of the employability plan could be considered the 90-day meeting, if the requisite information were provided at that point. In the case of an individual re-entering with fewer than 90 days of eligibility, the meeting would be held at the earliest possible date.
- (f) The semiannual assessment could be treated as the 90-day meeting, provided it fell within the final six months of eligibility. Conversely, the 90-day assessment would meet the requirement for an semiannual assessment.

Worker Support

- (g) States would be encouraged to use JOBS or WORK funds (from the capped WORK allocation; see below), to provide services designed to help persons who had left the JOBS or WORK programs for employment keep those jobs.

Services could include case management, work-related supportive services, and job search and job placement assistance for former recipients who had lost their jobs. Case management could entail assistance with money management, mediation between employer and employee and aid in applying for advance payments of the EITC. Work-related supportive services could include payments for licensing or certification fees, clothing or uniforms, auto repair or other transportation expenses and emergency child care expenses.

15. EXTENSIONS

Specifications

- (a) States would be required to grant extensions to persons who reached the time limit without having had adequate access to the services specified in the employability plan. In instances in which a State failed to substantially provide the services, including child care, called for in the employability plan, the State would be required to grant an extension equal to the number of months needed to complete the activities in the employability plan (up to a limit of 24 months). States would be mandated to take the results of the semiannual assessment(s) into account in determining if services were delivered satisfactorily. If an extension were granted on the grounds of inadequate service delivery, the employability plan could be revised, as appropriate, at that point. Disagreements about revisions to the plan would be subject to the same dispute resolution and sanctioning procedures as was the initial development of the plan.
- (b) If the State agency and the recipient disagreed with respect to whether services were substantially provided and hence as to whether the recipient was entitled to an extension, the State agency would be mandated to inform the recipient of her or his right to a fair hearing on the issue. All hearings would be held prior to the end of the individual's 24 months of eligibility.
- (c) In a fair hearing regarding a recipient's claim that he or she was entitled to an extension due to State failure to make available the services in the employability plan, the State would have to show what services were provided. A recipient would be entitled to an extension if the

hearing officer found that the recipient was unable to complete the elements of the employability plan because services, including necessary supportive services, were not available for a significant period of time. If it was determined that adequate services were not provided, an extension would be granted and the recipient and State agency would revise the employability plan, as appropriate (see above).

- (d) Persons enrolled in a structured learning program (including, but not limited to, those created under the School-to-Work Opportunities Act) would be granted an extension up to age 22 for completion of such a program. A structured learning program would be defined as a program that begins at the secondary school level and continues into a post-secondary program and is designed to lead to a degree and/or recognized skills certificate. Such extensions would not count against the cap on extensions (see below).
- (e) States would also be permitted, but not required, to grant extensions of the time limit under the circumstances listed below, up to 10% of all adults and minor parents required to participate in JOBS and subject to the time limit. Extensions due to State failure to deliver services, as discussed above, would be counted against the cap. A State would, however, be required to grant an extension if services were not provided, regardless of whether the State was above or below the 10% cap.

- (1) For completion of a GED program (extension limited to 12 months).

- (2) For completion of a certificate-granting training program or educational activity, including post-secondary education or a structured microenterprise program expected to enhance employability or income. Extensions to complete a two or four-year college degree would be conditioned on simultaneous participation in a work-study program or other part-time work.

The extension is contingent on the individual's making satisfactory academic progress, as defined by the Higher Education Act (extension limited to 24 months).

- (3) In cases of persons who are learning disabled, illiterate or who face language barriers or other substantial obstacles to employment. This would include a person with a serious learning disability whose employability plan to date has been designed to address that impediment and who consequently has not yet obtained the job skills training needed to secure employment (extension not limited in duration).

The State agency would be required to set a duration for each extension granted, sufficient to, for example, finish a training program already underway or, in the event of a State failure to provide services, to complete the activities in the employability plan.

- (f) States would be required to continue providing supportive services as needed to persons who had received extensions of the time limit.
- (g) A State would be permitted, in the event of extraordinary circumstances, to apply to the Secretary to have its cap on extensions raised. The Secretary would be required to make a timely response to such requests (see PRE-JOBS above).

- (h) The Secretary would develop and transmit to Congress (see PRE-JOBS above), by a specified date, recommendations regarding the level of the cap on extensions; the Secretary could, as mentioned above, recommend that the cap be raised, lowered or maintained at ten percent.

16. QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY

Specifications

- (a) Persons who had left AFDC with fewer than six months of eligibility for AFDC benefits/JOBS participation remaining would qualify for a limited number of additional months of eligibility, to serve as a cushion. An individual in this category (fewer than 6 months of eligibility remaining) would qualify for one additional month of eligibility for every four months during which the individual did not receive AFDC and was not in the WORK program, up to a limit of six months of eligibility at any time.
- (b) Persons who left the WORK program would also be able to qualify for up to 6 months of eligibility for AFDC benefits/JOBS participation, just as described in (a).
- (c) Individuals re-entering the AFDC program would be subject to the up-front job search requirement, as described above under JOBS SERVICES.

ADMINISTRATION OF JOBS/WORK

Current law

By statute JOBS must be administered by the IV-A agency. State IV-A agencies may delegate to or contract (either through financial or non-financial agreements) with other entities such as JTPA to provide a broad range of JOBS services. The IV-A agency must retain overall responsibility for the program (including program design, policy-making, establishing program participation requirements) and any actions that involve individuals (including determination of exemption status, determination of good cause, application of sanctions, and fair hearings).

HHS/ACF makes grants to the IV-A agency based on the allocation formula outlined in the statute and holds the IV-A agency accountable for meeting participation and target group expenditure requirements as well as submitting all necessary program and financial reports.

Vision

JOBS and WORK would be administered by the IV-A agency unless the Governor designates another entity to administer the programs. If the Governor designates an agency other than the IV-A agency to administer JOBS/WORK, then any plan or other document submitted to HHS to operate the programs would be jointly submitted by the administering entity and the IV-A agency.

Based on the Governor's designation, HHS/ACF would make grants to the administering entity and hold that entity responsible for submitting program and financial reports and meeting appropriate performance standards.

In a State that elects to operate one-stop career centers, JOBS/WORK would be required components of the one-stop career centers.

17. OVERALL ADMINISTRATION

Specifications

- (a) JOBS and WORK must be administered by the same State entity.
- (b) The Governor may designate the agency to administer JOBS/WORK. In the absence of the designation of another agency, the IV-A agency would administer JOBS/WORK.
- (c) The Governor would determine whether the State had a State-wide one-stop career center system. That determination would be made at least every two years. If the Governor determined that the State had such a system, the JOBS/WORK program would participate in the operation of the one-stop career centers. The Governor would make one-stop career center services available to the participants in the JOBS/WORK components.
- (d) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would have to enter into a written agreement outlining their respective roles in carrying out JOBS/WORK.

- (e) If the IV-A agency retained administration of JOBS, it would have the option of contracting with another entity or entities to carry out any and all functions related to JOBS/WORK. All contracts and agreements with such entities would be written.
- (f) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would be required to jointly submit any plan required to operate JOBS/WORK to the Secretary of HHS.
- (g) Upon notification by the Governor of the designation of an entity other than the IV-A agency to administer JOBS/WORK, the Department of Health and Human Services would make all grant awards and hold accountable for all financial and reporting requirements the designated entity.

18. SPECIFIC RESPONSIBILITIES OF THE IV-A AGENCY

Specifications

- (a) No matter which entity has responsibility for JOBS/WORK, the IV-A agency must retain responsibility for:
 - (1) Determining eligibility for AFDC;
 - (2) Tracking and notifying families subject to the time limit of months left of eligibility;
 - (3) Applying sanctions;
 - (4) Making supplemental payments to eligible WORK participants and determining continuing eligibility for WORK and for AFDC payments;
 - (5) Notifying the JOBS/WORK agency at least 120 days before an individual's two-year time limit was up so that appropriate steps (e.g., job search) could be taken; and
 - (6) Holding fair hearings regarding time limits and cash benefits.

19. OTHER AREAS OF RESPONSIBILITY.

Specifications

- (a) In States where an entity other than the IV-A agency is responsible for JOBS/WORK, we propose to give States the flexibility to determine how the following functions are carried out. The State plan would have to contain specific information detailing how the State intended to carry out the following functions:
 - (1) Determining pre-JOBS status;
 - (2) Granting extensions to the time limits; and
 - (3) Providing secondary reviews and hearings on issues specifically related to JOBS or WORK participation.

WORK

Current Law

There is at present under Title IV no work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (Section 482(e) and 482(f), Social Security Act, 45 CFR 250.61, 250.62, 250.63). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (45 CFR 250.47).

Vision

The focus of the transitional assistance program will be helping people move from welfare to unsubsidized employment. The two-year time limit for cash assistance not contingent on work is part of this effort. Some recipients will, however, reach the two-year time limit without having found a job, despite having participated satisfactorily in the JOBS program. We are committed to providing them with the opportunity to work to help support their families. The design of the WORK program will be guided by a principle central to the reform effort, that persons who work should be no worse off than those who are not working.

The WORK program would make work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and not-for-profits to place persons in subsidized or unsubsidized private sector jobs.

The WORK program would take the form of a work-for-wages structure. Participants in WORK assignments would be paid for hours worked; individuals who missed work would not be paid for those hours.

Definition: The terms "WORK assignments" and "WORK positions" are defined as temporary, publicly-subsidized jobs in the public, private or not-for-profit sectors.

20. ESTABLISHMENT OF A WORK PROGRAM

Specifications

- (a) Each State would be required to operate a WORK program making WORK assignments available to persons who had reached the 24-month time limit for AFDC benefits not conditioned upon work.

21. WORK FUNDING

Specifications

- (a) There would be two WORK program funding streams:
- 1) A capped entitlement which would be distributed to States according to the sum of the average monthly number of persons required to participate in JOBS (and subject to the time limit) and the average monthly number of persons in the WORK program in a State relative to the number in all States.
 - 2) An uncapped entitlement to reimburse States for wages paid to WORK program participants, which would include wage subsidies to private, for-profit employers.

The capped entitlement would be for WORK operational costs, which would include expenditures to develop WORK assignments, placement bonuses to contractors and spending on other WORK program services such as supervised job search.

- (b) A State would receive matching funds, up to the amount of the capped allocation, for expenditures for WORK operational costs at the WORK match rate, which would be set at the same level as the JOBS match rate—the current law JOBS match rate plus ten percentage points. For expenditures on wages to WORK participants, including wage subsidies to private employers, a State would be reimbursed at its FMAP.

EXAMPLE: State A's allocation (annual) from the capped WORK entitlement for FY 99 is \$1.5 million. The State's WORK (and JOBS) match rate is 75 percent and its FMAP is 50 percent. The State spends a total of \$5.2 million on the WORK program—\$1.6 million to develop the WORK assignments, make performance-based payments to placement contractors, and provide job search services and \$3.6 million on wage subsidies to private employers and wages for WORK participants in the public and not-for-profit sectors. State A would be reimbursed for the \$1.6 million in spending on operational costs at the 75 percent capped allocation match rate, for a total of \$1.2 million in reimbursement at that rate. For the \$3.6 million in expenditures on WORK wages, the State would be reimbursed at the FMAP, for \$1.8 million in Federal dollars from the uncapped stream and a total of \$3 million in Federal matching funds.

As discussed in JOBS FUNDING above, the enhanced match rate would become effective upon statewide implementation of the new legislation, provided the State met the maintenance of effort requirement concerning its total spending for JOBS, WORK and for IV-A, Transitional and At-Risk Child Care. Prior to statewide implementation, the WORK match rate would be set at the higher of FMAP and 60 percent.

- (c) The WORK capped entitlement would be set at ___ million for FY 1998, ___ billion for FY 1999, ___ billion for FY 2000, ___ billion for FY 2001 and ___ billion for FY 2002. [The capped entitlement would cover the operational cost of providing WORK assignments to all persons who had reached the two-year time limit and an additional amount for work opportunities for noncustodial parents. The level of the capped entitlement for the fiscal years after 2002 would be set by adjusting for caseload growth, inflation and the increase in the size of the phased-in group.]

- (d) As discussed above (see JOBS FUNDING), a State would be permitted to reallocate up to 10% of the combined total of its JOBS and WORK allotments from its JOBS program to its WORK program, and vice versa. A State would be permitted to reallocate up to 10% of its JOBS funding for FY 97 (the year prior to implementation of the WORK program) to cover WORK program start-up costs.
- (e) If, as described in JOBS FUNDING, the States were not able to claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State would be able to draw down Federal funds, for WORK spending on operational costs, in excess of its allotment from the capped entitlement.
- (f) As discussed in JOBS FUNDING above, if the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for an extended benefit period (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent.
- (g) The capped entitlement for WORK for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the WORK cap would be increased by an additional .25 percent. (identical to the provision concerning lifting the cap on JOBS funding; see JOBS FUNDING)

22. FLEXIBILITY

Specifications

- (a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit, including:
- Offer wage subsidies and other incentives to for-profit, not-for-profit and public employers;
 - Execute performance-based contracts with private firms, not-for-profit or public organizations to place WORK participants in unsubsidized jobs;
 - Make payments to not-for-profit employers to defray the cost of supervising WORK participants;
 - Support microenterprise and self-employment efforts; or
 - Make payments to not-for-profit employers and public agencies to employ participants in temporary projects designed to address community needs, such as projects to enhance neighborhood infrastructure and provide other community services, or to employ participants as, for example, mentors to teen parents on assistance.

The approaches above would be listed in statute as examples, but States would not be restricted to these strategies.

23. LIMITS ON SUBSIDIES TO EMPLOYERS

Specifications

- (a) An individual could hold a particular WORK assignment (i.e., the WORK subsidy could be paid) for no more than 12 months. Ideally, after the subsidy ended, the employer would retain the WORK participant in unsubsidized employment.
- (b) The Secretary may adopt, as necessary, regulations to assure the appropriate use of the wage subsidy (e.g., to prevent fraud and abuse).

24. COORDINATION

Specifications

- (a) The agency administering the WORK program would be required to coordinate delivery of WORK services with the public, private and not-for-profit sectors, including local government, large and small businesses, United Ways, voluntary agencies and community-based organizations (CBOs). Particular attention should be paid to involving the breadth of the community in the development of the WORK program in that locality.
- (b) The State would be required to designate in the State plan, or describe a process for designating, bodies to serve as WORK planning boards for each JTPA Service Delivery Area in the State (or for such larger or smaller area as the State deems appropriate). The WORK planning board, which could be either an existing or a new body, would assist the administering entity in operating the WORK program in that area. The State would be mandated to involve local elected officials in the designation or establishment of such boards.

The planning board would work in conjunction with the WORK program agency to identify potential WORK assignments and opportunities for movement into unsubsidized employment, and to develop methods to ensure compliance with the requirements relating to nondisplacement and working conditions. WORK planning boards would have to include union and private, public (including units of general purpose local government) and not-for-profit (including CBOs) sector representation.

- (c) States would have to establish a process by which WORK planning boards could submit comments regarding the development of the State plan.
- (d) The WORK agency would be required to include in the State plan provisions for coordination with the State comprehensive reemployment system (including the employment service) and other relevant employment and public service programs in the public, private and not-for-profit sectors, including efforts supported by the Corporation for National and Community Service.

