

**DRAFT**

WR - SPECS  
(WORK)

## ADMINISTRATION OF THE JOBS AND WORK PROGRAMS

DOL's preferred option is that Governors can decide which agency receives funding and administers the JOBS and WORK programs, with the provision that the same agency must administer both programs. The features of this option are as follows:

**I. IVA Agencies Maintain Control of AFDC.** Regardless of which agency the Governor selected to administer the JOBS and WORK programs, the State IVA agency would maintain control over the core features of the AFDC program:

- eligibility for AFDC.
- payment of benefits.
- quality control.
- sanctioning.

**II. Accountability.** If the Governor selects an agency other than the welfare department to operate the JOBS and WORK programs, there would be an agreement between the relevant agencies to ensure accountability in the JOBS and WORK programs. This agreement would specify:

- performance standards.
- quality control mechanisms.
- procedures for coordination and feedback between the AFDC and the JOBS and WORK programs.

**III. Performance Standards.** The performance standards agreement would include:

- measures for numbers served in the JOBS and WORK programs.
- outcome measures, such as number of enrollees placed in private sector jobs and proportion of enrollees who retain employment over time.
- provisions to replace the administering agency if standards are not met.

**IV. Continuity.** To make sure there is continuity in these programs, Governors would be required to stay with the same agency at least four years unless the agency failed performance standards for two successive years.

**V. One-Stop Career Centers.** As States implement one-stop career centers, the JOBS and WORK programs would be included in them:

- the JOBS and WORK programs would be located within the one-stop centers, thus helping to mainstream AFDC recipients.
- State Human Investment Councils would provide oversight.
- These programs would also be under the direction of local Workforce Investment Boards, thus giving them more access to the private sector.

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## JOBS, TIME LIMITS AND WORK

### JOBS AND TIME LIMITS

#### 1. EFFECTIVE DATE AND DEFINITION OF PHASED-IN GROUP

##### Specifications

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

#### 2. PROGRAM INTAKE

##### Current Law

*The Family Support Act requires a State agency to make an initial assessment of JOBS participants with respect to employability, skills, prior work experience and educational, child care and supportive service needs. On the basis of this assessment, the State agency must develop an employability plan for the participant. The State agency may require participants to enter into a formal agreement which specifies the participant's obligations under the program and the activities and services to be provided by the State agency. The employability plan is not considered a contract.*

##### Vision

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

### Rationale

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

### Specifications

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

### 3. EMPLOYABILITY PLAN

#### Specifications

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

- iii. Provide the recipient with a fair hearing contesting whether the State agency had followed the established process for developing the employability plan. A fair hearing could be the exclusive remedy or could be allowed in addition to the procedure in (i) or (ii). (only phased-in recipients required to participate in JOBS would be entitled to a fair hearing)
- (h) Persons who refused to sign or otherwise agree to the employability plan after the completion of the conciliation process would be subject to sanction, curable by agreeing to the plan. In the event of an adverse ruling at a fair hearing concerning the employability plan, the individual would not have the right to a second fair hearing prior to imposition of the sanction.

#### 4. PRE-JOBS

##### Current Law

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

##### Vision

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

##### Rationale

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

Specifications

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

barriers to employment—a severe learning disability or serious emotional instability. The percentage cap on such good cause placements in pre-JOBS would be set, in statute, at 10%. A State would be able, in the event of extraordinary circumstances, to apply to the Secretary to increase the percentage cap on good cause placements. The Secretary would be required to respond to such requests in a timely manner (time frame to be established by regulation).

- (i) The Secretary would develop and transmit to Congress, by a specified date, recommendations regarding the level of the cap on good cause placements in pre-JOBS; the Secretary could recommend that the cap be raised, lowered or maintained at ten percent.
- (j) The State agency would be required to reevaluate the status of persons in the pre-JOBS phase at such time as the condition is expected to terminate (if the condition is expected to be temporary) but no less frequently than at each semiannual assessment (see SEMIANNUAL ASSESSMENT below) to determine if the individual should remain in pre-JOBS status or should enter (or re-enter) the JOBS or WORK programs.
- (k) Recipients who met the criteria for placement in the pre-JOBS phase would be permitted to volunteer for the JOBS program. Such a volunteer JOBS participant would in general be treated as other JOBS participants except that he or she would not be subject to sanction or to the time limit.
- (l) A State agency would be required to promptly inform a recipient of any change in his or her status with respect to JOBS participation and/or the time limit (e.g., movement from the pre-JOBS phase into the JOBS program).

## 5. SUBSTANCE ABUSE AND ASSIGNMENT TO PRE-JOBS

### Current Law

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

### Vision

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

Rationale

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

Specifications

- (a) States may require persons found not able to engage in employment or training due to substance abuse to participate in substance abuse treatment as a pre-JOBS activity.
- (b) Sanctions, equivalent to JOBS sanctions, may be levied for non-participation in treatment, provided such treatment is available at no cost to the recipient.
- (c) Child care and/or other supportive services must be made available to an individual required to participate in substance abuse treatment.
- (d) Provisions concerning the semiannual reassessment apply to persons in the pre-JOBS phase participating in substance abuse treatment as described in this section.
- (e) States may also require individuals in JOBS to participate in substance abuse treatment (in conjunction with another JOBS activity or activities) as part of the employability plan.

## 6. DEFINITION OF THE TIME LIMIT

Current Law

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

Vision

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

*While persons who remain on AFDC for long periods at a time represent only a modest percentage of all people who ever enter the system, however, they represent a high proportion of those on welfare at any given time. Although many face very serious barriers to employment, including physical*

*disabilities, others are able to work but are not moving in the direction of self-sufficiency. Most long-term recipients are not on a track toward obtaining employment that will enable them to leave AFDC.*

*The proposal would establish, for adult recipients not placed in pre-JOBS, a cumulative time limit of two years on the receipt of AFDC benefits not contingent upon work, with extensions to the time limit to be granted under certain circumstances. Months in which an individual was placed in pre-JOBS status would not count against the time limit. The two-year limit would be renewable to a degree—once an individual left the welfare system, he or she could begin to qualify for additional months of eligibility for AFDC benefits/JOBS participation.*

Drop,  
Add  
shorter  
limit

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

### Specifications

- (a) The time limit would be a limit of 24 on the cumulative number of months of AFDC benefits an adult (parent) could receive before being required to participate in the WORK program (see Teen Parents for treatment of young custodial parents). In other words, the 24 months would be counted from the date of authorization. Months in which an individual was receiving assistance but was in pre-JOBS rather than in JOBS would not count against the 24-month time limit.
- (b) The time limit, as indicated in (a) above, would generally be linked to JOBS participation. Recipients required to participate in JOBS would be subject to the time limit. Conversely, the clock would not run for persons assigned to pre-JOBS status.
- (c) The 24-month time clock would not begin to run until a custodial parent's 18th birthday. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (d) The State agency would be required to update each recipient subject to the time limit as to the number of months of eligibility remaining for him or her no less frequently than at the semiannual assessment (see SEMIANNUAL ASSESSMENT below). In addition, the State agency would be required to contact and schedule a meeting with any recipient who was approaching the 24-month time limit at least 90 days prior to the end of the 24 months (see TRANSITION TO WORK/WORK below).

