



Children's Defense Fund

FAX TRANSMITTAL COVER SHEET

TO: Bruce Reed

FIRM: _____

FAX#: 456 - 7431

**FROM: DAVID KASS, SENIOR PROGRAM ASSOCIATE
FAMILY INCOME DIVISION**

**If you have a transmittal/receiving problem, please contact me at
(202)662-3542.**

DATE: _____

TIME: _____

NUMBER OF PAGES SENT (INCLUDING COVER SHEET): _____

COMMENTS:



Children's Defense Fund

May 27, 1994

Mary Jo Bane, Assistant Secretary
for the Administration for Children and Families
David Ellwood, Assistant Secretary
for Planning and Evaluation
Bruce Reed, Deputy Assistant to the President
for Domestic Policy
Co-Chairs, Working Group on Welfare Reform,
Family Support and Independence
Washington, DC 20500

Dear Mary Jo, David and Bruce:

Thank you for soliciting our comments on the legislative specifications for the WORK program. Although there are some aspects of the program that are encouraging, we are very deeply troubled about a crucial question that is not yet resolved: whether parents who play by the rules but cannot find private sector jobs will be completely cut off from all cash support or a public job when their WORK slot ends. Parents who do everything we ask but are unable to find a private sector job should never be thrown into destitution. At an absolute minimum, as long as parents are willing to work, then a public sector job must be provided; if unavailable, the basic AFDC safety net must remain in place. It would be difficult for us to overstate the importance of this provision -- the President's plan simply must preserve a safety net for children.

We are also deeply distressed over the inclusion of full family sanctions (pp.36,38). It is in no one's interest to throw children into hunger and homelessness even if the parents are not complying with all the rules. It is also needlessly harsh to require that neither food stamps nor housing assistance would rise in response to a sanction.

Finally, we want to strongly endorse "Option B" for part-time work (p.13). Parents who are working 20 hours per week are doing exactly what we are asking them to do and should not be subject to the time clock. In light of the fact that only 30 percent of married women work full-time full-year, we believe that more than "Option B" is not a reasonable expectation for single parents with young children.

Below is a brief summary of additional concerns:

12 week pre-JOBS status for families with a child conceived while on AFDC (pp.5-6): It is simply bad policy to limit pre-JOBS status

to 12 weeks when a child is conceived while the parent is receiving AFDC. In many areas, infant care is simply not available; in all areas the cost is extremely high. In combination with a family cap policy where the mother would not receive any additional grant for the infant, this provision strikes us as offering a double punishment for the baby while forcing an unwise use of scarce resources.

Placement in pre-JOBS for good cause capped at 10 percent (pp. 6-7): The very definition of "good cause" means that those who meet that test can justifiably be placed in the pre-JOBS program. It is inequitable to require inappropriate participation in JOBS simply because a person is last on line after the cap has been reached. We understand the intent is to prevent states from keeping people out of the JOBS program. But this remedy punishes parents who should be placed in pre-JOBS for good cause. Other means of monitoring state performance ultimately leading to reduced federal reimbursements should be employed to avoid the inequitable treatment of families.

No exemption for second trimester of pregnancy (p.6): Under current law, pregnant women are exempted from JOBS participation for both the second and third trimesters. Allowing only an exemption for the third trimester is counterproductive. Women in their second trimester are currently exempt because it is very difficult to place them in work positions. We believe that current law should be retained.

Substance abuse treatment must be appropriate (p.8): We suggest that the word "appropriate" be added in 5(a) after "participate in." States must not be allowed to require inappropriate substance abuse treatment to decrease the rolls rather than assisting people to achieve self-sufficiency.

Minimum case management standards for teens (p.11): We recommend that minimum caseload size standards be included (such as 50 cases per worker) and that the case managers be required to have a specialized knowledge of teens.

Appropriate activities for teens (p.11): It is not clear from the draft which activities would be considered appropriate under the JOBS program and who would make this determination. At a minimum, completing a GED, taking classes at a trade school, etc. should be considered appropriate.

Time clock for teenagers (p.11): We oppose applying the two-year clock to 18- and 19-year-old parents. They are far more likely to need more than two years to be ready for work, both because they will need more years of education and training, and because their children are very young. We would be remiss if we did not also say that we have grave reservations about the two-year limit. Its rigidity will move some mothers away from the education they need, making it harder for them to find a job with any chance of supporting a family.

Determination of "job ready" (p.12): The draft does not indicate whether states would be required to exempt someone from job search if they were not job ready due to illness or other reason. We are concerned that a parent with almost any kind of work experience would be deemed "ready," and would be prevented from enrolling in the training they really need.

Employment-Oriented Education (p.12): Section (f) would replace language in 482(d)(1)(A) which calls for "basic and remedial language to achieve a basic literacy level." Instead, the proposal includes "employment-oriented education to achieve literacy levels..." It is hard to know precisely how this would translate into practice, but we fear that it would lead to the least possible education, denying the participant the chance to move above minimum wage work.

Child care for JOBS program only (p.14): We favor section (c), which allows people to enroll half time in a post-secondary program, even if that adds up to less than 20 hours per week. However, we believe that parents in approved self-initiated educational and training activities that are outside the JOBS program should receive child care as under current law. The child care guarantee for IV-A child care should not be cut back.

Qualifying for additional AFDC (p.20): Individuals should be able to qualify for more than six months total of AFDC when they do not receive AFDC and are not in the WORK program. If a parent suffers a crisis after working for ten years, the family should be able to access the safety net for more than six months.

Extensions beyond Two-Year Time Limit (pp 19-20): Extensions are allowed beyond the two-year limit when services such as child care or training programs are not available at all but are counted against the 10 percent cap. It would be unfair for a parent who is not appropriate for a JOBS placement to be excluded from a pre-JOBS slot because the state failed to meet the demand for services. Additionally, we are concerned that extensions of up to 24 months for completing a two or four year degree program are allowed, but only if the parent is also participating in part-time work. Parts of this proposal display a bias against post-secondary education which we believe is counter-productive to the goal of moving people from welfare to a stable job.

Limits to Subsidies to Employers (p.27): The proposal limits subsidies to employers for WORK participants to 12 months, and offers the hope that the worker will not be let go as soon as the subsidy ends. More specific protections are needed before engaging in a program of subsidizing positions in the private sector. There is a real danger that employers will exploit WORK participants, without any real prospect of permanent employment. Specific penalties for employers ought to be considered, such as requiring an employer to pay back the subsidies when workers are let go without cause.

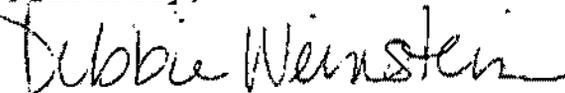
People should be better off in WORK than AFDC (p.33): One of the President's key principles is that people who work should not be poor. However, in 33(a), states are only required to make families "no worse off" in the WORK program than they were receiving AFDC. Since WORK participants would have to pay FICA taxes and probably would have clothing and transportation costs beyond the \$90 disregard, in reality they will be worse off than they were receiving AFDC. (Of course we again stress that people in the WORK program should also receive the EIC because they are working and generating income that in all other circumstances would entitle them to the EIC.) We believe the principle should be that states must ensure that families are better off by working than receiving AFDC.

Require states to provide child care (p.34): States should be required to provide child care so WORK participants can engage in approved education and training activities in addition to WORK assignments, rather than having child care optional in these circumstances.

JOBS funds for non-custodial parents (p.42): Although we support increasing programs for non-custodial parents, we are concerned that allowing 10 percent of JOBS funds is too high. The evaluations of the Fair Share demonstrations indicate they are worthy of further examination, but not yet worthy of an expenditure of potentially hundreds of millions of dollars.

Thank you again for the opportunity to provide comments on the Working Group's welfare plan. Please let us know if we can provide any additional information.

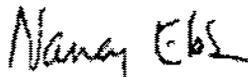
Sincerely,



Deborah Weinstein
Family Income Director



David S. Kass
Senior Program Associate



Nancy Ebb
Senior Staff Attorney

WR SPEC -
COMMENTS
(Prevention)

May 23, 1994

MEMORANDUM

To: David Ellwood
Mary Jo Bane
Bruce Reed

From: Wendell Primus ^{WSP}

Re: Comments on legislative specifications

Attached are the comments received to date on the Prevention, Make Work Pay, and Improving Government Assistance legislative specifications. Also attached are two additional comments on the CSE specs from OMB.

cc: Belle Sawhill
Kathi Way
Emily Bromberg

To: Wendell Primus
From: Judy Wurtzel
Re: Comments on Legislative Specifications
Date: May 20, 1994

Prevention

1. Teen Pregnancy Prevention Mobilization Grants

In addition to the comments we have already provided, we have a few additional suggestions.

- a. While we support the concept of a National Clearinghouse on Teen Pregnancy Prevention Programs, we question whether we need a separate clearinghouse on this issue. Other entities, such as the technical assistance centers proposed in the ESEA reauthorization, might be well-suited to provide technical support on teen pregnancy prevention within a comprehensive framework. At a minimum, we should ensure that legislation would permit existing technical assistance centers and clearinghouse to compete to be designated as the National Teen Pregnancy Prevention Clearinghouse.
- b. The plan should require the applicants to describe connections among the applicants (e.g., the school, CBO, college, etc...), including how they are linked, how their resources and services are coordinated
- c. The specifications for both this and the demonstration should specifically mention the desirability of linkages with local school to work partnerships.

2. Comprehensive Services Demonstration

- a. The specifications need to do more to distinguish between the demonstration and the grant program. The current descriptions make it difficult to see how they are different and why we would be proposing both.
- b. We suggest that this program be administered in the same manner as the grant program. The demonstration and the grant program have many of the same goals and implementation issues. Both initiatives would be strengthened by sharing the same administrative structure.
- c. Page 7, first paragraph, replace description of educational and employability services with the following language:

education, training and employability development services which lead to a high school diploma or its equivalent, postsecondary education, and entry into high skill, high wage careers and includes services such as academic enrichment, tutoring, mentoring, career and college counseling, apprenticeships, and paid work experience.

d. Page 7, second paragraph, change first sentence to read as follows:

Social support services designed to provide youth with a stable environment, a continuous relation to adults, and opportunities for safe and productive activities.

Add to second sentence, "after school and summer programs"

e. Page 7, third paragraph, change first sentence to read

Community activities designed to promote the value of deferring childbearing, to improve community stability, to reduce social isolation, and to encourage...

In the second sentence, add media campaigns as a permissible activity.

f. Page 7, subsection f

Evidence of collaboration between the community and the city, as well as the state, should be required.

g. We had proposed that the applicants be required to show how they would payout the grant funding over 10 years.

h. As we have discussed, we would support an increasing local match requirement (cash or in kind), beginning at 10% and rising to 30 or 40% in the fifth year.

In addition, we have some minor, mostly stylistic, suggestions which are shown on the attached mark-up of the specifications.

3. Case Management for All Custodial Teen Parents

a. page 10, subsection(b)(1) -- Case managers responsibilities should include helping to arrange child care and transportation and finding a job.

4. Teen Parents Education and Parenting Activities Option

a. We understand that this option is not intended to allow states to impose sanctions on dependent children who are not themselves parents. With that understanding, we support this provision.

b. Page 11, subsection (a). The term "special skills training program" should be replaced with "a program leading to a recognized degree or skills certificate."

Making Work Pay

We have no comments on this section.

Improving Government Assistance

1. Individual Development Account Demonstration

IDAs should be available for training as well as post-secondary education. While the vision statement on page 27 suggests this to be the case, the specifications do not include training as a permissible use of IDAs.

cc: Madeleine Kunin, Mike Smith, Gussie Kappner, Norma Cantu

PREVENT TEEN PREGNANCY AND PROMOTE PARENTAL RESPONSIBILITY

A. NATIONAL TEEN PREGNANCY PREVENTION INITIATIVE

1. Teen Pregnancy Prevention Mobilization Grants and Establishment of a National Clearinghouse on Teen Pregnancy

Current Law

There are numerous Federal programs that address the issue of teen pregnancy prevention, including repeat pregnancies. Some focus specifically on teen pregnancy, but given that the multiple problems adolescents face are often interrelated, the specific problems that other programs emphasize (e.g., substance abuse, school drop-out) are also related to adolescent pregnancy prevention. Current federal efforts include HHS's family planning grants, maternal and child health programs, adolescent health programs, runaway and homeless youth programs, and alcohol and substance abuse prevention programs. Department of Education efforts include drug-free schools and communities programs, and postsecondary education outreach and student support services programs; and the Department of Labor efforts include New Chance, Youth Fair Chance, JTPA programs, and the Young Unwed Fathers Project. There are also programs in the Departments of Housing and Urban Development, Agriculture, Justice, Interior and Defense.

Vision

The rise in births to unmarried teens over the past generation has raised the issue of teen pregnancy to national significance. The number of births to unwed teen mothers increased from 92,000 in 1960 to 368,000 in 1991. Cases headed by unwed mothers (teen and older) accounted for about four-fifths of the growth of 1.1 million in the welfare rolls over the past ten years, from 3.86 million families in 1983 to 4.97 families in 1993.

Adolescents who bring children into the world face a very difficult time getting themselves out of poverty, while young people who graduate from high school and defer childbearing until they are mature, married and able to support their offspring are far more likely to get ahead. Both parents bear responsibility for providing emotional and material support. The overwhelming majority of teenagers who bring children into the world are not yet equipped to handle this fundamental obligation. They are often not equipped to handle peer pressures and the risk of other activities leading to negative consequences, such as substance abuse, delinquency and violence.

There will be a national campaign to ^{reduce the number} ~~address the problem~~ of unmarried teenagers who become pregnant and parents. This campaign will ~~also~~ take into account the myriad of risky behaviors that can be related to teenage pregnancy. It will also strive to develop, enhance and promote youth competence; and connection to families, communities, and society.

The non-legislative aspects of this campaign are a national mobilization that pulls together business, national and community voluntary organizations, religious institutions, schools, and the media behind a shared and urgent challenge directed by the President; the announcement of national goals to define the mission and to guide the work of the national campaign; and the establishment of a privately funded non-profit, non-partisan entity committed to the goals and mission of the national campaign. These are the essential building-blocks of a comprehensive campaign for youth balancing opportunity and responsibility across the full range of Administration youth initiatives, including Goals 2000, School-to-Work, National Service, ~~the health clinics~~ proposed under the Health Security Act, the after-school and jobs programs included in the prevention package in the Crime Bill, as well as the prevention strategies proposed below as part of welfare reform.

Welfare Reform Legislative Specifications - continued

Section 2125

A Teen Pregnancy Prevention Mobilization Grant Program is proposed where about 1,000 schools and community-based programs would be provided flexible grants, averaging \$100,000 each, where they can implement teen pregnancy prevention program models with records of promising results. Funding would be targeted to schools with the highest concentration of youth at-risk and would be available to serve both middle and high school age youth. The goal would be to work with youth as early as age 11 and establishing continuous contact and involvement through graduation from high school. To ensure quality and establish a visible and effective presence, these programs will be supervised by professional staff and, where feasible, be supported by a team of national service participants provided by the Corporation for National and Community Service.

Legislative Specifications

middle and high school age youth

- (a) A separate authority under the Title XX of the Social Security Act would be established for grants to promote the development, operation, expansion, and improvement of school-based adolescent pregnancy prevention programs in areas where there are high poverty rates or high rates of adolescent births.
- (b) The grantees shall be entitled to payment of at least \$50,000 and not more than \$400,000 each fiscal year for five years. The grant amount will be based on an assessment of the scope of the proposed program and the number of children to be served by the program. The grant must be expended in that fiscal year it is awarded or the succeeding fiscal year. A 20 percent non-Federal, cash or in-kind match, is required.
- (c) The grants will be jointly awarded by HHS, Education, and the Corporation on National and Community Service, in consultation with other Federal departments and agencies. The administration of the program could be delegated to another interagency Federal entity, such as the proposed Ounce of Prevention Council.
- (d) Eligible grantees are a partnership that includes a local education agency, acting on behalf of one or more schools, and one or more community-based organizations, institutions of higher education, or public or private for-profit or nonprofit agencies or organizations. Existing successful programs—including those now operated by national voluntary organizations—would be encouraged to apply for funds to expand and upgrade their services. Grantees would have to be located in a school attendance area where either (1) at least 75 percent of the children are from low-income families as defined under part A of title I of the Elementary and Secondary Education Act of 1965, (2) a high number of children receiving AFDC, or (3) there is a high adolescent birth rate. Geographic distribution, including urban and rural distribution, would be taken into account in selection of grantees.
- (e) Grantees would, based on local needs, design and implement promising programs to prevent teen pregnancy through a variety of approaches. Grantees would be given a great deal of flexibility in designing their program. However, core components at each site must include:
 - Curriculum and counseling designed to reach young people that address the economic, emotional and medical consequences of premature sexual behavior and teen pregnancy. Existing models of best practices suggest that these educational activities should focus on developing the psychology and character required for responsible behavior as well as on expanding cognitive knowledge.
 - Activities designed to develop sustained relationships with caring adults. Group coaching, individual mentoring, and a range of activities after-school, on weekends,

Welfare Reform Legislative Specifications -- continued

associated with youth living in a healthy community: economic opportunity, safety, health, and education.

Particular emphasis must be paid to the prevention of adolescent pregnancy before marriage, including sex education, abstinence education, life skills education, and contraceptive services. Programs that combine these elements have shown the most promise, especially for adolescents who are motivated to avoid pregnancy until they are married. However, for those populations where adolescent pregnancy is a symptom of deeper problems, sex education and contraceptive services alone will be inadequate; they must be part of a much wider spectrum of services.

Interventions need to enhance education, link education to health and other services, help stabilize communities and families in trouble. This would provide a sense of rationality and order in which youth can develop, make decisions, place trust in individuals and institutions serving them, and have a reasonable expectation of a long, safe, and productive life.

Comprehensive Demonstration Grants for Youth in High-Risk Communities of sufficient size or "critical mass" to significantly improve the day to day experiences, decisions and behaviors of youth are proposed. Services would be non-categorical, integrated and delivered with a personal dimension. They would follow a "youth development" model and would seek to assist neighborhoods as well as directly support youth and families. These demonstrations would be coordinated with other Administration activities, such as the prevention components of the Crime bill, and would be part of an overall community strategy for youth.

Legislative Specifications

(a) A separate authority under the Title XX of the Social Security Act would be established whereby a designated number of neighborhood sites chosen by the Secretary, in consultation with the Secretaries of Education, HUD, Justice, and Labor, would be entitled to demonstration grants to educate and support school-age youth (youth ages 10 through 21) in high risk situations and their family members through comprehensive social and health services, with an emphasis on pregnancy prevention.

(b) Funding and services provided under this program do not have to achieve this goal of comprehensiveness in and of themselves. Rather, this funding can be used to provide "glue money," fill gaps in services, ensure coordination of services, and other similar activities which will help achieve the overall goal of comprehensive integrated services to youth.

(c) Up to seven neighborhood sites would be entitled to \$90 million over 5 years (up to \$3.6 million per site). Grantees would be required to provide a 10% match of the Federal funding. This could include in-kind contributions. Since this program is authorized through Title XX of the Social Security Act, any funds not expended in a fiscal year shall be redirected to the Title XX Social Services Block Grant Program.

(d) The activities authorized under the demonstration would be focused on four broad areas; grantees would be given great flexibility to design programs within these areas:

(i) Health services designed to promote physical and mental well-being and personal responsibility. These include school health services, health education, sex-education, family planning services, substance abuse prevention services and referral for treatment, life skills training, decision-making skills training, and ethics training.

Family life?

Family life

one-time

advisory

using not in including match each year?

Direct to health education and access to

comprehensive

Welfare Reform Legislative Specifications - evaluation

- achievement
+
involvement*
- (g) Applicants must define the goals intended to be accomplished under the project. They must also describe the methods to be used in measuring progress toward accomplishment of the goals and outcomes to be measured. Outcomes to be measured would include, but are not limited to, birth rates, high school graduation rates, college attendance rates, rates of alcohol and other drug use and violence reduction.
- (h) The Department will support rigorous evaluations of all demonstrations. Grantees will be required to assist and coordinate with independent evaluators selected by Department. The Federal government will also provide technical assistance to potential applicants and to those selected throughout the life of the demonstration. These activities will be coordinated with the National Clearinghouse on Teen Pregnancy Prevention. \$10 million would be provided for these activities.
- (i) The Secretary may terminate a grant before the end of the 5-year period if the Secretary determines, after providing training or technical assistance, that the grantee conducting the project has failed to carry out the project as described in the approved application.

B. RESPONSIBILITIES OF SCHOOL-AGE PARENTS RECEIVING CASH ASSISTANCE

1. Minor Mothers Live at Home

Current Law

Under Section 402(a)(43) of the Social Security Act. States have the option of requiring minors (those under the age of 18) to reside in their parents' household, or a legal guardian or other adult relative, or reside in a foster home, maternity home or other adult supervised supportive living arrangement (with certain exceptions). Delaware, Maine, Michigan, Virgin Islands, and Puerto Rico have included this in their State plan.

Vision

By definition, minor mothers are children. Generally, we believe that children should be subject to adult supervision. This proposal would require minor mothers to live in an environment where they can receive the support and guidance they need. At the same time, the circumstances of each individual minor will be taken into account in making decisions about living arrangements.

Legislative Specifications

- (a) All States would require minor mothers to reside in their parents' household, with a legal guardian or other adult relative, with certain exceptions as described below. This is the same as current law, except that now the provision would be a requirement.
- (b) As in current law, when a minor mother lives with ^{her} ~~their~~ parent(s), ^{the parent(s)} ~~their~~ income is taken into account in determining the benefit. If the minor mother lives with another responsible adult, the responsible adult's income is not taken into account. Child support would be sought in all cases.
- (c) A minor parent is an individual who (i) is under the age of 18, (ii) has never been married, and (iii) is either the natural parent of a dependent child living in the same household or eligible for assistance paid under the State plan to a pregnant woman. This is the same definition as current law.