25. RETENTION RECORDSSpecifications

- (a) States would be required to keep a record of the rate at which employers (public, private and not-for-profit) retained WORK program participants (after the subsidies ended). Similarly, States would be mandated to monitor the performance of placement firms.

26. NONDISPLACEMENTSpecifications

- (a) The assignment of a participant to a subsidized job under the WORK program would not --
- (1) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits;
 - (2) impair existing contracts for services or collective bargaining agreements;
 - (3) infringe upon the promotional opportunities of any currently employed worker;
 - (4) result in the employment of the participant or filling of a position when --
 - (a) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the same employer; or
 - (b) the employer has terminated any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with such participant; or
 - (5) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted and are available, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 60 days.
- (b) A participant would not be assigned to a position with a private, not-for-profit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements described in this section of the specifications.

27. GRIEVANCE, ARBITRATION AND REMEDIES**Specifications**

- (a) Each State would establish and maintain grievance procedures for resolving complaints by regular employees or their representatives, alleging violations of the nondisplacement provisions (described above).
- (b) Hearings on any grievance filed pursuant to the provision above would be conducted within 30 days of the filing of such grievance. Except for complaints alleging fraud or criminal activity, a grievance would be made not later than one year after the date of the alleged occurrence.
- (c) Upon receiving a decision, or if 60 days has elapsed without a decision being made, a grievant may do either of the following:
 - (1) file an appeal as provided for in the State's procedures or in regulations promulgated by the Secretary, or
 - (2) submit such grievance to binding arbitration in accordance with the provisions of this section.

Arbitration

- (d) In accordance with the appeal/arbitration provision above, on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance would be permitted to submit such grievance to binding arbitration before a qualified arbitrator who was jointly selected and independent of the interested parties.
- (e) If the parties could not agree on an arbitrator, the Governor would appoint an arbitrator from a list of qualified arbitrators within 15 days of receiving a request for such appointment from one of the parties to the grievance.
- (f) An arbitration proceeding conducted as described here would be held not later than 45 days after the request for such arbitration, or if the arbitrator were appointed by the Governor (as described above) not later than 30 days after such appointment, and a decision concerning such grievance would be made not later than 30 days after the date of such arbitration proceeding.
- (g) The cost of the arbitration proceeding conducted as described here would in general be divided evenly between the parties to the arbitration. If a grievant prevails in such an arbitration proceeding, the party found in violation would pay the total cost of such proceeding and the attorney's fees of the grievant.
- (h) Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversies and without regard to the citizenship of the parties.

Remedies

- (i) Remedies for a grievance filed under this section include --
- (1) suspension of payments for assistance under this title;
 - (2) the termination of such payments;
 - (3) the prohibition of the placement of a participant;
 - (4) reinstatement of a displaced employee to the position held by such employee prior to displacement;
 - (5) payment of lost wages and benefits of the displaced employee;
 - (6) reestablishment of other relevant terms, conditions and privileges of the displaced employee; and
 - (7) such equitable relief as is necessary to correct a violation or to make a displaced employee whole.

28. CONSULTATION WITH LABOR ORGANIZATIONS

Specifications

- (a) No assignment of a participant to a position with an employer shall be made unless any local labor organizations representing employees of such employer who are engaged in the same or substantially similar work as that proposed to be carried out by such participant are consulted regarding such an assignment.

29. WORK ELIGIBILITY CRITERIA AND REGISTRATION PROCESS

Specifications

- (a) Recipients who had reached the two-year time limit for AFDC benefits not contingent upon work and who otherwise met the AFDC eligibility criteria (e.g., income and asset limits) would be eligible to enter the WORK program.
- (b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all recipients at least 90 days before they were slated to reach the 24-month time limit (see TRANSITION TO WORK/WORK above). Recipients who had reached the 24-month time limit would be required to register for the WORK program in order to be eligible for either a WORK assignment or for AFDC benefits while awaiting a WORK position (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES below).
- (c) States would be required to establish a registration process for the WORK program. The registration process would in general include an assessment for the purpose of matching the participant with a WORK assignment which the individual has the ability to perform and which will assist him or her in securing unsubsidized employment. The agency would be expected to draw upon an individual's JOBS case record in making such an assessment.

States would be prohibited from denying an eligible individual (as described above) entry into the WORK program, provided he or she followed the registration procedure.

- (d) Only one parent in an AFDC-UP family would be required to participate in the WORK program. States would, however, have the option of requiring both parents to participate.
- (e) An individual who had exited the system after having reached the time limit or after having entered the WORK program, but had not qualified for any additional months of AFDC benefits/JOBS participation (see QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY above) would be permitted to enroll, or re-enroll, in the WORK program.

EXAMPLE:

A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after just one month, before qualifying for any months of AFDC benefits/JOBS participation (see above). This person would be eligible for the WORK program.

- (f) States would be required, for persons in WORK assignments, to conduct a WORK eligibility determination (similar to an AFDC eligibility determination in all respects, except that WORK wages would not be included in countable income; see below) on a semiannual basis. If the circumstances of an individual in a WORK assignment changed (e.g., increase in earned income, marriage) such that the family were no longer eligible for AFDC, the participant would be permitted to remain in the WORK assignment until the semiannual redetermination. An individual found to be ineligible for the WORK program as of the redetermination, however, would not be permitted to continue in that WORK assignment. Persons found to be ineligible for the WORK program would not have access to a WORK assignment, other WORK program services or to the AFDC benefits provided to persons in the WORK program who were not in WORK assignments.
- (g) WORK wages would not be included in countable income for purposes of determining WORK eligibility. WORK wages would be included in countable income for purposes of calculating the earnings supplement (see below).

30. ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES

Specifications

- (a) The entity administering the WORK program in a locality would be required to keep an updated tally of all WORK registrants awaiting WORK assignments (as opposed to, for example, WORK participants who had been referred to a placement contractor). WORK positions would not be allocated strictly on a first-come, first-served basis. An individual whose sanction period had just ended would be placed in a new WORK assignment as rapidly as possible. Among other WORK participants, persons new to the WORK program would have priority for WORK assignments over persons who had previously held a WORK position.
- (b) States would have the option of requiring persons who were awaiting WORK assignments to participate in other WORK program activities (e.g., individual or group job search, arranging for child care, self-initiated activities), and to establish mechanisms for monitoring participation in such activities. Persons in this waiting status could include WORK participants who had completed an initial WORK assignment without finding unsubsidized employment; participants whose assignments ended prematurely for reasons other than the participant's misconduct, and individuals awaiting a hearing concerning misconduct.

Individuals who failed to comply with such participation requirements would be subject to sanction as described below (see SANCTIONS).

- (c) States would be required to provide child care and other supportive services as needed to participate in the interim WORK program activities (described above).
- (d) The family of a person who was in the WORK program but not in a WORK assignment (e.g., awaiting an assignment or in an alternate WORK activity) would receive AFDC benefits, provided that the individual were complying with any applicable requirements (as described above).
- (e) Participants who left a WORK assignment for good cause (see SANCTIONS below) would be placed in another WORK assignment or enrolled in an interim or alternate WORK program activity (e.g., job search until a WORK assignment became available). Such persons and their families would be eligible for AFDC benefits (as outlined above).
- (f) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(d). States would not be permitted to distinguish between such families and other AFDC recipients with respect to the determination of eligibility and calculation of benefits—States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

31. 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.

32. EARNINGS SUPPLEMENTATION

Specifications

- (a) In instances in which the family income of an individual who had reached the time limit and was working in either a WORK assignment or an unsubsidized job of at least 15 hours per week 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 AFDC (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

25%
limit

the earnings supplement would not be adjusted up due to failure to work the set number of hours for 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.

33. 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, SSI, 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. Persons who left the WORK program for unsubsidized employment would, as with former AFDC recipients, be eligible for transitional Medicaid.
- (c) Persons in WORK assignments would be subject to FICA taxes. States would be required to ensure that the corresponding employer contribution for OASDI and HI was made, either by the employer or by the entity administering the WORK program (or through another method).
- (d) Earnings from WORK positions would not be included in Adjusted Gross Income (AGI) and would not be treated as earned income for the purpose of calculating the Earned Income Tax Credit.
- (e) The employment of participants under the WORK program would not be subject to the provisions of any Federal or State unemployment compensation law.
- (f) To the extent that a State workers' compensation law were applicable, workers' compensation in accordance with such law would be available with respect to WORK participants. To the extent that such law were not applicable, WORK participants would be provided with medical and accident protection for on-site injury at the same level and to the same extent as that required under the relevant State workers' compensation statute.
- (g) WORK program funds would not be available for contributions to a retirement plan on behalf of any participant.
- (h) With respect to the distribution of child support, WORK program participants would be treated exactly as individuals who had reached the time limit and were working in unsubsidized jobs meeting the minimum work standard. In instances in which the WORK program participant were receiving an earnings supplement in addition to WORK program wages, child support would be treated just as it would for a family receiving AFDC benefits (generally, a \$50 pass-through, with the IV-A agency retaining the remainder to offset the cost of the earnings supplement).

34. SUPPORTIVE SERVICES/WORKER SUPPORTSpecifications

- (a) States would be required to guarantee child care for any person in a WORK assignment, as with JOBS program participants under current law (Section 402(g)(1), Social Security Act). Similarly, States would be mandated to provide other work-related supportive services as needed for participation in the WORK program (as with JOBS participants, Section 402(g)(2), Social Security Act).
- (b) States would be permitted to make supportive services available to WORK participants who were engaged in approved education and training activities *in addition to* a WORK assignment or other WORK program activity. In other words, a State could, but would not be required to, provide child care or other supportive services to enable a WORK participant to, for example, also take a vocational education course at a community college.

35. WAGES AND WORKING CONDITIONSSpecifications

- (a) Participants employed under the WORK program would be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of—
 - (1) the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;
 - (2) the rate specified by the appropriate State or local minimum wage law;
 - (3) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer.
- (b) Except as otherwise provided in these specifications, participants employed under the WORK program would be provided 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 such employer.
- (c) Employers would be expected to provide WORK participants health insurance coverage comparable to that provided other employees of that same employer performing the same type of work (with Medicaid serving as the secondary payer). WORK program funds would be available to subsidize the employer share of the cost of health insurance coverage. Exceptions to this requirement could be made in cases in which the provision of such coverage would be inordinately expensive or otherwise onerous.

NOTE: Under current law, a Medicaid recipient is required (if cost effective) to enroll in a health plan offered by an employer, and the State is required to use Medicaid funds to cover the full employee share (e.g., premiums, deductibles, copayments) of the cost of such health care coverage. Cost effective is defined as resulting in a net reduction in Medicaid expenditures.

- (d) Employers would not be required to make contributions to retirement systems or plans on behalf of WORK participants.

- (e) All participants would be entitled to a minimum number of sick and personal leave days, to be established by the Secretary. These would be provided by the employer, if they were provided to other comparable (as described in attached draft) employees (employers may offer more days). The agency administering the WORK program would be required to design a method of providing the minimum number of sick and personal days to WORK participants whose employers did not provide such a minimum number. A person in a WORK assignment who becomes ill and exhausts her/his sick leave, or whose child requires extended care, would be placed in pre-JOBS if s/he meets the pre-JOBS criteria.
- (f) A parent of a child conceived while the parent was in the WORK program (and/or on AFDC) would be placed in pre-JOBS for a twelve-week period following the birth of the child (or such longer period as is consistent with the Family and Medical Leave Act of 1993).
- (g) Health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees would be equally applicable to the working conditions of WORK participants.

36. SANCTIONS/PENALTIES (JOBS AND WORK)

Current Law (JOBS)

The sanction for the first instance of failure to participate in JOBS as required (or failure to accept a private sector job or other occurrence of noncompliance) is the loss of the non-compliant individual's share of the grant until the failure to comply ceases. The same sanction is imposed, but for a minimum of 3 months, for the second failure to comply and for a minimum of 6 months for all subsequent instances of non-compliance. The State, however, cannot sanction an individual for refusing to accept an offer of employment, if that employment would result in a net loss of income for the family.

For sanctioned AFDC-UP families, both parents' shares are deducted from the family's grant, unless the second parent is participating in the JOBS program.

Specifications

JOBS Sanctions

- (a) A State's conciliation policy (to resolve disputes concerning JOBS participation only) could take one of the following two forms:
 - (i) A conciliation process that meets standards established by the Secretary; or
 - (ii) A process whereby recipients are notified, prior to the issuing of a sanction notice, that they are in apparent violation of a program requirement and that they have 10 days to contact the State agency to explain why they were not out of compliance or to indicate their intent to comply. Upon contact from the recipient, the State agency would attempt to resolve the issue and would have option of not imposing the sanction.
- (b) Individuals sanctioned within the JOBS program would still have access to other available services, including JOBS activities, child care and Medicaid. Sanctioned months would be counted against the 24-month time limit.

(c) The sanction for refusing, without good cause, an offer of an unsubsidized job would be changed from the current penalty (removal of the adult from the grant) to loss of the family's entire AFDC benefit for 6 months or until the adult accepts a job offer, whichever is shorter. The Secretary would promulgate regulations concerning good cause for refusing a private sector job offer (see SANCTIONS below); the definition would encompass the criteria in current regulations (CFR 250.30).

(d) Current law would be changed such that for sanctioned AFDC-UP families, the second parent's share of the benefit would not also be deducted from the grant, unless the second parent were also required to participate in JOBS and were similarly non-compliant.

(e) States would be required to conduct an evaluation of any individual who failed to cure a first sanction within 3 months or received a second sanction, in order to determine why the parent is not complying with the program requirements. Following such an evaluation, the State would, if necessary, provide counseling or other appropriate support services to help the recipient address the causes of the non-compliance.

Ineligibility for a WORK Assignment

(f) Persons may be declared ineligible for a WORK assignment due to misconduct related to the program. Misconduct would include any of the following, provided good cause does not exist:

- i. Failure to accept an offer of unsubsidized employment;
- ii. Failure to accept a WORK assignment;
- iii. Quitting a WORK assignment;
- iv. Dismissal from a WORK assignment;
- v. Failure to engage in job search or other required WORK activity (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES above).

(g) The Secretary would establish regulations defining good cause for each of the following:

- 20-hr rule
- i. **Refusal to Accept an Offer of Unsubsidized Employment or a WORK Assignment or to Participate in Other WORK Program Activity.** Such definition would include the reasons provided in 45 CFR 250.35 for refusal to participate in a required JOBS activity or to accept employment.
 - ii. **Quitting a WORK Assignment or Unsubsidized Job.** These regulations would include the provision that an employee must notify the WORK agency upon quitting a WORK assignment.
 - iii. **Dismissal from a WORK Assignment.** The regulations would allow a State, subject to the approval of the Secretary, to apply in such instances the definition of misconduct utilized in its unemployment insurance program. (A IV-A agency might be allowed to contract with the State U hearing system to adjudicate these cases.)

(h) A WORK participant would be notified of the agency's intent to impose a penalty and would have a right to request a hearing prior to the imposition of the penalty. The Secretary would establish regulations for the conduct of such hearings, which would include setting time frames for reaching decisions (e.g., 30 days from date of request for hearing). A State would

be permitted to follow the same procedures it utilizes in hearings regarding claims for unemployment compensation.