## 7. APPLICABILITY OF THE TIME LIMIT

### Specifications

- (a) The time limit would apply to parents (for treatment of teen parents, see Teen Parents below). A record of the number of months of eligibility for cash assistance remaining would be kept for each individual subject to the time limit. Non-parent caretaker relatives would not be subject to the time limit.

## 8. AFDC-UP FAMILIES AND THE TIME LIMIT

### Specifications

- (a) In an AFDC-UP family, both parents would be subject to the time limit if the principal earner were in the phased-in group (see below). A separate record of months of eligibility remaining would be kept for each parent. If one parent in an AFDC-UP family were placed in pre-JOBS status, that parent would not be subject to the time limit—months in the pre-JOBS phase would not count against that individual's 24-month limit. The other parent, however, would still be subject to the time limit. Placements of a second parent in pre-JOBS would not count against the cap on good cause assignments to pre-JOBS.
- (b) If one parent had reached the time limit and the other had not, the parent who had reached the time limit would be required to enter the WORK program. If the parent who had reached the limit declined to participate in the WORK program, that parent's needs would no longer be considered in calculating the family's grant. His or her income and resources would still be taken into account. The family would still be eligible for the remainder of the benefit (essentially, the other parent and the children's portion) until the other parent reached the two-year limit.
- (c) If a parent in an AFDC-UP family reached the time limit but declined to enter the WORK program, the needs of that individual would (as above) not be taken into account in calculating either the AFDC benefit or any earnings supplement (if the other parent did enter the WORK program; see *WORK* specifications below). If such a parent subsequently reversed course and entered the WORK program, he or she would be considered part of the assistance unit for the purpose of determining the supplement and would also be eligible for a WORK assignment. As discussed in the *WORK* specifications below, a State would not be required to provide WORK assignments to both parents in an AFDC-UP family.
- (d) With respect to the phase-in, both parents in an AFDC-UP family would be considered subject to the new rules if the principal earner were in the phased-in group. If the parents subsequently separated, both would still be subject to the new rules.

## 9. TEEN PARENTS

### Vision

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

### Specifications

- (a) States would be required to provide case management services to all custodial parents under 20.
- (b) All custodial parents under 20 who had not completed high school or the equivalent would be required to participate in the JOBS program, with education as the presumed activity. The 24-month time clock, however, would not begin to run until a custodial parent turned 18. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (c) Custodial parents under 20 who had not completed high school or the equivalent and who had a child under one would be required to participate in JOBS as soon as the child reached twelve weeks of age. States would be permitted to assign custodial parents under 20 to pre-JOBS status in the event of a serious illness or other condition which precludes school attendance.
- (d) Custodial parents who were eligible for and receiving services under the Individuals with Disabilities Education Act would receive an automatic extension up to age 21 if needed to complete high school. These extensions would not be counted against the cap on extensions.

## 10. JOBS SERVICES AVAILABLE TO PARTICIPANTS

### Current Law

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

## Vision

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

## Specifications

### **Up-Front Job Search**

- (a) All adult new recipients in the phased-in group (and minor parents who had completed high school) who were judged job-ready would be required to perform job search from the date of approval. Job-ready would in general be defined as having nonnegligible previous work experience; States would include a more detailed definition in the State plan. Individuals could be deemed not job-ready due to illness or other reason. A determination of pre-JOBS status would not be needed at this point.
- (b) States would have the option of requiring all job-ready new recipients, including those in the not-phased-in group, to perform up-front job search. States would also be permitted to require job search from the date of application (as under current law, this requirement could not be used as a reason for a delay in making the eligibility determination or issuing the payment).
- (c) Extend permissible period of initial job search from 8 weeks to 12.

### **Other Provisions Concerning JOBS Services**

- (d) States would be required to include job search among the JOBS services offered.
- (e) Clarify the rules so as to limit job search (as the exclusive activity, i.e., not in conjunction with other services) to 4 months in any 12-month period. The up-front job search (described above) and the 45-90 days of job search required immediately before the end of the two-year time limit (see TRANSITION TO WORK/WORK below) would both be counted against the 4-month limit.
- (f) Amend section 482(d)(1)(A) by replacing "basic and remedial education to achieve a basic literacy level" with "employment-oriented education to achieve literacy levels needed for economic self-sufficiency."
- (g) Self-employment programs would be added to the list of optional JOBS activities.
- (h) Increase the limit on Federal reimbursement for work supplementation program expenditures from the current ceiling, which is essentially based on a maximum length of participation, in a work supplementation program, of 9 months, to a level based on a maximum length of participation of 12 months.

- (i) Change the anti-displacement language to permit work supplementation participants to be assigned to unfilled vacancies in the private sector.
- (j) The State plan would be required to include a description of efforts to be undertaken to encourage the training and placement of women and girls in nontraditional employment, including steps to increase the awareness of such training and placement opportunities.
- (k) Amend the language in Social Security Act section 483(a)(1) which requires that there be coordination between JTPA, JOBS and education programs available in the State to specifically require coordination with the Adult Education Act and Carl D. Perkins Vocational Educational Act.
- (l) Where no appropriate review were made (e.g., by an interagency board), the State council on vocational education and the State advisory council on adult education would review the State JOBS plan and submit comments to the Governor.
- (m) Alternative Work Experience would be limited to 90 days within any 12-month period.
- (n) The State plan would include procedures to ensure that, to the extent possible, (external) service providers promptly notify the State agency in the event of noncompliance by a JOBS participant, e.g., failure to attend a JOBS activity.

## 11. MINIMUM WORK STANDARD

### Specifications

- (a) Months in which an individual met the minimum work standard would not count against the time limit. In an AFDC-UP family, if one parent meets the minimum work standard, neither parent is subject to the time limit.

*OPTION A: The minimum work standard would be 30 hours per week, with a State option to reduce the minimum to 20.*

*OPTION B: The minimum work standard would be 20 hours per week for parents of children under 6 and 30 hours for all others, with a State option to reduce the minimum to 20 hours across the board.*

**ISSUE:** Should a recipient whose AFDC grant is below a certain level (e.g., \$100 per month) be exempt from the requirement to participate in the WORK program (see WORK specifications below)? Should the minimum work standard be defined in terms of hours of work per week or the size of the AFDC grant or a combination of the two?

## 12. JOBS PARTICIPATION

Current Law

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

Vision

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

Specifications

- (a) The JOBS program targeting requirements and AFDC-UP participation standards would be eliminated.
- (b) Individuals in self-initiated education and training activities (including, but not limited to, post-secondary education) would receive child care benefits if and only if such activities were approved through the JOBS program. Costs of such education and training would not be reimbursable under JOBS. Child care and supportive services expenditures, however, would be matchable through IV-A and JOBS, respectively.
- (c) Alter the definition of participation such that an individual enrolled half-time in a degree-granting post-secondary educational institution who was making satisfactory academic progress (as defined by the Higher Education Act) and whose enrollment was consistent with an approved employability plan would be considered to be participating satisfactorily in JOBS, even if such a person were scheduled for fewer than 20 hours of class per week. (contingent on definition of participation remaining similar to current law)
- (d) Broaden the definition of JOBS participation to include participation in activities other than the optional and mandatory JOBS services which are consistent with the individual's employability plan.

what replace UP std?