Welfare Reform Legislative Specifications - continued

- (d) The following exceptions (now in current law) to living with a parent or legal guardian will be maintained:
- (i) individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;
 - (ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;
 - (iii) the State agency determines that the physical or emotional health or safety of the individual or dependent child would be jeopardized if the individual and dependent child lived in the same residence with the individual's own parent or legal guardian;
 - (iv) individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any dependent child or the individual having made application for aid to families with dependent children under the plan; or
 - (v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving the requirement. (In those States that have this policy, the following are examples of what they determine to be good cause exceptions: the home is the scene of illegal activity; returning home would result in overcrowding, violation of the terms of the lease, or violation of local health and safety standards; the minor parent is actively participating in a substance abuse program which would no longer be available if she returned home; no parent or legal guardian lives in the State.)
- (e) Current law is maintained regarding the determination of a minor mother's residency status must be made within the 45 days that all eligibility determinations are made.
- (f) If the State determines the minor should not live with a parent, legal guardian or other adult relative, the minor must be assisted in obtaining an appropriate supportive alternative to living independently (or the State may determine that the individual's current living arrangement is appropriate). (The types of living arrangements that States now use or are considering include living with an adult relative, a licensed foster home, in a group home for pregnant teens or teen parents, and in an approved congregate housing facility.) If no appropriate setting is found the State must grant eligibility, but must utilize case managers to provide monitoring of the minor. *Support for* *parent* *monitoring*
- (g) The State would use the case management for teen parent provision (see #2 below) to make the determinations required under this provision. As described in the next proposal, these case managers would be trained appropriately and have reasonable caseloads. Determinations would be made after a full assessment of the situation, including taking into account the needs and concerns expressed by the minor.

2. Limiting AFDC Benefits To Additional Children Conceived While on AFDC

Current Law

Currently, families on welfare receive additional support because their AFDC benefits increase automatically to include the needs of an additional child.

Welfare Reform Legislative Specifications - continued

Vision

The welfare system should reinforce parental responsibility by keeping AFDC benefits constant when a child is conceived while the parent is on welfare. The message of responsibility would be further strengthened by providing the family an opportunity to earn back what they lost.

Legislative Specifications

(a) Allow States the option of keeping AFDC benefits constant when a child is conceived while the parent is on welfare. The family planning services under 402(a)(15) must be provided to all recipients.

are available and in order to exercise this option, the state must demonstrate that

(b) Under this option, if a parent has an additional child, the State must disregard an amount of income equal to any increase in aid that would have been paid as a result of the additional child. Types of income to be disregarded include-

- 1) child support;
- 2) earned income; or
- 3) any other source that the State develops and is approved by the Secretary.

(c) Provision will not be applied in the case of rape or in any other cases that the State agency finds would violate the standards of fairness and good conscience.

3. Case Management for All Custodial Teen Parents

Current Law

Section 482(b)(3) of the Social Security Act allows States to provide case management to all those participating in the JOBS program.

Vision

Frequently, it is multiple problems that lead youth to the welfare system. Their complex needs often stand in the way of their meeting educational requirements and other responsibilities. Removing these barriers to self-sufficiency can involve the confusing and difficult process of accessing multiple service systems. This proposal would provide every teen with a case manager who would help them navigate these systems and hold them accountable for their responsibilities and requirements.

Legislative Specifications

(a) Require States to provide case management services to all custodial teen parents receiving AFDC who either under age 19 or under age 20 and enrolled in high school. States still have the option to serve all older teens.

old require until 19, 20?

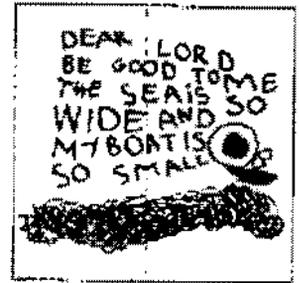
(b) Case management services to teen parents will include, but is not limited to--

- 1) assisting recipients in gaining access to services, including, at a minimum, family planning, parenting education, and educational or vocational training services;
- 2) determining the best living situation for a minor parent taking into account the needs and concerns expressed by the minor (see #1 above);

child care to transportation

idea of waiving fees for...

was about keep getting in?



Children's Defense Fund

May 20, 1994

Mary Jo Bane, Assistant Secretary
for the Administration for Children and Families
David Ellwood, Assistant Secretary
for Planning and Evaluation
Bruce Reed, Deputy Assistant to the President
for Domestic Policy
Co-Chairs, Working Group on Welfare Reform,
Family Support and Independence
Washington, D.C. 20500

Dear Mary Jo, David and Bruce:

Thank you for soliciting our comments on three parts of the latest draft of the Working Group's welfare reform plan. Although there are some aspects of the plan that are encouraging, we are deeply troubled by a number of provisions, especially the child exclusion, child care, and earned income disregard proposals. Below is a brief summary of our concerns.

Child exclusion or "family cap" (pages 9-10): We continue to oppose child exclusion options because they hurt very poor children. Child exclusion provisions appeal to a false stereotype that AFDC families have more children than non-AFDC families or that AFDC mothers have more children to receive an average of \$69 per month in additional benefits. Research by sociologist Mark Rank shows that women receiving welfare in fact bear fewer children than women not receiving welfare. We urge you to drop this provision from the President's plan.

Child care (pages 15-17): We assume the plan continues the guarantee of child care assistance included in the Family Support Act for all parents regardless of their age, whether they are participating in JOBS or in self-initiated activities. We want to emphasize that we continue to strongly believe that significant new funding for child care assistance for the working poor must accompany any welfare reform plan. If we are going to make work pay, child care assistance cannot be solely tied to receipt of AFDC. We continue to believe that allowing a statewide limit which is less than the 75th percentile of the market and retaining the disregard creates strong incentives to provide less than optimal care for our poorest children.

Page Two
May 20, 1994

We do welcome attempts to improve the match both for "At-Risk" child care and for JOBS child care and TCC. The Working Group is to be commended for setting aside funds for quality and supply both in the "At-Risk" Program and through establishing that licensing and monitoring of IV-A-funded child care providers is an allowable administrative cost. Making Title IV-A requirements consistent with the CCDBG requirements is a good step especially regarding health and safety standards. We would like clarification, however, on the requirements concerning sliding fee scale. We assume that the plan does not mean to impose a sliding fee scale on JOBS recipients and simply means that TCC, "At-Risk", and CCDBG sliding fee scales should be the same. We do believe that seamless policy would even be furthered if the CCDBG were made an entitlement and extended since it is the program around which states have built their core child care policies.

Earned income disregard (page 21): We are extremely disappointed in the proposed earned income disregard provision. Your current language would allow states to provide a smaller earned income disregard than under current law. While we also want to give states the flexibility to raise their earned income disregard beyond the minimum, it is unconscionable for states to be allowed to treat working AFDC parents worse than under current law. We had at minimum expected that any proposal designed to make work pay would make the disregard of the remaining one-third of earnings permanent rather than expiring after only four months, as in current law.

Time-limits and teenagers (page 10): We applaud your inclusion of case management services to teenagers, in recognition of their more intensive need for services as compared to most older mothers on the AFDC caseload. However, we oppose applying the two-year clock to 18- and 19-year-old parents. They are far more likely to need more than two years to be ready for work, both because they will need more years of education and training, and because their children will be very young.

Minor parents living at home; case management (pages 8-11): We remain concerned that minor parents will be protected from abusive living situations only if their case managers have a small enough caseload to make good decisions. We strongly agree with legislative specification (c) on page 11 requiring sufficiently small case manager-to-client ratios to protect these young families, and hope this language will be clear in the final version.

AFDC-UP (pages 22-23): Arbitrary restrictions on assistance to two-parent families are anti-family and anti-work. We are surprised, therefore, to see that states would not be required to eliminate any of the special eligibility requirements for the AFDC-UP program. We are also very troubled that all states would not be required to have a year-round AFDC-UP program.

Page Three
May 20, 1994

Essential person (pages 23-24): We oppose limiting the essential person provision which would eliminate longstanding state discretion to provide assistance to individuals the state determines are providing essential help. This proposed restriction flies in the face of your stated desire to strengthen families and to give states the flexibility to meet families' needs.

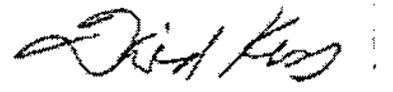
Fill-the-gap (page 33): We strongly support your provision giving states the option to establish fill-the-gap policies that include child support payments. We oppose, however, your proposals to repeal section 402(a)(28), thereby allowing states to eliminate this policy where it currently applies. This would disadvantage families currently receiving child support in those states and contradict your policy of encouraging and rewarding responsible child support behavior.

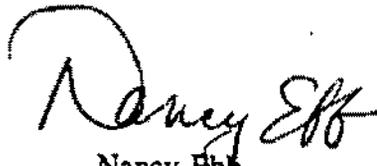
Lump sum payments (page 31): We commend you for your provisions (a) and (c) on lump sum payments. We are concerned, however, that provision (b) would require lump sum payments earmarked for future costs to be spent within one year from the date of receipt. This does not make sense when applied to a lump sum providing for future costs for an extended period. For example, it would preclude a lump sum for medical services not covered by Medicaid that predictably will be incurred over a span of years as a result of an injury to a child. We understand it is not your intention to restrict expenditures over time for these purposes, but we are concerned about difficulties in tracking the lump sum payment over more than one year. An alternative might be to allow such funds to be held in an Individual Development Account (IDA), comparable to your description in the proposed legislative specifications.

Thank you again for the opportunity to provide comments on the Working Group's welfare plan. Please let us know if we can provide any additional information.

Sincerely,


Deborah Weinstein
Director


David S. Kass
Senior Program Associate


Nancy Ebb
Senior Staff Attorney



PRINCIPAL DEPUTY COMMISSIONER OF SOCIAL SECURITY
BALTIMORE, MARYLAND 21235

MAY 20 1994

NOTE TO WENDELL PRIMUS

SUBJECT: Welfare Reform Legislative Specifications-- (Your
Memorandum, May 12, 1994)--REPLY

We reviewed the legislative specifications for three sections of the welfare reform plan including Prevention, Making Work Pay, and Improving Government Assistance, and concur with them. We have no comments to offer.

Thank you for the opportunity to review this material.

Lawrence
Lawrence H. Thompson
Principal Deputy Commissioner
of Social Security



Washington, D.C. 20201

May 17, 1994

TO: Wendell Primus
Deputy Assistant Secretary for Human Services Policy

FROM: Fernando Torres-Gil
Assistant Secretary for Aging

RE: Welfare Reform Legislative Specifications

I would like to thank the Co-Chairs and other members of the welfare reform working group for the chance to review the second package of legislative specifications. I have no problems or concerns with the legislative language on the Prevention, Making Work Pay, and Improving Government Assistance provisions. The package responds to a number of the issues and concerns I have raised throughout the process. I am especially pleased to see a number of provisions which I feel are essential components of the reform proposal.

As a social worker, I fully support the provision of case managers for every teen parent. This is a necessary foundation for assisting teen parents off welfare and on to self-sufficiency. I am also pleased with many of the provisions adopted to assist in "making work pay:" the option for advanced EITC payments, the earned income disregards, the removal of the marriage penalty, and the increase of AFDC resource limits.

There are also other issues which I feel are vital to self-sufficiency and empowerment. The Individual Development Accounts are an important empowering tool for welfare recipients to get off of the welfare cycle and on to a more self-sufficient, independent lifestyle. The automobile resource limit is another issue which is vital to assisting recipients move off welfare. The working group had not previously discussed the issue of automobile resource limits, but this issue was raised by recipients time and time again on our site visits.

I thank you, again, for the opportunity to review this portion of the legislative specifications. I am pleased with the language and content. I look forward to reviewing the remaining package.

**Memorandum**

Date **MAY 19 1994**

From June Gibbs Brown
Inspector General *June G Brown*

Subject Welfare Reform Legislative Specifications--Other
Provisions

To Wendell E. Primus
Deputy Assistant Secretary
for Human Services Policy

Thank you for the opportunity to comment on the latest Welfare Reform proposal covering Prevention, Making Work Pay and Improving Government Assistance. Again, we are impressed with the comprehensiveness of your efforts and the streamlining between the Aid to Families with Dependent Children and Food Stamps programs. These proposals, if implemented, should assist the States in their administration of both programs.

We are looking forward to seeing the results of planned demonstration projects. We have particular interest in the project on the advanced payment option of the Earned Income Tax Credit. The administration and accountability of this provision will likely have a significant impact on State operations and reporting. Hopefully, the demonstration project will evaluate the administrative cost effect on States in meeting all of their proposed responsibilities and operational demands.

As you know, we recently completed a report on income verification that seeks to provide greater flexibility and efficiency in that process. We are eager to join you in your proposal to simplify current verification procedures, while assuring program integrity through minimum standards.

MEMORANDUM TO WENDELL PRIMUS
FROM: Elaine Kamarck
RE: Legislative Specifications for: Preventing Teen
Pregnancy and Promoting Parental Responsibility; Make
Work Pay; Improving Government Assistance.
DATE: May 19, 1994

Comments on each section follows.

1. Prevent Teen Pregnancy and Promote Parental Responsibility.

The steps listed to promote parental responsibility among young people are among the strongest provisions in the plan. They send a firm message about parental responsibility. They ought to be well received by the general public.

2. Making Work Pay.

I am not clear about whether or not the section on child care would simplify the requirements for child care in such a way as to allow easier entrance, i.e. for welfare mothers themselves, into the child care provider business. Without knowing how the IV-A requirements differ from the CCDBG guidelines I can't tell whether this is making the situation better or worse. The more bureaucratic and detailed the child care regulations, the more expensive it will become and we will end up restricting entrance to the child care business from welfare mothers or grandmothers who may want to work in this area.

3. Improving Government Assistance.

- The section on IDAs is very good but it may be subject to some skepticism from conservatives. In rolling out the plan we should remind people of the front page New York Times story a few years ago that got a great deal of attention. An hispanic teenager had saved several thousand dollars to go to college and the welfare administration took it away from her because her mother was on welfare.

- We did not have many discussions about the expansion of AFDC in the territories. Are we sure this is politically wise?

- While this section does a good job of streamlining and simplification it falls somewhat short of full scale reinvention. Much of what needs to be reinvented about the welfare system is, of course, cultural - not statutory. Nevertheless, the critical cultural change needed - to transform welfare offices from places

preoccupied with error rates and bureaucratic red tape to places preoccupied with helping people solve problems, is not mentioned here. There ought to be some option which allows states to use performance measures and allows them to offer incentives to front line employees who are especially good at helping people get and stay off welfare. The concept of incentives is in the plan for welfare recipients; it should appear somewhere for the front line social worker as well.

DOL

Comments on Making Work Pay Legislative Specs

Different evidence on the problems of the working poor should be used (paragraph 1, page 14). The vast majority of full-time year-round workers earning too little to keep a family of four out of poverty are not poor, either because they live in smaller households or have other sources of income. Also, the Census Bureau just discovered a mistake in their calculation of these figures. The 18 percent figure, consequently, is a percentage point or two too high. A direct measure of the working poor should be used instead; comparing the poverty rate among working families with children in 1992 to the rate in 1980 makes the most sense.

As noted in previous DOL letter from Tom Glynn, the \$4.25/\$6.00 comparison (paragraph 1, page 14) should be deleted. Have you discussed this deletion with David again or is it in there by inertia? At the very least, the sentence needs to be modified further for it to be accurate. After "two or more children" insert the phrase "and with income below about \$8,500 (the point at which EITC benefits cease to be phased in)."

On the advance EITC payment section (pages 19-20):

- Allow states to provide advance payments on a periodic basis other than monthly. (It may turn out, for example, that a quarterly payment system makes sense.)
- An important issue doesn't appear to be addressed by the specs. In states that are experimenting with alternative delivery systems, would workers still be allowed to receive the EITC through their employer paycheck? It probably makes sense to allow dual systems to run, but precautions need to be taken against double-payments.
- Another EITC reform should be added that applies to the employer-based system. In families with two or more children, the advance payment should be equal to 60 percent of the credit for a family with two or more children instead of current law, which is 60 percent of the credit for a family with one child. I'm not persuaded by Treasury's arguments that this would be administratively difficult.

May 19, 1994

FAX COVER SHEET



Income Maintenance Branch



Office of Management and Budget

Executive Office of the President

Washington, DC 20503

TO: Wendell Primus

FROM: Keith Fontenot

Fax Destination HHS-ASPE

Name of Receiver:

Phone Number: 690-6562

Number of Attached Pages: 4
(Excluding this cover)

NOTES: Attached is a list of concerns on the advance draft child support legislation. If you have any questions please contact me or Michael Ruffner of my staff at 395-4686.

FAX NUMBER: 202-395-3910

VOICE CONFIRMATION: 202-395-4686

MAY 19 1994

Preliminary Comments On Issues In Child Support Enforcement Advance Draft Legislation

Cost Estimates -- Section by Section Estimates Needed

The legislation includes many new provisions for which cost estimates have not been provided. To facilitate the cost analysis and not delay final review of legislation, we need the section-by-section analysis normally circulated for review with legislation. That analysis should include separate cost estimates for gross changes (separating out pluses and minuses) in administrative costs and AFDC collections.

Match Rates

The bill would phase in a financing system that gives each State:

- A minimum of 75% Federal financing for county-based child support enforcement programs, such as in California and New York.
- A minimum of 80% Federal financing for State-run programs to encourage more States to take over county-run systems.
- Up to an additional 5 percentage points for paternities established, based on criteria to be set by the Secretary.
- Up to an additional 10 percentage points for overall performance, based on criteria to be set by the Secretary. Informally, we understand HHS assumes only 2.5 percentage points would be based on cost-effectiveness.

In addition, the bill would extend 90% open-ended matching for child support computer systems an additional two years, through FY97 and offer up to \$5 million per year in 100% Federal funds for training and "technology transfer".

Total matching rate and cost effectiveness. Generally, States manage funds better when they have a greater financial stake. ACF has found State use of high (90%) matching rates for ADP costs difficult to manage. The legislation envisions up to a 95% Federal matching rate. Since as little as 2.5 percentage points of the incentive is based on cost-effectiveness, on net, States conceivably could get 90%+ matching for very inefficient programs. Moreover, it is not clear how these modest incentives will improve program performance. The match rate structure appears overly generous and should be reconsidered.

Special matches for computer systems. The draft legislation extends 90% matching for computer development. If we wish to give States special assistance to develop

the computer capacity the bill would require, enhanced funding could be limited to the amount HHS believes is reasonable and necessary for a well-managed State of a given size. (Any extra costs could be matched at regular rates.) This could contain costs and give States incentives to manage of funds better.

Incentives for statewide CSE systems. The draft legislation includes a 5 percentage point bonus for States to take over county-funded systems and operate a unified system. Key factors in a State's decision may include who pays non-Federal CSE administrative costs now compared to who receives the State's share of AFDC savings. The legislation could be changed to require States to share incentives and AFDC collections with the locality that operates the CSE program.

Other incentive effects. The draft legislation lacks specifics on the requirements to receive incentive funds when States increase the number of paternities, support orders, etc. The legislation should lay out what levels of performance would be required to meet the performance thresholds, to ensure that the savings are scoreable.

Training and technology transfer funds. The up to \$5 million in 100% Federal funding for training and technology transfers is not well defined. In the past, almost all child support enforcement computer systems have been classified as "technology transfers". Given the high matching rates anticipated for State administration, it is not clear why this funding is needed.

Other approaches to improve the incentive system should be considered. Some States have experimented with flat rate bounties to counties for paternity establishment. Also, factors other than cost-effectiveness could be added to the current incentive system, in lieu of replacing the system entirely.

Child Support Assurance -- Demonstration or New Program?

The advance draft legislation includes a demonstration of a Child Support Assurance system. The Federal government would match all costs of the demo in excess of what the States would be entitled to under AFDC at 90%. The demonstration appears to be limited to an, as yet, unspecified percent of AFDC recipients. The demonstrations should include a phase-in and a phase-out plan, and not be a permanent program. The legislative language calls for 7-10 year demonstrations which is longer than most demonstrations. The language also includes procedures for extending the demos rather than ending them. Administrative costs should be matched at normal rates -- the bill appears to match all added costs at 90%. Also, it is not clear how HHS would determine which portions of child support assurance benefits offset AFDC benefits.



Allowable Costs for Other State Agencies that Assist Child Support

The draft legislation calls for automated interfaces between child support agencies and property records, drivers' license bureaus, agencies granting professional

licenses, etc. Would new computers and other costs for those agencies be allowable? The legislation should make clear the extent to which HHS will or will not help pay costs for other State agencies, and cost estimates should be consistent with the legislation.

Mandatory Funding for HHS Administrative Costs and Commissions

The proposal contains language which would convert currently discretionary activities into mandatory expenditures. HHS would receive a fixed percentage of child support collected on behalf of AFDC recipients to pay for Federal staff and computer systems and the databases - about \$100 million to \$150 million per year. The current federal administrative spending for OCSE and ASPE research is \$15 million and the cost of developing the proposed databases would cost \$16 million. Operating the new databases would be close to \$30 million annually, although States would partially reimburse this cost. A 4% tap on the Federal share of AFDC collections seems excessive. Moreover, federal administrative costs should continue to be funded through discretionary appropriations.

There are also a large number of demonstrations and commissions. These should generally be discretionary authorizations. The entire welfare reform legislation should be reviewed in light of the executive order on commissions and advisory committees. Only those commissions meeting the criteria in executive order should be included in the final legislative package.

Yes

Conformance of Audits and Performance Reviews

Incentive payments would be based on annual performance reviews. Corrective action requirements (and penalties for not correcting problems) would be based on triennial audits that include process issues. Given the NPR's emphasis on results over process, it may be more appropriate to base corrective action plans and any penalties on the annual performance reviews.

Good Cause for Non-coöperation

The proposal would increase the information AFDC single mothers must give child support agencies to be defined as "cooperating" and thus be eligible for AFDC benefits. States can grant "good cause" waivers to the requirements. Could States grant "good cause" waivers to some (many?) AFDC recipients that would be affected by the revised cooperation requirements? If so, the provision may have more limited effect than estimated. The definition of "good cause" under this proposal needs to be specified.

Yes

Deleting the Requirement that Child Support Demonstrations not Increase AFDC Costs.

Current law requires that waivers of child support laws and regulations not increase AFDC costs. Given the proposed State flexibility on disregards, it is not clear what

provisions HHS would want to waive that would increase AFDC costs. Given the overall policy of cost-neutrality in waivers and absent a good rationale, this provision should remain in the statute.

Due Process Requirements.

The legislation would require that service of process have documented receipt (rather than sent pursuant to State law). Would this increase the difficulty of serving process? Would this provision reduce States' ability to use the Postal Service? (We understand some States allow the use of first class mail for some purposes.) We assume there is no intent to add requirements that could slow service of process.

EXECUTIVE OFFICE OF THE PRESIDENT

Washington, D. C.

FAX TRANSMITTAL COVER SHEET

DATE:

20-May-94

TO:

WENDELL PRIMUS

SUBJECT:

COMMENTS ON CHILD SUPPORT ASSURANCE DEMO

FROM:RICHARD B. BAVIER (202) 395-3844
OFFICE OF MGMT AND BUDGET, HRVL

If there are any problems receiving this transmission,
please call the sender, or (202) 395-7370.