- (i) Recipients awaiting a hearing for alleged misconduct may be required to participate in interim WORK program activities. Refusal, pending the hearing, to participate in such WORK program activities on the same grounds (e.g., bedridden due to illness) claimed as cause for the original alleged misconduct would not constitute a second occurrence of potential misconduct.

- (j) Penalties imposed would be as follows:

i. **Refusal to Accept an Offer of Unsubsidized Employment.** A WORK participant who turns down an offer of an unsubsidized job without good cause would be ineligible for a WORK assignment, and the family ineligible for AFDC benefits, for a period of 6 months (consistent with the JOBS sanction for refusing a job offer). Such an individual would be eligible for services, such as job search assistance, during this period.

- ii. **Quitting, Dismissal from or Refusal to Accept a WORK Assignment without Good Cause.** A person who quit a WORK assignment without good cause, who was fired from a WORK assignment for misconduct related to the job, or who refused to take an assignment without good cause would be subject to the penalties described below.

For a first occurrence: The family would receive 50% of the AFDC grant that would otherwise be provided (i.e., if the individual were not sanctioned and were awaiting a WORK assignment) for one month or until the individual accepts a WORK assignment, whichever is sooner.

For a second occurrence: Fifty percent (50%) reduction in the family's grant for 3 months. The individual would not be eligible for a WORK assignment during this period--this penalty would not be curable upon acceptance of a WORK assignment.

For a third occurrence: Elimination of the family's grant for a period of 3 months. As with a second occurrence, the individual would not be eligible for a WORK assignment during this period.

For a fourth and subsequent occurrence: Same as the penalty for a third occurrence, except that the duration would be 6 months.

The State would be required to make job search assistance available to such penalized persons (any occurrence, first or subsequent) if requested.

- iii. **Refusal to Participate in Job Search or Other Required WORK Program Activity.** An individual who refused to participate in job search (e.g., following a WORK assignment) or other required WORK program activity would be subject to the same penalty as persons who quit or were fired from WORK assignments, with each refusal to be considered one occurrence. If such a refusal constituted the first occurrence, the penalty, as above, would be curable upon engaging in the required activity.

iv. **Quitting an Unsubsidized Job without Good Cause.** Individuals who without good cause voluntarily quit an unsubsidized job that met the minimum work standard would not be eligible to register for the WORK program for a period of 3 months following the quit.

(k) All penalties (any occurrence, first or subsequent) would be curable upon acceptance of an unsubsidized job meeting the minimum work standard. In other words, a sanctioned individual who took an unsubsidized job meeting the minimum work standard would be treated exactly the same as an unsanctioned individual with respect to calculating the earnings supplement. If the family's income, net of work expenses, were lower than the AFDC grant for a family of that size, the family would receive an earnings supplement sufficient to make up the difference (see EARNINGS SUPPLEMENTATION above). Such an individual would still not, however, be eligible for a WORK assignment during the penalty period (e.g., six months for refusal to take an unsubsidized job, three months for a second occurrence of another type of misconduct).

good
(l) Food stamp and housing law and regulations would be amended as necessary to ensure that neither food stamps nor housing assistance would rise in response to a JOBS or WORK penalty.

(m) A person ineligible for the WORK program, and the family, provided they were otherwise qualified, would still be eligible for other assistance programs, including food stamps, Medicaid and housing assistance.

7 (n) As described under AFDC-UP FAMILIES AND THE TIME LIMIT above, if one of the two parents in AFDC-UP family is sanctioned under the WORK program or under JOBS for failure to accept an unsubsidized job and the other parent is also noncompliant (sanctioned under the JOBS or WORK program), the sanctions described in this section apply. If one of the two parents is so sanctioned but the other parent is participating satisfactorily in JOBS or WORK or is in the pre-JOBS phase, the needs of the noncompliance parent would not be considered in determining either the AFDC benefit or the earnings supplement (if the non-sanctioned parent were in the WORK program).

(o) The State would be required, upon a second penalty, to conduct an intensive evaluation of the participant and the family to ascertain why the individual is not in compliance and to determine the appropriate services, if any, to address the presenting issues. The evaluation would include, when appropriate, a Child Protective Services abuse and neglect investigation. The WORK administering agency could, as a result of the evaluation, decide, for example, that the parent should be placed in pre-JOBS or that he or she should receive intensive counseling.

37. JOB SEARCH

Specifications

(a) WORK program participants would generally be required to engage in job search at the conclusion of a WORK assignment or while otherwise awaiting a WORK assignment or enrollment to a WORK program activity serving as an alternative to a WORK assignment (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES). The number of hours per week (up to a maximum of 35) and the duration of periods of required job search would be set by the State, consistent with regulations to be promulgated by the Secretary.

- (b) The State could also require WORK participants to engage in job search while in a WORK assignment, provided that the combined hours of work and job search did not exceed an average of 35 per week and the requirement was consistent with regulations to be promulgated by the Secretary. The number of hours for job search would be the expected time to fulfill the particular job search requirement, i.e., if a WORK participant were expected to make 5 contacts per week, the number of hours of job search would be the estimated number of hours needed to make the contacts.

38. ASSESSING PARTICIPATION IN WORK BEYOND 2 YEARS

Specifications

- (a) At the end of the two consecutive WORK assignments, participants who have not found unsubsidized work would be assessed on an individual basis, with three possible results:
- 1) Participants determined to be unable to work or to need additional training would be reassigned to pre-JOBS or JOBS.
 - 2) Those determined to be unable to find work in the private sector either because there were no jobs available to match their skills or because they were incapable of working outside a sheltered environment would be allowed to remain in the WORK program for another assignment. Similar assessments would be conducted following each subsequent assignment.
 - 3) At State option, those who were employable and who lived in an area where there were jobs available to match their skills could be required to engage in intensive job search supervised by a job developer, who would be able to require participants to apply for appropriate job openings to determine if they were not making good faith efforts to find jobs. Failure to apply for appropriate job openings, noncooperation with the job developer or employer, or refusal to accept a private sector job opening without good cause would result in ineligibility for either WORK or AFDC benefits for 6 months. After 6 months of ineligibility, the person would immediately be given another individual work assessment and could again be denied eligibility for noncooperation or refusal to accept a job.
- (b) The Departments of HHS and Labor will undertake a comprehensive national study at the end of the second year following implementation of the WORK program to measure the program's success in moving people into unsubsidized jobs and to evaluate the skill levels and barriers to work of the persons who have spent two years in the WORK program.

ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTS

Vision

We need to make sure that all parents live up to their responsibilities. When people don't pay child support, their children suffer. Just as we expect more of mothers, we cannot let fathers just walk away. A number of programs show considerable promise in helping non-custodial parents to reconnect with their children and fulfill their responsibility to support them. Some programs help non-custodial parents do more by seeing that they get the skills they need to hold down a job. Other programs give non-custodial parents the opportunity to meet their child support obligations through work.

As there is not a long track record of research and evaluation on programs for non-custodial parents, it is envisioned that new programs should be modest and flexible, growing only as evaluation findings begin to identify the most effective strategies.

1. TRAINING AND EMPLOYMENT FOR NON-CUSTODIAL PARENTS

Current Law

Section 482 of the Social Security Act (Title IV-F) permits the Secretary to fund demonstrations to provide services to non-custodial parents. The Secretary is limited as to the number of projects that can be funded under this provision. Evaluations are required. This provision, along with section 1115 of the Social Security Act, provide the authority for the Parents Fair Share Demonstrations currently underway.

Vision

States would be provided with the option of developing JOBS and/or work programs for the non-custodial parents of children who are receiving AFDC or have child support arrearages owed to the state from prior periods of AFDC receipt. States will be given the flexibility to develop different models of non-custodial parent programs which could best address the needs of children and parents in their state. Evaluations will be required as appropriate for the options developed by the States.

Rationale

There is evidence that one of the primary reasons for non-support by some non-custodial parents is unemployment and underemployment. In a recent GAO report evidence was presented that about 29 percent of non-custodial fathers under age 30, many of whom were non-marital fathers, had income below the poverty level for one or no income at all. It will be difficult for these fathers to contribute much to the financial support of their children without additional basic education, work-readiness and job training which would enhance their earning capacity and job security.

Specifications

- (a) A State could spend up to 10 percent of its JOBS funding and WORK funding (allotment from the capped entitlement) for training, work readiness, and work opportunities for non-custodial parents. The State would have complete flexibility as to which of these funding streams would be tapped.

- i. State option must be specifically approved by the Secretary.
 - ii. Additionally, States may submit an application to the Secretary to conduct a random assignment evaluation of its non-custodial program.
 - iii. Parenting and peer support services offered in conjunction with other employment-related services are eligible for FFP.
 - iv. A State could, for example, provide services to non-custodial parents through the JOBS program and a non-custodial parent work program, or through a single program.
- (b) A non-custodial parent is eligible to participate (1) if his or her child is receiving AFDC or the custodial parent is in the WORK program at the time of referral or (2) if he or she is unemployed and has outstanding AFDC child support arrears. Paternity, if not already established, must be voluntarily acknowledged or otherwise established prior to participation in the program and, if an award has not yet been established, the non-custodial parent must be cooperating in the establishment of a child support award. Arrears do not have to have accrued in order for non-custodial parents to be eligible to participate. For those parents with no identifiable income, participation could commence as part of the establishment or enforcement process.
- (c) The state must allow a non-custodial parent to complete the program activity or activities in which he is currently enrolled even if the children become ineligible for AFDC. However, if the non-custodial parent voluntarily left the program, was placed in a job, or was terminated from the program, he would have to be redetermined as eligible under the criteria in (b) above.
- (d) States are not required to provide all the same JOBS or WORK services to custodial and non-custodial parents, although they may choose to do so. Participation in the JOBS program is not a prerequisite for participation in a non-custodial parent work program. The non-custodial parent's participation will not be linked to self-sufficiency requirements or to JOBS/WORK participation by the custodial parent.
- (e) Payment of stipends for work will be required. Payment of training stipends is allowed. All stipends are eligible for FFP.
- i. Stipends must be garnished for payment of current support.
 - ii. At State option, the (current) child support obligation can be suspended or reduced to the minimum while the non-custodial parent was participating in program activities which did not provide a stipend or wages sufficient to pay the amount of the current order.
 - iii. Participation in program activities can be credited against AFDC child support arrears owed the State.
 - iv. State-wideness requirements will not apply.

INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS:
JOBS, TIME LIMITS, WORK AND CHILD CARE

Provisions in this section apply specifically to Indian tribes and Alaska Native organizations.

JOBS AND TIME LIMITS

1. NEW TRIBAL JOBS FUNDING FORMULA

Current Law

Under current law, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Indians living on the same reservation are currently subject to either the Tribal JOBS program or the State JOBS program depending on Tribal affiliation. Indians living in Alaska who are not Alaska Natives are subject to the State's JOBS program.

Tribal JOBS grantees currently receive funding based on a count of just under 31,000 adult Tribal members who receive AFDC. It is estimated that the adult AFDC population for all reservations (including those where a Tribal JOBS program does not exist) is 58,000.

Vision

All Native Americans living within the designated service area of an Indian tribe or Alaska Native organization would be subject to the tribal JOBS program regardless of tribal affiliation, if the tribe elects to run a JOBS program.

Rationale

Programs operated by the Department of Labor and the Bureau of Indian Affairs for Indians do not use Tribal affiliation to establish program funding or eligibility.

Specifications

- (a) All Indians, living within the designated service area of an Indian tribe or within the boundaries of the region served by an Alaska Native organization which is a JOBS grantee, would be included in determining the amount of the grantee's JOBS funds.
- (b) An Indian is one who meets the definition of Indian as given in section 4(d) of the Indian Self-Determination and Education Assistance Act.

2. NEW JOBS APPLICATION PERIOD

Current Law

Under current law, Indian tribes and Alaska Native organizations had until April 13, 1989 to apply and until October 1, 1990 to begin operating a JOBS program. Indian tribes who did not meet these deadlines are prohibited from submitting applications to operate JOBS programs.

Vision

Indian tribes who did not meet the application deadline for JOBS would be given additional opportunity to do so.

Rationale

The window in which Indian tribes had to apply for JOBS was very limited. Other Federally funded formula grant programs available to Indian tribes do not have similar restrictions.

Specifications

- (a) All federally recognized Indian tribes not operating a JOBS program may submit applications and plans to do so.
- (b) There would be no new application deadline.
- (c) New applications/plans would have to be submitted by July 1 of each year, with the effective date of approved plans to be October 1.
- (d) An Indian tribe or Alaska Native organization who terminates or has its JOBS program terminated will be eligible to reapply for JOBS after a five year period. Such Indian tribe or Alaska Native organization can reapply by July 1 of the fifth year by submitting an application and plan, with the effective date of an approved plan to be October 1. (This is to prevent a Tribal grantee from frequently entering and leaving the program.)
- (e) The current restriction that an Indian tribe must have a reservation to be eligible to operate a JOBS program would be retained.

3. FUNDING SET-ASIDE FOR TRIBAL JOBS GRANTEEES

Current Law

Currently, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Yearly, Tribal grantees (includes Alaska Native organizations) and the State in which they are located must reach an agreement on the number of Tribal members who receive AFDC who reside within the grantee's designated service area. Any amount due a grantee by this agreement is deducted from the JOBS funding allocated to the State.

Although in some cases it does not cause problems, States and Indian tribes/Alaska Native organizations have found it difficult to come to agreement on the number of adult Tribal members who receive AFDC.

Vision

A set-aside of 2% out of total JOBS funds would be established to distribute to Indian tribes and Alaska Native organizations to provide JOBS.

The proposed percentage set-aside for Tribal JOBS grantees was determined based on two assumptions. First, that Indian tribes who do not currently operate a JOBS program will be given the opportunity to do so. Second, that all Indians, not just Tribal members, will determine Tribal funding. Using these assumptions, it is estimated that almost 2% (58,000 individuals) of the eligible adult AFDC population are Indians living on or near reservations or in areas served by Alaska Native organizations.

Rationale

Additional funding for the tribal JOBS grantees would make up for the lack of matching funds. States spent approximately \$1,395 per JOBS participant from Federal and State matching funds in FY 93. Indian tribes spent approximately \$935 per JOBS participant, all from federal funds as tribes are not required to provide matching funds.

Establishing a set-aside in lieu of the current funding formula would benefit both the Indian tribes, Alaska Native organizations and the States. States would not have any vested interest in the number of adult AFDC recipients who are Indians residing within a Tribal grantee's designated service area as the numbers would not have an impact on the States' JOBS allocations.

Funding for Indian tribes in the Child Care and Development Block Grant (CCDBG) program is a set-aside of the total allocated CCDBG funds.

Specifications

- (a) Allocate a set aside of 2% of the total JOBS allocation to Indian tribes and Alaska Native organizations.
- (b) Each grantee's share of the set aside would be determined by its percentage share of the entire adult Indian AFDC population which is living on or near reservations or within the boundaries of the region represented by an Alaska Native organization.
- (c) Provide for a periodic review of the percentage set-aside to ensure that it is based on an accurate percentage of adult AFDC recipients who are Indians living in the designated service area of a grantee. Provide for an automatic adjustment of the set-aside based on the results of this review.
- (d) The remainder of the funding issued to an Indian tribe or Alaska Native organization who wishes to terminate or who have their programs terminated after the start of a fiscal year would revert to the State in which the Indian tribe or Alaska Native organization is located.