- (e) The broadened definition of participation would include participation in the Small Business Administration Microloan Demonstration program. As above, satisfactory participation in the SBA Microloan program would meet the JOBS participation requirement, even if the scheduled hours per week were fewer than 20. (contingent on definition of participation remaining similar to current law)

### JOBS Participation for the Not-Phased-In Group

#### Specifications

- (f) States would be required to continue providing services to a person already participating in JOBS as of the effective date, consistent with the employability plan in place as of that date.
- (g) States would be given substantial flexibility regarding JOBS services for persons not in the Federally-defined phased-in group (custodial parents born after 1971), as discussed below:
- i. A State would be required to serve volunteers from the not-phased-in group to the extent that Federal JOBS funding was available (i.e., the State had not drawn down its full JOBS allotment). States would have the option of subjecting such JOBS volunteers to the time limit.
  - ii. States could also *require* persons in the not-phased-in group to participate in JOBS, but could not apply the time limit to such JOBS-mandatory persons (as opposed to volunteers above). In other words, a State that defined the phased-in group as persons born after 1971 could require a person born in 1968 to participate in JOBS, and sanction such an individual for failure to comply, but that person would not be subject to the time limit. Individuals (not phased-in) who met one of the pre-JOBS criteria could not be required to participate in JOBS.

### 13. JOBS FUNDING

#### Current Law

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

Specifications

- (a) The capped entitlement for JOBS would be allocated according to the average monthly number of adult recipients (which would include WORK participants) in the State relative to the number in all States (similar to current law).
  - (b) The JOBS capped entitlement (Federal) would be set at \_\_\_ billion for FY 1996, \_\_\_ billion for FY 1997 and \_\_\_ billion for each of the fiscal years 1998, 1999 and 2000. [This capped entitlement includes funding to cover the cost of JOBS services to participants from both the phased-in and not-phased-in groups, an additional amount for services for noncustodial parents and funding to address the cost of providing case management to teen parents. The level of the JOBS capped entitlement for the fiscal years after 2000 would be set by adjusting for caseload growth and inflation.]
  - (c) The Federal match rate (for each State) for all JOBS expenditures under the proposed law would be set at the current law JOBS match rate (direct program cost) plus five to ten percentage points, i.e., FMAP plus five or ten percentage points, with a floor between 65 and 70 percent (contingent on resolution of State match issues). Spending for direct program costs, for administrative costs and for the costs of transportation and work-related supportive services would all be matched at the single rate. The current law hold harmless provision, under which expenditures up to a certain level are matched at 90 percent, would be eliminated.
  - (d) A State would be permitted to reallocate an amount up to 10% of its combined JOBS and WORK allotments (WORK allotment from the capped entitlement) from its JOBS program to its WORK program and vice versa. The amount transferred could not exceed the allotment for the program from which the transfer was made.
- EXAMPLE:  
A State with a \$5 million JOBS allotment and a \$6 million allotment from the WORK capped entitlement (see WORK FUNDING below) can allocate \$1.1 million from JOBS to WORK or vice versa. The State finds that spending on the JOBS program is running higher than expected and so it opts to reallocate \$600,000 from WORK to JOBS. The State can now draw down up to \$5.6 million, rather than \$5 million, in Federal funding for JOBS expenditures. On the other hand, the State can now receive only \$5.4 million in Federal matching funds, at the higher rate, for spending on WORK costs.
- (e) If the States were not able to claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State would be permitted to draw down Federal funds for JOBS spending in excess of its allotment.
  - (f) Funding for teen case management (see TEEN PARENTS above) would be provided not as a set-aside, but as additional dollars within the JOBS capped entitlement.

- (g) If the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for extended unemployment compensation (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of the rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent (not by ten percentage points; e.g., from 30 percent to 27 percent, not from 30 percent to 20 percent).

#### 14. SEMIANNUAL ASSESSMENT

##### Specifications

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

#### 15. TRANSITION TO WORK/WORK

##### Specifications

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

- (c) States would have the option of providing an additional month of AFDC benefits to individuals who found employment just as their eligibility for AFDC benefits/JOBS participation ended, if necessary to tide them over until the first paycheck.
- (d) The State agency would notify the recipient, either by phone or in writing, of the purpose and need for the 90-day meeting, and the State agency would be required to make additional attempts at notification if the recipient failed to appear.
- (e) For persons re-entering the JOBS program (including those previously assigned to pre-JOBS) with fewer than six months of eligibility remaining, the development/revision of the employability plan could be considered the 90-day meeting, if the requisite information were provided at that point. In the case of an individual re-entering with fewer than 90 days of eligibility, the meeting would be held at the earliest possible date.
- (f) The semiannual assessment could be treated as the 90-day meeting, provided it fell within the final six months of eligibility. Conversely, the 90-day assessment would meet the requirement for an semiannual assessment.
- (g) For individuals who had received an extension to the time limit, a subsequent, similar meeting 90 days prior to the end of the extension would not be required, unless the extension were of unusual duration.

#### Worker Support

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

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

#### 16. EXTENSIONS

##### Specifications

- (a) States would be required to grant extensions to persons who reached the time limit without having had adequate access to the services specified in the employability plan. In instances in which a State failed to substantially provide the services, including child care, called for in the employability plan, the State would be required to grant an extension equal to the number of months needed to complete the activities in the employability plan (up to a limit of 24 months). States would be mandated to take the results of the semiannual assessment(s) into

account in determining if services were delivered satisfactorily. If an extension were granted on the grounds of inadequate service delivery, the employability plan could be revised, as appropriate, at that point. Disagreements about revisions to the plan would be subject to the same dispute resolution procedures as was the initial development of the plan.

- (b) If the State agency and the recipient disagreed with respect to whether services were substantially provided and hence as to whether the recipient was entitled to an extension, the State agency would be mandated to inform the recipient of her or his right to a fair hearing on the issue. The recipient would have to request a hearing (if desired) at least 30 days prior to the end of the 24-month time limit. All hearings would be held prior to the end of the individual's 24 months of eligibility.
- (c) In a fair hearing regarding a recipient's claim that he or she was entitled to an extension due to State failure to make available the services in the employability plan, the State would have to show what services were provided. A recipient would be entitled to an extension if the hearing officer found that the recipient was unable to complete the elements of the employability plan because services, including necessary supportive services, were not available for a significant period of time. If it was determined that adequate services were not provided, an extension would be granted and the recipient and State agency would revise the employability plan, as appropriate (see above).
- (d) Persons enrolled in a structured learning program (including, but not limited to, those created under the School-to-Work Opportunities Act) would be granted an extension up to age 22 for completion of such a program. A structured learning program would be defined as a program that begins at the secondary school level and continues into a post-secondary program and is designed to lead to a degree and/or recognized skills certificate. Such extensions would not count against the cap on extensions (see below).
- (e) States would also be permitted, but not required, to grant extensions of the time limit under the circumstances listed below, up to 10% of all adults and minor parents required to participate in JOBS. Extensions due to State failure to deliver services, as discussed above, would be counted against the cap. A State would, however, be required to grant an extension if services were not provided, regardless of whether the State was above or below the 10% cap.
  - (1) For completion of a GED program (extension limited to 12 months).
  - (2) For completion of a certificate-granting training program or educational activity, including post-secondary education or a structured microenterprise program expected to enhance employability or income. Extensions to complete a two or four-year degree would be conditioned on simultaneous participation in a work-study program or other part-time work.