Bernie Martin suggested I forward these comments on the child support assurance legislative language. I'm sorry that they did not get incorporated into the comments you received yesterday from OMB. I think they cover some of the same ground, but add a little more detail.

I understand that ASPE staff will be coming over Monday to talk to OMB staff about comments on the child support stuff, so maybe they will have time to look at these beforehand.

Description of demos' scope - Up to three states will be chosen, with the total CSA demo to "serve" some percentage of all "eligibles" in the nation. (Some term other than 'serve' should be used in Sec 691(c). I think what is meant is that the three states chosen should contain that percentage of the eligibles.) The section on eligibility referenced says that eligibles are: a) children with established paternity and support obligations; b) other children where it wouldn't be in their interests to establish paternities and orders. Presumably the number of eligibles against which the percentage in Sec 691(c) applies does not include the second group, and that probably should be specified.

Potential size of demos - States are to be allowed to operate CSA statewide. If the number of births to unmarried women in a year gives an indication of each state's share of eligibles, California, New York, and one of several other big states hold about 30 percent of all eligibles. The third through fifth states with the greatest share of births to unmarried women still cover 15 percent of all such. Given the cost potential of the demos, a maximum coverage of 5 percent of eligibles nationally seems like a lot.

However, a better alternative might be to just cap the amount of federal funds that would be available above the baseline, and let the Secretary decide how to get the best demonstration possible for the money.

Liberalization of eligibility and benefits - The demos' cost potential is made greater by easing two of the constraints that are typically claimed for CSA. First, the Secretary could allow a state to reduce AFDC to CSA families by less than the full amount of CSA payments. This would make CSA a lot more appealing to mothers who do not work, undercutting the supposed work incentive and increasing the federal match for the mix of AFDC and CSA benefits.

Second, states could make mothers without paternity and support orders eligible, if pursuing child support would "not be in the best interests of the child." From the point of view of program staff, that standard could be very easy to meet. Children might not gain income at all from paternity establishment and support orders if their fathers have very low earnings (they might be in school, in jail, unemployed, working only part-time, or just not in the work

Yes

force). Paternity and support orders involve no gain in income for the child if the CSA guarantee is greater than the expected child support. The process of establishing paternity and a support order may bring a father with a criminal record or a purported history of abuse back into the life of his child. In such cases, it would be easy to conclude that it is not in the child's best interest to insist that these conditions be fulfilled in order for the child to qualify for the increased income of CSA.

Joint custody - The joint-custody paragraph doesn't seem to hang together very well. The court that established joint custody would have to decide what the child support would have been. Then, if the hypothetical child support were below the guarantee, someone would be eligible for CSA. The problems are: a) Who does the court suppose would have been the custodial parent? Is it always the mother? b) Is the hypothetical custodial parent now eligible for the whole CSA guarantee, or just the amount over the hypothetical support? If the former, I'll bet we see a sharp increase in voluntary joint custodies in CSA demo states. It wouldn't take long for word to get around that AFDC and CSA benefits were available in a way that did not expose the absent father to child support obligations.

Pilot or demonstration - CSA sounds a lot more like a pilot program than a demonstration. The evaluation section should specify that random assignment of individuals to CSA and the regular program must be a feature of the evaluation in every state. Otherwise, we won't have any way to estimate what the IV-A payments would have been for CSA recipients, and what share of CSA expenditures should be matched at the FMAP. It won't do to just keep track of how much CSA is counted to reduce the AFDC benefits actually paid. CSA is liable to have behavioral impacts that mean more families will be on the AFDC and CSA rolls than would have been the case without CSA.

Saving on WORK - As drafted, it looks like CSA would provide an unintended out for states searching for ways to minimize WORK spending. CSA families beyond the two-year AFDC time-limit could be made ineligible for WORK by well-designed CSA including "unmatched excess benefits." With a 90 percent federal match on the first \$3,000 to \$4,500, a state could spend some of what would otherwise be the state share of IV-A benefits to the family and avoid the costs of WORK slots and child care.

WR Spec -
Comments
(CSE)

May 18, 1994

MEMORANDUM

To: Mary Jo Bane
David Ellwood
Bruce Reed

From: Wendell Primus^{WEP}

Re: Comments on CSE specifications

Attached are the comments we received on the child support enforcement legislative specifications. We will try to take into account as many as possible when we revise the specs and the legislative language later this week. We hope to send the revised versions of both specs and language to OMB for clearance this Thursday or Friday. At that time, we will also send a memo indicating which comments we were not able to incorporate.

cc: Kathi Way ✓
Belle Sawhill

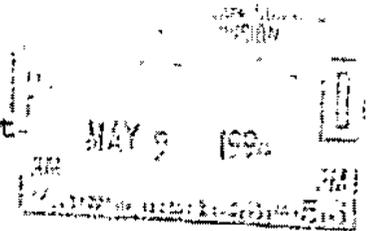
Memorandum

Date **MAY 9 1994**

From June Gibbs Brown
Inspector General *June G Brown*

Subject Draft Welfare Reform Legislation - Child Support-
Enforcement

To Wendell E. Primus
Deputy Assistant Secretary
for Human Services Policy



We are pleased to review the child support enforcement (CSE) portion of the welfare reform bill. This is our first opportunity to provide comments on the many varied aspects of reform.

We read with interest your far-reaching proposal to restructure the CSE program. We commend you on your thorough and impressive work. Given the brief turnaround time to assess this lengthy and complex package, we have limited our comments to those actions that directly relate to the work of the Office of Inspector General (OIG).

Our specific comments are:

- o Section 614 of the draft bill significantly revises the audit requirements pertaining to the CSE program to focus primarily on performance outcomes. We strongly support this shift in emphasis from States' adherence to administrative requirements to achievement of program goals. However, we are concerned that the proposal retains the current requirement that Federal audits be conducted by "a separate organizational unit" of the Department (section 452(a)(4) of the Social Security Act) -- the Office of Child Support Enforcement (OCSE). This provision needlessly ties the hands of the Department in efficiently conducting audit work.

In the past, the Office of General Counsel concluded that the OIG may lawfully conduct audits of expenditures under programs and operations of the Department, including those under the CSE program. However, an OIG review would not relieve OCSE from its statutory obligation to perform periodic audits of States'

participation in the program. The current proposal continues this assignment of audit responsibility to OCSE. The OIG audits could duplicate, but not supplant, OCSE audits. Thus, even if the Secretary wanted the OIG to conduct a particular audit and the OIG did so, the audit would not satisfy OCSE's obligation to conduct audits stipulated under the Social Security Act.

- o The proposal indicates that Federal audits of the CSE program will be conducted in accordance with the Comptroller General's "Government Auditing Standards." However, this is not specified in the language of the draft bill. We suggest that the bill be amended to include this requirement.
- o Proposed subsection 452(a)(4)(C)(ii) directs OCSE to perform audits of financial management of the CSE program by the States, including assessments of whether Federal funds have been properly expended and accounted for. To some extent, such assessments are already required as part of each State's annual "single audit" under 31 U.S.C. § 7501 et seq. It may be more efficient to expand the required single audit reviews (through compliance supplement) than to duplicate this audit effort at the Federal level. Changes and additions to the supplement are currently being conducted by the Office of Management and Budget.
- o We are pleased to note a number of new performance provisions which reward States with incentive payments based on their ability to attain desirable, relevant program outcomes. Also, expanding access to a variety of data sources at the State and Federal levels should contribute significantly to program enforcement.

We look forward to reviewing this proposal in greater detail. We would be happy to work with you by providing audit and evaluation assistance to help ensure the complete and effective implementation of CSE reforms.

To: Wendell Primus

From: Judy Wurtzel 

Re: Department of Education Comments on Child Support Enforcement Specifications

Date: May 16, 1994

Our only comment on the Child Support Enforcement Specifications concerns the role of the Department of Education in provisions to encourage the early establishment of paternity. Page 3 of the specifications provides that the state must require health-related facilities to inform unwed parents about the benefits of and the opportunities for establishing legal paternity for their children, and that "this effort should be coordinated with the U.S. Public Health Service and the U.S. Department of Education."

We have two concerns about this provision.

First, the programs listed are all health and nutrition programs administered by other agencies. Thus, the need for coordination with ED is unclear.

Second, in discussions with your staff, I was told that the provision to coordinate with ED was intended to promote the inclusion of paternity issues in health education programs. While we would support that goal, nothing in the language of the specifications suggests that. Further, the Department of Education currently administers only one small (approximately \$4 million) program in comprehensive health education (and grants could but need not include family life education). The Department administers no other programs directly aimed at sex education or health services. Even more important, curricula is, by law, a matter of local control. The Department could not require -- and could not make states require -- that curricula address the benefits of paternity establishment.

For these reasons, we would suggest omitting reference to the Department in the specifications. Alternatively, you could develop a separate provision on encouraging school health education programs to include paternity issues and include coordination with ED in that section. We would be happy to work with your staff to develop new language.

cc: Madeleine Kunin, Mike Smith, Gussie Kappner, Norma Cantu



DEPARTMENT OF THE TREASURY
WASHINGTON
May 16, 1994

MEMORANDUM FOR WENDELL PRIMUS

Working Group on Welfare Reform,
Family Support, and Independence

FROM: Maurice Foley *MF*
Deputy Tax Legislative Counsel
(Tax Legislation)

SUBJECT: Welfare Reform Legislative Specifications --
Child Support Enforcement

The following are preliminary comments from the Office of Tax Policy regarding the legislative specification for the child support enforcement portion of the welfare reform bill. We would like to set up a meeting to further discuss our concerns.

1. p. vi. In proposing the expansion of IRS' role, full consideration must be given to the possible, adverse impact on income tax compliance. Some IRS and GAO studies have indicated that compliance is reduce (mainly, failure to file increases) following tax refund offsets of a continuing nature. In expanding IRS' role, reduced tax collections may negate the child support revenue gained. A revenue estimate would have to be made for any specific proposal.

Moreover, any expansion of disclosure of tax return information must be in accordance with the safeguards provided by the Internal Revenue Code, including justification for such information,

2. p. 21. The provision to give the child support or alimony payments priority over tax debts is a dangerous precedent. As under prior law, tax receipts should be the first priority of collection for the IRS. A revenue estimate would have to be prepared for this provision.

In addition, the IRS opportunity costs would have to be determined for diverting collection resources to recovering delinquent child support. Even if IRS is given additional resources, such resources would have to be allocated between collection of income taxes and child support.

3. p. 25 and p. 53. As a condition of State plan approval, the State must have sufficient State staff. The definition of State staff, however, included private contractors. We believe that only State agencies should have access to federal tax information.

4. p. 34. What is the justification for the National Locate Registry to have access to tax information from quarterly estimated taxes filed by individuals? Again, any expansion of tax return information disclosure has a potential impact on compliance and revenue.

5. p. 35. The proposal states that privacy restrictions in the Internal Revenue Code have been found by the States to be unduly restrictive. This characterization is not appropriate. Any tax return information disclosure has to be enacted by Congress. Moreover, any disclosure has to be examined regarding invasion of privacy and effects on tax compliance, and be weighed

-2-

against any benefits achieved.

6. p. 35. The specific proposal to access IRS data is incorrectly described. Any access to such data would be a Congressional action not an administrative action. Moreover, the legislation would have to specify which data would be available. Again, we would not support disclosure of tax return information to private contractors.

7. p. 36. Is it proper for IRS to be collecting delinquent child support payments where welfare payments are not involved and the child is now an adult? This is perilously close to using IRS to collect what have become essentially private debts.

The proposal would have IRS receive payment for its collection services from debtors rather than from those asking IRS for collection assistance. First, how will IRS get paid when it is unable to collect the debt? Will such costs have to be financed by general IRS appropriations, thereby diverting resources from tax collection? Second, how should IRS compute its collection costs? Are direct costs plus overhead adequate, or is some measure of opportunity costs more appropriate?

8. p. 45. The elimination of the exemption from involuntary withholding of child support payments should be further reviewed in light of other Administration priorities.

9. p. 49. The provision to deny dependent exemptions when taxpayers are delinquent with child support payments requires more extensive analysis, including a revenue estimate and an IRS assessment addressing the administrability of such a provision and the cost of administration.

10. p. 50, 53, and 58. The proposal lists some safeguards that the States must institute for the use of tax data. They are, however, held harmless from sanctions involving Federal requirements for systems certification during conversion to central registries. This provision is vague regarding the conversion period. In addition, we would not agree to the lifting of sanctions imposed under the Internal Revenue Code for disclosure of tax return information. Moreover, the proposal's Federal audit provision lists no sanctions or penalties for noncompliance. Presumably, this would involve auditing of usage of Federal tax data, with no provision to curtail access upon failure to comply with the program.



MAY 12 1994

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

FROM: Assistant Secretary for Health

SUBJECT: Welfare Reform -- Child Support Enforcement

In reviewing the draft legislative amendments on child support enforcement amendments we find a number of controversial and disturbing issues. I think a meeting with my staff is necessary to address the following concerns:

- Cooperation in paternity identification as a condition of access to medical services, especially prenatal care. Pregnant women could be denied Medicaid coverage. Congressional legislation and the Department of Health and Human Services has attempted to remove barriers to care for pregnant women. In fact, Congress exempted pregnant women from Medicaid's eligibility process. Under OBRA 86, providers are allowed to presume eligibility for Medicaid and provide services immediately. PHS funded Community Health Centers and Migrant Health Centers rely upon presumptive eligibility to extend their services.
- The circumstances regarding Indians, migrant agricultural worker families, and other populations the PHS has historically served are not adequately addressed by these proposals. The proposal and amendments are largely silent about highly mobile and rural population concerns. For example, the Directory of New Hires would require reports by employers of farmworkers who often work for multiple employers in a single day?
- Privacy of data is a major concern for us. The current proposal fuels the concerns we faced in health care reform regarding linked government data systems and privacy. Requiring all participants to provide social security numbers creates considerable burdens on employers, hospitals, and other providers of medical care increasing administrative burdens. Information system developments necessary for appropriate links are also problematic.

Page 2

- Accreditation of genetic testing laboratories raises a number of issues that we confronted with CLIA.
- Please contact Robert Valdez (260-1281) or Jo Boufford (690-6867) to arrange follow-up discussions on these and other issues.



Philip R. Lee, M.D.

cc: Dr. Boufford
Mr. Corr
Ms. Stoiber
Dr. Lasker
Dr. McGinnis
Dr. Valdez



THE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

MAY 10 1994

NOTE TO: Wendell Primus
SUBJECT: Child Support Enforcement Proposal

The following are my comments on the subject proposal:

- o There is not enough of a link between support and visitation (page 66). Many fathers cite difficulties in seeing their children and influencing their upbringing as major reasons for not giving their mothers money. The proposal appears confused on this issue -- acknowledging the problem, but giving only vague opportunities for states to establish assistance in this area. Now is a time to build parenting plans, mediation, visitation enforcement, and neutral drop-off plans into required operations -- not as options for the state.

- o There are major privacy intrusions for mothers and real or putative fathers. The administrative inquiries into parentage and income (e.g., involuntary registration and administrative determination of support orders) are somewhat troubling from a due process standpoint. Issues of adequate proof of income and legal representation in the administrative process will likely arise, particularly as automated mass data collection and disbursement systems are established. Also, the proposal allows "some" parents to opt out of a centralized registry, but is not very specific about the conditions for opting out (see page 29; one would assume that middle class mothers for whom support is not an issue would be in this group, but it could also include cases in which coercion is used to pressure a mother to opt out of the system).

I believe that we will be driving many fathers into an "underground" economy when their small-business employers will not want the fuss or bother involved in providing paperwork for these orders. Also, independent contractors or business owners will have many loopholes for reporting and cooperating with this system.

- o The federal role in this process will be exploded. The National Clearinghouse seems to represent a massive new bureaucracy designed to coordinate and monitor the support enforcement system (page 30). The National Child Support Registry, the National Locate Registry, and the National Directory of New Hires -- not to mention the expanded IRS role in reporting and collections (see page 35) -- plus involvement with credit reporting agencies, will create a large system, to say the least. I would expect that these systems will be very expensive and difficult to update accurately.

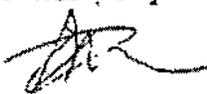


Walter D. Broadnax

MAY 13 1994

Note to: Maureen Kennedy

Dept. of HUD

From: Ed Moses 

Subject: Comments on Welfare Reform Child Support Proposal

We have read the draft report. Our key concern is the coordination between the Child Support agency and Public Housing Authorities with respect to non-custodial parents (Chapter V, page 66 - 70). Our Resident Initiatives Programs, including Section 3 employment initiatives, are targetted both to public housing residents and non-custodial parents, specifically in:

- access to Section 3 jobs with public housing funding
- eligibility for supportive services (such as the Youth Development Family Investment centers Program)
- involvement in parenting activities with the children

This Chapter could acknowledge this and include HUD in designing the proposed demonstration programs so that non-custodial parents whose children live in public housing have access to JOBS/WORK funding.

Memo

To: Welfare Reform Co-chairs

From: Belle Sawhill

Re: My Comments on JOBS/WORK specs

WR SPECS-
COMMENTS
(WORK)

I read the May 5 specs this weekend and was pleased to discover how much progress has been made in pinning down the details of our proposal. Richard has also been keeping me somewhat informed about the 7:30 meetings; for example, I gather some new decisions were made this morning (Monday). I'm sure this will be a moving target, but here are a few comments for now.

1. Employability plans. I tend to agree with Richard that we need to be careful not to send a signal that everyone needs services -- beyond job search assistance -- to become employable. This would counter the message that we want to help people find jobs (not just prepare for them) from day one. It could also lead to lots of suits or appeals surrounding the issue of extensions.

2. I wonder about only allowing one parent in a two-parent family to be in JOBS-prep. What happens to a spouse taking care of an ailing or disabled mate?

3. Why not require states to offer OJT, work supplementation, and CWEP as part of JOBS? These are the services that are more work-oriented and OJT seems to produce particularly good results. Also, this would be consistent with the idea that JOBS and WORK periods should not be that different -- both should be geared toward helping people find and keep jobs.

4. In a number of places in the specs, reference is made to a requirement that people engage in job search, but it is rarely specified what this means. Are we talking about self-directed or supervised job search? I favor the latter with a focus on job clubs or other group activities that teach job search skills and provide peer support.

5. I'm quite comfortable with a 20 hour rule for parents with children under 6.

6. I think doing away with participation requirements for the non-phased in is a good idea; it may also save us some money. I'm also glad to see progress being made on redefining participation (although it seems as if we don't have this one pinned down yet).

7. The whole match rate question seems to still be up in the air, according to Richard's notes from Monday morning meeting. I strongly favor a declining match rate over time either for individuals, or if this is too complicated, a lower match for

WORK than for JOBS. I also think we need a capped entitlement for both, including the wages portion. Among other things, this would enable us to show more AFDC savings (offsetting the wage costs of the WORK program). It would also make the WORK program seem more like an independent jobs program and not just another welfare program. Also, it would encourage states to experiment with trade offs between wages, hours, work support services, job search, etc. within some limits that we may want to establish (no wages below minimum, no hours below 15 or above 35, no long waiting lists.) The only thing that would remain uncapped would be AFDC benefits themselves (regular or supplemental).

8. I was pleased to see the emphasis on worker support but wonder if we shouldn't say something even stronger. Perhaps the language should be that states must (not just can) offer these services as part of both JOBS and WORK.

9. I don't like the earnback policy at all. It sounds too much as if we are offering people a 6 month paid vacation every 2 years. I'd suggest as a compromise that we provide a limited number of "second-chance" emergency uses of the system for relatively brief periods and define all of this more precisely in regs. Perhaps this could be part of the new flexible uses to which states could devote their capped EA money. It would be better in my view to make EA more generous than to have people earning what sounds like a new entitlement to welfare. Under the cap, states would have to decide who was and wasn't an emergency case.

10. Much more fundamentally, I don't think we've grappled sufficiently with the way the WORK program works. Here's my current understanding:

- There is no time limit on participation in WORK
- One can be sanctioned for 3 mo. (quitting, dismissal, not showing) or 6 mo. (not taking offer of unsubsidized employment). In both cases, the sanction is only if behavior occurs "without good cause" -- which would seem to be a rather open-ended proviso.
- One can be put back in JOBS-prep.

What do we think would realistically happen under such a policy? My guess is that almost no one will be sanctioned; that there will be lots of cases of nonperformance/no shows/poor attendance; that as a result the whole program will get a bad name and employers will not be willing to participate; and without their participation, the whole policy will fail. There will also be cases, as Richard points out, where the jobs will be more attractive than anything in the unsubsidized sector -- precisely because hours are limited, wages may be above the minimum, and performance standards, including attendance, will be difficult to enforce. The result will be a large buildup of the

caseload in WORK that will be only modestly offset by such factors as the availability of the EITC in nonWORK jobs. I think the solution has to be to make this more like a real jobs program with some kind of time limit and less like welfare (a la the appendix to the current specs). Moreover, those who fail (don't perform) and aren't eligible to go back into JOBS-prep have to be subjected to tougher sanctions -- including being cut off of cash assistance entirely. The usual assumption is that this will pose a serious threat to their children. I think the solution to this fear is to monitor the children's well being carefully, not to relieve the parents of their responsibilities.

11. Assuming that the above arguments are not convincing, and that we have an open-ended WORK program with rather weak sanctions for nonperformance, then we need to think harder about how to reconcile this publically with a capped entitlement and a capped JOBS-prep program that doesn't explode in the outyears.

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



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

Date: 5/18/94

From: Wendell Primas

To: Bruce Reed

Division: DHHS/OS/ASPE/HSP

Division: White House

City & State: DC

City & State: DC

Office Number: 202-690-7409

Office Number: 456-6515

Fax Number: 202-690-6562

Fax Number: 456-7431

Number of Pages + cover 8

REMARKS:

May 24, 1994

MEMORANDUM

To: David Ellwood
Mary Jo Bane
Bruce Reed

From: Wendell Primus ^{WEP}

Re: Additional comments on Prevention/Make Work Pay/IGA

Attached are four additional comments received on the Prevention, Make Work Pay and Improving Government Assistance legislative specifications. They are from Bruce Vladeck (HCFA), Walter Broadnax, Ken Apfel (ASMB), and Maurice Foley (Treasury).

cc: Belle Sawhill
Kathi Way
Emily Bromberg



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

The Administrator
Washington, D.C. 20201

MAY 20 1994

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

FROM: Administrator
Health Care Financing Administration

SUBJECT: Welfare Reform Legislative Specifications -- Other
Provisions (Your memorandum of May 12, 1994)

Thank you for the opportunity to review and comment upon the legislative specifications for preventing teen pregnancy and promoting family responsibility, making work pay, and improving government assistance.