This is because the State would then be responsible for serving the AFDC recipients who had been subject to the Tribal program.

- (e) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vice versa.

4. CARRY-OVER OF FUNDS

Current Law

States, Indian tribes and Alaska Native organizations are currently prohibited from carrying over federal funds awarded in one fiscal year to the next fiscal year. All federal funds received in a fiscal year must be obligated by the end of the same fiscal year. Indian tribes and Alaska Native organizations have sometimes had to shut down their JOBS programs because new fiscal year funding is often not received until November. Unlike States which are in a position to use their own resources for operating JOBS pending the issuance of grant awards, Indian tribes and Alaska Native organizations do not have this luxury. States also have the advantage of the Cash Management Improvement Act (CMIA) which does not apply to Indian tribes and Alaska Native organizations. CMIA says that the Federal government must pay interest to States if States are forced to use State funds for something for which Federal funds are normally used. Thus, for example, States were issued a portion of their fiscal year 1994 JOBS funds a month before Indian tribes and Alaska Native organizations were issued any funds.

Without timely grant awards and without forward funding, Indian tribes and Alaska Native organizations either had to cease the program or use other limited tribal funds in the interim.

Vision

The JOBS programs operated by Indian tribes and Alaska Native organizations will not have to cease operation at the beginning of a fiscal year due to the non-timely issuance of new grant awards.

Rationale

The Job Training Partnership Act program under the Department of Labor has authority for forward funding. JTPA grantees are permitted to carry over a maximum of 20% of funds from one program year to the next.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate JOBS programs would be permitted to carry over no more than 20% of the funds awarded in one fiscal year into the next fiscal year.

5. JOBS FUNDS FOR ECONOMIC DEVELOPMENT

Current Law

Under current law, JOBS funds cannot be used to build/improve infrastructure which is so badly needed by Indian tribes and in areas served by Alaska Native organizations. JOBS funds cannot be combined with economic development funds to write proposals, make capital expenditures, etc. Indian tribes and Alaska Native organizations can apply for grants from ACF's Administration for Native Americans that if received can be used to support these activities. What Indian tribes and Alaska Native organizations can and what some do is to use JOBS funds to train individuals to work in economic development enterprises.

Vision

Allowing tribal JOBS grantees to denote a portion of their JOBS funds to economic development would give them additional opportunity to help their clients move towards self-sufficiency.

Rationale

Without the leveraging of Federal funds for economic development, there will be fewer employment opportunities for Native Americans.

Specifications

- (a) Upon approval by the Secretary, Indian tribes and Alaska Native organizations would be permitted to use no more than \$5,000 or 10%, whichever is less, of their JOBS funds on economic development related projects.
- (b) All economic development related projects that use JOBS funds must involve the training of JOBS participants for related jobs.

6. PRE-JOBS

All provisions in the discussion on pre-JOBS above apply except for the following.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate a JOBS program will be responsible for the determination as to whether an AFDC recipient is to be assigned to the pre-JOBS phase.

7. EXTENSIONS

Vision

Tribal JOBS grantees will be responsible for granting extensions to time limited AFDC benefits and will not necessarily be held to the same limitation on the granting of extensions as will be the States.

Rationale

Many reservations and areas served by Alaska Native organizations suffer from lower literacy rates and higher unemployment than most areas of the country.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate a JOBS program will be responsible for the determination as to whether extensions to time limited AFDC benefits should be granted.

WORK

1. INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS TO OPERATE THEIR OWN WORK PROGRAMS

Current Law

Refer to this section under the general discussion of the WORK program.

Vision

Tribal AFDC recipients would be subject to the requirement to participate in JOBS just as they are now. They would also be subject to time limits.

Indian tribes and Alaska Native organizations would have the option to run JOBS. An Indian tribe or Alaska Native organization that operates JOBS would be required to operate a WORK program also. Indian tribes and Alaska Native organizations are responsible for determinations of JOBS-Prep status and extensions; however, there may be additional extensions because of unique tribal circumstances. Tribal members subject to tribal JOBS/WORK programs are excluded from any State program measures.

The Tribal WORK program will have to look different from the State WORK program because of the proposed funding formula. The portion of the WORK funding based on a diversion of AFDC grants would be difficult and complicated to accomplish because of the State's continued responsibility for AFDC funds and the need for extremely close coordination between the State and the Indian tribe or Alaska Native organization. Therefore, it is envisioned that the tribal WORK program will more closely resemble a Community Work Experience Program (CWEP) than a work for wages model (i.e., a tribal member would continue to receive cash assistance, but would be required to participate in a WORK activity). Indian tribes and Alaska Native organizations would be able to use WORK allocation to create job opportunities.

Rationale

Since the Indian tribes and Alaska Native organizations would have to be involved in the development of WORK assignments on the reservation, it follows that the Indian tribes and Alaska Native organizations be given the administration of the WORK program. Keeping the WORK program at the tribal level will allow for a continuum of activity. It also advances tribal self-determination and provides for a more holistic framework for addressing the needs of Native Americans.

Specifications

- (a) Indian tribes and Alaska Native organizations which operate a JOBS program would apply to administer a WORK program. Any application will have to be approved by the Secretary.
- (b) Indian tribes and Alaska Native organizations who do not want to operate a WORK program could not continue to operate a JOBS program.

- (c) Funding for the tribal WORK program would be a percentage set-aside of the total WORK allocation.
- (d) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vice versa.
- (e) An Indian tribe or Alaska Native organization would not be required to match Federal funds.
- (f) The WORK program set forth in the application of a Indian tribe or Alaska Native organization under this part need not meet any requirement of the State WORK program that the Secretary determines is inappropriate with respect to a tribal WORK program.
- (g) The Secretary shall develop appropriate data collection requirements.
- (h) Appropriate performance measures will be developed.

CHILD CARE

1. ALLOCATE JOBS AND TRANSITIONAL CHILD CARE FUNDS TO TRIBES AND ALASKA NATIVE ORGANIZATIONS

Current Law

Under current law, States are the only entities eligible to administer title IV-A child care funds. Participants in Tribal JOBS programs who need child care have to be referred to the State IV-A agencies in order to receive needed child care.

Although data is not collected on the extent that title IV-A child care is used by Tribal JOBS participants, anecdotal information from Tribal JOBS directors seems to indicate that Tribal JOBS participants do not always get their child care needs taken care of through the State. Potential child care providers on reservations are often intimidated or unable to provide necessary information to the State in order to meet State requirements. Indian tribes and Alaska Native organizations that receive Child Care and Development Block Grant (CCDBG) funds sometimes use these funds to pay the cost of the child care to avoid dealing with the State. By using CCDBG funds to pay for the child care needed by Tribal JOBS participants, the Indian tribe or Alaska Native organization cannot use the funds to serve the child care needs of others who qualify.

Vision

Indian tribes and Alaska Native organizations would not have to rely the State IV-A agencies to guarantee the child care needed by Tribal JOBS participants and transitional child care. Funding the Tribal JOBS grantees to guarantee child care makes it easier for these entities to ensure that Tribal child care needs are met. Tribes would be provided funding for child care up to an amount equal to their JOBS/WORK allotment from title IV-A funds to address JOBS and transitional child care needs.

Rationale

Indian tribes and Alaska Native organizations who currently rely on the use of CCDBG to provide child care that is the responsibility of the State IV-A agency will be able to use CCDBG funds for their intended purpose once JOBS and transitional child care funds are available to them. The amount of child care funding available to the Indian tribes and Alaska Native organizations from title IV-A funds for JOBS and transitional child care and CCDBG should be sufficient to meet the child care needs without the additional funding provided by At-Risk Child Care. Therefore, it is not being recommended to fund the Indian tribes and Alaska Native organizations directly for the At-Risk Child Care program at this time. However, we are adding a provision to give the Secretary authority to determine that there is a need in the future and to allocate funds for At-Risk Child Care to tribal programs at that time.

Specifications

- (a) Upon an approved application, all Indian tribes and Alaska Native organizations that operate a JOBS/WORK program would be allowed to administer title IV-A JOBS and transitional child care funds.
- (b) Tribes that elect to administer title IV-A JOBS and transitional child care funds will receive reimbursement from title IV-A funds for the actual amount spent on child care up to an amount equal to their combined JOBS and Work allotment.
- (c) Indian tribes and Alaska Native organizations would not be required to match Federal funds.
- (d) The JOBS and transitional child care program set forth in the application of an Indian tribe or Alaska Native organization under this part need not meet any requirement of the JOBS and transitional child care programs that the Secretary determines is inappropriate with respect to such tribal JOBS and transitional child care program.
- (e) The Secretary shall develop appropriate data collection requirements.
- (f) Appropriate performance measures will be developed.
- (g) Provide for the periodic review of the child care allotment to ensure that it is sufficient to meet the JOBS and transitional needs of tribal grantees. Provide for an automatic adjustment in the allotment based on the results of this review.
- (h) The Secretary has the authority to conduct a study of the use of JOBS and transitional child care by Indian tribes and Alaska Native organizations to determine if child care needs are being met. If there are unmet child care needs, the Secretary has the authority to award At-Risk child care funds to Indian tribes and Alaska Native organizations through a set-aside.

MISCELLANEOUS

1. Technical Assistance, Demonstrations and Evaluations

Current Law

The three year contract awarded in 1990 to provide technical assistance to Tribal JOBS grantees expired last year. Tribal JOBS grantees are not eligible to operate demonstration projects. And evaluations of the Tribal JOBS programs have not been done.

Vision

To gain more thorough information about what makes a successful Tribal or Alaska Native JOBS program, evaluation is needed just as it is for State programs.

Rationale

Welfare reform will be a major force in Indian country. Whatever form welfare reform will take, Indian tribes and Alaska Native organizations will need ongoing technical assistance to understand and implement necessary changes to their JOBS programs.

Most Tribal (including areas served by Alaska Native organizations) environments are sufficiently different from State environments to warrant the involvement of a certain number of Indian tribes or Alaska Native organizations in demonstration projects. A demonstration project may further allow an Indian tribe or Alaska Native organization to design and implement a program that tests innovative approaches that suits the unique circumstances of that Indian tribe, Alaska Native organization or of Indian country.

Specifications

- (a) Indian tribes and Alaska Native organizations would be eligible to submit applications for demonstration projects related to welfare reform, such as combining JOBS and WORK into a block grant.
- (b) Any contract awarded for the provision of technical assistance following the passage of welfare reform legislation must specify that Indian tribes and Alaska Native organizations receive a fair share of the technical assistance.
- (c) Amend the qualifying entities that can apply for Job Opportunities for Low-Income Individuals (JOLI) demonstration grants (authorized by section 505 of the Family Support Act) to include Tribal governments and Alaska Native organizations.

PERFORMANCE MEASURES PROPOSAL

Vision

The provisions described in this section initiate a process that will result in the development and implementation of a comprehensive performance measurement system which reflects and reinforces the emerging "culture" of the redesigned welfare system.

Current JOBS Law

Under the SSA section 487 [FSA Section 203(b)] not later than October 1st, 1993, the Secretary of Health and Human Services shall:

- (1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and
- (2) submit his/her recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may be reasonably expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation. Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.

Current JOBS Program Performance Measures

Participation rate for all AFDC recipients required to participate in JOBS (45 CFR 250.74(b) and 250.78) - For Fiscal Year 1994 the required participation rate is 15%. This is to ensure that a minimum proportion of the AFDC adult population is participating at a meaningful (significant) level.

Participation rate for AFDC-UP recipients (45 CFR 250.74(c) - For Fiscal Year 1994 the required participation rate is 40%. This is to ensure that a minimum proportion of the AFDC-UP principal wage earners or their spouses engage in work activities.

Target group expenditures (45 CFR 250.74(a)(1)) - At least 55% of a State's JOBS expenditures must be spent on applicants and recipients who are members of the State's target populations as defined at 45 CFR 250.1. This is to ensure that the hard to serve are served by requiring that 55% of IV-F expenditures are spent on the target groups defined in the statute or, if different, approved as a part of the State's JOBS plan.

Current Data Reporting System

The JOBS Case Sample Reporting System (CSRS) was established to meet some of the reporting requirements mandated by section 487 of the Social Security Act. However, the data necessary to establish participation rates is collected through both CSRS and aggregate hard copy. Only data necessary to establish the numerator for overall participation is collected through CSRS. The population from which each state must draw its sample (or in lieu of drawing a sample, the State may

submit the entire population each month) is defined as the number of JOBS participants that were engaged in at least one hour of activity in an approved JOBS program component during the sample month. In addition to JOBS program data, a limited amount of demographic data and child care data is also required to be submitted.

Current QC Law

Under section 408 of the Social Security Act, States are required to operate a quality control system in order to ensure the accuracy of payments in the AFDC program. States operate the system in accordance with time schedules, sampling methodologies, and review procedures prescribed by the Secretary. The law defines: what constitutes a payment error; how error rates and disallowances are calculated; the method for adjusting State matching payments; and the administrative and judicial reviews available to states subject to disallowances because of error rates in excess of the national standard (i.e., the national error rate for each year).

The AFDC-QC system functions primarily as a monitoring/auditing system. Its primary purpose is to establish the correctness with which payments are made to AFDC cases in each State. The AFDC-QC system also obtains the data necessary to produce the publication entitled "Characteristics and Financial Circumstances of AFDC Recipients." The AFDC-QC system is not used to meet any of the reporting requirements for the AFDC program. Subsequent to the establishment of this system, which is a subsystem of the National Integrated Quality Control System (NIQCS), OMB required additional AFDC data be collected to replace the biennial survey of AFDC families that had been in place through 1979.

Vision

One objective of welfare reform is to transform the "culture" of the welfare system, from an institutional system whose primary mission is to ensure that poor children have a minimal level of economic resources to a system that focuses equal attention on the task of integrating their adult caretakers into the economic and social mainstream of society. We envision an outcome-based performance measurement system that consists of a limited set of broad measures and focuses State efforts on the goals of the transitional support system — helping recipients become self-sufficient, reducing dependency, and moving recipients into work. The system would be developed and implemented over time, as specified in statute. Interested parties will be included in the process for determining outcome-based performance measures and standards.

Until a system incorporating outcome-based standards can be put in place, State performance will be measured against service delivery measures as specified in statute. These service delivery standards would be used to monitor program implementation and operations, provide incentives for timely implementation, and ensure that States were providing services needed to convert welfare into a transitional support system. The current targeting and participation standards would be eliminated (see draft specifications on JOBS, TIME LIMITS, AND WORK). The new service delivery measure for JOBS would ensure that a substantial portion of such cases are being served on an ongoing basis. As soon as WORK program requirements begin to take effect (i.e., two years after the effective date of the start of the phase-in), States would be subject to a performance standard under the WORK program. Until automated systems are operational and reliable, State performance vis-a-vis these service delivery measures would be based on information gathered through the modified QC system.

Within a specified time period after enactment of this bill, the Secretary will develop a broader system of standards which incorporates measures addressing the States' success in moving clients toward self-sufficiency and reducing their average tenure on welfare. All accompanying regulations to this section shall be published within 12 months of the enactment of this act, unless an effective date is otherwise specified.