The extension is contingent on the individual's making satisfactory academic progress (extension limited to 24 months).

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

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

- (f) States would be required to continue providing supportive services as needed to persons who had received extensions of the time limit.
- (g) A State would be permitted, in the event of extraordinary circumstances, to apply to the Secretary to have its cap on extensions raised. The Secretary would be required to make a timely response to such requests (see PRE-JOBS above).
- (h) The Secretary would develop and transmit to Congress (see PRE-JOBS above), by a specified date, recommendations regarding the level of the cap on extensions; the Secretary could, as mentioned above, recommend that the cap be raised, lowered or maintained at ten percent.

#### 17. QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY

##### Specifications

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

### ADMINISTRATION OF JOBS/WORK

#### Current law

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

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

#### Vision

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

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

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

#### 18. OVERALL ADMINISTRATION

##### Specifications

- (a) JOBS and WORK must be administered by the same State entity.
- (b) The Governor may designate the agency to administer JOBS/WORK. In the absence of the designation of another agency, the IV-A agency would administer JOBS/WORK.
- (c) The Governor would determine whether the State had a State-wide one-stop career center system. That determination would be made at least every two years. If the Governor determined that the State had such a system, the JOBS/WORK program would participate in the operation of the one-stop career centers. The Governor would make one-stop career center services available to the participants in the JOBS/WORK components.

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

19. SPECIFIC RESPONSIBILITIES OF THE IV-A AGENCY

Specifications

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

**20. OTHER AREAS OF RESPONSIBILITY****Specifications**

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

## WORK

### Current Law

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

### Vision

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

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

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

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

## 21. ESTABLISHMENT OF A WORK PROGRAM

### Specifications

- (a) Each State would be required to operate a WORK program making WORK assignments available to persons who had reached the 24-month time limit for AFDC benefits not conditioned upon work.
- (b) A State would be mandated to make the WORK program available in all areas of the State (where it is feasible to do so) by a specified date.

## 22. WORK FUNDING

Specifications

(a) There would be two WORK program funding streams:

- 1) A capped entitlement which would be distributed to States according to the sum of the average monthly number of persons required to participate in JOBS (and subject to the time limit) and the average monthly number of persons in the WORK program in a State relative to the number in all States.
- 2) An uncapped entitlement to reimburse States for wages paid to WORK program participants, which would include wage subsidies to private, for-profit employers. No

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

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

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

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

- (d) As discussed above (see JOBS FUNDING), a State would be permitted to reallocate up to 10% of the combined total of its JOBS and WORK allotments from its JOBS program to its WORK program, and vice versa.
- (e) If, as described in JOBS FUNDING, the States were not able to claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State would be permitted to draw down Federal funds for WORK spending for operational costs in excess of its allotment from the capped entitlement.
- (f) As discussed in JOBS FUNDING above, if the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for an extended benefit period (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of the rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent.

### 23. FLEXIBILITY

#### Specifications

- (a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit, including:
  - Subsidize private sector jobs;
  - Create positions in the not-for-profit sector (which could entail payments to cover the cost of training and supervising WORK participants);
  - Offer employers other incentives to hire JOBS graduates;
  - Execute performance-based contracts with private firms or not-for-profit organizations to place WORK participants in unsubsidized jobs;
  - Create positions in public sector agencies (which might include employing adult welfare recipients as mentors for teen parents on assistance);
  - Employ WORK participants as child care workers or home health aides; and
  - Support microenterprise and self-employment efforts.

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

**24. LIMITS ON SUBSIDIES TO EMPLOYERS****Specifications**

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

**25. COORDINATION****Specifications**

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

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

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

26. RETENTION RECORDS

Specifications

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

27. NONDISPLACEMENT

Specifications

- (a) The assignment of a participant to a subsidized job under the WORK program would not --
  - (1) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits;
  - (2) impair existing contracts for services or collective bargaining agreements;
  - (3) infringe upon the promotional opportunities of any currently employed worker;
  - (4) result in the employment of the participant or filling of a position when --
    - (a) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the same employer; or
    - (b) the employer has terminated any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with such participant; or
  - (5) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 90 days.
- (b) A participant would not be assigned to a position with a private, not-for-profit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements described in this section of the specifications.

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

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

**Arbitration**

- (d) In accordance with the appeal/arbitration provision above, on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance would be permitted to submit such grievance to binding arbitration before a qualified arbitrator who was jointly selected and independent of the interested parties.
- (e) If the parties could not agree on an arbitrator, the Governor would appoint an arbitrator from a list of qualified arbitrators within 15 days of receiving a request for such appointment from one of the parties to the grievance.
- (f) An arbitration proceeding conducted as described here would be held not later than 45 days after the request for such arbitration, or if the arbitrator were appointed by the Governor (as described above) not later than 30 days after such appointment, and a decision concerning such grievance would be made not later than 30 days after the date of such arbitration proceeding.
- (g) The cost of the arbitration proceeding conducted as described here would in general be divided evenly between the parties to the arbitration. If a grievant prevails in such an arbitration proceeding, the party found in violation would pay the total cost of such proceeding and the attorney's fees of the grievant.

- (h) Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversies and without regard to the citizenship of the parties.

#### Remedies

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

#### 29. CONSULTATION WITH LABOR ORGANIZATIONS

##### Specifications

- (a) Where a labor organization represents a substantial number of employees who are engaged in similar work in the same area as that proposed to be funded under this part, an opportunity would be provided for such organization to submit comments with respect to such proposal.

#### 30. WORK ELIGIBILITY CRITERIA AND APPLICATION PROCESS

##### Specifications

- (a) Recipients who had reached the two-year time limit for AFDC benefits not contingent upon work and who otherwise met the AFDC eligibility criteria (e.g., income and asset limits) would be eligible to enter the WORK program.
- (b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all recipients at least 90 days before they were slated to reach the 24-month time limit (see TRANSITION TO WORK/WORK above). Recipients who had reached the 24-month time limit would be required to register for the WORK program in order to be

eligible for either a WORK assignment or for AFDC benefits while awaiting a WORK position (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES below).

- (c) States would be required to establish an application/registration process for the WORK program. The application/registration process would in general include an assessment for the purpose of matching the participant with a WORK assignment which the individual has the ability to perform and which will assist him or her in securing unsubsidized employment. The agency would be expected to draw upon an individual's JOBS case record in making such an assessment. States would be prohibited from denying an eligible individual (as described above) entry into the WORK program, provided he or she followed the application procedure.
- (d) Only one parent in an AFDC-UP family would be required to participate in the WORK program. States would, however, have the option of requiring both parents to participate.
- (e) An individual who had exited the system after having reached the time limit or after having entered the WORK program, but did not yet qualify for any additional months of AFDC benefits/JOBS participation (see QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY above) would be permitted to enroll, or re-enroll, in the WORK program.