We would like to raise two broad concerns. First, the specifications appear to assume that the Health Security Act would not only be enacted soon, but that it would be fully implemented in relatively short order. While we are all working hard to pass the bill, the latter goal may be more elusive. Even with prompt enactment, a phase-in of expanded coverage over an extended period appears likely. For this reason, some form of Medicaid is likely to be a reality for low income families for some time. As we try to move these families off the AFDC rolls, we must be sensitive to the possibility that work-based universal health coverage may not be immediately available to pick up where Medicaid coverage ends. The unintended result could be to increase rather than decrease the number of families without health coverage, at least in the short term.

On the other hand, policies that expand AFDC eligibility would, to the extent that the current Medicaid program remains in place, expand Medicaid eligibility and State costs as well. To the extent that the regional alliance structure of the Health Security Act is implemented, AFDC eligibility expansions would lead to increased State premium payments. In either case, it is important to identify and account for these costs.

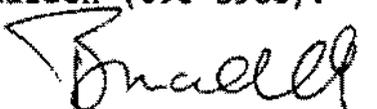
Our second broad concern with the specifications is related to the attempt to reconcile differences in eligibility and other requirements between the Food Stamp and AFDC programs. (Medicaid, of course, follows AFDC eligibility rules in many respects.) Many of the proposed simplifications would raise AFDC (and also Medicaid) eligibility standards to more generous levels, sometimes for consistency with the Food Stamp Program and sometimes for other reasons. The effect would be to increase the number of persons eligible and the costs, to States as well as to the Federal government.

Page 2 - Wendell E. Primus

While some of these changes are State options, others are in the form of mandates. Options may prove too expensive for State budgets. Mandates pose even more problems because additional funding sources (State or Federal) are not indicated. We strongly support efforts to simplify program requirements. However, we should consider the impact on States which would have to pay for their share of additional AFDC and Medicaid costs under these proposals. My staff would like to share additional concerns and recommendations with your staff on this issue.

We would like to raise one more specific concern regarding the proposal to allow States the option to limit AFDC benefits to additional children conceived while on AFDC (pages 9 - 10). We understand the political symbolism that may lead us to propose this. However, we are not aware of any empirical evidence regarding whether the policy would have the desired effect. To adopt such a policy may put the additional child, and indeed the entire family, at both economic and health risk. We urge that additional careful consideration be given to this policy and its potential impact upon AFDC and Medicaid eligibility.

My staff has identified a number of additional concerns of a more technical nature that need to be resolved. They would like the opportunity to discuss these matters with your staff and to assist in the drafting of the bill. Please coordinate this activity with Tom Gustafson (690-5960).


Bruce C. Vladeck



THE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

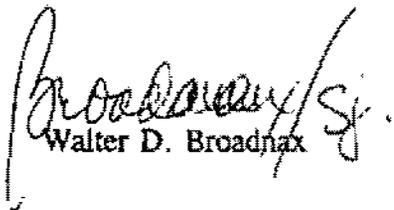
MAY 23 1994

MEMORANDUM

TO: Wendell Primus

As I read through the legislative specifications for the various welfare reform proposals, it occurs to me that it is critical to tie proposed demonstrations to the soon-to-be designated Enterprise Zone/Enterprise Community locations. This is so for several reasons: (1) the communities' strategic plans should already address many of the issues targeted by the teen pregnancy prevention and work projects -- community involvement, integrated services, business involvement, etc.; (2) the pregnancy prevention demonstrations and other efforts directed at making work a good alternative should fit nicely into a comprehensive scheme for reaching ever-younger members of the same distressed societies as will be defined under EZ/EC standards; (3) scattering the funding for these projects around the country to non-designated, non-funded areas wastes the opportunity to effectively demonstrate a comprehensive approach to social re-design.

I would strongly recommend that you include language within the legislative specifications which expresses clear preferences for co-locating welfare reform demonstrations in EZ/EC sites.


Walter D. Broadnax



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

MAY 23 1994

MEMORANDUM TO THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Attn: Wendell Primus

From : Kenneth S. Apfel
Assistant Secretary for Management and Budget

Subject: Welfare Reform Legislative Specifications -- Other Provisions

We have reviewed and concur with the welfare reform legislative specifications having to do with Prevention, Making Work Pay, and Improving Government Assistance.

While we have no major policy concerns, we believe that these sections would be strengthened by incorporating the following two clarifications:

- On page 15, under the Child Care section of *Making Work Pay*, in the section entitled Expansion of Funds to the Working Poor, the description of the proposal in the Legislative Specifications is confusing. It now states:

Change the At-Risk Child Care Program, Section 402(i) to a capped entitlement with an enhanced match consistent with the match in the other IV-A programs.

However, this program already is a capped entitlement with an enhanced match equal to those in the other IV-A programs. Therefore, what needs to be said is:

Change the enhanced match in the At-Risk Child Care capped entitlement program (section 402(i)) to the new, higher match which is being proposed for the other IV-A programs.

- On page 25, under the Administrative Cost Structuring for Certain Social Services section of *Improving Government Assistance*, the description of the legislative specifications is confusing. It currently reads:

Under Section 403(a)(3), the law would be changed to allow a 50 percent match for family planning administration even if this is provided under Title XX.

The word "this" actually refers to family planning services, not administration. We recommend, therefore, replacing "this is" with "family planning services are."

May 24, 1994

MEMORANDUM FOR: Wendell Primus
Working Group on Welfare Reform,
Family Support, and Independence

FROM: Maurice B. Foley *MJ*
Deputy Tax Legislative Counsel
(Tax Legislation)

SUBJECT: Treasury (Office of Tax Policy) Comments on
Welfare Reform Legislative Specifications
(Other Provisions)

Improving the EITC -- Permitting Publicly Administered Advanced
EITC Payment Systems

- The requirement that States repay to the Federal government excessive advance payments made to participating State residents must be included in the legislative specifications. While we understand that the concern about the possible impact this provision may have on State participation, the potential revenue drain to the Federal government in the absence of this requirement has to be accorded greater weight.
- In order to evaluate whether the demonstration projects are effective (and to minimize the revenue cost), the projects should be tested on a 3-year trial basis. We would recommend that the programs be effective from 1996 through 1998, with applications accepted in 1995.

Asset Accumulation -- Individual Development Accounts

- Clarifying the \$10,000 limit. Our previous understanding was that the \$10,000 limit only applied for purposes of determining how much of the IDA would be ignored when applying AFDC and Food Stamp asset limits. This issue must be clarified. (In addition, the tax laws will not be amended "by" the Treasury Department; it is more accurate to simply state that the tax laws will be amended to allow for the development of IDAs....)
- Each IDA will relate to an individual, not to a family (though there are family-level limitations on who will constitute "eligible participants").
- There are also several typographical errors in the Legislative Specifications.

Specifically regarding the unsubsidized IDA program:

- The 10 percent penalty only applies to the amount withdrawn that is includible in income.

Specifically regarding subsidized IDAs

- It is confusing to say that "funds" in an IDA account will be exempt from taxation. Rather, earnings on funds in an IDA account will be exempt from taxation. Similarly, it should be clarified that if a subsidy is distributed to pay qualified expenses, it will not be subject to tax. However, if a subsidy is used to pay nonqualified expenses, it will be included in income and subject to a 10 percent penalty tax.

MEMORANDUM TO WENDEL PRIMUS (fax 690-6562)

From: Elaine Kamarck
Re: Comments on Legislative Specifications for the Child Support Enforcement Proposal of the Working Group on Welfare Reform, Family Support and Independence.

I have reviewed the legislative specifications for the first portion of the welfare reform legislation. It is a very strong plan with many specific, tough, actions to establish paternity and collect child support. It even acknowledges the non-economic role of fathers in children's lives - something the Vice President plans to talk about at his upcoming family conference. I have only a few comments.

1. Establish Rewards in Every Case

The one problem I see with this section is that it is somewhat overly prescriptive in dictating to the states the administrative steps they must take to establish paternity. Having established the proper incentive structures in the law our reforms need not and should not attempt to micro manage how states achieve the goals they set with HHS for increasing paternity establishment. I question the wisdom, for example, of *requiring* the steps at the bottom of page 3 or the steps mentioned on page 8 subsection 2. These are all good ideas and they probably would help increase paternity establishment but to require these actions in legislation - perhaps at the expense of something we have not thought of which might be more effective - is the sort of thing which tends to be counter productive over the long haul.

2. Ensure Fair Award Levels

The portion of this section that is most vulnerable to criticism is the proposal to create a National Commission on Child Support Guidelines to study the desirability of uniform national child support guidelines. This strikes me as somewhat bureaucratic and not likely to work but probably, in the end, harmless.

3. Collect Awards that are Owed

My only problem with this section is that no where in it is mentioned the possibility that private vendors may be able to play a role in making the new system happen. Is this assumed? We know that especially when it comes to state of the art computer applications the private sector is often quicker and more effective at

innovation. I would hope that the intent is not to preclude private sector involvement in this process especially since some private collection agencies in large states like Texas are having very positive results. Private sector involvement here - especially on a strict performance basis - could go a long way towards blunting the criticism you are likely to get from those who will feel this system is putting too much of a burden on already overburdened state bureaucracies.

Provisions and Age Definitions in Welfare Reform

Provision	Age	Comments
Teen Pregnancy Prevention and Mobilization Grants	Over age 9 and under age 20	
Prevention Demonstrations	Over age 9 and under age 22	This goes to under age 22 because it is community, not school-based.
Minor Mothers Provisions	Under age 18	Based on legal age
Case Management for All Custodial Teen Parents	Under age 20	
Teen Parent Education and Parenting Activities State Option	Pregnant and parenting teens under age 20	States would have the option to serve under age 21
JOBS and Time Limits Phase-In	Under age 24 would be in phase-in group	States would have option to define more broadly
Participation in JOBS	Mandatory for all custodial parents under age 20 if high school is not completed	
Exemption from Time Clock	Under age 18	
Extension of Time Clock for Individuals Receiving Services under Individuals with Disabilities Education Act (IDEA)	Under age 22	
Placement in Pre-JOBS for 12 Weeks Following Birth of Child	All cases under age 20 where high school is not complete, cases under age 20 where high school is complete and the child was conceived while on assistance, and cases age 20 and over if child was conceived while on assistance	
Placement in Pre-JOBS for Up to One Year Following Birth of Child	Cases age 20 and over and cases under age 20 where high school is complete, if child is conceived while not on assistance	
Earnings Disregard for Elementary and Secondary School Students	Under age 19	

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL OF ECONOMIC ADVISERS

WASHINGTON, D.C. 20500

March 9, 1994

WR - SPECS.

COMMENTS

MEMORANDUM FOR BRUCE REED

DEPUTY ASSISTANT TO THE PRESIDENT
FOR DOMESTIC POLICY

MARY JO BANE

ASSISTANT SECRETARY ADMINISTRATION FOR

CHILDREN AND FAMILIES HEALTH AND HUMAN SERVICES

DAVID ELLWOOD ASSISTANT SECRETARY FOR PLANNING AND
EVALUATION HEALTH AND HUMAN SERVICES

FROM: JOE STIGLITZ

SUBJECT: Comments on Welfare Reform Proposal

The draft produced by the Welfare Reform Task Force exhibits a level of creativity seldom seen in a group project. It is certainly a valuable piece of work. The draft proposal, however, could be improved. Toward this end, I have a number of comments that the Working Group might want to address in discussions of the present draft and that might be incorporated in a future draft.

One over-riding concern is that any welfare reform legislation enacted is reversible. Therefore, it is important that the program ultimately put into place be likely to experience quick success. Otherwise, during the phase-in period, support for the reform effort may dwindle and the legislation be reversed (or worse). Accordingly, the proposal should concern itself with demonstrating success (e.g., increased labor force participation or reduced case load) in the initial implementation period.

My comments are presented in terms of six major themes for ease of exposition. However, these themes are clearly related to others, since it is seldom appropriate to view any one part of welfare reform in isolation.

Theme 1: What is the Entitlement?

Should current levels of payments be viewed as an entitlement, the reduction of which should only be undertaken with the strongest of reasons, or should we view the whole discussion of Welfare Reform one in which the entire nature and structure of the entitlement is under review?

The varied levels of support across different states--which we are allowing to persist--suggests that we are not committed to any particular level of a "safety net."

- o Does any individual who has capability of working (at an unskilled job) have an obligation to do so, if there is an available job?

The Working Group generally steered clear of the issue of the nature of the "entitlement," taking the State level of benefits as a given. Given the current political constraints, I concur with that judgment, though I would like to see a movement towards establishing more national norms. Whether this should be done, and if so, how it could be done most effectively, requires more discussion.

At several points, an implicit argument for why certain policies should be pursued seems to have been that we cannot make recipients on welfare worse off than they are now. But that is precisely the question at hand: do recipients have an "entitlement" to current levels of benefits?

To implement any phased incentives that would reduce benefits as a recipient's time on the welfare rolls increases (discussed below), we would have to address this issue.

Theme 2: The Role of Individual Incentives

I wish to emphasize the importance of incorporating strong incentives within the program:

- o Legal rights may limit the ability to "force" individuals off welfare on a discretionary basis.
- o Even with best of intentions, States may find it difficult to change the direction of agencies administering programs. We should be wary of having excessive confidence in existing and proposed administrative structures for accomplishing our objectives.

In general, the Working Group believed that individual recipients needed to have appropriate incentives to enter the paid labor force as soon as possible. This requires that the benefits an individual receives while not working always are less than the total amount of compensation plus benefits received while working, and the difference must be large enough to compensate for the effort of working.

Assessing these incentives requires integrating all assistance programs, including food stamps and housing. Under current programs, in some states, the net return to working at a full time job can be as low as a dollar or two an hour. The consequence is that the incentive for work is less than might otherwise seem to be the case.

Though full integration would clearly be desirable, partial integration, with welfare payments adjusted to reflect other benefits could go a long way to addressing the basic incentive issues.

We may want to consider alternative ways to providing the requisite incentives:

- (a) Some argue that it would be administratively simpler to reduce some entitlement other than EITC for WORK participants, and to keep the entitlements provided through the income tax system intact (since the tax system has less direct contact with WORK participants than the welfare system);
- (b) Overall benefit levels could be reduced the longer a recipient is in the welfare program, encouraging individuals to enter the paid labor force;
- (c) Finally, for those with the longest stays on the welfare rolls, benefit levels to the parent could be effectively reduced through provision of more in-kind benefits targeted to children.

Even when recipients are required to accept any full time private sector job offered, there are instances where the incentive to enter the paid labor force would be dulled by the operation of the draft proposal. For example, under the draft proposal, part-time work may stop the running of the 2-year time clock on training and welfare benefits. In this case, a recipient with a part-time job may indefinitely receive benefits. Alternatively, if part-time work does not change the possible set of benefits available in a positive manner, it may be rejected as less satisfactory than simply making use of the training proposed to be available. A compromise solution that retains the appropriate incentives is to ratably slow down the 2-year clock on benefits for those who engage in part-time work. Under this scheme, a person who works 20 hours per week (half-time) would be able to receive benefits for 4 years before moving to the WORK program (note that such a long period of part-time work is likely to result in the recipient building up a sufficient work record to leave welfare for paid employment).

The draft proposal implies that the 2-year time limit is a lifetime limit. Accordingly, someone who received benefits at age 25 would be ineligible to receive training and other non-WORK benefits at age 35. A more appropriate policy might be to allow persons to "earn" additional welfare coverage by participating in the paid labor force for a sufficiently long period. The exact schedule would require some care to prevent recipients from repeatedly cycling between welfare and the paid labor force, but the potential problems are not insurmountable.

Theme 3: The Role of Institutional Incentives

Providing appropriate incentives to individual recipients is only part of the overall incentive issue. A similar concern exists with the incentives provided to case workers and to the States to ensure that they act to move welfare recipients into the paid labor force in a timely manner.

The draft proposal makes heavy demands on individual case workers to assess whether recipients are ready to enter the paid labor force and in what capacity. Research in the area of organizations suggests that large changes in the incentive structure for case workers may need to be a part of the changing culture in the welfare office. If the incentive structure is ignored, case workers will likely revert to current behavior rather than wholeheartedly implement welfare reform. Figuring out what those incentives might be and requiring States to incorporate them in their own welfare programs should be an integral part of our proposal.

State incentives will also play a major role in the success of the welfare reform effort. If States are able to obtain Federal resources without fully implementing the welfare reform initiative, they may do so. Tying actual Federal payments to State success at placing welfare recipients in unsubsidized jobs should be seriously considered as part of the process of reinventing the welfare office. Though there are some incentives built in the current proposal, I am concerned whether they are sufficient.

Theme 4: The Effectiveness of Existing Programs

The draft proposal generally assumes that the training and placement programs will be approximately as effective as fairly successful local programs. I am concerned that these programs may not be effectively deployed on a nationwide basis, noting that the predicted success rate for training and placement in prior programs often outstripped actual performances. There do not appear to be programmatic "safety nets" in place in case these new programs are less successful than projected.

Theme 5: Equity between Recipients and the Working Poor

One of the basic tenets of the Welfare Reform draft proposal is that paid work is preferred to receipt of welfare benefits. This implies that the working poor should not be financially worse off than welfare recipients. Ensuring this is difficult, because the experiences of welfare recipients differ dramatically from each other and from those of the working poor. Guaranteeing this equity implies that: child care should be provided to the working poor on terms similar to those for welfare recipients; disability standards should be similar for welfare recipients and

workers; deferments from work requirements based on age should be granted only for those of approximately retirement age; and the guaranteed income for welfare recipients (especially those in the WORK program) should exceed incomes for the working poor only when there is a strong justification for the discrepancy.

Theme 6: Level of State Discretion

While there are many virtues to granting States wide latitude in redesigning their welfare programs, this latitude must be tempered with concern for overarching national interests. States should not be permitted to defer large portions of their case load from work requirements, if the national policy is to favor paid labor force participation. (There are both basic policy issues and budgetary issues involved here.) A strategy of granting States a fixed number of deferments (perhaps as a percentage of the case load) may prove to be effective in getting States to use deferments only in appropriate circumstances, and not as a tool to manage the burden on local welfare offices.

A major problem is that we do not know what the appropriate percentage of deferments should be. To many, deferment of 25 percent of the case load seems too high: will it really mean that we have ended welfare as we know it? Excessively high deferment rates not only presents a political problem, but also an economic problem. A key element in welfare reform is providing appropriate incentives to recipients. If the reform plan effectively provides for a "lottery"--the chance at continuing welfare as we used to know it--it may adversely affect those incentives. Also, if States are held to a deferment limit of 25 percent of caseload there may be a tendency for States to push against that limit, with the attendant negative consequences.

Current caseloads may provide us with poor guidance on what the appropriate deferment percentage should be, especially if the welfare reform plan succeeds in radically changing the current system. If the proposal is successful in getting a large percentage of recipients from welfare to the paid labor force quickly, then the percentage of the remaining caseload that is extremely difficult to place in private sector jobs may be high.

I tentatively suggest the following approach, combining appropriate incentives with flexible limits. First, the Federal match for welfare benefits would be tied to State performance in moving people to paying jobs. This would limit State discretion to provide benefits that exceed the national average by a wide amount (by making those States pay more of the benefit from State funds, if the higher benefits result in longer stays on welfare) and would help line up State incentives with the purpose of the national welfare reform program. Comprehensive measures of performance should be designed to take account of local labor

market conditions and demographic factors. Second, separate limits would be provided for exemption from the general treatment of recipients in each of the major categories (e.g., recipients on WORK beyond 2 years, recipients with children under 1 year old). Third, the exemption limits would be related to local economic conditions, demographic factors, and historical performances. These limits would generally be set tightly, to represent substantial improvements over current practice. Waivers would be provided only under unusual circumstances, and only with significantly increased state percentage contributions for the costs of the "excess" exemptions. (The increased State financial burden is important, because, as we have noted, it is possible that State deferment policies have adverse effects on the base caseload, a burden which is shared nationally.) This outlined approach may help align State behavior with the national goals of welfare reform.

FIX

1. Pre-Jobs, Per Resp Plans
- change name of Pre-JOBS

June 1, 1994

2. Work slot / Partic. rate
- Count placement thru contractor as subsidized slot

3. Child Care Training set-aside

4. Substance Abuse Time Limits

MEMORANDUM

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

From: Wendell Primus *WEP*

Re: Additional comments on legislative specifications

**WR-SPECS
COMMENTS**

Attached are additional comments that have come in since last Friday. Three sets of comments are on JOBS/Time limits/WORK, from June Gibbs Brown (HHS IG), from the Social Security Administration, and from Mark Greenberg at CLASP. Tom Glynn (DOL) sent comments on the child care specs. Bruce Vladeck (HCFA) has made comments on the child support enforcement legislative specifications and language. Phil Lee (Public Health Service) has given comments on Prevention, Making Work Pay and Improving Government Assistance. Finally, Joe Stiglitz (CEA) sent comments on various aspects of the proposal.

Also attached are two sets of comments that most of you probably already have, but to be thorough, I will include them here again. They are Bruce's comments and a memorandum from the Children's Defense Fund.

At the end of the packet is the first set of comments that have come through the official OMB clearance process.

cc: Emily Bromberg

Page 2- Mr. Wendell E. Primus

The OIG remains committed to helping achieve the full expectations of welfare reform. In that regard, our Work Plan for FY 1995 will focus on areas of special interest to the Department. In addition to our normal practice of meeting with Administration of Children and Families program officials to identify areas for review, we will make our draft Work Plan available to you for comment and attempt to accommodate suggestions for audits and evaluations.

Refer to:

Baltimore MD 21235

MAY 26 1994

NOTE TO WENDELL PRIMUS

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

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

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

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

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

Thank you for the opportunity to review this material.

Louise Brown for
Richard A. Eisinger
Senior Executive Officer

Attachments

Specifications

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

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

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

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

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

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

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

32. HOURS OF WORK

Specifications

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

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

33. EARNINGS SUPPLEMENTATION

Specifications

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

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

Specifications

- (a) Wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, Medicaid, public and Section 8 housing). ^{SSI}
- (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.

Should specify that SSI is included

CENTER FOR LAW AND SOCIAL POLICY**MEMORANDUM**

To: David Ellwood
From: Mark Greenberg
Date: May 31, 1994
Re: Comments on JOBS/Work Specifications

Here are a set of comments on the JOBS/WORK specifications. Generally, in areas where it is clear that policy has been extensively discussed and resolved (e.g., the two year limit), I am not listing concerns for the record; rather, my focus is primarily on issues where (I hope) comments can still be useful at this point.