Rationale

The standards against which systems performance are judged must reflect the emerging mission or goal of the reformed system. The existing Quality Control (QC) system may actually create counterproductive incentives for states attempting to cope with this emerging institutional environment. QC focusses on how well the income support function is done to the exclusion of other systems goals. This directly shapes the atmosphere of and feel within welfare agencies; how personnel are selected and trained, how administrative processes are organized, and the basis for allocating organizational rewards.

It is a simple reality that the management and technological demands which emerge from a system designed to change how people function are more complex than those for an income support system. Strategies that judge performance solely by inputs or effort will no longer be adequate. The new system eventually must be judged by what is accomplished rather than how it is accomplished. At the same time, the challenges of transforming organizational cultures cannot be ignored; we must remain cognizant of the implementation and operational challenges all levels of government will confront in moving to the new system.

In response to the demands imposed by substantive organizational change, the "official" focus of the QC system will be revised to include program outcomes in addition to payment accuracy. The QC system should reflect the new mission of the system without jeopardizing the integrity of the program as it is currently understood. This can be achieved through the development of performance measures and standards that reflect the degree to which the policy is implemented as intended and which eventually focus on results, while ensuring that the residual income support functions are administered competently. The goal is that payment accuracy and other designated performance standards be given equal priority by the welfare agency.

Provisions 1 through 3 generally deal with requirements and procedures for establishing performance outcomes; provisions 4 and 5 deal with developing service delivery measures and standards to assess whether the program is being implemented and operated as intended; and provision 6 provides the necessary authority to modify the QC system to carry out the monitoring functions specified in the Act.

Specifications

1. Establishing an Outcome-Based Performance Standards System

Vision

Part 1: This provision provides general authority to the Secretary of DHHS to establish an outcome-based performance standards system.

The vision governing welfare reform is consistent with the theme of "reinventing government." Ultimately, this means less federal prescription, greater local flexibility and responsibility, and the measurement of success by outcomes and not inputs or effort.

Rationale

These provisions establish and reinforce the goal that State performance eventually will be judged by the results they achieve and not the way they achieve those results. This means keeping a focus on the goals of reform; moving clients toward self-sufficiency and independence while ensuring the overall well-being of children and their families.

Specifications

- (a) In accordance with the effective dates specified, in order to assess State performance, the Secretary shall enact an outcome-based performance standards system that will measure the extent to which the program helps participants improve their self-sufficiency, their independence from welfare, their labor market participation, and the economic well-being of families with children. As specified below, the Secretary shall first develop outcome-based performance measures and then shall take steps to set expected standards of performance with respect to those measures. The system will also include performance standards for measuring the extent to which individuals are served by the transitional support system (i.e., service delivery standards).
- (b) The current quality control system shall be revised to reflect the new performance standards system (see section below on *Quality Control for specifications*).
- (c) The Secretary shall publish annually State-level data indicating State performance under such a system.
- (d) Amend Sec. 487 (b) to read: The Secretary may require States to gather such information and perform such monitoring functions as are appropriate to assist in the development of such a performance measurement system and shall include in regulations provisions establishing uniform reporting requirements for such information.
- (e) In adopting performance standards the Secretary shall use appropriate methods for obtaining data as necessary, which may include access to earnings records, State employment security records, State Unemployment Insurance records, and records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986); drawing reliable statistical samples and revising QC reviews of AFDC payment and case information; and using appropriate safeguards to protect the confidentiality of the information obtained.
- (f) The Secretary shall, in consultation with appropriate interested parties, review and modify the performance measures and standards, and other components of the performance measures system periodically as appropriate.

2. Developing an Outcome-Based Performance Measurement System

Vision

Part 2: This provision requires the Secretary to propose a specific set of intermediate outcome measures and establishes a process and timetable for doing such.

Before outcome-based standards are established, a set of outcome-based measures will be put in place. (Note: a measure is merely an aspect of the program on which data is collected; a standard is a specific level of performance that is expected of States or agencies with respect to that measure.) These provisions are viewed as the first step toward developing a true outcome-based performance measurement system and recognize complementary work taking place in other agencies.

Rationale

Recognizing the complexity of this task, this legislation incorporates a prudent strategy that moves forcefully, yet with reasonable caution in the direction of developing an outcome-based performance system.

Specifications

- (a) By April 1, 1996, for the purposes of enacting a performance measurement system, the Secretary will develop recommendations for specific outcome-based performance measures (with proposed definitions and data-collection methodologies) and shall solicit comments from the Congress, Secretaries of Labor, Education, and other Departments, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons (hereinafter referred to as *interested parties*).
- (b) The recommendations shall include the percentage of the caseload who reach the 2-year time-limit and may include but shall not be limited to measures which examine:
 - (i) factors used in section 106 of the Job Training Partnership Act and any subsequent amendments such as placement and retention in unsubsidized employment and a reduction in welfare dependency; and,
 - (ii) other factors as deemed appropriate by the Secretary.
- (c) Based on comments from the interested parties, the Secretary will finalize the measures by October 1, 1996, and publish the measures in the Federal Register. The outcome performance measures will be implemented by October 1, 1997.

3. Implementing an Outcome-Based Performance Measurement System

Vision

Part 3: This provision requires the Secretary to set standards of performance for States to meet with respect to the measures developed under prior provisions and sets some procedural guidelines for setting those standards.

Knowing what we want to accomplish is different from setting concrete expectations for States about what they ought to accomplish. The standards should be set carefully, with adequate time to obtain input from stakeholders and interested parties, and to fully assess the potential impact of the standards.

Rationale

It is important to provide sufficient time to think through an appropriate set of measures with relevant parties and to carefully consider what kind of realistic standards might be set with respect to those measures. The legislation sets a time period to consider important measurement issues and what consequences should be set for failure to meet established standards.

Specifications

- (a) By April 1, 1999, for the purposes of enacting outcome-based standards, the Secretary, in consultation with interested parties, shall present recommendations for performance standards based on the performance measure information (as specified above) and other appropriate information.
- (b) Based on comments from the interested parties, the Secretary will finalize the standards that will be published in the Federal Register by October 1, 1999.
- (c) The Secretary shall amend the regulations for this Act to establish the penalties and incentives for the proposed standards and shall implement the additional performance standards by October 1, 2000.

4. Service Delivery StandardsVision

Part 4: This provision requires that certain standards be set to determine how well States are implementing key aspects of the new system and sets rewards and penalties based on those standards.

To ensure that welfare systems are operating the program as intended, the new performance system will provide for awards and penalties for State performance through adjustments to the State's claims for federal matching funds on AFDC payments and on JOBS service dollars. These measures are designed to provide positive and negative incentives to States to serve recipients under the new transitional system and to monitor program operations. States would be subject to financial incentives for a monthly participation rate in JOBS and a participation rate in WORK. In addition, the caps on JOBS extensions and pre-JOBS assignments and State accuracy in keeping of the two-year clock are considered service delivery standards.

Rationale

Because major changes to the welfare system are being proposed, it is critical that the extent to which the intent of the law is being realized be monitored carefully. Measuring critical aspects of the new program will provide necessary feedback upon which to judge progress toward changing the "culture" of the welfare system, while the proposed set of incentives and penalties will keep States focused on the required changes.

Specifications

- (a) Upon enactment of this act, the Secretary shall implement service delivery measures for purposes of accountability and compliance.
- (b) States shall be subject to service delivery standards upon the effective date of the new JOBS program. States shall begin reporting and validating data for service delivery measures no later than 12 months following the publication of the JOBS/WORK regulations in a manner to be prescribed by the Secretary.
- (c) The service delivery standards apply only to the phased-in mandatory population that is subject to the time limit (including those additional groups a State can opt to include in the phase-in group). There are no performance standards for the non-phased-in group. The service delivery standards apply to both AFDC and AFDC-U cases. There are not separate standards for these two groups: for each standard, only one rate will be calculated and it will include both AFDC and AFDC-U cases.
- (d) **Monthly Participation Rate in JOBS:** Similar to current law, States are expected to meet a monthly participation rate. Using a computation period of each month in a fiscal year (i.e. over a 12 month period), the State's monthly participation rate shall be expressed by a percentage, and calculated as follows:
- (i) The denominator consists of the average monthly number of individuals who are mandatory for JOBS (i.e., excluding those in the pre-JOBS status)
- (ii) The numerator consists of the average monthly number of individuals who are mandatory for JOBS (i.e., excluding those in the pre-JOBS status) who participate in an activity, are employed and meet the minimum work standard (and remain on aid), or are in the sanctioning process as defined by JOBS program rules. The definition of *participation* for the purposes of calculating the monthly participation rate will be determined in regulation.
- (e) The performance standard for the JOBS monthly participation rate is set at 50 percent, with a -5/+5 tolerance level, with financial penalties if the standard is not met and financial incentives if the standard is exceeded. For the proportion of caseload below the standard (45%), a 25 percent reduction in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit level paid in the State to calculate the amount of the penalty. (This penalty is not a 25 percentage point reduction. Rather, the penalty would reduce the FFP from 50 percent to 37.5 percent not from 50 percent to 25 percent.) There would be no penalties and incentives for those States with participation rates between 45 and 55 percent. Penalties will not be assessed in the first year of program operation.
- (f) If a State exceeds the JOBS monthly participation rate (55%), the State will be entitled to receive a financial bonus (without the requirement of any additional nonfederal share). The bonus will be paid from penalties collected from State performance on other service delivery measures and unused JOBS and WORK money. The Secretary shall determine the amount of the payments.

- (g) **WORK Program Participation Rates:** States will also receive financial penalties for failing to meet the following participation standard in the WORK program. To ensure that individuals who reach the time limit are assigned to work slots, States would be expected to meet a WORK participation standard. The WORK performance measure would take effect two years after the effective date of this legislation (*see JOBS, TIME LIMITS, AND WORK section*). To meet this standard, States are required to meet either:
- (i) **Case 1:** The number required so that 80 percent of those who reached the time limit and are in the WORK program are assigned to a WORK slot or are in other defined statuses (as explained below). Using a computation period of each month in a fiscal year (i.e. over a 12 month period), the WORK participation rate is expressed as a percentage and is calculated follows: (1) The denominator consists of the average monthly number of individuals who have reached the time limit and are in the WORK program (i.e., excluding those in the pre-JOBS status). (2) The numerator consists of those in the denominator who are assigned to a WORK slot, are in the sanctioning process as defined under the WORK program rules, are working in an unsubsidized job that meets the minimum work requirement (and are still eligible for the WORK program), or are participating in a WORK job search activity between WORK assignments (this is only countable for the first three months between WORK assignments). The exact definition of the rate will be specified in regulation. Or,
- (ii) **Case 2:** The number required so that total number of WORK slots the State is required to create, based on their funding allocation, are filled by individuals assigned to a WORK slot. Under this option, the number of work slots to be filled will be determined by dividing the annual capped WORK allocation by a figure representing the cost per work slot, with the latter to be determined by the Secretary.
- (h) For the proportion of caseload below the applicable standard, a 25 percent *reduction* in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties will not be assessed in the first year of program operation. (This penalty is not a 25 percentage point reduction. Rather, the penalty would reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.)
- (i) States would be required to place individuals who have most recently hit the time-limit into WORK slots prior to other WORK participants (e.g., those who have already completed a slot and are awaiting re-assignment).
- (j) **Cap on pre-JOBS and JOBS Extensions:** For any cases in pre-JOBS above the cap and for JOBS extensions above the cap, a 25 percent *reduction* in the FFP for their AFDC benefits will be levied, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties would not be assessed in the first year of program operation. The penalties do not apply if the State has submitted a proposal to the Secretary to raise the cap or the Secretary has already granted such a waiver. (This penalty is not a 25 percentage point reduction. Rather, the penalty would reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.) (*see also JOBS, TIME LIMITS, AND WORK section*)
- (k) As appropriate, the Secretary may require States to report other data elements related to the provision of JOBS and WORK services, such as the provision on teen case management services. Such additional reporting requirements will be specified in regulation no later than 6 months following the enactment of this act.

- (m) States are not eligible for increased FFP for any service delivery measures if the Secretary determines:
- (i) the accuracy of a State's time-clock fails the threshold standards for time-clock accuracy, as defined subsequently in regulations; and/or,
 - (ii) other required data on the JOBS and WORK program reported by a State that fails the threshold standards for data quality, as defined subsequently in regulations.

5. Client Feedback

Vision

Part 5: This provision requires that States establish a process for collecting client feedback on their experience in the program as a method for improving program operations.

There has been little study in the past of client perceptions of the services provided through the welfare department. However, similar to the way customers' reactions are important to the business community, understanding and managing client feedback on the services they receive provide important information on areas where program performance could improved. Additionally, it will be important to establish mechanisms to ensure feedback on the quality of services provided by public, nonprofit, and private agencies.

Rationale

One aspect of reinventing government is to make public systems client- or market-driven. In a time-limited cash assistance program, providing participants with quality services and opportunities through which to enhance their human capital and improve their chances in the labor market seems essential. Obtaining feedback directly from the "customers" is one way of helping program managers ensure that they provide participants what is needed.

Specifications

- (a) Each State shall establish methods for obtaining, on a regular basis, information from individuals and employers who have received services through the JOBS and/or WORK program regarding the effectiveness and quality of such services. Such methods may include the use of surveys, interviews, and focus groups.
- (b) Each State agency shall analyze the customer service information on a regular basis and provide a summary of such information for use in improving the administration of the programs.

6. Expanded Mission for Quality Control System

Vision

Part 6: This provision provides the Secretary with the authority to review and modify the Quality Control system as needed and sets up some procedural guidelines for identifying the needed changes and making those changes.

The following language allows the Secretary to build on the current payment accuracy Quality Control system to incorporate a broader system focused on the performance standards established in statute or by regulation and to ensure the efficient and effective operation of the JOBS/WORK/Time Limited Assistance program. Payment accuracy will be retained but as one element in a broader performance measurement role for the QC system.

Rationale

Operating a performance driven accountability system requires resources. Until the new system is fully developed, it will be difficult to estimate what those resource requirements will be. Some of those resources must come from the existing QC system, necessitating changes in that system. The Secretary must have authority to make those changes in a way that does not sacrifice the ability to ensure the integrity and accuracy of income maintenance payments.

Specifications

- (a) The Secretary shall build on the current QC system to establish procedures for determining, with respect to each State, the extent to which any and all performance standards established by statute or regulation are being met. The Secretary shall modify the scope of the current QC system as deemed necessary to accommodate the review of the additional data elements and new performance measures and standards and shall report the modifications to Congress.
- (b) To this end, the Social Security Act will be amended to expand the purpose of the QC system to include: improving the accuracy of benefit and wage payments in the AFDC and WORK program, assessing the quality of State-reported data, ensuring the accuracy of State reporting of JOBS/WORK data required under this act, ensuring that other performance standards are met, and fulfilling other appropriate functions of a performance measurement system.
- (c) The Secretary shall designate additional data elements to be collected in a QC review sample to fulfill the needs of a performance measures system (pursuant to section 487 as amended under this part), shall amend case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of program performance identified elsewhere in this section, and may redefine what is counted as an erroneous payment in the QC system.
- (d) States shall conduct periodic, internal audits of their JOBS and WORK processes to ensure the accuracy of reported data and annual audits to establish accuracy rates. The Federal government would specify the minimum sample sizes to achieve 90 or 95 percent confidence at the lower limit (the method generally used by OIG). States would also be permitted to use current QC resources to conduct special studies to test and improve the current system.
- (e) The Secretary shall, after consulting with the States and securing input from knowledgeable sources, publish regulations regarding changes in the design and administration of existing QC functions as well as enhancements to that system. These proposed changes will be published no later than 12 months after enactment of this Bill.