**EXAMPLE:**

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

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

## 31. ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES

Specifications

- (a) The entity administering the WORK program in a locality would be required to keep an updated tally of all WORK registrants awaiting WORK assignments (as opposed to, for example, WORK participants who had been referred to a placement contractor). WORK positions would not be allocated strictly on a first-come, first-served basis. An individual whose sanction period had just ended would be placed in a new WORK assignment as rapidly as possible. Among other WORK participants, persons new to the WORK program would have priority for WORK assignments over persons who had previously held a WORK position. Subject to those two conditions, States would be permitted to allocate each WORK assignment so as to maximize the chance of a successful placement, provided that the allocations were made in a non-discriminatory manner.
- (b) States would have the option of requiring persons who were awaiting WORK assignments to participate in other WORK program activities (e.g., individual or group job search, arranging for child care, self-initiated activities), and to establish mechanisms for monitoring participation in such activities. Persons in this waiting status could include both WORK participants who had completed an initial WORK assignment without finding unsubsidized employment, participants whose assignments ended prematurely for reasons other than the participant's misconduct, and individuals awaiting a hearing concerning misconduct. Individuals who failed to comply with such participation requirements would be subject to sanction as described below (see SANCTIONS).
- (c) States would be required to provide child care and other supportive services as needed to participate in the interim WORK program activities (described above).
- (d) The family of a person who was in the WORK program but not in a WORK assignment (e.g., awaiting an assignment or in an alternate WORK activity) would receive AFDC benefits, provided that the individual were complying with any applicable requirements (as described above).
- (e) Participants who left a WORK assignment for good cause (see SANCTIONS below) would be placed in another WORK assignment or enrolled in an interim or alternate WORK program activity (e.g., job search until a WORK assignment became available). Such persons and their families would be eligible for AFDC benefits (as outlined above).
- (f) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(d). States would not be permitted to distinguish between such families and other AFDC recipients with respect to the determination of eligibility and calculation of benefits--States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

## 32. HOURS OF WORK

Specifications

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

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

## 33. EARNINGS SUPPLEMENTATION

Specifications

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

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

Specifications

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

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

### 35. SUPPORTIVE SERVICES/WORKER SUPPORT

#### Specifications

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

## 36. WAGES AND WORKING CONDITIONS

Specifications

- (a) Participants employed under the WORK program would be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of--
- (1) the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;
  - (2) the rate specified by the appropriate State or local minimum wage law;
  - (3) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer.
- (b) Except as otherwise provided in these specifications, participants employed under the WORK program would be provided benefits, working conditions and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with such employer.
- (c) Employers would be permitted but not required to provide health insurance coverage to WORK participants.
- (d) All participants would be entitled to a minimum number of sick and personal leave days, to be established by the Secretary. These would be provided by the employer, if they were provided to other comparable (as described in attached draft) employees (employers may offer more days). The agency administering the WORK program would be required to design a method of providing the minimum number of sick and personal days to WORK participants whose employers did not provide such a minimum number. A person in a WORK assignment who becomes ill and exhausts her/his sick leave, or whose child requires extended care, would be placed in pre-JOBS if s/he meets the pre-JOBS criteria.
- (e) A parent of a child conceived while the parent was in the WORK program (and/or on AFDC) would be placed in pre-JOBS for a twelve-week period following the birth of the child (or such longer period as is consistent with the Family and Medical Leave Act of 1993).
- (f) Health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees would be equally applicable to the working conditions of WORK participants.

## 37. SANCTIONS/PENALTIES (JOBS AND WORK)

Current Law (JOBS)

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

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

Specifications**JOBS Sanctions**

- (a) A State's conciliation policy (to resolve disputes concerning JOBS participation only) could take one of the following two forms:
- (i) A conciliation process that meets standards established by the Secretary; or
  - (ii) A process whereby recipients are notified, prior to the issuing of a sanction notice, that they are in apparent violation of a program requirement and that they have 10 days to contact the State agency to explain why they were not out of compliance or to indicate their intent to comply. Upon contact from the recipient, the State agency would attempt to resolve the issue and would have option of not imposing the sanction.
- (b) Program Interactions:
- 1. Individuals sanctioned within the JOBS program would still have access to other available services, including JOBS activities, child care and Medicaid.
  - 2. Sanctioned months would be counted against the 24-month time limit.
- (c) The sanction for refusing a job offer without good cause would be changed from the current penalty (removal of the adult from the grant) to loss of the family's entire AFDC benefit for 6 months or until the adult accepts a job offer, whichever is shorter. The Secretary would promulgate regulations concerning good cause for refusing a private sector job offer (see SANCTIONS below); the definition would encompass the criteria in current regulations (CFR 250.30).

CHANGE

- (d) Change the statute such that for sanctioned AFDC-UP families, the second parent's share of the benefit would not also be deducted from the grant, unless the second parent were also required to participate in JOBS and were similarly non-compliant. / why?
- (e) States would be required to conduct an evaluation of any individual who failed to cure a first sanction within 3 months or received a second sanction, in order to determine why the parent is not complying with the program requirements. Following such an evaluation, the State would, if necessary, provide counseling or other appropriate support services to help the recipient address the causes of the non-compliance.

#### Ineligibility for a WORK Assignment

- (f) Persons may be declared ineligible for a WORK assignment due to willful misconduct related to the program. Misconduct would include any of the following, provided good cause does not exist:
- i. Failure to accept an offer of unsubsidized employment;
  - ii. Failure to accept a WORK assignment;
  - iii. Quitting a WORK assignment;
  - iv. Dismissal from a WORK assignment;
  - v. Failure to engage in job search or other required WORK activity (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES above).
- (g) The Secretary would establish regulations defining good cause for each of the following:
- i. **Refusal to Accept an Offer of Unsubsidized Employment or a WORK Assignment or to Participate in Other WORK Program Activity.** Such definition would include the reasons provided in 45 CFR 250.35 for refusal to participate in a required JOBS activity or to accept employment.
  - ii. **Quitting a WORK Assignment or Unsubsidized Job.** These regulations would include the provision that an employee must notify the WORK agency upon quitting a WORK assignment.
  - iii. **Dismissal from a WORK Assignment.** The regulations would allow a State, subject to the approval of the Secretary, to apply in such instances the definition of misconduct utilized in its unemployment insurance program. (A IV-A agency might be allowed to contract with the State U hearing system to adjudicate these cases.)
- (h) A WORK participant would be notified of the agency's intent to impose a penalty and would have a right to request a hearing prior to the imposition of the penalty. The Secretary would establish regulations for the conduct of such hearings, which would include setting time frames for reaching decisions (e.g., 30 days from date of request for hearing). A State would be permitted to follow the same procedures it utilizes in hearings regarding claims for unemployment compensation.

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

- i. **Refusal to Accept an Offer of Unsubsidized Employment.** A WORK participant who turns down an offer of an unsubsidized job without good cause would be ineligible for a WORK assignment, and the family ineligible for AFDC benefits, for a period of 6 months (consistent with the JOBS sanction for refusing a job offer). Such an individual would be eligible for services, such as job search assistance, during this period.
- ii. **Quitting, Dismissal from or Refusal to Accept a WORK Assignment without Good Cause.** A person who quit a WORK assignment without good cause, who was fired from a WORK assignment for misconduct related to the job, or who refused to take an assignment without good cause would be subject to the penalties described below.