In most of the following, I just make observations rather than extended arguments-- I'd be happy to provide a more detailed discussion wherever it might be useful.

JOBS and Time Limits**1. Effective Date and Definition of Phased-In Group**

If the structure provides for an effective date with option to petition for extension, there will likely be very few states petitioning for extensions, because that will look like a failure to do welfare reform. The consequence will surely be state implementation without a normal planning period.

One partial way of addressing this concern may be through addressing "statewideness." It is not clear from the specifications whether a state is required to be statewide on its effective date. Nor is there a definition of statewide. In JOBS, states had two years to begin implementation, and an additional two years before they were required to be statewide. Some states that might want to begin implementation immediately may find it difficult to be statewide immediately; allowing for immediate implementation with a time frame to reach statewideness would allow every state that wished to do so to begin immediately, while still allowing somewhat more time for getting the program fully in place.

If you do generally require implementation within twelve months of the effective date, you might also consider including a mandate that the Secretary issue proposed or interim final rules at least six months prior to implementation.

It appears the only discretion on phase-in is whether to extend the date from 1971 to an earlier year. The phase-in requirements are likely to be controversial, particularly in light of recent research casting doubt on the ability of providers to operate high or in some cases any impact program for youth. One possible resolution could be to allow states to petition for alternative phase-in strategies.

2. Program Intake

Are there any consequences attached to the Personal Responsibility Agreement or is it just the new version of Rights and Responsibilities information provided by states now?

3. Employability Plan

What is the relation between a state's general duties to the phased-in group and the subsequent reference to a 40% monthly participation rate for this group? Is the expectation that 100% will receive employability plans within 90 days and begin receiving services, but that due to normal caseload dynamics, full participation should only be expected to reach something like 40% a month? Or, is it envisioned that due to limited resources, some number of those in the phased in group would not be receiving services each month? If so, what is the status for time-limit purposes of an individual who has an employability plan but is not receiving services, or of an individual who does not receive an employability plan within 90 days?

If the state is not expected to serve everyone initially, it may make sense to do a preliminary employability plan at or near AFDC entry, and a "full" employability plan at the point where the state is actually able to provide services. If that approach is taken, however, individuals should not be precluded needed services simply because of the state's delay in making services available. For example, whether full employability planning begins in Month 1 or Month 7, the basic question should still be "what is an appropriate set of services that can likely be completed within 24 months?" In other words, individuals who do not begin to receive full services until later in their 24 months should not face restricted options simply because of the delay in beginning services. And if this approach is taken, an individual beginning an employability plan in good faith needs to know at the beginning that she will be permitted to complete it under ordinary circumstances, rather than just knowing that she will be able to request an extension.

The dispute resolution process for disputes about employability plans appears to give states a choice between an internal review board, mediation, and/or fair hearing. However, only phased-in recipients required to participate in JOBS would be entitled to fair hearings. This presents two concerns:

- Allowing for less formal, less adversary mechanisms in addition to fair hearings is a positive step, but ultimately, it is important that individuals still have access to a proceeding with the due process protections of the fair hearing process, e.g., notice, opportunity to be heard, opportunity to present witnesses and testimony, opportunity to cross-examine, decision by impartial persons based on the record. There is no indication that either the internal review board or mediation would offer any of these protections. For example, if mediation fails, does the agency just impose its preference. Does an individual have no recourse but to risk a sanction in order to assert that an employability plan is wrong or unfair?

- If only phased-in recipients required to participate would be entitled to fair hearings, what happens to not phased in recipients required to participate? And, how does a JOBS-Prep parent, e.g., a parent of an infant, have any recourse to demonstrate that her caseworker's denial of a request for child care assistance or of a proposed JOBS employability plan was arbitrary and capricious?

The text also says that if there is an adverse ruling at a fair hearing concerning an employability plan, the individual would not have the right to a second fair hearing before imposition of a sanction. It is not clear whether the intended policy is that a sanction would automatically follow the fair hearing, or just that a sanction would follow if the individual continued to refuse to participate. Here, it is important to distinguish two scenarios. Suppose Ms. Smith's plan is disapproved, the agency wants her to do something else, and she requests and loses a fair hearing. At that point, she may or may not want to participate in accordance with the agency's plan. If she does not want to participate, and a sanction is imposed, it makes sense to say she can't challenge the appropriateness of the plan in another fair hearing, because she just had a hearing on that issue. But if she does want to participate, she ought to be given that opportunity without penalty now that she understands she must proceed in accordance with the agency's plan.

Subsequent text is not clear as to whether the new conciliation alternative just applies for disputes around the terms of employability plans, or whether it also applies to all aspects of disputes around JOBS participation. Hopefully, part of the culture of the new system is a strong emphasis on resolving disputes relating to participation in ways that maximize participation rather than sanctions. This goal is not furthered if conciliation becomes collapsed into a ten-day notice process.

4. Pre-JOBS

I understand the rationale for shifting from "exemption" to "pre-JOBS", but think it will be confusing and perhaps ridiculed by some because it includes people are never going to be in JOBS. It combines three different groups - those anticipated to participate at a clear point in time, i.e., when a child turns 1; those who may or may not subsequently participate, e.g., people with illnesses or disabilities; and those who will never participate, e.g., those of advanced age. (There also appears to be a fourth category, of those reassigned to pre-JOBS after being in the WORK Program - this group will apparently be both post- and pre-JOBS). Perhaps there's a better term than exempt or deferred, but it doesn't seem like a good idea to describe as "pre-JOBS" people who are likely to never be in the JOBS Program, or who have completed receiving JOBS services long ago.

| agree

Similarly, if someone is clearly unable to work, it may well make sense to take steps to improve the family's health status or housing situation, but it is hard to call that an employability plan. Perhaps those in pre-JOBS should have "personal responsibility plans."

| good
←

I'm unclear (and concerned) about the status of the child care guarantee for pre-JOBS

people. If Ms. Smith has an infant and needs child care to go to school, what are her rights? The text says pre-JOBS people will be permitted to volunteer for JOBS, but does not say whether the state has any duty to accept their application to enter JOBS. If there is no right to be in the program, it seems crucial to retain the current-law child care guarantee for those in pre-JOBS.

What is the status of non-parents for purposes of JOBS/pre-JOBS? The specifications indicate that non-parent caretaker relatives are not subject to the time limits but what about eligibility for/requirements for JOBS participation?

For purposes of the 1 year/12 week distinction for children born on assistance, how will the affected group be defined? Do you mean children born on assistance, or children conceived while on assistance, and will you draw family-cap-type distinctions about rape or other special circumstances? I know that you appreciate how offensive this and the family cap concept will be to many people, and what the impact may be on child care costs, infant care availability, etc. One possible modification here might be to provide that individuals are not required to participate in JOBS until the child turns 1 (though they would have a right to receive services if requested), but no additional clock time is provided (beyond twelve weeks leave) for parents who conceive additional children while on AFDC.

OK

The 10% cap on good cause cases continues to be a troubling concept, because it seems impossible to assert a priori that no more than 10% of a state's caseload "should" have good cause. As a practical matter, a state may or may not have the need to put more than 10% in good cause status. While states would be allowed to apply for an increase based on extraordinary circumstances, we do not know at this point whether states reaching the 10% level will be an ordinary or extraordinary event, and states wishing to avoid fiscal penalties would rarely want to risk exceeding the cap and hoping for approval from the Secretary.

I may not entirely understand the relationship between JOBS, pre-JOBS, and good cause. I assume that an individual in JOBS could have good cause for non-participation, which would prevent a sanction, but which would not affect the time limit clock. Is that correct? If so, then the issue here is how many people can be determined to be in a good cause status that does affect their clock, i.e., an individual could be denied good cause status for purposes of being in pre-JOBS, then be placed in JOBS and immediately be determined to have good cause status.

One basic difficulty with a percentage approach is that states are likely to be incapable of operationalizing it in a non-arbitrary way. I'm not sure whether you envision an annual or average monthly figure, but assume that a state has the ability to track this number and discovers in December that it is averaging 15%. What should the state do? Stop granting new good causes? Revise criteria prospectively or retroactively? Review and reclassify existing cases? There are obvious problems with each alternative.

The problem for an agency worker is that he or she can apply a set of criteria, but cannot

apply a concept like 10%. Should each worker have a goal that no more than 10% of their caseload is in good cause status? Should workers seek to minimize good cause findings, on the premise that other workers might not? Should the worker deny good cause status to Ms. Jones today because it was granted to Ms. Smith yesterday?

I understand the concern that with no cap on good cause cases, some states might be tempted to use "good cause" as an escape valve to avoid serving people or moving them toward their limits. But this is an area where it may be preferable to delay regulating until there is clear evidence of need to do so. In the initial years, it may be sufficient to require state reporting on the number of cases falling into each category, and make use of federal reviews of those states with exceptionally high "good cause" numbers. A high number may be reason for review, but not for assuming the state must be doing something wrong. If you want something stronger, you might impose a mandate that any state whose good cause numbers exceed the national average by some amount (or exceed a nationally specified threshold by some amount) would be required to review and revise its good cause criteria.

6. Definition of the Time Limit

What does it mean to say the time limit would "generally be linked to JOBS participation?" Does this mean months in which an individual is "required to participate" or months in which an individual is actually participating or something else? If you do not anticipate that everyone will begin receiving JOBS services within ninety days of AFDC entry, there needs to be some mechanism to prevent a clock from running during lengthy periods where no services are being provided. If for instance, you adopt a distinction between preliminary and full employability plans, you might develop a rule saying the clock runs from the time of developing a full employability plan.

8. AFDC-UP Families and the Time Limit

In a young AFDC-UP family, one parent may be above and the other below age 18. In that instance, does the rule providing that the clock does not begin running until age 18 apply to the parent under 18?

States selecting options to liberalize their AFDC-UP Programs might no longer need the concept of "principal wage earner" for purposes of AFDC-UP eligibility. A simpler rule might provide that UP family phase-in is determined by the age of the older parent.

10. JOBS Services Available to Participants

What is the justification for requiring all states to mandate up-front job search from all individuals with nonnegligible work experience? Part of the rationale for an education and training system is to provide opportunities for people with work history to get education to get a better next job. Isn't that the basic rationale of "work first", i.e., that education may be more valuable after an individual has prior work experience? Why then preclude states

from making initial individualized determinations based on individual circumstances?

If work supplementation can be used for unfilled vacancies in the private sector, what private sector restrictions will apply? Will they be the same as those applicable to the WORK Program? ?

For alternative work experience programs, it may be appropriate to modify the restriction to provide that the 90 day limitation applies to those which do not pay wages meeting the standards governing wages in the WORK Program.

11. Minimum Work Standard

I appreciate that the minimum work standard issue has been extensively discussed, and I probably don't have any new points to add, but here may be one more. It appears that there is no "pre-JOBS" or "non-JOBS" status for individuals working above or below the minimum work standard. It is not clear (see p. 51) how employed people count for purposes of a state's JOBS participation rate. However, if there is something like a 20 hour rule, one presumably would want to say that employed people working 20 hours count toward the participation rate. If so, one generally would not expect (and perhaps would not want) states to be providing JOBS services to individuals working at a level that already counts toward the participation rate. But if there are likely to be no JOBS services, then shouldn't the time not count against the clock? This would seem to be an argument for an across-the-board definition of 20 hours as an acceptable minimum work standard.

There may be reason to also consider excluding months where the AFDC grant is below some minimal level for purposes of the minimum work standard. For example, suppose in a low-benefit state, an individual with a 15 hour a week job qualifies for a \$30 AFDC grant. If the month counts against the clock, working poor families may feel that the prudent course is to decline AFDC when only qualifying for a minimal grant. This will both make them poorer and add to administrative complexity if they exit and reenter AFDC based on these sorts of considerations. Therefore, it may make sense to build in an hours and/or minimum grant standard. NO

On the \$100 a month exemption from WORK, these families will fall into two categories - those who (as above) are working and qualify for only a small AFDC grant, and those who have other non-AFDC income (e.g., social security survivors benefits) and qualify for a small grant. In both cases they will all (except in the lowest benefit states) be families receiving only a modest part of their income from AFDC. This is generally not the group that raises public concerns about dependency. If it turns out that WORK slots are plentiful or the numbers of families reaching the two-year limit are minimal, one might someday consider extending the WORK Program to them. However, at this stage of planning, it is hard to see how they should be a priority group for WORK slots, or should count against a state's denominator for the WORK Program.

12. JOBS Participation

The status of self-initiated persons is unclear under the specifications. Is 12(b) is a restatement of current law, or is intended to suggest that self-initiated persons would only qualify for child care if in the JOBS Program? The problem with such an approach is that - until now - states have been free to deny individuals entry into the JOBS Program, though states have had a duty to have criteria and procedures for considering child care requests outside of JOBS. If it is intended that all child care approvals occur through the JOBS structure, it presents a serious difficulty unless you also impose a duty on states to permit JOBS participation from all individuals whose self-initiated plans would be approvable if they were JOBS participants.

Curtailement of the child care guarantee would pose a major issue of great concern to child care and low income advocacy groups.

The proposed treatment of the not-phased-in group raises a number of questions: Will there still be a distinction between exempt and non-exempt persons for this group, or is that replaced with JOBS-mandatory and pre-JOBS? What about those who don't fit into either category? When the text speaks of "volunteers", is that intended to refer to individuals coming forward, or just to members of the pre-JOBS group? If a state opts to subject volunteers to the time limit, can an individual who volunteers "un-volunteer" if circumstances change?

In practice, there is a great likelihood that most states would respond to this structure by offering little beyond job search for those not in the phased-in group, which would represent 2/3 of AFDC families. I do not know what assumptions you are building into the JOBS cap determination about the likely level of service to this group; however, in a context of new demands for state resources, states will ultimately focus on what they are required to do. One can envision a number of states seeking to deter volunteers by warnings about the time-limit, and providing only the most minimal services to others.

I assume that the decision to virtually eliminate the JOBS Program for much of the caseload turns on the funding constraints and the need for saturation services for the phased in group. However, in many respects, this will push states to shift from a program of proven effectiveness to a saturation focus with a group for which there is little evidence of positive impacts.

Assuming your funding level is set, you still may wish to consider whether a broader "maintenance of effort" requirement ought to be imposed for the not-phased-in group. For example, if you changed the phase-in year from 1971 to 1972 or 1973, how much additional resources might be freed up to maintain some sort of JOBS participation rate for the not-phased-in group?

Whatever its merits, it seems very unlikely that the approach proposed in the specifications

will survive the legislative process, because it seems to create a duty to serve all volunteers from 2/3 of the caseload, so long as there is any unspent funding in the state's JOBS allotment, and because it creates the theoretical possibility that there would be no requirements whatsoever on 2/3 of the caseload.

13. JOBS Funding

In the drafting, it is important to not create a structure in which the phased-in group continues to expand each year forever, while Congress only authorizes needed funding for a five year period. Otherwise, a structure would result in which requirements on states and individuals would steadily escalate, whether or not Congress ever authorized additional funding. As written, the specifications indicate that the capped entitlement after FY 2000 would be set by adjusting for caseload growth and inflation, but apparently not for increases in the size of the phased-in group.

I'll reserve comment on the proposed match rate structure until more detail is available.

On enhancing the match rate based on unemployment, the principle is attractive. Two questions. First, is it your intent to only apply this to JOBS, WORK, and At-Risk Child Care? What about AFDC Child Care? Second, mechanically, how would it work - would the state's unemployment rate in Year X affect its match for that year (retroactively?) or for the subsequent year?

15. Transition to WORK/WORK

When an individual has completed her other JOBS activities, it makes sense to use the last 90 days for the pre-WORK job search period. However, if an individual is still in the midst of JOBS participation, and is near completing an activity, it will often not make sense to force the individual to terminate or disrupt the activity. Hence, a rule might be that an individual seeking to complete JOBS participation within the 24 months would be allowed to do so, but would still be subject to job search requirements before being eligible for a WORK slot.

NO

16. Extensions

The concept of a 10% cap on extensions presents many of the same problems in the 10% cap on good cause cases. Entering into this process, we have no idea how many people might need an extension - length of current JOBS participation may or may not be a good predictor. However, the issue here becomes one of how states and workers can operationalize the 10% standard. Would it mean, for instance, that individuals might be able to get GED completion approval early in the fiscal year, but not later in the fiscal year? Would it mean that once a state reached or approached its cap, all cases would be denied (except state failure to deliver services) regardless of their merit? Would workers have to be fearful that by granting an extension to Ms. Smith today, it would be more difficult to grant an

extension to someone tomorrow who might theoretically be more worthy?

This structure would also create unreasonably difficult dilemmas for participants. It would mean that individuals would often begin a program with no idea whether they would be allowed to finish it. This would be a particularly hard problem for those considering two-year postsecondary programs, and those who return to AFDC after time away with only a limited number of months left in a clock.

Note that for those beginning 2 year programs, a large number will likely need at least a brief extension. If Ms. Smith enters AFDC in April, and her program begins in September, she will not complete it in 24 months. Should she apply for her extension early, or does she have to wait until her 45 day review? If she has to wait, she is at a disadvantage against those in the same program who entered AFDC in February or March. I assume no one wants the specter of people nearing program completions being forced out to begin WORK participation, but this structure seems to invite it.

It is also puzzling why the extension for two or four year programs is conditioned on simultaneous participation in work-study or part-time work. In some instances, that will be appropriate but not as a uniform and unvarying rules. In the example above, where Ms. Smith needs a two or three month extension to complete a program, is there something gained by saying she must also take on a part-time job for the last few months? At very minimum, requiring work in connection with continuing education should be a state option.

Why do the specifications say that extensions could be granted "For some persons who are learning disabled, illiterate or who face language barriers or other substantial obstacles to employment." Which persons in these groups should not be eligible for an extension if the extension is needed?

As with "good cause" classifications, I suggest that instead of imposing a penalty on states for exceeding 10%, you take a more flexible approach: require states to report on their number of extensions, possibly with coding of the reason for extension. Then, provide that if a state exceeds some level - either some percentage above the national average, or some flat level determined by HHS - the state would be required to either demonstrate the circumstances justifying its extension numbers, or would be required to initiate a corrective action plan to appropriately bring down its extension level. I suspect that the mere knowledge that extension levels will be reported and announced will affect state behavior, and this approach avoids the multiple administrative problems noted above, while allowing for the flexible evolution of the program over time.

Administration of JOBS/WORK

18. Overall Administration

Why require JOBS and WORK to be administered by the same state entity? There are

NO
YES

many reasons a state might choose to do so, but why require it?

WORK

21. Establishment of a WORK Program

WORK is required to be mandated in all areas of the state where feasible to do so by a specified date. What date? If the date is later than two years after initial implementation, then some members of the phased-in group will presumably not have a WORK Program. What is the relationship between existence of the WORK Program and the time limit? Will there be areas with JOBS but no WORK, or is it anticipated that individuals in areas without a WORK Program are also without a JOBS Program, and are therefore in pre-JOBS status?

22. WORK Funding

It is still unclear how much a state's WORK funding will be, or how it will be calculated. The formula will allocate funding based on the total number required to participate in JOBS and the average number in the WORK Program. However, in initial years, when there isn't yet a WORK Program, will the allocation be based on the number required to participate in JOBS? Two states with similar "required to participate" numbers could have very different numbers reaching the two year limit.

24. Limits on Subsidies to Employers

There do not seem to be many limits on subsidies to employers. For example, it appears that a 100% wage subsidy would be permitted, and it appears an employer would be free to turn over the same position repeatedly, always filling it with a 100% subsidized person, and ceasing to retain people as soon as the subsidy elapsed.

One issue is the need to prevent fraud and abuse; another is the need to ensure that the WORK Program doesn't undercut the JOBS Program. If the WORK Program is offering free workers with no strings attached, it may make it more difficult to place JOBS participants in unsubsidized slots, or even in partially subsidized work supplementation/OJT slots. To prevent this scenario, there is a need to ensure that the terms under which workers are offered in the WORK Program are not substantially different from the terms of offering workers in JOBS.

30. WORK Eligibility Criteria and Application Process

Why is an application for WORK required? if needed information must be attained, shouldn't it be attained during the transition period? If there must be a separate application, there should be a provision explicitly stating that it must be possible to make application before the close of the two-year limit.

Is it envisioned that there will be a complete freeze in assistance level for each six month period in the WORK Program, or just continuing WORK slot eligibility for the six month period? From the standpoint of assuring employers of some stability in a placement, the idea of six month assured eligibility is a good idea, but there still needs to be an ability to address substantial changes in circumstances for purposes of any supplemental AFDC grant. Subsequent text (p.33) indicates that there would be no adjustment due to changes in earned income or non-permanent changes in unearned income. However, can a WORK Program employer change the hours of an assignment during the six month period? If so, there needs to be the ability to adjust the earnings supplement. And, what about changes in circumstances other than income, e.g., a child enters or leaves the home?

After it has been determined that an individual is no longer WORK-eligible, it still may make sense to allow a 30 day period before the WORK subsidy terminates. Otherwise, employers will be told with little or no notice that a worker's subsidy has ended.

33. Earnings Supplement, 34. Treatment of WORK Wages

I assume this has been extensively discussed, but continue to believe that those in the WORK Program who are working like any other worker should be entitled to the same treatment of earnings as any other worker, i.e., qualification for the same earnings disregards and the EIC. This is both an issue of equity and a concern that the WORK Program should play at least some role in reducing the poverty of those who work.

As I've previously suggested, the need to ensure that WORK slots are not perceived as permanent can be addressed by ensuring that they have a fixed length, after which individuals must be engaged in substantial job search prior to another slot. There will also be a natural incentive inherent in the fact that these are generally likely to be slots with no potential for advancement. Moreover, if your goal is to have a non-trivial number of private sector slots, there is an inherent contradiction between trying to convince employers to take on a slot by emphasizing the program's and participant's virtues, while simultaneously telling the participants that their goal should be to leave the slot at the first possible opportunity. Many employers are not likely to want to engage in the paperwork and the commitment of taking on a worker who may be gone the next day.

If a distinction is to be drawn between WORK workers, and others, what is it? States may, for instance, be making extensive usage of placement efforts to attain private sector jobs for individuals. Will the distinction be whether the wage is fully subsidized by the WORK Program? Contains at least \$1 of subsidy by the WORK Program? If a state is operating a work supplementation or OJT program, will the rule be that wage subsidies before Month 24 qualify for the disregards and EIC, and subsidies after Month 24 do not? If a job developer is reaching out to area employers, on behalf of participants who fall in both categories (before and after two years) will it be necessary to explain to employers that one set of rules govern the pre-two year, and another set govern the post-two year people.

In short, besides its troubling effects on equity and poverty, drawing the proposed distinctions will also complicate program administration in disturbing ways.