TECHNICAL ASSISTANCE, RESEARCH, DEMONSTRATIONS, AND EVALUATION

A. TECHNICAL ASSISTANCE, RESEARCH, AND EVALUATION

1. Authority to Tap JOBS/WORK and Child Care Funds For Research, Demonstrations, Evaluation and Technical Assistance Purposes

Current Law

There are a variety of ways that funds are set aside for evaluation oversight and technical assistance support to programs. The Family Support Act, for example, authorizes specific amounts for implementation and effectiveness studies of the JOBS Program. Under the Head Start Act, 13 percent of annual appropriations are reserved by the Secretary for a broad range of uses including training, technical assistance and evaluation. The Secretary of HHS, at her discretion, sets aside 1% of Public Health program funding for evaluation of its programs.

Vision

Welfare reform seeks nothing less than a change in the "culture" of the welfare system. This necessitates making major changes in a system that has primarily been issuing checks for the past two decades. Now we will be expecting States to change individual behavior and their own institutions so that welfare recipients will be moved into mainstream society. This will not be done easily. We see a major role for evaluation, technical assistance and information sharing. Initially, States will require considerable assistance as they design and implement the changes required under this legislation. Then, as one State or locality finds strategies that work, those lessons ought to be widely shared with others. One of the elements critical to this reform effort has been the lessons learned from the careful evaluations done of earlier programs. Those lessons and the feedback secured during the implementation of these reforms will be used in a formative sense and will guide continuing innovation into the future. We propose reserving 2% in FY 1996, FY 1997, and FY 1998 of the total annual capped entitlement funding for the Secretary of HHS to be spent on JOBS and child and 1% in fiscal years thereafter of JOBS, child care, and WORK funding for research, demonstrations, evaluation, and technical assistance, with a significant amount reserved for child care. We seek to evaluate demonstrations in a number of different areas. Please see the sections on MAKE WORK PAY, CHILD SUPPORT ENFORCEMENT, and PREVENT PREGNANCY AND PROMOTE PARENTAL RESPONSIBILITY.

Rationale

Sufficient funds should be available to ensure that the Department(s) can provide adequate levels of technical assistance to States, oversee State implementation of welfare reform, and carry out other supportive research and training activities. Tying funds to a percentage of the overall program dollars ensures that as the program grows, funds for research, evaluation and technical assistance also grow.

Specifications

- (a) Reserve for the Secretary from amounts authorized for the capped JOBS, WORK and At-Risk Child Care funding, two percent of JOBS and child care funds in Fiscal Years 1996 through 1998, and one percent of JOBS, child care, and WORK for each fiscal year for expenditures research, the provision of technical assistance to the States and to carry out demonstrations as described below. Technical assistance is defined broadly to include training, "hands-on"

consultation to States requesting assistance, the transferring of "best practices" from one State to another and so forth.

(b) To the extent that these issues can be researched in a methodologically sound way, the Secretary of HHS in consultation with the Secretary of Labor and the Secretary of Education, shall conduct the following evaluation studies of time-limited JOBS followed by WORK:

(i) A two-phase implementation study that describes:

- How States and localities initially responded to new policies, implemented the new program, the obstacles and barriers encountered, institutional arrangements, and recommendations;
- How States and localities subsequently performed as their programs matured including program design, services provided, operating procedures, funding levels and participation rates and recommendations. The study will also consider the effects on State and local administration of welfare programs including management systems, staffing structure, and "culture."

B. DEMONSTRATIONS

1. Authority to Initiate Major Demonstrations and Pilot Programs to Improve the Effectiveness and Efficiency of the Reformed Welfare System

Current Law

The Social Security Act authorizes the Secretary to conduct demonstrations. Many States operate demonstration programs which have strong evaluation components which have helped shape public policy.

Vision

We propose key demonstrations in six areas where additional feedback is required about the cost, feasibility, and/or effectiveness is necessary before national policy is determined. In each area, we propose both a set of policies for immediate implementation and a set of demonstrations designed to explore ideas for still bolder innovation in the future. In addition, we would encourage States, Indian tribes, and Alaskan Native organizations to develop their own demonstrations. In some cases we would provide additional Federal resources. Lessons from past demonstrations have been central to both the development of the Family Support Act and to this plan.

Specifications

(a) The Secretary of HHS shall have the authority to approve and conduct the following demonstrations, which will be funded out of the 2 percent of JOBS, WORK, and At-Risk Child Care allocated to technical assistance, research, demonstrations, and evaluation (as discussed in detail below):

Demonstration (1) is designed to test innovations that might shorten welfare spells during the JOBS phase of the reformed system. Demonstration (2) is designed to examine innovations in the WORK phase of the reformed program. Demonstration (3) is largely, though not

exclusively, designed to assist those who have made the transition to non-subsidized work by minimizing recidivism back onto welfare. Other demonstrations are outlined in the CHILD SUPPORT ENFORCEMENT, MAKE WORK PAY, and the PREVENT TEEN PREGNANCY AND PROMOTE PARENTAL RESPONSIBILITY sections. Thus these demonstrations cover the major aspects of the reform proposal.

2. Demonstrations to Encourage Placement During Participation in the JOBS Program

Current Law

There are no provisions in current law similar to what is proposed under this section.

Vision

One of the explicit goals of welfare reform is to transform the welfare system (and the JOBS program) into one which focuses from the very first day on helping people to get and hold jobs. To achieve this, we will fund demonstration programs that focus on enhancing job placements. We envision two strategies, as specified below.

Rationale

A good JOBS program balances the need to communicate to those entering the welfare system that AFDC is a temporary support system by moving recipients quickly into the labor market while remaining sensitive to the fact that all recipients are not competitive in that market. We are changing the culture of welfare to get out of the business of writing checks and into the business of helping people find and keep jobs. We are changing the incentives in the welfare system to emphasize long-term placement in the workforce. We want to experiment with a number of new approaches that will spur caseworkers, clients, and service providers to help people get off welfare for good. We need more information about how to set up rewards that will reflect the new "mission" of the welfare system.

Specifications

- (a) **Placement Bonuses:** No more than five demonstration grants would be available for programs that use placement bonuses to reward agencies or caseworkers who are particularly good at placing JOBS participants in private sector jobs. The emphasis will be on securing long-term placements in the labor market and on finding ways to place medium and long-term recipients.
- (b) **Chartering Placement Firms:** No more than five demonstration grants would be available to States to charter private not-for-profit and for-profit organizations to work with JOBS clients to place them in private sector jobs. This is similar to offering contracts through an RFP, except that a charter is a license to serve clients that puts the burden on the organization to recruit its clients. Chartered organizations would be paid a fee for finding work for an eligible JOBS participant. Charters can specify services that the organization will deliver: work preparation, placement services, follow-up, linkages to other agencies. Charters permit the organization to serve eligible WORK participants and specify performance standards on which they will be paid. These performance standards would be based on placement and retention measures.

- (c) Up to five local demonstration projects each to test and evaluate the use of placement bonuses and chartering placement firms on the placement and retention of JOBS participants in jobs will be conducted.
- (d) The Secretary shall evaluate the effectiveness of such programs, preferably using a random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

3. Section 1115 Waivers

Current Law

Section 1115(c)(3) of the Social Security Act restricts State waivers which can be granted under the child support program to those that would not increase the Federal cost of the AFDC program. In all other cases, States can offset increased costs in one program (such as increased expenditures for JOBS) with savings in other areas (such as AFDC and Medicaid). In child support, however, savings generated from non-IV-A programs cannot be used to cover IV-A costs resulting from IV-D waivers. The within-AFDC cost neutrality provisions for the child support program discourages States from looking at IV-D as part of their total welfare reform strategy and greatly restricts their abilities to design and implement child support demonstrations of interest and significance.

Specification

- (a) Increase States' ability to test innovative IV-D and non-custodial parent programs. Give them the same degree of flexibility to offset AFDC costs resulting from demonstrations involving child support that now exists in the other programs. In addition, give States the authority to value the worth of work activities that non-custodial fathers do to reduce their AFDC debts and child support arrearages.

4. Demonstration Grants for Innovative Paternity and Parenting Initiatives

Vision

This proposal would focus on helping fathers (primarily poor, young, non-marital fathers) understand and accept their responsibilities to nurture and support their children. Building on programs which seek to enhance the well-being of children, this proposal would facilitate the development of parenting components aimed specifically at fathers whose participation in the lives of their children is often ignored or even unintentionally discouraged.

Rationale

There is considerable evidence that increased poverty is not the only adverse affect on children of fatherless families. Fathers have an important role to play in fostering self-esteem and self-control in children as well as increasing and promoting the career aspirations of both sons and daughters. Some clinical researchers and social commentators believe that much of the increase in violent behavior among teenage boys is at least in part due to the lack of positive male role-models and supportive fathering in many communities. But good fathering is especially difficult for the many men who themselves belong to a second and third generation of "fatherless" families or whose own role models for parenting were abusive or neglectful.

Specifications

- (a) Demonstration grants will be made available to States, Indian tribes, and/or community based organizations to develop and implement non-custodial parent (fathers) components for existing programs for high risk families (e.g. Head Start, Even Start, Healthy Start, Family Preservation, Teen Pregnancy and Prevention) to promote responsible parenting, including the importance of paternity establishment and economic security for children, and the development of parenting skills.
- (b) Grants must last three years, have an evaluation component, preferably using a random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

5. Demonstrations to Develop Work-for-Wages Programs Outside the AFDC SystemVision

States are encouraged to experiment with approaches to designing and administering the WORK program outside of the AFDC system. The Secretary may authorize up to 5 demonstration projects to assess the feasibility and effectiveness of WORK programs that are administered outside of the AFDC system. These demonstrations will be rigorously evaluated.

Rationale

It is not clear that the welfare system will be the most appropriate agency to run an employment based system like the WORK program in all States. In some cases, state-level Labor Department entities, non-profit, or proprietary agencies may have a comparative advantage. Even if a comparative advantage does lie with an organization independent of the welfare system, questions remain. For example, it is not apparent that the required ongoing communication between the agencies running the WORK program and the agency issuing supplemental income support checks (and retaining responsibility for other residual welfare functions) can be maintained. This, and other management uncertainties, must be resolved through demonstration programs.

Specifications

- (a) Up to 5 local demonstration projects to test the development and implementation of WORK programs administratively located outside of the AFDC system will be conducted.
- (b) The Secretary shall conduct a rigorous evaluation, preferably using a random assignment to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.
- (c) All individuals who exhaust their transitional assistance must be eligible to apply to the WORK program either after their initial spell on welfare or if they leave JOBS or WORK and subsequently reapply for assistance and have no time left. States may not deny admission into WORK for any reasons other than those discussed under the section on sanction policy.
- (d) States must close AFDC cases when recipients reach the time limit. WORK programs under this subsection may only pay participants for performance of some activity.

- (e) States may develop a system of compensation that mixes wages and WORK stipends. States must develop a system that ensures that WORK participants who comply fully with the program's rules are receiving income at least equal to what they would have received on AFDC plus the work disregard. States shall have flexibility on this criteria in the interest of administrative simplicity but the income from full compliance in WORK must exceed income on AFDC for a similarly situated family.
- (f) States will be allowed to pay participants WORK stipends when they are not in a WORK assignment as compensation for a range of activities to be designated by the state, including job search, job clubs, and interim community service assignments. States will have flexibility in designing the stipend system, but it will have to be a pay-for-activity system.
- (g) States would be allowed to develop a system of wage supplementation. WORK stipends could be provided to part-time workers either in unsubsidized jobs or in the WORK program. States would be encouraged to develop a simple system of supplements.
- (h) Eligibility for the supplement would be contingent on satisfactory participation in WORK.

6. WORK Support Agency Demonstrations

Current Law

At State option, Federal financial participation is available for JOBS activities and services provided for certain periods to an individual who has been a JOBS participant but who loses eligibility for AFDC. These activities and periods are: 1) case management activities and supportive services for up to 90 days from the date the individual loses eligibility for AFDC; and 2) JOBS component activities for the duration of the activity if funds for the activity are obligated or expended before the individual loses eligibility for AFDC. (45 CFR 250.73) In addition, the State agency may provide, pay for, or reimburse one-time work-related expenses which it determines are necessary for an applicant or recipient to accept or maintain employment. (45 CFR 255.2)

Vision

In order to learn about the effects of work support strategies, we propose demonstration programs to test different approaches. The goal is to increase employment retention and reduce welfare recidivism by helping those individuals who become employed keep their jobs and those who lose their jobs to regain employment quickly. Case managers will maintain contact with and offer assistance to current or former AFDC recipients who obtain employment and provide direct assistance to aid them in employment retention or to help find a subsequent job. Payments to help meet the costs of certain employment-related needs may also be provided if determined necessary for job acceptance or retention, or reemployment.

States might establish work support agencies with distinctly different responsibilities than IV-A agencies and possibly housed separately from the local IV-A agencies to provide centralized services specifically to working families. The Work Support agencies could be administered, for example, by the State employment or labor departments; by Community Action Agencies, or a One-Stop Shopping Center.

The work support offices might provide food stamps, child care, advance EITC payments, and possibly health insurance subsidies to eligible low-income working families, or (at local discretion) families

suffering a temporary labor market disruption. Employment-related services such as career counseling, assistance with updating resumes and filling out job applications would also be made available specifically to individuals who had left AFDC for work through the work support office. Services which might also be included are time and money management, family issues, workplace rules, establishing ongoing relationships with employers, providing mediation between employer and employee, assisting with application for the EITC, making referrals to other community services, providing or arranging for supportive services needed for employment retention or re-employment, and providing for job referral or placement assistance if initial jobs are lost. The supportive services which can be provided to aid job retention may include: occupational license, certification, or test fees, tool/equipment expenses, clothing, uniforms, or safety equipment costs, driver's license fees, motor vehicle maintenance, repair, insurance or license costs, other transportation expenses, moving expenses (related to accepting employment), emergency child care expenses, health-related expenses not covered by Medicaid, short-term mental health expenses, and family counseling.

Rationale

A significant proportion of new entrants will move between States of dependency and non-dependency. Some 70 percent of new entrants exit in two years, about one-half of these for work. But within five years, some 70 percent of those will return. A similar picture is found for those in the secondary labor market. Job transitions and disruptions are very common, even within brief time periods. Many of these people do not have sufficient work histories to qualify for benefits under the Unemployment Insurance system. The primary recourse available upon a job loss is the welfare system.

Our welfare and JOBS systems are geared toward graduations; treating people and moving them on. We now assume that even those with high levels of human capital may have to make seven or eight reinvestments in training and new skill/technology acquisitions over the course of a lifetime. We must begin to work on developing a similar perspective and supportive systems for low-wage workers and those who must, on occasion, receive income assistance for their families.