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

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

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

*For a fourth and subsequent occurrence:* Same as the penalty for a third occurrence, except that the duration would be no less than 6 months.

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

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

occurrence, the penalty, as above, would be curable upon engaging in the required activity.

- iv. **Quitting an Unsubsidized Job without Good Cause.** Individuals who without good cause voluntarily quit an unsubsidized job that met the minimum work standard (e.g., 20 hours per week) would not be eligible to register for the WORK program for a period of 3 months following the quit.
- (k) All penalties (any occurrence, first or subsequent) would be curable upon acceptance of an unsubsidized job meeting the minimum work standard. In other words, a sanctioned individual who took an unsubsidized job meeting the minimum work standard would be treated exactly the same as an unsanctioned individual with respect to calculating the earnings supplement. If the family's income, net of work expenses, were lower than the AFDC grant for a family of that size, the family would receive an earnings supplement sufficient to make up the difference (see EARNINGS SUPPLEMENTATION above). Such an individual would still not, however, be eligible for a WORK assignment during the penalty period (e.g., six months for refusal to take an unsubsidized job, three months for a second occurrence of another type of misconduct).
- (l) Food stamp and housing law and regulations would be amended as necessary to ensure that neither food stamps nor housing assistance would rise in response to a JOBS or WORK penalty.
- (m) A person ineligible for the WORK program, and the family, provided they were otherwise qualified, would still be eligible for other assistance programs, including food stamps, Medicaid and housing assistance.
- (n) The State would be required, upon a second penalty, to conduct an intensive evaluation of the participant and the family to ascertain why the individual is not in compliance and to determine the appropriate services, if any, to address the presenting issues. The evaluation would include, when appropriate, a Child Protective Services abuse and neglect investigation. The WORK administering agency could, as a result of the evaluation, decide, for example, that the parent should be placed in pre-JOBS or that he or she should receive intensive counseling.

### 38. JOB SEARCH

#### Specifications

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

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

### 39. TIME LIMIT ON PARTICIPATION IN THE WORK PROGRAM

#### Specifications

- (a) Individuals would be limited to a maximum of 12 months in any single WORK assignment, after which they would be required to perform supervised job search (for a period of time to be set by the State) prior to placement in another WORK assignment.
- (b) States would be required to conduct a comprehensive assessment of any person who had completed two WORK assignments or who had been in the WORK program for two years. A State could, following the reassessment, require the individual to continue in the WORK program, assign the person to the JOBS program or to the pre-JOBS phase or impose penalties (i.e., ineligibility for a WORK assignment). Such penalties could only be imposed in the event of misconduct related to the WORK program (see SANCTIONS/PENALTIES above).

For example, an individual judged to be job-ready would be required to take a new WORK assignment, while a participant found to be in need of further training in order to obtain unsubsidized employment could be returned to the JOBS program for a limited period.

- (c) The criteria for placing WORK participants in the pre-JOBS phase would be identical to the pre-JOBS criteria for persons who had not yet reached the two-year time limit (see PRE-JOBS above). Persons who were assigned to pre-JOBS after reaching the time limit would be eligible for AFDC benefits. Such individuals would be treated exactly the same as persons assigned to pre-JOBS before reaching the time limit, except that if the condition necessitating placement in pre-JOBS ended, they would enter or re-enter the WORK program, rather than the JOBS program. Adult recipients placed from the WORK program into pre-JOBS would count against any relevant cap on the number of pre-JOBS placements (see PRE-JOBS above).

ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTSVision

Issues concerning child support enforcement and issues concerning non-custodial parents cross-cut to a great degree. The well-being of children who only live with one parent will be enhanced if emotional and financial support were provided by both of their parents. There are many reasons that such support is not provided. In <sup>many/most</sup> some cases non-custodial parents are unwilling to provide financial support. Proposed improvements in the child support enforcement system will reduce such willful denial of financial support.

Other parents have inadequate skills and resources to provide adequate support for their children. These parents are often part of the growing number of workers with low and very low incomes. Young workers, the less well-educated, and minorities in particular have disproportionately borne the brunt of the economic changes of the past few decades. These parents need help in obtaining skills and jobs which will help them meet their financial child support responsibilities. ] NO

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. These parents need programs to help them reconnect to a family structure in which they can nurture and support their children. Strengthening the non-custodial parent's involvement with his children is an important beginning to strengthening attachment to work and a willingness to provide financial support. These programs will help communities and families work together to improve the well-being of our most vulnerable children. ] NO EXCUSES

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

## 40. TRAINING AND EMPLOYMENT FOR NON-CUSTODIAL PARENTS

Current Law

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

Vision

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

Rationale

*As the child support system becomes more vigorous in its pursuit of financial support for all children, recognition needs to be given to the fact that some fathers are as poor as the mothers and children who are receiving AFDC. These parents need to be provided with opportunities to fulfill their role as financial providers for their children.*

} NO

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

Income will  
rise over  
time

Specifications

- (a) A State could spend up to 10 percent of its JOBS funding and WORK funding (allotment from the capped entitlement) for training, work readiness, and work opportunities for non-custodial parents. The State would have complete flexibility as to which of these funding streams would be tapped.
- i. State option must be specifically approved by the Secretary.
  - ii. Additionally, States may submit an application to the Secretary to conduct a random assignment evaluation of its non-custodial program.
  - iii. Parenting and peer support services offered in conjunction with other employment-related services are eligible for FFP.
  - iv. A State could, for example, provide services to non-custodial parents through the JOBS program and a non-custodial parent work program, or through a single program.
- (b) A non-custodial parent is eligible to participate (1) if his or her child is receiving AFDC or the custodial parent is in the WORK program at the time of referral or (2) if he or she is unemployed and has outstanding AFDC child support arrears. Paternity, if not already established, must be voluntarily acknowledged or otherwise established prior to participation in the program and, if an award has not yet been established, the non-custodial parent must be cooperating in the establishment of a child support award. Arrears do not have to have accrued in order for non-custodial parents to be eligible to participate. For those parents with

no identifiable income, participation could commence as part of the establishment or enforcement process.

- (c) The state must allow a non-custodial parent to complete the program activity or activities in which he is currently enrolled even if the children become ineligible for AFDC. However, if the non-custodial parent voluntarily left the program, was placed in a job, or was terminated from the program, he would have to be redetermined as eligible under the criteria in (b) above.
- (d) States are not required to provide all the same JOBS or WORK services to custodial and non-custodial parents, although they may choose to do so. Participation in the JOBS program is not a prerequisite for participation in a non-custodial parent work program. The non-custodial parent's participation will not be linked to self-sufficiency requirements or to JOBS/WORK participation by the custodial parent.
- (e) Payment of stipends for work will be required. Payment of training stipends is allowed. All stipends are eligible for FFP.
  - i. Stipends must garnished for payment of current support.
  - ii. At State option, the child support obligation can be suspended or reduced to the minimum while the non-custodial parent was participating in program activities which did not provide a stipend or wages sufficient to pay the amount of the current order. ] ?
  - iii. Participation in program activities can be credited against AFDC child support arrears owed the State.
  - iv. State-wideness requirements will not apply.