35. Supportive Services/Worker Support

It appears that child care and support services for education for WORK participants will be a state option. Again, this appears to be a cutting back on the scope of the child care guarantee. If a proposed activity meets state criteria for approval, the child care guarantee should attach.

37. Sanctions/Penalties

JOBS Sanctions: The specifications say in effect that states would be able to choose between following standards established by the Secretary, or not following standards established by the Secretary. Given this choice, there is little doubt what many states will choose. In practice, this provision is the equivalent of giving states the option to replace a ten day notice for a conciliation process.

Further, as worded, the specifications describe a state option where an individual in apparent violation of program rules would be given ten days notice; upon contact from the recipient, the state would attempt to resolve the issue and would have the option to not impose the sanction. Two scenarios are possible here for individuals responding to the notice: the individual might contact the agency and assert good cause, or might acknowledge lack of good cause but express interest in assuming or resuming participation. Presumably, if the individual demonstrates good cause, the state would not have the option to impose a sanction (though the specifications do not say so). However, what if the individual alleges good cause, and the facts are disputed? Or, what if the individual asserts her present willingness to comply? Under this option, does a state have any responsibilities beyond sending a notice?

Under current law, conciliation is supposed to provide an opportunity to resolve a dispute without a sanction. This is an important principle that should not be lost. States sometimes assert that the conciliation process is complex, but nothing in federal law makes it complex. Indeed, there are no standards in current law for what must be contained in conciliation. It is hard to imagine more flexibility than that, but if there is a need for "more flexibility", then it should be in a context which at minimum provides that after notice a) an individual who asserts good cause is given some opportunity to demonstrate good cause before a sanction is imposed; and b) an individual asserting a desire to participate is allowed a reasonable opportunity to participate and avoid a sanction.

The increased penalty for refusing a job offer without good cause is both unjustified and potentially counter-productive. It is unjustified because (to my knowledge) there is no evidence at all that states have had a problem with individuals refusing to accept available jobs -- there has been no showing that current law penalties are inadequate. The increased

penalty also may be counter-productive because of its severity. Whenever a penalty is extremely severe, there may be decreased willingness of workers to apply it. Workers may be quite hesitant to apply one of this magnitude.

Ineligibility for a WORK assignment: In (f), not all of the listed offenses necessarily involve misconduct. For example, dismissal from a WORK assignment without good cause may or may not involve misconduct -- an individual unable to meet performance standards may be dismissed for cause without having engaged in misconduct.

The WORK penalties are far more severe than current law, and substantially more severe than those recommended by APWA. Again, I am aware of no evidence that penalties of this magnitude are needed to raise compliance levels, or that any possible increase in compliance level would justify the greatly increased risk of harm to families. The discussion of sanctions is always impaired by the failure of the federal government to collect any reliable information on this topic. However, the current state of random assignment research presents no reason to believe that higher sanction rates or higher sanction penalties will improve program performance. Accordingly, the proposed approach seems to reflect a willingness to impose greater penalties with consequent adverse effects on children simply to look tough.

Performance Measures Proposal

2. Developing an Outcome-Based Performance Measurement System

It is not yet clear whether the percentage of the caseload who reaches the 2 year time limit will be a useful measure of between-state differences. Apart from differences in caseload characteristics and state and local economies, it is also possible that states paying higher benefits or states with greater commitments to access to education may have higher percentages reaching the two year limit. While measurement may generate information of interest, it is premature to know whether this will or can be a useful measure of performance.

4. Service Delivery Standards

A consistent problem in JOBS is that data reporting requirements have been imposed with little or no advance lead time. If you expect states to begin reporting within 6 months of the effective date of the JOBS/WORK provisions, it is necessary to provide reasonable prior notice to states about what data must be collected and in what form.

As previously suggested, I think it is a mistake to have no performance standards governing the non-phased-in group, which for a period of time will still be most AFDC cases.

Throughout this section, penalties are imposed on states in the form of reduced FFP for AFDC benefits. I strongly disagree with this approach. As you appreciate, the state trend

in recent years has involved a steady loss in the real value of AFDC benefits, with a number of states actually cutting benefits, and with HHS refusing to enforce the statutory May 1988 maintenance of effort provision. There is no reason to believe that the climate in terms of support for AFDC benefits will be improving in the foreseeable future. Under these circumstances, imposing penalties that will be felt in the AFDC benefits account simply exacerbates the problem, and increases the likelihood that some states will cut or fail to increase benefits.

good pt.

Where you conclude that a fiscal penalty on states is needed, I urge you to identify sources other than the AFDC account. This is also an area where it is not clear that large fiscal penalties are needed - states react to the symbolism of fiscal sanctions, and a small penalty with a great deal of publicity about the state's failure to meet federal standards could have a substantial behavioral impact.

Rate of Coverage: While the concept of a coverage rate is clear, the details of how it would be implemented are not. In particular, the implementation issues when applied to a research sample in a random assignment study may be quite different than the issues that arise in applying the idea to an ongoing AFDC caseload. For example, would the coverage rate be based on the entire population, or just a sample? If a sample, would the state draw a new sample each month, and track that sample for a six month period? Would the definition of "participated" be the same as for the monthly participation rate? Is the requirement just that one of the four results - participated, was employed, left AFDC, or was sanctioned - have happened at some point in six months, or will there be some intensity or frequency measurement? In light of the complexity of the rate of coverage measurement, is it clear that adding a rate of coverage standard accomplishes much beyond what one measures from the JOBS and WORK participation rates?

If a coverage rate is to be used, the role of "sanctioned" needs to be reconsidered. As currently formulated, sanctioning a person counts for as much as generating participation or a job placement. Moreover, in any case of non-participation, imposing a sanction helps the state meet its coverage rate, while finding "good cause" hurts the state's effort. Under current JOBS rules, both sanctioned persons and "good cause" persons are removed from the denominator when calculating a participation rate. I suggest that either both be removed, or both be counted in the numerator - in any case, the critical point is that they be treated the same way, and that there not be a federal incentive to impose sanctions whenever an individual has a difficulty in participating.

agreed

Monthly JOBS Participation Rate: You may not want to fully detail the participation rate calculation in the statute - some issues may be better addressed in regulations over time. For example, current regulations count individuals who enter employment in the month of and after employment entry -- if employment results in loss of AFDC, should the subsequent month or months be counted? Do you want to exclude sanctions/good causes from the denominator, as under current law? Should pre-JOBS volunteers receiving services be counted in the numerator and/or denominator?

→ Amer. Works ISSUE

WORK Program Participation Rates: In Case 1, it is not clear whether individuals in unsubsidized employment count in the numerator and denominator. I recommend that they be included in both; otherwise, states would risk a situation where success in placing people in unsubsidized jobs could result in having a harder time meeting the participation rate. As suggested above, I also recommend that those in the sanctioning process and those with good cause be treated consistently -- either they should both be included in the denominator or excluded from the denominator, but should not be in the numerator.

* Agree

It is hard to know what Case 2 would involve without knowing the size of the WORK allocation or the estimated cost per WORK slot.

For both Case 1 and Case 2, one question concerns whether an individual placed in unsubsidized employment through the operation of a WORK contractor counts as a WORK slot. I would recommend that such an individual should count. The participation calculation should be structured to ensure that a state is not disadvantaged when an individual enters or the state places an individual in an unsubsidized job.

* Agree

Cap on pre-JOBS and JOBS extensions: I've already expressed my disagreement with the 10% cap concept. Here, it is worth noting that this structure makes going over the pre-JOBS or JOBS extension cap an act penalized more severely than failing to meet coverage, JOBS participation, or WORK participation rates. It would also punish the state more severely than for perhaps any other aspect of operation of JOBS and WORK. It is hard to see why finding good cause in appropriate cases or allowing individuals to complete education programs should be thought of as among the worst things a state could do.

Technical Assistance, Research, and Evaluation

I will reserve commenting on the specific demonstration proposals at this time, but think the notion of a set-aside for technical assistance and research is a good and much-needed idea.

Conclusion

I hope these comments are helpful. Please let me know if I can follow up in any way.

U.S. DEPARTMENT OF LABOR

DEPUTY SECRETARY OF LABOR

WASHINGTON, D.C.

20210

MAY 27 1994

Dr. Mary Jo Bane
Assistant Secretary
Administration of Children and
Families
ACF-Aerospace Building
Suite 600
370 L'Enfant Promenade
Washington, D.C. 20447

Dear Mary Jo:

I understand that there is still an opportunity for DOL to make some comments on the Child Care Specs of the Welfare Reform Proposal. While we remain concerned about the adequacy of the overall budget for child care, we appreciate what you have accomplished with limited resources to make quality child care available to AFDC families during and after transition. There are a few areas in which we would like to see some additional language in the specs.

1. STATE MATCH: We would like to see a different formula for the state match for the AT RISK (working poor) child care than that being used for the IV-A and TCC child care. If the same formula is used there will be little incentive for states to spend money on working poor child care and some of the precious dollars allocated for the working poor may not be used because states will claim they can not afford the match required by the other programs.
2. TRAINING: Under 5(a) of the specs, we would like to see some specific language about the kinds of training for child care providers that will be set up under welfare reform. In addressing supply issues, we need to specify how the training infrastructure will be developed. We recommend that there be dedicated funds to states to set up child care training programs run by joint councils involving JOBS, JTPA, BAT and others. An apprenticeship model combining classroom learning, on the job training and mentoring by experienced providers would be an important step in building new opportunities for early childhood workers.

★
good

As you are well aware, the 10% quality set aside in the AT RISK Program has diminished significantly because of the overall cuts in the child care budget. We believe that specific language and dedicated funds for training will increase the chance that supply issues can be adequately met under welfare reform.

3. CONTINUITY OF CARE and PART-TIME WORK: Under 3(a) of the specs there are no provisions for the movement of adults between full-time and part-time training and employment opportunities. Children frequently suffer disruptions in care because full-time options are not available to their parents. This section of the specs would be strengthened with language to protect pre-school children in family day care and center based settings from having their relationships with providers cut short unnecessarily.

Finally, one question we are unclear on: Will child care be guaranteed to women in JOBS and in the WORK program who are not in the mandated group (i.e. who are 26 years and older)?

Thank you very much for considering our comments and questions.

Sincerely,



Thomas P. Glynn

cc: David Ellwood, Assistant Secretary for Evaluation and Planning, HHS

Wendell Primus, Deputy Assistant Secretary for Evaluation and Planning, HHS

**Memorandum**

Date . MAY 27 1994

From Bruce C. Vladek
Administrator *[Signature]*

Subject Welfare Reform Legislation -- Child Support Enforcement

To Wendell Primus, ASPE

We have reviewed your draft legislative amendments on child support enforcement and found a number of issues to be controversial. I believe a meeting between our staffs is necessary to address the following concerns:

- o The bill appears to require State Medicaid agency procedures to be "to the satisfaction" of the State Child Support Enforcement (title IV-D) agency. The goal of this provision appears to be to improve the Medicaid agency's role in enforcing medical support from absent parents.

We believe that State Medicaid directors will find this provision as drafted problematic in that it gives control over a part of the Medicaid program to another part of the State government. We suggest the provision's language be changed to require that Medicaid medical support procedures be constructed in consultation with the title IV-D agency.

- o As written, the bill appears to require parents to furnish IV-D information to the State IV-D agency as a condition of Medicaid eligibility. Under such a provision, pregnant women could be denied Medicaid coverage for failure to cooperate in identification of the father of a child who is receiving Medicaid. The principal effect of such denial would be a mainly negative one on birth outcomes to low-income women. This would be contrary to this Administration's priorities. ?

We note that under a provision in current law, enacted in OBRA 1986, pregnant women with incomes below poverty are exempted from the usual requirement to cooperate in establishing the paternity of their children. Congress included this exemption in response to concerns that pregnant women would avoid seeking timely medical assistance if confronted with a demand that they identify the fathers of their children. Thus, Medicaid is protected when a pregnant woman is denied AFDC benefits due to failure to cooperate. Eliminating this exemption would cause more harm to children than to their mothers.

- o The bill removes the title XIX-specific exception that now allows mothers to keep Medicaid when they have "good cause" not to comply with the general requirement that they assist in identifying the father. Under the bill, title XIX would look to title IV-D, which would have a tighter good cause exception. This tightening of the exemptive language is likely to raise concerns that the health of mothers and children will be compromised merely to increase child support collections.
- o The bill would require States to have laws requiring hospitals, as a condition of participation in Medicaid, to implement paternal identification procedures. This represents an imposition on hospitals which has nothing to do with the provision of medical care. Whenever possible, HCFA prefers to avoid imposing such requirements.
- o We note the bill would create a national data matching service. Proposing such a system could exacerbate concerns over privacy and "big government" data systems that we are attempting to put to rest in connection with the Health Security Act. The data system, which is dependent on use of the Social Security number for all participants, creates new reporting burdens for employers and hospitals in a manner which appears to run contrary to the promises made within HSA regarding administrative simplification.

Please contact Tom Gustafson (690-5960) to arrange for a follow-up discussion on these issues.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary
for Health
Washington DC 20201

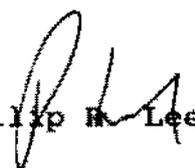
MAY 27 1994

TO: Wendell Primus
FROM: Assistant Secretary for Health
SUBJECT: Welfare Reform - Legislative Specifications

As requested, we have reviewed the document on the legislative specifications for preventing teen pregnancy, making work pay, and improving government assistance. Several issues arise as concerns:

- o The grants program for teen pregnancy prevention are duplicative of the Health Security Act's school-based health services and comprehensive health education initiative. Rather than create a grant program that categorically focuses on teen pregnancy, the grant program should complement Title III provisions.
- o In several locations (e.g., p.10, p.12) there are different age definitions for minors who are parents. In some cases this document refers to those under age 19, under age 20, and age 21 or less. The inconsistencies in defining who is not an "adult" are problematic.
- o On page 22, the document refers to excluding parents and siblings for the purposes of calculating AFDC payments to families (who are referred to as "units" or "filing units"). The symbolism of government splitting up families or recognizing some family members but not others runs counter to the notion of strengthening families.

Please contact Drs. Robert Valdez (690-1281) or Jo Boufford (690-7694) to arrange follow-up discussions with my staff on these issues.


Philip H. Lee, M.D.

cc: R. Valdez
J. Boufford
W. Corr
J. Elders

5/28 Wendell - I hope we can get together to discuss this stuff. We need a coordinated effort relative to teen pregnancy prevention & school based serv.



EXECUTIVE OFFICE OF THE PRESIDENT
 COUNCIL OF ECONOMIC ADVISERS
 WASHINGTON, D.C. 20500

*cc: Wendell
 + return
 to David*

MEMBER

May 31, 1994

MEMORANDUM FOR MARY JO BANE
 DAVID ELLWOOD
 BRUCE REED

FROM: JOE STIGLITZ *[Signature]*

SUBJECT: WELFARE REFORM PROPOSAL

The draft legislative specifications show that tremendous strides have been made toward meeting the President's goals for reforming welfare. However, to meet more fully the goals of: (1) Making Work Pay; (2) Time-limiting Welfare; and (3) Ending Welfare as We Know It, I offer several suggestions. These suggestions reflect my concern with both the substance of the proposal and also with the politics of how it will be perceived (and how perceptions may be exploited by opponents). I believe that these suggestions would strengthen the overall proposal, increase the probability that its significant features would be enacted into law, improve the likelihood that the program will be perceived as working, and therefore make it more likely that the plan will survive into the future, if they were adopted.

These suggestions are grouped into three categories that reflect the goal most associated with the suggestion (though there is some overlap). If you have any questions about these suggestions, please call me at 395-5036.

Making Work Pay

Supplements and Work Requirements in the WORK Program -- The proposal would allow states to supplement wages paid to people in the WORK program as long as participants are working at least 20 hours a week. Only by working full time can most single mothers hope to raise their families out of poverty. In order to ensure that there are adequate incentives for full-time work, AFDC recipients should be required to work a sufficient number of hours to earn their entire AFDC check. States with higher benefits would have to require a greater number of hours worked. (For States with benefit levels above the earnings from forty hours of work at the minimum wage, the State could be permitted to pay more than the minimum wage to those in the WORK program.) It has been argued that this will lead to inequitable treatment of participants in different states since some will have to work more to get their benefits. In fact, the inequality is already present in the system which allows states to pay different

benefits. We can not do anything about the inequality, but we can make sure that that inequality does not undermine our efforts to make work pay.

Advance Payment of the EITC -- The proposal allows States to provide advance payments of up to 75 percent of the EITC the taxpayer will be able to claim. It would be more desirable to conform the treatment of this provision to the current law requirements that apply to all employers (i.e., limit advance payments to 60 percent of the maximum EITC available to one-child families). Congress enacted this rule in 1993 as a reasonable compromise between providing a work incentive and promoting compliance. Nothing has changed to upset this compromise. Moreover, a single rule for all advance payment providers would allow us to determine if there are differences in compliance for taxpayers using different advance payment mechanisms. In addition, conforming the rules for payment between all types of advance payment providers would reduce fluctuations that may occur when workers move between States or change employers. Finally, if we begin to make changes to EITC rules, we invite others to start making changes which is something we probably do not want to do.

Time-Limiting Welfare

Part-Time Work -- Since full-time work is the only way that most single mothers can raise their families out of poverty full-time work should be encouraged. Thus part-time work should only slow -- rather than stop -- the two-year time clock for people in the JOBS program with children over 5 (or over 1 if child care is available). One approach (that would be easy to administer) would proportionately slow the time-limit clock for every hour worked during a reporting period (e.g., on a monthly basis). For instance, the speed at which a person's time-limit clock would run could slow by 3 percent for every hour per week worked up to a maximum of 100% (i.e. 34 hours of work or more is considered full-time). Thus, someone working 20 hours a week would be able to collect AFDC benefits for up to 5 years before they would have to enter the WORK program. This suggestion effectively places a time limit on the JOBS phase of the welfare reform proposal for those who work part-time.

Mental Illness and Assignment to Pre-JOBS -- The determination of the effects of a person's mental state on their ability to work can be highly subjective, as demonstrated by California's experience with covering work-stress related illness under its workers compensation laws. By shopping around, individuals often can find some mental health professional to certify them as unable to work. Under the welfare reform proposal, the two-year time limit does not apply to those in pre-JOBS, providing an incentive for people to be classified as pre-JOBS candidates. The proposal already allows those who are applying for Social

Security Disability (SSDI) payments to be assigned to pre-JOBS. Since SSDI covers mental conditions, this provision should be adequate. If not, each AFDC office should be required to specify a small number of psychologists to evaluate the mental health status of people attempting to be placed in pre-JOBS due to mental illness. This suggestion would avoid the potential problem of participants shopping around for a sympathetic mental health professional in order to be designated as eligible for the pre-JOBS program.

Disclosure of Reasons for Pre-JOBS Assignment -- It is not possible to tell from the legislative specifications what information would be publicly available on the number of people classified as pre-JOBS for different reasons. Subject to privacy considerations, it would be best if the count of people assigned to pre-JOBS for each reason was made publicly available for each state and county. This would serve as a check on abuse of the program to avoid the application of real time limits.

Substance Abuse and Time Limits -- In the absence of incentive effects we might prefer a welfare system where people with substance abuse problems were given as much time as necessary to recover. However, it sends the wrong signal and provides extremely perverse incentives to stop the time-limit clock for people with substance abuse problems by placing them in pre-JOBS. Since pre-JOBS will likely be perceived as preferable to entering JOBS and then WORK, we cannot allow people to choose pre-JOBS by making inherently unverifiable claims to having a substance abuse problem. The time clock must continue to run for people who are receiving treatment for their substance abuse problems.

Permanent Access to WORK Slots -- Except for those who have significant problems that will qualify them for pre-JOBS and those who live in economically depressed areas, anyone can find a job in 4 years. There is near complete consensus among economists on this point. Therefore, the WORK program should be time limited too. The DPC proposal (copy attached) for assessing those completing two years of WORK and removing those who have not made a good faith effort to find a job should be added to the legislative specifications.

Ending Welfare as We Know It

Outcome Standards -- Outside observers will evaluate the effectiveness of our welfare reform on the basis of outcomes such as cost saving, job placements, and case load reduction. To ensure that we get the desired outcomes, outcome standards must have teeth. The draft specifications require the Secretary to establish outcome standards, but do not specify that monetary penalties should be assessed for failure to meet the standards. A requirement that such penalties be specified (and perhaps monetary rewards for significantly exceeding the outcome

x
①

Yes

standards) should be part of the legislation.

State Incentives -- In general I am concerned about the extent of incentives for state performance in the welfare reform. Many states have not been effective in implementing past programs such as JOBS and child support enforcement. Stronger incentives might make a difference in this reform. For example, it is our understanding that the net cost to the median state of creating jobs in the WORK program could be larger than the sanction for not creating those jobs. I am also concerned with the lack of adequate incentives in the child support enforcement regulations.

Up-front Job Search -- Intensive job search assistance has proven to be cost-effective in getting people to work in a shorter time period. The current legislative specifications call for states to require job search, but do not specify that intensive job search assistance be provided. States should be required to provide a substantial amount of standardized job search assistance to those who are required to take part in job search activities, and job search should be required of all new AFDC recipients as soon as possible. Of course, there would be administrative difficulties in requiring states to immediately provide job search assistance for all new AFDC recipients. However, the proposed phase-in for getting new AFDC recipients into a job search program is too slow. The phase-in of mandatory job search should be accelerated by moving back the age at which people would be required to participate in up-front job search by two years for every calendar year that passes. Thus, in the first year of the reform program, all recipients born after 1972 would be required to participate in job search activities. In the second year, all recipients born after 1970 would be required to participate in these activities, and so on.

Establish WORK in a Separate Agency -- It is important to support a large scale demonstration of the effects of administering the WORK program separately from the State AFDC office. This separation might help change the culture of the WORK program and orient it more toward re-employment. Accordingly the welfare reform proposal should encourage at least two states to attempt to establish a separate office to administer the WORK program.

Technical Assistance, Evaluation and Demonstrations -- The proposal sets aside 2 percent of JOBS and WORK funds for technical assistance, evaluation, and demonstration programs. Evaluation of the effectiveness of different aspects of the program will be crucial to refining existing programs and future reform efforts. Accordingly, 1 percent of JOBS and WORK funds should be set aside for evaluation (including the evaluation of demonstration programs) and 1 percent should be set aside for technical assistance, demonstration programs, and special administrative costs. Since total expenditures start off relatively small, and evaluation and technical assistance might

be more valuable in the early stages of the reform program, it might be desirable to have a larger initial set-aside (perhaps 2 percent each), with the percentage declining over time as total expenditures increase.