The participating State would be responsible for the design of the work support agency, including the administrative structure and the menu of services, but would have to receive approval from the appropriate departments (in most cases Agriculture, Health and Human Services and Treasury).

Specifications

- (a) A separate authority under Title IV of the Social Security Act would be established whereby a designated number of entities chosen by the Secretary, in consultation with the Secretary of Labor, Agriculture, and Treasury, would be entitled to demonstration grants to operate a Work Support Agency to support individuals who have left AFDC for work.
- (b) Up to five demonstration projects will be funded.
- (c) The activities under the demonstration would be focused on providing coordinated employment-related services. Grantees would be given great flexibility to design programs to help former AFDC recipients retain employment.

INFORMATION SYSTEMS AND INFRASTRUCTURE

Current Law and Background

In the late 1970s, the Federal government decided to improve the administration of welfare programs through the use of computerized information systems. The Congress enacted PL 96-265 and subsequent legislation to grant incentive funding to encourage the development of automated systems.

In 1981, the AFDC program released the Family Assistance Management Information System (FAMIS) specifications and updated them in 1983. In 1988, the Food Stamp Program (FSP) released similar guidelines in regulations and updated them in 1992. Incentive funding is also available for statewide, Child Support Enforcement (CSE) systems.

A recent GAO report indicated that, in the previous 10 years the Federal government had spent nearly \$900 million in the development and operation of AFDC and FSP automated systems alone. In the Omnibus Budget Reconciliation Act of 1993, the Congress repealed enhanced funding for AFDC and FSP effective April 1, 1994.

An emerging priority of Federal funding agencies has been to encourage States to implement more cost-effective systems which integrate service delivery at the local level. This has enabled many States to begin using combined application forms for multiple programs (including AFDC, FSP, and Medicaid) and a combined interview to determine eligibility for the various programs. Consequently, with systems support, a single eligibility worker can process an application for several programs at the same time.

Another priority is the development of electronic transfer of funds or Electronic Benefit Transfer (EBT) technology to deliver benefits. This technology allows recipients to use a debit card, similar to a bank card, at retail food stores and automated teller machines (ATMs) to access their benefit accounts. Plans to expand the use of EBT systems are mentioned in the Vice President's National Performance Review.

Under current law and regulations, States and the Federal government have developed elaborate computer management information systems for financial management and benefit delivery, program operations, and quality control. Some programs, such as Child Support Enforcement, are in the midst of large-scale (and long-term) computer system change, while others, such as AFDC (with its FAMIS systems), are nearing completion of a development cycle.

Both FAMIS and Child Support Enforcement Systems (CSES) have been funded under an enhanced funding (90 percent) match. Partly as a result of this incentive funding, many States have integrated, automated, income maintenance systems which assist caseworkers in determining eligibility, maintaining and tracking case status, and reporting management information to the State and Federal governments.

Other essential welfare programs, namely JOBS and child care, have limited and fragmented automated systems. For the most part, States could fund parts of these systems at the 50 percent match rate. States report that administrative funds have not been available to fully automate and interface JOBS and Child Care with other programs within the State.

Many of these systems have serious limitations: limited flexibility, lack of interactive access, limited ability to exchange data electronically, etc. Even the most sophisticated systems fall short of the goal of allowing State agencies to use technology to:

- Eliminate the need for clients to access different entry points before they receive services;
- Eliminate the need for agency workers (and clients) to encounter and understand a wide variety of complex rules and procedures;
- Share fully computer data with programs within the State and among States; and
- Provide the kind of case tracking and management that will be needed for a time-limited welfare system.

Vision and Rationale

Computer and information technology solutions will support welfare reform by providing new automated screening and intake processes, eligibility decision-making tools, and benefit delivery techniques. Application of modern technologies such as expert systems, relational databases, voice recognition units, and high performance computer networks, will help empower families and individuals seeking assistance. At the same time, these technologies will assist in reducing fraud and abuse so that Federal and State benefits are available to those who are in need.

State-Level Systems and National Clearinghouse

To achieve this vision, we are proposing an information infrastructure which allows, at the State level, the integration and interfacing of multiple systems, for example, AFDC, food stamps, work programs, child care, Child Support Enforcement (CSE), and others. The Federal Government, in partnership with the States, or groups of States in partnership with the Federal Government, may develop model systems that perform these functions or subsets of these functions.

To support the broader information needs, the new information infrastructure needs to include, on the one hand, a national data "clearinghouse" to coordinate data exchange and for other purposes and, on the other, enhanced State and local information processing systems to improve management and delivery of services.

Enhanced State Systems. At the State and local level, the systems infrastructure would include automated subsystems for intake, eligibility determination, assessment, and referral; case management and service delivery; and benefit, payment, and reporting. The infrastructure would consist of new systems components integrated with existing systems or with somewhat enhanced existing systems. Variations in existing automated systems would make it unreasonable to try to standardize these systems. Rather, we need linkages that allow for the accurate exchange of data between systems.

By linking the various programs and systems, States would be able to provide integrated services and/or benefits to families and individuals "at-risk" of needing financial assistance, those receiving assistance, and those transitioning from public assistance program to self-sufficiency. As part of this automation effort, enhanced funding will be offered as an incentive for States to develop and implement statewide, automated systems for JOBS/WORK management and monitoring, and to enable seamless services for child care. (In the cases of JOBS/WORK and child care systems, if a State contracts with an agency to provide these services, the State may authorize the contracted agency to develop the statewide system subject to the same requirements as the State.) Such an automated system infrastructure would enable States to provide greater support to families who might otherwise dissolve, as well as to parents who may, because of unmet needs, be forced to terminate employment or training opportunities.

In addition, as Electronic Benefit Transfer (EBT) and Electronic Funds Transfer (EFT) become more widespread, they would be used for other programs, such as child care reporting and payments, and reporting of JOBS participation. As an example, a JOBS participant could be required to self-report either through a touch-tone phone that connects to a Voice Recognition Unit (VRU) or through the use of plastic card technology.

Enhanced Detection of Fraud and Abuse. For detection and analysis of fraud and abuse, computer matching of records and sharing of data among State programs and at a national level would be increased. For example, the child support information needs for establishing an order or in review and modification would be extremely valuable for access by the AFDC agency, after the agency has performed prospective eligibility determinations, but before benefits are granted. In addition, the National Clearinghouse would be extremely helpful to ensure that an individual does not obtain AFDC beyond the time limit or fails to report employment.

Data and Reporting on Program Operations and Clients. Current methods for data gathering and reporting requirements on program operations and clients could be reduced. Many of the current data and reporting requirements will be superseded by new ones, but in any case, many current items are of low data quality or of little interest. Current requirements will be re-examined.

National Clearinghouse. The National Clearinghouse will be a collection of abbreviated case and other data that "points" to where detailed case data resides and provides the minimum information for implementing key program features. Described in detail under the Child Support Enforcement section, this Clearinghouse will not be a Federal data system that performs individual case activities. While information will be coming to and from the Clearinghouse, it will contain limited data -- States will retain overall processing responsibility.

The Clearinghouse will maintain at least the following data registries:

- The National New Hire Registry will maintain employment data for individuals, including new hire information.
- The National Locate Registry will enhance and subsume the current Federal Parent Locator Service (FPLS) functions.
- The National Child Support Registry will contain data on all non-custodial parents who have support orders.
- The National Transitional Assistance Registry will contain data to operate a time-limited assistance program, such as the beginning and ending dates of welfare receipt, participation in various work programs, and the name of the State providing benefits.

A. NATIONAL TRANSITIONAL ASSISTANCE REGISTRY

- (a) As part of the National Clearinghouse, the Secretary of DHHS will establish and operate a National Transitional Assistance Registry to assist in operating a national time-limited assistance "clock".
- (b) The Clearinghouse, described more fully in the section on Information Systems for the Child Support Enforcement Program, will contain four Registries including the National Transitional Assistance Registry. At a minimum, the Transitional Assistance Registry will assist States in calculating the remaining months an individual may be eligible to receive benefits and reduce fraud and abuse.
- (c) The National Transitional Assistance Registry will be maintained by obtaining electronically from each State IV-A agency information on individuals receiving benefits. Upon request, the Clearinghouse will send electronically information to the State agency.
- (d) The information to be exchanged is as follows:
 - (i) Information to be sent to the Clearinghouse includes identification information, such as the names and Social Security Numbers of members of the family; the dates an individual went on and off assistance; participation information for AFDC, JOBS-Prep, JOBS, and WORK; information on extensions of time-limits and sanctions for non-compliance for these and other programs; as well as other information as determined necessary by the Secretary.
 - (ii) Information to be received from the Clearinghouse includes whether the applicant has been reported to have received assistance and, if so, when and in which State(s); whether the Social Security Numbers supplied are valid; whether the applicant is contained in the New Hire Registry as being recently employed; and other information as determined by the Secretary.
- (e) **Information Discrepancies.** If an information discrepancy exists between the information the client presents to the State agency and the information in the Clearinghouse, the Secretary will assist in the resolution by verifying that the data contained in the Registry reflects the information contained in the State agency records where the individual had previous assistance, correcting the Clearinghouse information if necessary, and reporting the updated information to the requesting State.
- (f) The States involved must take appropriate actions to resolve the discrepancy in accordance with normal due process requirements and must submit corrected information to the Clearinghouse when the discrepancy is resolved.

B. STATE TRANSITIONAL ASSISTANCE SUPPORT INFORMATION SYSTEM

- (a) The State agency, in order to assist in the administration of time-limited welfare, will establish and operate a statewide, automated, Transitional Assistance Support Information System. This system will serve to significantly improve the effectiveness and efficiency of State systems information infrastructures for the management, monitoring, and reporting on clients as they work towards independence and self sufficiency. The State may receive

enhanced funding for these changes under specific approaches approved by DHHS and described below.

- (b) The minimum capabilities of the State system include:
- (i) Exchanging information as described above in A(d) in a standard, electronic format with the National Clearinghouse;
 - (ii) Querying electronically the National Transitional Assistance Registry in the National Clearinghouse before granting assistance;
 - (iii) Using the information received from the Clearinghouse in the determination of eligibility and time period for which assistance may be granted;
 - (iv) Reporting corrected or updated information to the Registry; and
 - (v) Meeting current statutory requirements for security and privacy.
- (c) **Alternative Interim Method.** The Secretary may approve an alternative interim method if the State demonstrates that the alternative will be effective in reporting, receiving, and using transitional assistance information and the State has an approved Advanced Planning Document for the Automated Data Processing System that meets requirements in the proposed statute.
- (d) The State may also augment the minimum system described above in specific ways and receive enhanced match for development costs under certain conditions. (The specific conditions are described in a later section.) Under this augmented system, clients will receive considerably enhanced service responsiveness through prescreening to match available services to individuals and determine the required qualifying and verification information needed for each service.

C. STATE AUTOMATED SYSTEMS

- (a) As part of building better automated systems, States will be offered enhanced funding if they take one of two strategies to automation projects. That is, to economically and efficiently develop and implement automated systems in support of AFDC, child care, and JOBS/WORK programs, the Secretary will, as a condition of enhanced funding, require States to develop and use model systems developed in partnership with the Federal Government and other States under one of two approaches.

I. Federally Led and Sponsored Model Systems, in Partnership with State Agencies

Under this approach, the Department in partnership with the States will design and develop model automated support and case management information systems that assist the States in managing, controlling, accounting for, and monitoring the factors of the State plans for AFDC, child care, and JOBS/WORK programs as well as providing security safeguards. These model systems are described below:

- (a) Transitional Assistance Support Information System. This model system will provide statewide, automated, procedures and processes to meet both the minimum requirements

described above plus additional functions. The additional functions include at least: performing intake and referral; monitoring and reporting against some performance measures; exchanging information on-line with the Clearinghouse; and exchanging data with other automated case management and information systems.

- (b) Child Care Case Management Information System. This model system will provide statewide, automated, procedures and processes to achieve seamless child care delivery, including all child care programs of the State. This system will assist the State in administration of child care program(s) and to manage the non-service related CCDBG funds. The functions will meet both the minimum requirements described above plus additional functions which will include, at least, the ability to: identify families and children in need of child care, establish eligibility for child care, and determine funding source(s); plan and monitor services, determine payments, and update and maintain the family and child care eligibility status for child care; maintain and monitor necessary provider information; process payments and meet other fiscal needs for the management of child care program(s); produce reports required by Federal and State directives; monitor and report performance against performance standards; and electronically exchange information with other automated case management systems and with the statewide automated transitional assistance support system.
- (c) JOBS/WORK Case Management Information System. This model system will provide statewide, automated, procedures and processes to control, account for, and monitor all factors of the JOBS and WORK programs and support both management and administrative activities of the programs. These functions will meet both the minimum requirements described above plus additional functions including the capability to: assess a participant's service needs; develop an employability plan; arrange, coordinate, and manage the services or resources needed for the plan; track and monitor ongoing program participation and attendance; exchange information electronically with other programs; and provide performance and assessment information to the Secretary.

2. Multi-State Collaborative Projects, State Lead with Federal Partnership

Under this approach, the Department will assist and support State IV-A agencies, or the State's designated contracted agency (for child care or JOBS), in multi-state collaborative projects for purposes of designing and developing automated system models and in developing enhancements to existing systems as follows:

- (a) Transitional Assistance Support System. In addition to meeting the Federally-sponsored model system functional specifications described above, States may, in collaborative efforts, augment their systems to include automation of additional functions as follows: determining eligibility; improving government assistance standards; performing case maintenance and management functions; calculating, managing, and reconciling payments to eligible recipients; providing for processes and procedures to detect and prevent fraud and abuse; and producing reports.
- (b) Child Care and JOBS/WORK Case Management Information Systems. States may, in collaborative efforts, design, develop, and implement automated information systems that meet the model functional specifications of Child Care and JOBS/WORK described in the Federally-sponsored model approach.

D. FEDERAL FUNDING FOR NATIONAL TRANSITIONAL ASSISTANCE REGISTRY, TECHNICAL ASSISTANCE, TRAINING, DEMONSTRATIONS, AND MODEL STATE SYSTEMS TO SUPPORT STATE ACTIVITIES

- (a) § will be needed for the each year after enactment to provide technical assistance, demonstrations, and training. § will be needed for the second year after enactment to establish the National Transitional Assistance Registry. § will be needed each year after that for the operation of the Registry. Finally, § will be needed for the five years after enactment for development of model systems and to foster multi-state collaborative efforts as described above.
- (b) Funds appropriated for any fiscal year will be included in the appropriation act for the fiscal year preceding the fiscal year for which the funds are available for obligation. Note that, in the first year after enactment, this may require enactment of two separate appropriations in the same year: one for the then current fiscal year and one for the succeeding fiscal year.