#### 41. DEMONSTRATION GRANTS FOR PATERNITY AND PARENTING PROGRAMS

##### Current Law

None

##### Vision

*This proposal would focus on helping fathers (primarily poor, young, non-marital fathers) understand and accept their responsibilities to nurture and support their children. In the long run, increasing fathers' attachment to their children should help in increasing their work effort and financial support for their children. Building on programs which seek to enhance the well-being of children, such as Head Start, Healthy Start, and Family Preservation, this proposal would facilitate the development of parenting components aimed specifically at fathers whose participation in the lives of their children is often ignored or even unintentionally discouraged.*

Rationale

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

Specifications

- (a) Demonstration grants will be made available to States and/or community based organizations to develop and implement non-custodial parent (father) components for existing programs for high-risk families (e.g. Head Start, Healthy Start, Family Preservation, Teen Pregnancy and Prevention) to promote responsible parenting, including the importance of paternity establishment and economic security for children and the development of parenting skills.
- (b) Grants must last three years, have an evaluation component and be replicable in similar programs.
- (c) Funding appropriation will be a capped set-aside within JOBS.

} How much?

WR SPECS -  
WORK

## POSSIBLE WORK FRAMEWORK

The WORK program is an employment program, created to provide individuals who have exhausted their transitional assistance the opportunity to work to support their families until they are able to find unsubsidized employment. The WORK program is not a cash benefit program, providing participating families with a guaranteed income.

### 1. Application/Eligibility/Effect on Benefits

Application Individuals who exhaust their transitional assistance are eligible to apply to the WORK program either after their initial spell on welfare or if they leave JOBS or WORK and subsequently re-apply for assistance and have no time left.

Eligibility Individuals who meet the eligibility requirements for transitional assistance are eligible for WORK if they:

- have complied with the employability plan and JOBS requirements [i.e., people who have "played by the rules" during the transition -- not been sanctioned for failing to take a job or for not participating in required activities]
- have been unable to find an unsubsidized job for 20 hours a week or more [depending on part-time work outcome] and
- have not quit a job without cause (within the last month??)

Effect on Benefits At the time limit, the participant's AFDC case is closed. Other benefits such as Food Stamps would not rise to compensate for the loss of AFDC.

- Difference from specs The specs envision most WORK participants having AFDC cases. AFDC would be reduced when someone is in a WORK assignment but would continue to supplement WORK wages in most cases. People on the waiting list between assignments or pending hearings over disputes with the program would receive AFDC as they did before the time limit.

### 2. Participation and Income in the WORK program

Participation In the WORK program, participants will either be in WORK assignments or be receiving WORK stipends for designated activities. Eligibility for a WORK assignment would

be for 3-6 months, while eligibility for WORK stipends could be determined monthly.

Income in the WORK program The WORK program does not provide a cash income entitlement. People in the WORK program are no longer receiving AFDC. The program provides participants the opportunity to earn money -- either wages paid by an employer or stipends paid by the WORK program for participating in designated activities.

Income in the WORK program for those complying fully with the rules would be no less than the family would receive were it still eligible for AFDC.

[NOTE: Income for WORK participants may be a combination of wages and WORK stipends. States will have the ability to determine the mix of wages and WORK stipends -- one state may require 25 hours of work and provide no stipend, while another state could require 15 hours of work and provide the other ten in a stipend.]

[COMMENT: We have previously discussed a floor for work effort, such as 75 percent of the money earned through the WORK program must be in the form of wages.]

WORK Assignments States will provide WORK participants with WORK assignments according to criteria submitted as part of the State plan. The only federal requirement is that those who have just passed the time limit be given first preference for open WORK assignments. [Note: Some flexibility would be provided to ensure that WORK assignments can be appropriately matched to participants' skills.]

In WORK assignments, participants are paid by the employer for hours worked. If they do not work, they receive neither the wages nor any supplementary WORK stipend. [Note: Procedures and penalties for leaving WORK assignments are discussed below.]

WORK Stipends States may pay WORK stipends to participants when they are not in a WORK assignment under the following circumstances:

- the state has at least its required minimum number of WORK participants in assignments, and has more people enrolled in the WORK program than positions or
- to fill gaps of no more than [30-60?] days while arranging an appropriate assignment for a participant. [NOTE: Goal here is to prevent state from using "friction" as an excuse for failing to create assignments.]

/YES  
\$120  
no work  
incentives  
in WORK

If a State fails to create the minimum number of required WORK assignments, it will have to pay WORK stipends for activities to participants, but will be subject to financial penalties.

QUESTION: Level of WORK stipend. Equal to transitional grant? Or in low benefit states, equal to WORK wages (higher because of 15 hour minimum).

WORK Activities States may have flexibility in designing "WORK activities." Legitimate activities might include, for instance, job search or job clubs, community service, or others designated by the state. WORK stipends need not be paid as an hourly wage, but are compensation for successfully completing required activities. [For instance, a state could require an individual to participate one day a week in a community service project and to make at least 10 contacts a week with employers for jobs.]

*Work  
experience*

States may only pay WORK stipends for satisfactory participation in required activities. States will be required to monitor participation in WORK activities (for instance, by requiring monthly or even biweekly self-reporting and some level of auditing). The Secretary will have to issue regulations governing the definition of "satisfactory participation" and governing minimal monitoring procedures that provide state flexibility in design their procedures. The sole requirement would be that, in order to receive a WORK stipend, a participant will have to report having completed required activities.

[NOTE: The distinction from the JOBS program is that this is a "pay for activity" system. There is not an underlying income entitlement, for which "activity" is a condition. In an entitlement system, the state is put in the position of having to show why it is not paying the participant. In a "Pay for Performance" scheme, the balance shifts, and the state only pays when the participant completes the required activity.]

QUESTION: Child care for WORK activities? Not currently planned for those on the waiting list. What are cost implications?

?

- Difference from specs The specs envision people on the waiting list continuing to receive unconditioned cash assistance in the form of AFDC, with the possibility of JOBS-like sanctions for failure to participate in job search.

### 3. Administrative Structure and Funding

Structure Each state will be required to operate a WORK program. The state may designate any agency to operate the WORK program. This may or may not be the IV-A agency, or the same agency operating the JOBS program. [Exact structural issues remain to be determined.]

Localities will be required to designate a body with balanced representation from private, public and non profit sector as well as unions and community organizations, to provide guidance to the WORK program. Localities could designate existing structures such as the PIC or could create a new board.

Funding WORK funds will flow from two streams:

- 1) A capped entitlement, distributed to states according to the their share of the national JOBS/WORK caseload, intended to cover the costs of creating and overseeing WORK positions and of running the WORK program. [QUESTION: Should some measure of state economy also impact the allocation?]
- 2) An uncapped entitlement (re-channeled IV-A dollars) equal to the money that would have been paid in AFDC benefits to WORK participants.

States will be able to use money from either stream both for WORK stipends/wages and for WORK operational costs. [Match rates as yet undetermined.] [Issue of countercyclical funding also as yet unaddressed.]