Conforming Rules in Transfer Programs -- The proposals for conforming various transfer programs are minimal. It would be more desirable policy to attempt a more complete integration of the programs in order to rationalize program eligibility and benefits and to simplify administration. Also, almost all the conforming changes contained in the proposal adopt the more generous of the Food Stamps and the AFDC rules for use in both programs. Greater efforts should be made toward more complete integration. Failing that, if the rule adopted were not always the looser rule, the overall reform proposal might be made less expensive.

Individual Development Accounts (IDAs) -- There is little justification for tax-favored IDA. For example, in 1994, a family of 3 (a head of household plus 2 children) has a tax threshold (faces a zero marginal rate) with wage income of nearly \$13,000, with a higher figure for a two-parent household. (This does not include the effects of the earned income tax credit.) It is hard to conceive of a case where a person will receive welfare and also have wage income that will cause a positive income tax liability. Therefore, the tax advantage of an IDA would be meaningless to almost all welfare recipients but would add complexity to the Tax Code for tens of millions of taxpayers. Moreover, a tax-advantaged IDA would provide a situation where individuals on welfare are treated more favorably than the working poor (which goes against the goal of Making Work Pay). Finally, one lesson we should have learned from last year's budget bill involved the proposed tax-favored empowerment savings account. In the tax writing committees, this was one of the first items to be dropped from serious consideration, because the staffs saw little advantage from the tax-favored status of these accounts. It is probable the proposed IDA will suffer the same fate as long as it retains its tax-favored nature. Accordingly, the tax-favored component of the IDA should be dropped, while retaining the basic elements of the account as a means of asset accumulation for welfare recipients.

Quality Control and Compliance -- The proposal should make clear that the rules for verification of eligibility and payment will not negatively affect current compliance rates. Otherwise, the reform proposal will be subject to the criticism of reducing compliance compared to current law. In addition, I believe it important that current levels of quality control on welfare programs not be weakened.

INDIVIDUAL WORK ASSESSMENTS

At the end of two WORK assignments, people still in the program would be assessed on an individual basis to determine whether they can remain in WORK. Those determined to be unable to work or need additional training would be reassigned to Pre-JOBS or JOBS. Those determined to be playing by the rules and unable to find work in the private sector either because there were no jobs available to match their skills or because they are incapable of working outside a sheltered environment would be allowed to remain in the WORK program. At state option, those who have been on the WORK program at least 2 (3?) years, who the state determines to be employable and living in areas where there are jobs available to match their skills, and who the state determines to have failed to make a good faith effort to obtain available unsubsidized work can be removed from the program.

The Departments of HHS and Labor will develop broad guidelines for the third category, which will take into account factors including, but not limited to, an individual's work history, local labor market conditions, and assurance of an individual employability determination that takes into account types of jobs available in the area and the success rate of other WORK participants in securing non-subsidized employment. States that wish to make use of this option would have to develop a plan consistent with those guidelines, and submit it as a state plan amendment subject to Secretarial approval.

The state's plan must also provide:

- * A process to ensure that recipients receive appropriate notice and an opportunity to challenge a decision to find them ineligible.
- * A semi-annual report on the status of families who are no longer eligible for the WORK program.
- * Continued eligibility for persons no longer eligible for WORK for other support services within existing program eligibility requirements.

The Departments of HHS and Labor will undertake a comprehensive national study, beginning at the end of the first year in which the WORK program has been implemented, to measure the WORK program's success in moving people into unsubsidized jobs, and evaluate the skill levels and backgrounds of people who remain. The federal government will use this information to refine program guidelines if necessary.

MAY 30, 1994

MEMORANDUM TO WENDELL PRIMUS

FROM: BRUCE REED

SUBJECT: COMMENTS ON LATEST WELFARE REFORM SPECS

COMMENTS ON JOBS/TIME LIMITS/WORK

1. Effective Date/Phase In

2. Program Intake

3. Employability Plan

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

4. Pre-JOBS

p. 5, 4(f) and p. 19, 16(e): These numbers appear to be creeping upward. What is the total percentage of people expected to be in deferral or extension?

p. 7, 4(k): Isn't it a state option whether volunteers meeting pre-JOBS criteria are submit to time limit?

5. Substance Abuse

We may need to revisit these issues in light of time limits on DA&A.

6. Definition of the Time Limit

Vision, p. 9: Drop the sentence, "The two-year limit would be renewable to a degree ..." and replace it with, "Individuals who have left welfare for extended periods of time will be eligible for a few months of assistance as a cushion." The time limit is **not** renewable.

Specs, p. 9: Does 6 (b) add anything to the definition of 6 (a)?
If not, it should be dropped.

Strongly disagree with comments from DoEd about when to start the clock. The clock must run from authorization -- not from completion of the employability plan.

7. Applicability of the Time Limit

8. AFDC-UP

We still do not fully understand these rules, and worry about unintended consequences. Is this section about states that have exercised the two-parent option, or not? Do the existing time limits in UP take precedence over these time limits? How do the job offer and other sanctions affect eligibility for two-parent families? The part-time work rules?

9. Teen Parents

Specs, p. 11, 9(c): We still maintain that there should be no exemption for anyone under 20 based on age of child (beyond 12 weeks). Just because a teen finished high school doesn't mean she should spend a year at home. We have required teen case management for all custodial parents under 20, but this loophole gives them nothing to manage.

10. JOBS Services

Specs, p. 12: Agree with OMB that job-ready should include previous work experience **or** high school diploma. Even Patsy Mink's bill uses this definition.

p. 12, 10 (g): Add "microenterprise training and activities" as well as self-employment programs to the list of optional activities.

11. Minimum Work Standard

12. JOBS Participation

Specs, p. 14, 12(a): If the AFDC-UP participation standards are eliminated, what takes their place for the two-parent caseload?

p. 15, 12(e): broaden the definition of satisfactory participation to include any microenterprise program -- not just SBA funded. HHS, Labor, Agriculture all have microenterprise programs.

p. 15, 12(g)(ii): This point is still confusing. It needs to make clear that states can impose the time limit on a broader class of AFDC recipients participating in JOBS, if the state has chosen to include that broader class as part of its phased-in group.

13. JOBS Funding

14. Semiannual Assessment

15. Transition to WORK

Specs, p. 18: We had discussed that the regulatory specs ((e) through (h)) were too detailed and did not need to be here.

16. Extensions

Same concern as in 4(f) above.

17. Qualifying for Additional Months of Eligibility

Specs, p. 20, 17(a-b): These provisions should state that an individual returning to the program could be expected to perform job search from the date of reapplication.

18. Administration of JOBS/WORK

19. Specific Responsibilities of the IV-A Agency

20. Other Areas of Responsibility

21. Establishment of a WORK program

22. WORK Funding

Specs, p. 25: There should be one pot of WORK money, not two. The division into two pots is, on the one hand, artificial since subsidies can be disguised as

other things, and, on the other, an unnecessary constraint on state flexibility in running the WORK program.

23. Flexibility

Agree with OMB that some provision may be necessary to ensure that states employ WORK participants as child care workers.

24. Limits on Subsidies to Private Sector Employers

25. Coordination

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

(1) Why has control of designation of board shifted from local to state government. Mayor Emanuel Cleaver told us Friday that the Conference of Mayors would not accept that.

(2) Why allow state to make local area larger than JTPA SDA? This would allow state to make it a state board. How about state can make area smaller, but not larger?

(3) Board should have some formal power or role. "Guidance," "work in conjunction with." If we really want this to have local input, there should be some local power - "Local plan should be developed jointly by board and agency," or "Board shall develop plan, subject to agency approval," or vice-versa.

26. Retention Requirements

27. - 29. Nondisplacement, Grievance, Concurrence

Specs, p. 28: We are concerned about 27(a)(4)(b), 27(a)(5), and 27(b).

27(a)(4)(b) is now written in a way that it is almost impossible to understand its impact; we would like to discuss it further.

27(a)(5) and 27(b) were not in the original nondisplacement language. Where did they come from, what is their impact, and why do we need them?

30. WORK Eligibility Criteria

The performance standards for the WORK program should count not only subsidized positions, but unsubsidized slots found through agents under contract to

place WORK participants. The current definition might not count placement contracts.

Specs, p. 31, 30(f) and p. 33, 33(b): Wasn't our agreement about semiannual redetermination that we wouldn't recalculate every month, but that if someone's circumstances changed they would be required to report it and their supplement would be adjusted? As currently written, someone who took a private sector job a week before their job search runs out would get no benefits, while a person who took the same job a week after starting a WORK assignment would get all WORK wages and WORK supplement for 6 months, in addition to the private sector wages and the EITC. This would lead to some strange behavior, and it will drive up the cost estimates.

31. Allocation of WORK Assignments/Interim Activities

32. Hours of Work

33. Earnings Supplementation

Specs, p. 33, 33(c): The specs should clarify that consistent with the provision in 32(a), the average earnings supplement cannot exceed 25% of total benefits, even if a state chooses to apply earnings disregards to WORK wages.

In general, we are concerned that the WORK program is looking increasingly attractive compared to unsubsidized work. We need to see a variety of examples comparing the relative attractiveness of WORK in states that apply their earnings disregards policies to the WORK program, pass through more child support, and so on.

34. Treatment of WORK wages

35. Supportive Services

36. Wages and Working Conditions

37. Sanctions

Specs, p. 36-38, 37(c), 37(g)(i), and 37(j)(i): The rules on refusing a job offer should be changed to incorporate the part-time work standard -- i.e., sanction for refusing any job offer of 20 hours, or an offer of fewer hours if that offer of fewer hours would make the person better off. The Specs need to add a rule requiring people to take more hours if available, and prohibiting people from increasing their benefits by cutting back hours.

Specs, p. 37, 37(f): Drop the word "willful" in "willful misconduct." Including "willful" in the statute will only make it more difficult to sanction. Defining misconduct should suffice.

Agree with OMB that the sanctions need to be cumulative over a lifetime. If we're keeping a lifetime clock, we can keep track of this.

38. Job Search

39. Time Limit on the WORK Program

Specs, p. 37-40: This section needs to be rewritten to incorporate the state option at the time of assessment to make people ineligible for WORK for failing to make a good faith effort to find available unsubsidized work.

Specs, p. 40: Drop the sentence, "Such penalties could only be imposed in the event of misconduct related to the WORK program." It is not clear what kind of penalty this sentence is meant to preclude.

40. Noncustodial Parents

Vision, p. 41: The paragraph beginning "Other parents have inadequate skills ..." must be dropped. We shouldn't be making excuses for people who father children and fail to support them. It's not society's fault; it's not the economy's fault; it's not their upbringing's fault; it's not the absence of programs to meet their needs' fault; it's their fault, and they should take responsibility for it. For the same reason, the sentence "Finally, some non-custodial parents have difficulty understanding their rights and responsibilities as parents because they had missing or inadequate role models when they were children" should be dropped. This excuse-making is insulting to the thousands of fathers who grew up in similar circumstances and do live up to their responsibilities.

These paragraphs should be rewritten to suggest that "We need to make sure that all parents live up to their responsibilities. When people don't pay child support, their children suffer forever, and so do we. 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 financial responsibilities to support them. Some programs help parents do more by seeing that they get the skills they need to hold down a job and support their children. Other programs require absent parents to work off the support they owe. It is also important to show non-custodial parents who have been involved in their children's lives that when they pay child support, they will restore a connection that they and their children need."

Rationale, p. 42: This section should be dropped. We cannot make excuses for non-support. Also, none of the other sections have a "Rationale" anymore. The Vision paragraph should make the point that it is important to expect child support payments from everyone, even non-custodial parents with low income, because there is no excuse for neglecting parental responsibilities, and because those individuals' income will rise over time.

Specs, p. 43, 40(e)(ii-iii): States should **not** have the option to suspend or reduce child support obligations. It's hard enough to explain why we're rewarding fathers who don't pay by putting them in training programs; how can we possibly justify letting them off the hook for past support?

41. Parenting Demos

Specs, p. 44, 41(c): How much is the capped set-aside?

COMMENTS ON PERFORMANCE STANDARDS

p. 45, first line: Replace "eventuate" with "result"

p. 47, third line from bottom: "Operant" is not a word

4. Service Delivery Standards

Specs, p. 51, 4(e): Where are the incentives for good state behavior? These are only penalties. What is the meaning of a tolerance level if there are no penalties? If that's the case, why not 90% with a 10% tolerance level?

p. 51, 4(f): The standards currently require states to measure essentially the same thing twice, in two slightly different ways. At the very least, the numerator ought to be the same in both cases -- otherwise we are sending states conflicting signals and making them recalculate for no apparent reason. In both cases, the numerator ought to give states credit for people who leave AFDC or are sanctioned. (Sanctions aren't the state's fault.)

But the real question is, why have two standards at all? Wouldn't it make more sense to have a single standard, measured over a three-month period? Our goal is to reward states for results, not hassle them with process standards or steer them toward putting clients into services that kill time but don't help people become self-sufficient.

p. 51, 4(g): Since the last draft, we have gone from a standard measured over 6 months where 35% of clients had to be spending 50% of their time in services, to a monthly standard where 35% of clients have to be in services. In effect, we've doubled the standard. Why have we gone to all this trouble to simply double the participation rates in current law? A blended coverage/participation rate makes more sense.

What happened to the 1% limit on incentives or penalties? We have no idea whether states can meet these standards -- we can hardly agree on what the standards should be. Yet we're putting a substantial amount of money at risk. If our goal is to move toward a performance-based system over the next few years, we shouldn't be betting the farm on process standards now that could seriously distort state behavior. We should restore the 1% limit on how much money is at risk. We should be rewarding states for getting people off welfare and into work, not for counting heads in a classroom.

p. 51, 4(h)(i): The numerator should include people who have found unsubsidized work through job placements paid for with WORK money. Otherwise, the states get no credit for using their WORK money to pay a job developer or job placement firm like America Works to find unsubsidized work -- they would only get credit for placements in subsidized work. Presumably, we think unsubsidized work is a better result.

COMMENTS ON TECHNICAL ASSISTANCE & DEMOS

p. 55, A(1), Rationale: Drop the sentence, "It is often noted that 10% of effecting substantive change is getting the law passed, the other 90% is implementing the law well." This is like saying baseball is 10% hitting and 90% pitching: it's not true, and it doesn't do us much good now that we're at bat.

p. 58, B(2), Rationale: This paragraph is too weak. The point is that 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. All the incentives in the system should point toward securing long-term placement in the work force. 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.

p. 58, B(2)(a): The last sentence of this paragraph should be rewritten to say that "the emphasis will be on securing long-term placements in the labor market, and on finding ways to place medium- and long-term recipients."

p. 58, B(2)(c): The limit should be up to 5 of each approach (placement bonuses and chartering placement firms), not 5 overall.

p. 59, Section 1115 waivers: We thought we weren't going to mess with Section 1115. This provision sounds like an end run for child support assurance, and should be dropped. Also, as stated elsewhere, we oppose letting non-custodial parents off the hook for their debts and arrearages.

p. 62, 5(b): What is the relation of Work Support Agencies to one-stop?

p. 63: The title of this section should be changed from "Information Systems and Infrastructure" to "Information Systems and Fraud Detection."

p. 66, A(d)(i): Why isn't the NTAR keeping track of why individuals go on or off assistance (e.g., work, marriage, etc.)? This would be valuable info.

COMMENTS ON CHILD SUPPORT ENFORCEMENT

Child Support Enforcement

Training, p. 53: Add a bullet about using JOBS money to train welfare recipients to become child support caseworkers, and about using WORK slots to provide child support caseworkers with trainee/aides.

Child Support Assurance

p. 61, 1(c): Agree with OMB on the need to phase out Child Support Assurance. The Secretary can't just determine whether the demonstrations will be extended. If some future Administration wants to experiment further with Child Support Assurance, they will have to go back to Congress and ask for the money to do so.

p. 61, 1(d): Why will only "some" states have the option of creating work programs? Shouldn't all states in this demo have that option?

pp. vii (top graph) and 60 (3rd graph): It would be more accurate to say that "some" rather than "many" states have expressed a strong interest in doing CSEA.

COMMENTS ON PARENTAL RESPONSIBILITY, MAKE WORK PAY, AND IMPROVING GOVERNMENT ASSISTANCE

Teen Pregnancy

p. 1 and throughout: The grants should be called "Teen Pregnancy Prevention Grants", not "Teen Pregnancy Prevention Mobilization Grants"

Vision, p. 1, 1st graph: End the second sentence after the word pregant (delete "and parents").

2nd graph: Add "enormous" in front of "national significance"

Specs, p. 2, (c): The second sentence should read "such as the Community Enterprise Board or the proposed Ounce of Prevention Council."

Add a bullet stating that this entity (or the Clearinghouse) will issue national goals for the reduction of teen pregnancy, and states will be expected to develop state goals.

Specs, p. 6, (c): This is still too much money. The eligible communities are way too small to justify \$3.6 million per year per site.

Vision, p. 8: Drop the word "generally" in front of "we believe that children should be subject to adult supervision."

Family Cap

Specs, p. 10, 2(b): What is the impact of these mandatory disregards for a parent in the WORK program?

Child Care

Specs, p. 17, 7: Do volunteers get child care for activities even if they don't do those activities?

COMMENTS ON IMPROVING GOVERNMENT ASSISTANCE

p. 22 and throughout: A better name for this whole section might be "Streamlining Government Assistance" or "Welfare Simplification".

Territories, p. 37: Drop the paragraph about meeting with representatives from Puerto Rico and other territories.

Regulatory Revisions, p. 39: Drop the word "compromise" in the first sentence of this section.

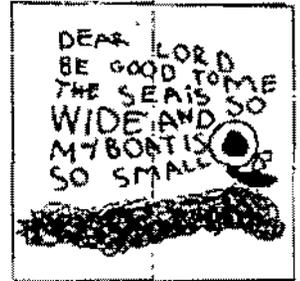
p. 44: We assume from its absence that the costly provision affecting HUD Utility Payments has been dropped. In general, we would like to review the cost implications of these regulatory changes, and so should OMB.

General Question: Whatever happened to our interagency waiver board?

REMAINING POLICY ISSUES

A few other issues have not been addressed in the Specs:

1. Fraud: What are we going to say about fingerprinting and other anti-fraud proposals? Can we prohibit the receipt of welfare benefits in prison? We need a more concrete anti-fraud package.
2. Immigration: Can we include a provision similar to that in other bills which requires the welfare agency to report illegal immigrants to the INS in child-only cases?
3. Fertility Drugs: Do we have a policy on Medicaid coverage of fertility drugs?
4. Waiverability



Children's Defense Fund

May 27, 1994

Mary Jo Bane, Assistant Secretary
for the Administration for Children and Families
David Ellwood, Assistant Secretary
for Planning and Evaluation
Bruce Reed, Deputy Assistant to the President
for Domestic Policy
Co-Chairs, Working Group on Welfare Reform,
Family Support and Independence
Washington, DC 20500

Dear Mary Jo, David and Bruce:

Thank you for soliciting our comments on the legislative specifications for the WORK program. Although there are some aspects of the program that are encouraging, we are very deeply troubled about a crucial question that is not yet resolved: whether parents who play by the rules but cannot find private sector jobs will be completely cut off from all cash support or a public job when their WORK slot ends. Parents who do everything we ask but are unable to find a private sector job should never be thrown into destitution. At an absolute minimum, as long as parents are willing to work, then a public sector job must be provided; if unavailable, the basic AFDC safety net must remain in place. It would be difficult for us to overstate the importance of this provision -- the President's plan simply must preserve a safety net for children.

We are also deeply distressed over the inclusion of full family sanctions (pp.36,38). It is in no one's interest to throw children into hunger and homelessness even if the parents are not complying with all the rules. It is also needlessly harsh to require that neither food stamps nor housing assistance would rise in response to a sanction.

Finally, we want to strongly endorse "Option B" for part-time work (p.13). Parents who are working 20 hours per week are doing exactly what we are asking them to do and should not be subject to the time clock. In light of the fact that only 30 percent of married women work full-time full-year, we believe that more than "Option B" is not a reasonable expectation for single parents with young children.

Below is a brief summary of additional concerns:

12 week pre-JOBS status for families with a child conceived while on AFDC (pp.5-6): It is simply bad policy to limit pre-JOBS status

to 12 weeks when a child is conceived while the parent is receiving AFDC. In many areas, infant care is simply not available; in all areas the cost is extremely high. In combination with a family cap policy where the mother would not receive any additional grant for the infant, this provision strikes us as offering a double punishment for the baby while forcing an unwise use of scarce resources.

Placement in pre-JOBS for good cause capped at 10 percent (pp. 6-7): The very definition of "good cause" means that those who meet that test can justifiably be placed in the pre-JOBS program. It is inequitable to require inappropriate participation in JOBS simply because a person is last on line after the cap has been reached. We understand the intent is to prevent states from keeping people out of the JOBS program. But this remedy punishes parents who should be placed in pre-JOBS for good cause. Other means of monitoring state performance ultimately leading to reduced federal reimbursements should be employed to avoid the inequitable treatment of families.

No exemption for second trimester of pregnancy (p.6): Under current law, pregnant women are exempted from JOBS participation for both the second and third trimesters. Allowing only an exemption for the third trimester is counterproductive. Women in their second trimester are currently exempt because it is very difficult to place them in work positions. We believe that current law should be retained.

Substance abuse treatment must be appropriate (p.8): We suggest that the word "appropriate" be added in 5(a) after "participate in." States must not be allowed to require inappropriate substance abuse treatment to decrease the rolls rather than assisting people to achieve self-sufficiency.

Minimum case management standards for teens (p.11): We recommend that minimum caseload size standards be included (such as 50 cases per worker) and that the case managers be required to have a specialized knowledge of teens.

Appropriate activities for teens (p.11): It is not clear from the draft which activities would be considered appropriate under the JOBS program and who would make this determination. At a minimum, completing a GED, taking classes at a trade school, etc. should be considered appropriate.

Time clock for teenagers (p.11): We oppose applying the two-year clock to 18- and 19-year-old parents. They are far more likely to need more than two years to be ready for work, both because they will need more years of education and training, and because their children are very young. We would be remiss if we did not also say that we have grave reservations about the two-year limit. Its rigidity will move some mothers away from the education they need, making it harder for them to find a job with any chance of supporting a family.

Determination of "job ready" (p.12): The draft does not indicate whether states would be required to exempt someone from job search if they were not job ready due to illness or other reason. We are concerned that a parent with almost any kind of work experience would be deemed "ready," and would be prevented from enrolling in the training they really need.