E. FUNDING OF STATE SYSTEMS

- (a) Under certain conditions, States may claim Federal Financial Participation (FFP) for the costs to establish and operate automated systems described above. Two match rates will be available.
- (b) Enhanced Match. States are eligible for enhanced match (80 percent FFP) for up to 5 years after enactment for costs incurred in developing and implementing automated systems described above, including the costs of computer hardware, on the condition that the approach to system design, development, and implementation meets one of the following:
1. **Federally Sponsored Model.** The State adapts and implements a model/prototype system developed by the Secretary in accordance with the functional specification described in that section, or
 2. **Multi-State Collaborative Project.** The State, through a collaborative multi-state consortium, jointly designs, develops, and/or implements, a system or subsystems in accordance with the functional conditions and specifications described in that section.
- (c) **Exception for Adaptation of Existing System to Meet Minimum Requirements.** If a State demonstrates to the Secretary that modifications to an existing system meet the minimum requirements of a Transitional Assistance Support System as described in that section and meet certain additional conditions, the Secretary may grant an exception to the enhanced funding requirements. The additional conditions are that the State requires limited enhancements to an existing system and the State demonstrates that it would be more cost-effective to proceed independently or with custom modifications.
- (d) Regular Match. States will receive 50 percent FFP for operational costs and for costs they incur if they do not follow the enhanced match provisions described above and for systems features beyond those provided above.

WAIVER PROVISIONS

Current Law

Section 1115 of the Social Security Act provides the Secretary authority to waive compliance with specified requirements of the Act that are judged likely to promote the objectives of the AFDC, child support, or Medicaid program. Demonstrations under waiver authority must be cost neutral to the federal government and must be rigorously evaluated.

Vision

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency. It is imperative that we send a clear and consistent message about our expectations of the states and of welfare recipients. For that reason, the numbers of waivers granted to states to apply time limits other than 24 months will be limited to 5.

States will be able to conduct demonstrations regarding the WORK program. However, certain aspects of the WORK program will not be waivable so that recipients are afforded some protections against financial loss and loss of Medicaid and to ensure that the program does not result in displacement of other workers.

Specifications

1. Authority for Demonstrations

- (a) Allow the Secretary to authorize no more than five demonstrations with time limits other than 24 months. These time limits can be longer or shorter than 24 months provided that they are consistent with the overall goals of the JOBS and WORK programs.

2. The following aspects of the WORK program cannot be waived:

- (a) Each State shall have a WORK program.
- (b) No person defined as eligible in for the WORK program shall be excluded from the WORK program.
- (c) Participant families in a demonstration program, other than those subject to sanctions, shall not be made worse-off than a family of the same size, with no income, receiving AFDC benefits.
- (d) Participants employed under any demonstration program shall be compensated for such employment at a rate no less than the highest of:
- the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;
 - the rate specified by the appropriate State or local minimum wage law;
 - the rate paid to employees or trainees of the same employer working the same length of time and performing the same type of work.

- (e) In assigning participants in the demonstration program to any program activity:
- each assignment shall take into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant;
 - no participant shall be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;
 - individuals shall not be discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;
- (f) Appropriate workers' compensation and tort claims protection shall be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary).
- (g) No work assignment under the program shall result in:
- the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;
 - the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program; or
 - any infringement of the promotional opportunities of any currently employed individual.
- No** (h) Funds available to carry out a demonstration program may not be used to assist, promote, or deter union organizing. No participant may be assigned to fill any established unfilled position vacancy.
- (i) The State shall establish and maintain a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (g). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.
- (j) Participants in the program and their families shall be categorically eligible for Medicaid.

NON-CITIZENS PROVISIONS

A. ELIGIBILITY FOR NON-CITIZENS

1. Apply a Uniform Standard for Determining Alien Eligibility for Non-Citizens Under AFDC, Supplemental Security Income, and Medicaid

Current Law:

Assuming they meet all other eligibility requirements, foreign nationals residing in the United States must be lawfully admitted for permanent residence or "permanently residing in the United States under color of law" (PRUCOL) to qualify for benefits of the AFDC, Supplemental Security Income (SSI), or Medicaid programs.

The term PRUCOL applies to certain individuals who are neither U.S. citizens nor aliens lawfully admitted for permanent residence. Aliens who are PRUCOL entered the United States either lawfully in a status other than lawful permanent residence or unlawfully. PRUCOL status is not a specific immigration status but rather includes many other immigration statuses. Under the SSI statute, PRUCOL aliens include those who hold parole status. The AFDC statute defines aliens who have been granted parole, refugee, or asylum status as PRUCOL, as well as aliens who had conditional entry status prior to April 1, 1980. The Medicaid statute uses the term PRUCOL but provides no guidance as to the meaning of the term.

In addition to the revisions in the regulations reflecting the interpretation of section 1614(a)(1)(B) of the Social Security Act resulting from the court in the Berger and Sudomir decisions discussed below, PRUCOL status also is defined in AFDC, SSI and Medicaid regulations as including aliens:

- *who have been placed under an order of supervision or granted asylum status;*
- *who entered before January 1, 1972, and continuously resided in the United States since then;*
- *who have been granted "voluntary departure" or "indefinite voluntary departure" status; and*
- *who have been granted indefinite stays of deportation.*

In the case of Berger v. Secretary, HHS, the U.S. Court of Appeals for the 2d Circuit in interpreted PRUCOL for the SSI program to include 15 specific categories of aliens and also those aliens whom the Immigration and Naturalization Service (INS) knows are in the country and "does not contemplate enforcing" their departure. SSA follows the Berger court's interpretation of the phrase "does not contemplate enforcing" to include aliens for whom the policy or practice of the INS is not to enforce their departure as well as aliens whom it appears the INS is otherwise permitting to reside in the United States indefinitely. The Medicaid regulations include the same Prucol categories as the SSI regulations.

The Sudomir v. Secretary, HHS decision, which focused on AFDC eligibility for asylum applicants, was less expansive. The U.S. Court of Appeals for the 9th Circuit determined that AFDC eligibility would extend only to those aliens allowed to remain in the United States with a "sense of permanence." Applicants for asylum are thus specifically excluded from receiving AFDC benefits by this decision even though they would not necessarily be disqualified for SSI due to the Berger decision.

Specifications

- (a) Eliminate any reference to PRUCOL as an eligibility category in titles IV, XVI, and XIX of the Social Security Act (the Act). Standardize the treatment of aliens under these titles by identifying in the statute the specific immigration statuses in which non-citizens must be classified by INS in order to qualify to be considered for AFDC, SSI, or Medicaid eligibility. Specifically, provide that only aliens in the following immigration statuses could qualify—
- lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act (INA);
 - residing in the United States with lawful temporary status under sections 245A and 210 of the INA (relating to certain undocumented aliens legalized under the Immigration Reform and Control Act of 1986);
 - residing in the United States as the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent resident is pending; or
 - residing in the United States as a result of the application of the provisions listed below:
 - sections 207 of the INA (relating to refugees) or 203(a)(7) of the INA (relating to conditional entry status as in effect prior to April 1, 1980);
 - section 208 of the INA (relating to asylum);
 - section 212(d)(5) of the INA (relating to parole status) if the alien has been paroled for an indefinite period;
 - section 902 of Public Law 100-202 granting extended voluntary departure as a member of a nationality group [NOTE: this provision may be excluded]; and
 - section 243(h) of the INA (relating to a decision of the Attorney General to withhold deportation).
- (b) The proposal would continue the eligibility of those aliens eligible for AFDC, SSI, or Medicaid on the effective date of the amendment who began their periods of eligibility before enactment for as long as they remain continuously eligible.
- (c) The proposal would also allow state and local programs of assistance to utilize the same criteria for eligibility.

Rationale

Some aliens currently considered PRUCOL did not enter the United States as immigrants under prescribed immigration procedures and quotas, but entered illegally. Others entered legally under temporary visas but did not depart. The courts have determined some of these aliens to be eligible for benefits under the definition of PRUCOL, even though such individuals have not received from INS a deliberate immigration decision and status for permanent presence in the United States. In essence, these aliens are similar to illegal aliens except that they have been caught, which under current law

can ironically improve an alien's situation. That is, if they are caught, INS will likely grant them one of the "PRUCOL statuses"—such as voluntary departure or suspended deportation—which allows them to be eligible for SSI, AFDC, and/or Medicaid. If they are not caught, they are simply undocumented and are not eligible for any benefits other than emergency medical services. Therefore, it is reasonable to restrict AFDC, SSI, and Medicaid eligibility to specific categories of aliens who have entered the United States lawfully or who are likely to obtain permanent resident status.

Determining which aliens must be considered for eligibility for Social Security Act programs has become excessively confusing due to judicial actions, and it is subject to ongoing challenge in the courts. This confusion—characterized by the different treatment by different programs of similar individuals—would be remedied by establishing in statute a uniform definition of alien eligibility. The proposal would provide such a uniform definition by listing the immigrant statuses and specifically citing the provisions of the INA under which they are granted, thereby eliminating the ongoing uncertainty about the precise scope of the eligibility conditions and potential inconsistencies regarding alien eligibility in the three programs. Additionally, the alien eligibility categories proposed for AFDC, SSI, and Medicaid would be consistent with the proposed categories in the Administration's Health Security Act. The Food Stamp program has avoided similar problems because the categories of aliens eligible for assistance under the program have been specifically listed in law. This proposal seeks to do the same for AFDC, SSI, and Medicaid. The proposal would save administrative resources and costs. The case development required to determine if an alien is considered PRUCOL generally is time-consuming because SSA and state AFDC and Medicaid agencies must verify the alien's status with INS. In many cases, an alien's status as PRUCOL must be re-verified annually.

B. SPONSOR-TO-ALIEN DEEMING

Current Law: Under immigration law and policies, most aliens lawfully admitted for permanent residence and certain aliens paroled into the United States are required to have sponsors.

As a condition of entry as a lawful permanent resident, almost all immigrants must satisfy the admitting officer that they are not likely to become a public charge in the United States. For many immigrants, this requirement is met by having a relative who is a U.S. citizen or legal permanent resident agree to "sponsor" the immigrant. Sponsors sign affidavits of support or similar agreements provided by the Department of State or the Immigration and Naturalization Service affirming that they will be responsible for supporting the immigrants and ensuring that the immigrants will not become public charges. However, these pledges are not enforceable and, by themselves, have no effect on whether the immigrants can qualify for public assistance. Therefore, the Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC), and the Food Stamp program apply rules that limit sponsors' shifting their responsibilities to the programs by deeming a portion of a sponsor's income and resources as being available to the immigrant for a particular period of time. The affidavit of support informs the sponsor and the immigrant of the deeming rules that will be applied to the immigrant by the SSI, AFDC, and Food Stamp programs.

Specifically, sections 1614(f)(3), 1621(a), and 415 of the Social Security Act provide that in determining SSI and AFDC eligibility and benefit amount for an alien, his sponsor's (and sponsor's spouse's) income and resources are deemed to the alien for 3 years after the alien's entry into the United States. Public Law 103-152 extends the period of sponsor-to-alien deeming in the SSI program from 3 to 5 years for those applying for benefits beginning January 1, 1994 and ending October 1, 1996. For the SSI program, these deeming provisions do not apply to an alien who becomes blind or disabled after entry into the U.S. The Food Stamp program currently provides for a three-year sponsor-to-alien deeming period. Refugees are exempt from the deeming rules under all

three programs. Immigration law provides generally that an alien who has resided continuously in the United States for at least 5 years after being lawfully admitted for permanent residence may file an application for U.S. citizenship.

Drafting Specs

- (a) Make permanent the five year sponsor-to-alien deeming under the SSI program. Extend from three to five years sponsor-to-alien deeming under the AFDC and Food Stamp programs.
- (b) For the period beginning with six years after being lawfully admitted for permanent residence in the U.S. and until a sponsored immigrant attains citizenship status, no sponsored immigrant shall be eligible for benefits under the AFDC, SSI, and Food Stamp programs, unless the annual income of the immigrant's sponsor is below the most recent measure of U.S. median family income.
 - "Annual income" of the sponsor shall include the most recent measure of annual adjusted gross income (AGI) of the immigrant's sponsor, and the AGI of the sponsor's spouse and dependent children, if any.
 - "Median family income" shall be based on the most recent Bureau of the Census measure for U.S. median family income for all families, updated by the most recent measure of change in the Consumer Price Index (CPI-U).
- (c) Each year the Secretary of HHS shall publish in the Federal Register the median family income amount that will be used to determine the eligibility of sponsored immigrants for the AFDC, SSI, and Food Stamp programs. This measure will be based on the most recent income data from the Current Population Survey (CPS), published by the Bureau of the Census.
- (d) Allow state and local programs of assistance to disqualify from participation in general assistance any alien who is disqualified from participation in the SSI, AFDC, and Food Stamp programs due to sponsor-to-alien deeming.
- (e) Effective with respect to applications filed and reinstatements of eligibility following a month or months of ineligibility on or after October 1st 1994.
- (f) Exempt from sponsor-to-alien deeming under the Food Stamp program any sponsored alien who becomes blind or disabled after entry into the U.S. and becomes eligible for SSI.
- (g) Raise the Food Stamp resource limit under sponsor-to-alien deeming to conform with the general resource limit under Food Stamps.
- (h) Exempt from sponsor-to-alien deeming under SSI, AFDC, and Food Stamps any sponsored immigrant whose sponsor is receiving AFDC or SSI benefits.
- (i) Allow the Secretaries--after consultation and coordination with each other--to alter or suspend the sponsor-to-alien deeming provisions on an individual case basis where it is determined that application of the standard sponsor-to-alien deeming provisions would be inequitable under the circumstances.

Rationale

The number of immigrants entering the U.S. has been increasing recently and there has been a rapid rise in the number of immigrants receiving benefits—particularly SSI benefits. For example, the number of immigrants who received SSI benefits in December 1992 was more than double the number who received benefits in December 1987. A quarter of all legal permanent residents on the SSI rolls in December 1992 came onto the rolls within 12 months after their 3-year sponsor-to-alien deeming period ended, indicating that the deeming provision is instrumental in delaying alien eligibility for SSI. Maintaining (under SSI) and extending (under AFDC and Food Stamps) the deeming period to five years for lawfully admitted permanent residents for whom an affidavit of support has been signed avoids increases in benefit program costs which would otherwise occur as a result of increasing immigrant use of welfare benefits. Requiring a sponsor that is in the top half of the income distribution in the U.S. to continue to be financially responsible for a sponsored immigrant beyond the five year deeming period maintains the integrity of these welfare programs which are intended to help the poorest of the poor.

For example, under the SSI program, many elderly immigrants are sponsored by their children who have signed affidavits of support. It seems equitable to require the children to continue to support their relatives for the five year deeming period, rather than allow the parents to obtain welfare entitlement benefits solely on the basis of age, particularly if the sponsors are financially able to continue supporting the immigrants they have sponsored. Sponsors generally have sufficient income and resources to support their alien relatives. Once the five year period has ended, it is equitable to continue requiring the sponsor in the top half of the income distribution to be financially responsible for the well-being of the sponsored immigrant. Nothing in this proposal would prohibit a sponsored immigrant from becoming eligible for benefits if the sponsor's income and resources were depleted sufficiently to meet eligibility criteria, as is the case with current law. Also, refugees would continue to be exempt from sponsor-to-alien deeming, and sponsored immigrants who become blind or disabled after entry into the U.S. would continue to be eligible for benefits. This proposal merely requires sponsors to continue for a longer period of time to accept financial responsibility for those immigrants they choose to sponsor. Once sponsored immigrants become citizens, it is appropriate to discontinue these eligibility rules.