Employment-Oriented Education (p.12): Section (f) would replace language in 482(d)(1)(A) which calls for "basic and remedial language to achieve a basic literacy level." Instead, the proposal includes "employment-oriented education to achieve literacy levels..." It is hard to know precisely how this would translate into practice, but we fear that it would lead to the least possible education, denying the participant the chance to move above minimum wage work.

Child care for JOBS program only (p.14): We favor section (c), which allows people to enroll half time in a post-secondary program, even if that adds up to less than 20 hours per week. However, we believe that parents in approved self-initiated educational and training activities that are outside the JOBS program should receive child care as under current law. The child care guarantee for IV-A child care should not be cut back.

Qualifying for additional AFDC (p.20): Individuals should be able to qualify for more than six months total of AFDC when they do not receive AFDC and are not in the WORK program. If a parent suffers a crisis after working for ten years, the family should be able to access the safety net for more than six months.

Extensions beyond Two-Year Time Limit (pp 19-20): Extensions are allowed beyond the two-year limit when services such as child care or training programs are not available at all but are counted against the 10 percent cap. It would be unfair for a parent who is not appropriate for a JOBS placement to be excluded from a pre-JOBS slot because the state failed to meet the demand for services. Additionally, we are concerned that extensions of up to 24 months for completing a two or four year degree program are allowed, but only if the parent is also participating in part-time work. Parts of this proposal display a bias against post-secondary education which we believe is counter-productive to the goal of moving people from welfare to a stable job.

Limits to Subsidies to Employers (p.27): The proposal limits subsidies to employers for WORK participants to 12 months, and offers the hope that the worker will not be let go as soon as the subsidy ends. More specific protections are needed before engaging in a program of subsidizing positions in the private sector. There is a real danger that employers will exploit WORK participants, without any real prospect of permanent employment. Specific penalties for employers ought to be considered, such as requiring an employer to pay back the subsidies when workers are let go without cause.

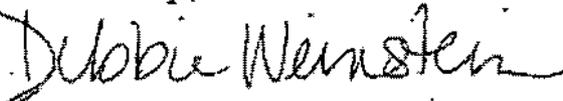
People should be better off in WORK than AFDC (p.33): One of the President's key principles is that people who work should not be poor. However, in 33(a), states are only required to make families "no worse off" in the WORK program than they were receiving AFDC. Since WORK participants would have to pay FICA taxes and probably would have clothing and transportation costs beyond the \$90 disregard, in reality they will be worse off than they were receiving AFDC. (Of course we again stress that people in the WORK program should also receive the EIC because they are working and generating income that in all other circumstances would entitle them to the EIC.) We believe the principle should be that states must ensure that families are better off by working than receiving AFDC.

Require states to provide child care (p.34): States should be required to provide child care so WORK participants can engage in approved education and training activities in addition to WORK assignments, rather than having child care optional in these circumstances.

JOBS funds for non-custodial parents (p.42): Although we support increasing programs for non-custodial parents, we are concerned that allowing 10 percent of JOBS funds is too high. The evaluations of the Fair Share demonstrations indicate they are worthy of further examination, but not yet worthy of an expenditure of potentially hundreds of millions of dollars.

Thank you again for the opportunity to provide comments on the Working Group's welfare plan. Please let us know if we can provide any additional information.

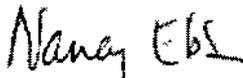
Sincerely,



Deborah Weinstein
Family Income Director



David S. Kass
Senior Program Associate



Nancy Ebb
Senior Staff Attorney



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

MAY 31, 1994

The Honorable Leon E. Panetta
Director, Office of Management and Budget
Attention: Assistant Director for
Legislative Reference
Washington, D.C. 20530

Dear Mr. Panetta:

On May 23, 1994, the Office of Management and Budget requested that the Department of Veterans Affairs (VA) provide its views on the child-support-enforcement provisions of a Department of Health and Human Services (HHS) draft bill -- the Comprehensive Welfare Reform and Family Support Amendments of 1994. VA supports the overall goal of the draft bill of improving child-support enforcement. However, VA vigorously objects to section 664 of the draft bill, which would amend statutes governing garnishment of Federal payments to generally authorize court-ordered garnishment of veterans' benefits for child and spousal support.

Federal statutes have long prohibited court-ordered garnishment of veterans' benefits to satisfy debts, including debts arising out of child and spousal support obligations. Currently, section 5301(a) of title 38, United States Code, provides that veterans' benefits shall not be assignable, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure under any legal or equitable process, either before or after receipt by the beneficiary. The legislative history of section 5301(a) indicates two purposes for the statutory provision -- to avoid requiring VA to act as a collection agency and, more importantly, to prevent the deprivation and depletion of the disability benefits which are intended to be a means of subsistence to veterans. This statute, the objectives of which would be severely undermined by the proposed amendments, is a reflection of the Nation's longstanding commitment to provide, on a priority basis, for the welfare of those who answered her

Give me
a break

2.

The Honorable Leon E. Panetta

call during time of peril. Any departure from that commitment would do a grave disservice to these most deserving beneficiaries, who made such invaluable efforts on behalf of the United States.

Congress has sought to balance the rights of veterans' families, especially children, against the veterans' important interest in receiving benefits free of all claims. The Child Support Enforcement Act, which this draft bill proposes to amend, allows the garnishment of certain periodic payments of Federal benefits for child support and alimony (spousal support). The Act generally exempts veterans' disability benefits from garnishment, but provides an exception where a veteran waives all or part of his or her military retirement pay to receive VA compensation. In that case, garnishment of VA compensation received in lieu of military retirement pay is permitted. In this limited situation, VA honors court orders to garnish disability-compensation benefits in order to enforce alimony and child-support obligations.

In addition, the veterans' benefit laws already provide procedures for apportioning (allocating a portion of) a veteran's benefits to the veteran's estranged spouse or to the veteran's children not in his or her custody, upon application, where it is necessary to provide for their support. VA regulations currently provide procedures to ensure an equitable division of benefits where a VA beneficiary is failing to meet his or her support obligations. The apportionment process tends to the financial needs of the spouse and children, as well as the financial needs of the veteran. This process is, in our view, the most equitable means of providing for the needs of the parties, since VA considers the resources available to all parties to meet their subsistence needs and has considerable flexibility in determining how much of a veteran's benefits should be apportioned.

An individual seeking garnishment must bear the expense of obtaining an attorney and the delay of petitioning a court to obtain a garnishment order. The VA

3.

The Honorable Leon E. Panetta

apportionment process is likely to be faster and less expensive, since legal representation is not necessary and only a simple statement requesting an apportionment is needed to begin the process. Further, VA apportionment is not subject to statutory limitations which often restrict the percentage of a payment which is subject to garnishment. The availability of this remedy provides an attractive alternative to the drastic curtailment of veterans' rights contemplated by the draft bill.

For the foregoing reasons, we strongly urge that HHS reconsider the provisions of section 664 of the draft bill which would remove the existing restrictions on garnishment of veterans' benefits. Proposal of such a radical departure from past practice would involve a perilous retreat from the Government's longstanding commitment to those who answered the Nation's call to service. We caution that the quite limited potential advantages of the proposed amendment to individuals seeking to enforce support obligations appear minimal in comparison to the harm proposal of this amendment would cause to the trust of our veterans in the government which they served.

Your staff may call Mr. John H. Thompson, Assistant General Counsel, at 273-6315, if any clarification of our views is required.

Sincerely yours,



Jesse Brown

JB/kem

LRM #D-772

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Chris MUSTAIN
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3923
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM: 5/31/94 (Date)
Bill Dickens (Name)
CEA (Agency)
X5-4597 (Telephone)

SUBJECT: HHS Draft Bill Comprehensive Welfare Reform and Family Support Amendments of 1994

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No objection
- No comment
- See proposed edits on pages _____
- Other: see attached
- FAX RETURN of 1 pages, attached to this response sheet

Comments on LRM #D772

Incentives for State Performance In general, the incentives for state performance are not adequate and the match rate is too high. There should be larger incentives and lower base rates. While this may mean larger differences between states in what they get from the Federal Government (though not necessarily if states with weak performance improve it), the potential for such differences is necessary if there are to be adequate incentives.

Work Requirements for Non-Custodial Parents (Sec 692)³⁶ How is this possible in light of the 13th Amendment?

Page 3 F(ii) Parenthesis are unbalanced.

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Chris MUSTAIN
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3923
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM: 5/27/94 (Date)
JUDY WURTZEL (Name)
Education (Agency)
401-3389 (Telephone)

SUBJECT: HHS Draft Bill Comprehensive Welfare Reform
and Family Support Amendments of 1994

The following is the response of our agency to your request for views on the above-captioned subject:

Concur
 No objection
 No comment
 See proposed edits on pages 93, section by section 17
 Other: _____
 FAX RETURN of 3 pages, attached to this response sheet

SEC. 641. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) State Plan Requirement.--Section 454(23), as amended by section 606, is further amended by adding at the end the following new subparagraph:

"(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support, which--

"(i) include distribution of written materials at schools, health care facilities (including hospitals and clinics), and other locations, such as schools

While we expect states would want to distribute this materials at school, we would not want to require it

"(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

"(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is

- o to provide that bills for pregnancy, childbirth, and genetic testing are admissible without foundation testimony;
- o to grant discretion to the tribunal establishing paternity and support to waive rights to amounts owed to the State (but not to the mother) for costs relating to pregnancy, childbirth, genetic testing, and child support arrears, where the father cooperates or acknowledges paternity;
- o to provide (at State option) for vacating an acknowledgment of paternity, upon the request of a party, on the basis of new evidence, the existence of fraud, or the best interest of the child; and
- o to ensure that putative fathers have a reasonable opportunity to initiate paternity actions.

SEC. 641. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 641 requires State IV-D plans, effective October 1, 1996, to provide that the State will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support, which--

- o will include distribution of materials at schools and health care facilities and follow-up on each out-of-wedlock child discharged from a hospital after birth; and
and other locations, such as schools,
- o may include programs to educate expectant couples on rights and responsibilities relating to paternity, in which all expectant IV-A recipients may be required to participate).

90 percent Federal matching would be available for the above outreach activities in quarters beginning on and after October 1, 1995.

SEC. 642. PENALTY FOR FAILURE TO ESTABLISH PATERNITY PROMPTLY.

Section 642 provides for reduction of Federal matching otherwise payable to a State IV-A program, for quarters beginning 10 months or more after enactment of this bill, for failure to establish paternity for children born 10 months or more after enactment who are receiving public assistance, whose mothers or custodial relatives have cooperated with State agency efforts for the entire preceding year, but for whom paternity has not been established. The reduction formula would be established in regulations; it would equal the product of (1) the number of such children in the State (after making allowance for a tolerance

OMB COMMENTS, AS OF 5/31/94

Preliminary Comments On Issues In Child Support Enforcement Advance Draft Legislation

Cost Estimates -- Section by Section Estimates Needed

The legislation includes many new provisions for which cost estimates have not been provided. To facilitate the cost analysis and not delay final review of legislation, we need the section-by-section analysis normally circulated for review with legislation. That analysis should include separate cost estimates for gross changes (separating out pluses and minuses) in administrative costs and AFDC collections.

Match Rates

The bill would phase in a financing system that gives each State:

- A minimum of 75% Federal financing for county-based child support enforcement programs, such as in California and New York.
- A minimum of 80% Federal financing for State-run programs to encourage more States to take over county-run systems.
- Up to an additional 5 percentage points for paternities established, based on criteria to be set by the Secretary.
- Up to an additional 10 percentage points for overall performance, based on criteria to be set by the Secretary. Informally, we understand HHS assumes only 2.5 percentage points would be based on cost-effectiveness.

In addition, the bill would extend 90% open-ended matching for child support computer systems an additional two years, through FY97 and offer up to \$5 million per year in 100% Federal funds for training and "technology transfer".

Total matching rate and cost effectiveness. Generally, States manage funds better when they have a greater financial stake. ACF has found State use of high (90%) matching rates for ADP costs difficult to manage. The legislation envisions up to a 95% Federal matching rate. Since as little as 2.5 percentage points of the incentive is based on cost-effectiveness, on net, States conceivably could get 90%+ matching for very inefficient programs. Moreover, it is not clear how these modest incentives will improve program performance. The match rate structure appears overly generous and should be reconsidered.

Special matches for computer systems. The draft legislation extends 90% matching for computer development. If we wish to give States special assistance to develop

the computer capacity the bill would require, enhanced funding could be limited to the amount HHS believes is reasonable and necessary for a well-managed State of a given size. (Any extra costs could be matched at regular rates.) This could contain costs and give States incentives to manage of funds better.

Incentives for statewide CSE systems. The draft legislation includes a 5 percentage point bonus for States to take over county-funded systems and operate a unified system. Key factors in a State's decision may include who pays non-Federal CSE administrative costs now compared to who receives the State's share of AFDC savings. The legislation could be changed to require States to share incentives and AFDC collections with the locality that operates the CSE program.

Other incentive effects. The draft legislation lacks specifics on the requirements to receive incentive funds when States increase the number of paternities, support orders, etc. The legislation should lay out what levels of performance would be required to meet the performance thresholds, to ensure that the savings are scoreable.

Training and technology transfer funds. The up to \$5 million in 100% Federal funding for training and technology transfers is not well defined. In the past, almost all child support enforcement computer systems have been classified as "technology transfers". Given the high matching rates anticipated for State administration, it is not clear why this funding is needed.

Other approaches to improve the incentive system should be considered. Some States have experimented with flat rate bounties to counties for paternity establishment. Also, factors other than cost-effectiveness could be added to the current incentive system, in lieu of replacing the system entirely.

Child Support Assurance -- Demonstration or New Program?

The advance draft legislation includes a demonstration of a Child Support Assurance system. The Federal government would match all costs of the demo in excess of what the States would be entitled to under AFDC at 90%. The demonstration appears to be limited to an, as yet, unspecified percent of AFDC recipients. The demonstrations should include a phase-in and a phase-out plan, and not be a permanent program. The legislative language calls for 7-10 year demonstrations which is longer than most demonstrations. The language also includes procedures for extending the demos rather than ending them. Administrative costs should be matched at normal rates -- the bill appears to match all added costs at 90%. Also, it is not clear how HHS would determine which portions of child support assurance benefits offset AFDC benefits.

Allowable Costs for Other State Agencies that Assist Child Support

The draft legislation calls for automated interfaces between child support agencies and property records, drivers' license bureaus, agencies granting professional

licenses, etc. Would new computers and other costs for those agencies be allowable? The legislation should make clear the extent to which HHS will or will not help pay costs for other State agencies, and cost estimates should be consistent with the legislation.

Mandatory Funding for HHS Administrative Costs and Commissions

The proposal contains language which would convert currently discretionary activities into mandatory expenditures. HHS would receive a fixed percentage of child support collected on behalf of AFDC recipients to pay for Federal staff and computer systems and the databases – about \$100 million to \$150 million per year. The current federal administrative spending for OCSE and ASPE research is \$15 million and the cost of developing the proposed databases would cost \$16 million. Operating the new databases would be close to \$30 million annually, although States would partially reimburse this cost. A 4% tap on the Federal share of AFDC collections seems excessive. Moreover, federal administrative costs should continue to be funded through discretionary appropriations.

There are also a large number of demonstrations and commissions. These should generally be discretionary authorizations. The entire welfare reform legislation should be reviewed in light of the executive order on commissions and advisory committees. Only those commissions meeting the criteria in executive order should be included in the final legislative package.

Conformance of Audits and Performance Reviews

Incentive payments would be based on annual performance reviews. Corrective action requirements (and penalties for not correcting problems) would be based on triennial audits that include process issues. Given the NPR's emphasis on results over process, it may be more appropriate to base corrective action plans and any penalties on the annual performance reviews.

Good Cause for Non-cooperation

The proposal would increase the information AFDC single mothers must give child support agencies to be defined as "cooperating" and thus be eligible for AFDC benefits. States can grant "good cause" waivers to the requirements. Could States grant "good cause" waivers to some (many?) AFDC recipients that would be affected by the revised cooperation requirements? If so, the provision may have more limited effect than estimated. The definition of "good cause" under this proposal needs to be specified.

Deleting the Requirement that Child Support Demonstrations not Increase AFDC Costs.

Current law requires that waivers of child support laws and regulations not increase AFDC costs. Given the proposed State flexibility on disregards, it is not clear what

provisions HHS would want to waive that would increase AFDC costs. Given the overall policy of cost-neutrality in waivers and absent a good rationale, this provision should remain in the statute.

Due Process Requirements.

The legislation would require that service of process have documented receipt (rather than sent pursuant to State law). Would this increase the difficulty of serving process? Would this provision reduce States' ability to use the Postal Service? (We understand some States allow the use of first class mail for some purposes.) We assume there is no intent to add requirements that could slow service of process.

SUBJECT: Comments on Welfare Reform Legislation and Child Support Enforcement - Title VI, Section 663 (LRM D-772)

The Welfare Reform legislation specifies an increased use of IRS for collection of delinquent child support (the "full collections" program) and changes who reimburses IRS for the cost of the program.

The legislation directs that the fee for IRS full collection activities will be added to the amount of the support delinquency and collected from the non-custodial parent at the end of the collection process. In cases where 100% collection is not realized, this would result in IRS having to absorb costs and a significant loss of tax revenue several times the absorbed cost. As child support collection is not a tax administration function, IRS should be fully reimbursed for costs not recovered from collections. To make this activity a zero-cost item would not create the proper incentives for child-support agencies choosing among different collection options. In particular, there would be no disincentive to send cases with very low collection potential to IRS.

Experience with the full collection program, including the current test, indicates that many cases have low collection potential. Though collections may increase as the test continues, it appears that a significant proportion of cases will result in less than 100% recovery.

The Administration is proposing an IRS tax compliance initiative

in 1995 to generate additional revenue through additional audit and collections activity. The Budget Resolution requires that the results of this initiative be scrutinized to verify that it per se produces deficit-reduction. The Administration would have to explain revenue losses from absorptions to GAO and CBO and could be criticized if revenue targets are lowered.

Volume estimates for expansion of the full collections program are needed. HHS should provide the number of cases they anticipate as a result of their proposals. With these, IRS could generate cost impacts.

The specifications envision requiring IRS to use more collections tools, such as automated call sites, and maintain automated case processing links with HHS. These may require an increase in the full collections fee.

Increased use of IRS collections, even with reimbursement, will increase IRS FTE requirements. Given the government-wide constraints on federal employment, HHS should identify a source for these FTE.

SUBJECT: LRM D-772, child support part of welfare reform

Here are comments on the bill language. I have a number of questions about cost estimates for this part. I'm not sure how the clearance process will end up considering cost estimates in connection with the bill language.

p.23 All the advice from states and state associations that I've heard is that a 5 percent incentive won't be enough to make any states change from county-based child support programs to state-level. As drafted, the provision would just buy up the base of those states that already have state-run systems. Isn't there a better use for these funds?

p.31 (h)(2) I think the rates used here would be described as percentage points rather than percents. For example, a reduction of 2 percent from a 50 percent FFP rate is 1 percentage point.

p.46 Sec 616 provides for federal staff and other administrative costs to come from a set-aside from mandatory accounts. Until last year's foster care amendments, I believe set-asides that could be used for federal staff were limited to discretionary programs. The welfare reform package is going to propose several set-asides from mandatory funds. These set-asides constrain the President's decisions about allocation of federal staffing resources and circumvent the appropriation committees.

p.51 The legislative language, specs, and section-by-section do not provide enough information for a reviewer to fully understand the systems being proposed. For each major new state or federal system proposed, WHS should provide a list of the data elements that will be retained in the system, the source of the data, interfaces with other systems, data retrieval, report, and manipulation requirements (e.g., what must be on line to whom), data verification responsibilities, functions the

systems will perform (such as measuring state performance against standards or confirming that an employee has a child support obligation) and a comparison of these systems with the other federal systems they most resemble, highlighting how they differ and how experience with those other systems has informed expectations about cost and implementation of these systems. This information should be presented systematically and uniformly for all the proposed systems.

- p.61 What is the purpose of the new 466(a)(8)(A)? What other federal, state, and local agencies would it affect, and how?
- p.63 See comment for p.51. Will the NCSR include the names and SSNs of just the obligor, or also the children in behalf of whom he makes payments? At the last specs meeting on systems, David Ellwood was under the impression that the child support and AFDC systems could be used to reduce EITC errors, which seemed to require data about dependent children as well as about parents.
- p.65 This appears to require states to provide HHS with UI wage and benefit data on everybody! That seems like overkill, even for child support. What do we know about states' capacity to meet this requirement? Do we pay for UI systems changes necessary for them to comply?
- p.71 Why does the parent locator system need to transmit information about wages and assets? Wouldn't that information have to be confirmed in some other form anyway before a state could call for withholding or go after arrears?
- p.97 Are costs of paternity bonuses included in cost estimates at this point? How?

Should we include language that puts some limits on paternity bonuses. This seems to have a real potential to buy up the base and create another federal policy that pays people for doing what they should be doing anyway.

p.131 Based on staff conversations about an earlier draft, I thought the child support assurance demos would have a spending level specified in law, rather than a coverage limit (4 percent of eligibles). A spending cap would be consistent with the capped entitlement for the JOBS and WORK program and avoid the nearly impossible task of estimating costs for these demos.

The same goes for the minimum benefit demonstrations.

p.132 As noted in comments on an earlier draft, by not requiring paternity and a child support order to qualify for child support assurance, the bill removes an important cost-constraint and an argument that CSA is not just welfare with fewer work requirements and a richer federal match.

p.132 The first line in (d)(2) seems to have an extra article. (A) states that there has to be an order greater than the minimum in joint custody cases. (B) comes into play if the actual order is below the minimum, and the court certifies that it would have been below the minimum if sole custody had been granted. So the court has to determine which parent would have received sole custody and what the other parents child support obligation would have been. This doesn't sound very realistic does it? Beyond the question of whether courts would do this, what is the policy purpose of (A) and (B)?

p.133 By not reducing AFDC dollar for dollar, CSA's supposed work incentive is diluted. CSA was supposed to be different from welfare because it was only for those with child support, and only benefit those who worked. These demonstrations appear ready to forfeit both characteristics.

SUBJECT: LRM #D-772, Part G

Note on Part G, Section 661, (p. 106 of bill, p. 20 of sectional analysis) creates a "REVOLVING LOAN FUND FOR PROGRAM IMPROVEMENTS TO INCREASE COLLECTIONS".

It authorizes appropriation of \$100 million in "loans" to States to be repaid through offsets against State incentive payments and other Fed. grant payments over the following three years.

Lester Cash raised this issue to BRD last week, and we informed him that repayment of loans from future grants is not in conformance with the Federal Credit Reform Act, and would be scored as a grant for the amount of the loans (\$100 million) when the funds are appropriated.