State Requirements The state will be required to create a minimum number of WORK assignments in the private, non-profit or public sector. [This would most likely be an annual average.]

This minimum is equal to the state's capped WORK allocation divided by a cost per position to be determined by the Secretary. [If the cost per job is estimated to be \$4,200, and a state gets \$21 million in capped WORK money, their minimum would be 5,000 jobs.]

The flexibility outlined in the existing specs for spending the money to create positions will be maintained. [Note: There is some discussion of adding a category called Supported Work which would be designed to provide more flexible placements for participants with severe labor market disadvantages. This concept will be fleshed out further if of interest.]

#### 4. Suspension from the WORK Program/Due Process

Suspension Individuals may be suspended from (found temporarily ineligible for) the WORK program for

- (1) Refusing a WORK assignment or unsubsidized job without good cause
- (2) Quitting a WORK assignment or unsubsidized job without good cause
- (3) Getting fired from a WORK assignment

The Secretary shall issue regulations establishing standards by which WORK agencies shall establish good cause in the above circumstances. These shall include physical ability to perform the work, access to the work site by available transportation, availability of child care during the hours required, etc.

Re-Application Persons suspended from the WORK program for these reasons would be allowed to re-apply according to the following schedule:

- One month after the first suspension
- Three months after the second suspension
- Six months after the third and subsequent suspensions
- Difference from specs
  - "Sanction" in the specs is approached as a benefit cut; here it is approached as eligibility for a government program, much like, for instance, JTPA.

Michael: 25% FS. APDC  
50%  
50-75-100  
| permanent

#### Hearings/Due Process

If an applicant is found ineligible, or participant suspended, for the reasons listed above, they may request a hearing to appeal the determination. The WORK agency is required to hold hearings and make final determinations within thirty days of a request.

Pending the outcome of the hearing, the WORK agency must immediately provide the participant either with another WORK assignment, if available, or permit the participant to engage in an activity for which a WORK stipend is available.

If there is no finding of good cause at the hearing, the participant will be suspended for the time period outlined above. Exception: first suspensions are curable, i.e., if the participant is found to be subject to a first suspension but is successfully working in a new WORK assignment, they could be allowed to remain in the new assignment.

- Difference from specs
  - the posture of the hearing is not that the state is trying to take away a benefit, but is determining compliance with the rules governing participation in a jobs program.

## 5. Time Limit on Participation in WORK

Individual WORK assignments will be limited to 12 months.

Job search will be mandatory following each assignment.

Assessment for Continued Eligibility After every two assignments (regardless of time frame), states would be required to do a comprehensive assessment of the participant and be required to take one of several actions:

- i) Renew eligibility for another WORK assignment
- ii) Return to JOBS/JOBS PREP, because determined to have serious barriers to finding work in the private sector
- iii) Find ineligible for continued participation in the WORK program.

The Secretary shall issue guidelines for these assessments that require states to examine at least the following factors:

- the economic situation in the local area in which the participant lives including the unemployment rate and the rate at which other JOBS and WORK participants of similar job readiness are finding work
- the individual's ability to work as indicated by record success or problems in the WORK assignments
- the individual's record of cooperation with the requirements of the JOBS and WORK program (specifically a history of sanctions in JOBS and suspensions from WORK)

These guidelines should ensure that people who have complied with the rules and live in areas with weak economies continue to have the opportunity to work to support their families, while finding ineligible those who have not complied and those who live in areas where appropriate jobs are available. The guidelines should also ensure that appropriate referrals to other programs such as SSI are made for those unable to work.

Referrals for Intensive Services The Secretary shall issue regulations requiring that families found ineligible for further WORK assignments are referred to an appropriate local social services agency for assessment of the children's needs and for consideration of the appropriateness of possible alternative placements for them. [QUESTION: Is this necessary in the legislation?]

## 6. Wage Supplements

The WORK program would provide WORK stipends to supplement the income of part-time workers either in unsubsidized jobs or in the WORK program. Supplements would be required to ensure that people are left no worse off financially if they are working and "playing by the rules" than when receiving transitional assistance.

WORK stipends could be paid directly to participants/recipients by the WORK agency in a supplementary check or through employers. [We would still like to explore whether these funds could be used to encourage states to establish their own EITCs or to match existing ones.]

For WORK participants, supplemental WORK stipends would be contingent on continuing satisfactory participation in WORK, i.e., people suspended from WORK, or not receiving wages would not receive stipends as supplements. We might consider a simple approach to stipends such as allowing states to match up to 25% of wages. (?)

EXAMPLE: If a participant used to receive \$350 in AFDC and is now earning \$300 in wages, their state could provide a 25% supplement, and their income would be \$375. If they only earned \$200 one month, their supplement would be \$50.]

- Difference from specs The specs envisions AFDC continuing to provide earnings supplementation. Only "willful misconduct" would lead to the family's AFDC being reduced.

WR SPECS -  
WORK

TO: Jeremy Ben-Ami  
Bruce Reed  
Kathi Way

FROM: Emil Parker  
Wendell Primus  
Michael Wald

DATE: April 19, 1994  
SUBJECT: WORK Specifications

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Thank you for sending over the WORK specifications so rapidly. We found them very helpful. We have a number of questions about the specifications; some concern small details which need to be clarified for drafting purposes. Please call one of us if you have questions about our questions.

1. APPLICATION/ELIGIBILITY/EFFECT ON BENEFITS

*Eligibility*

What is meant by "have complied with the employability plan?" Completed a training or education program? Or should it be read as "no history of sanctions within the JOBS program?" Would the WORK program be expected to verify that an applicant to WORK had satisfactorily participated in JOBS?

2. PARTICIPATION AND INCOME IN THE WORK PROGRAM

*WORK Stipends and WORK Activities*

What if the State does not have the minimum required number of WORK participants in assignments? In such a case, would it not be able to provide WORK stipends?

The minimum required number of assignments, as currently envisioned in the specifications, would be an annual average. Does this language imply that a State would have to be meeting the minimum at all times? For example, if a State is below the minimum in one month but has exceeded it for all previous months, would it be permitted to pay WORK stipends during that month?

What would happen if the State took longer than the set number of days (e.g., 30) to provide a WORK assignment for a particular individual? Would the person no longer be eligible for a WORK stipend, even if he or she were participating satisfactorily in the interim activity (e.g., job search, job club)?

At what level would the WORK stipends for people in "WORK activities" be set? At the level of the AFDC benefit? Higher? Would the WORK stipend in, for example, Alabama, equal the benefit (\$164 for a family of three) or the wages from a 15-hour per week minimum wage WORK assignment (\$274)?

If the WORK stipend is equal to the AFDC benefit, then in instances in which the WORK program is operated by an entity other than the IV-A agency, would this entity, for example, the State JTPA

agency, be responsible for calculating the WORK stipend? If not, who would perform the calculation? The IV-A agency?

What is meant by "successfully completing required activities"? For example, let's say a WORK participant is assigned to job search and is expected to make 10 employer contacts per week. Would nine contacts be considered successfully completing required activities? Eight? Seven? Would the State, for example, pay 7/10 of the stipend if 7 contacts were made, or would it pay the full stipend provided the individual more or less did what was expected?

What if the activity were work preparation, e.g., arranging for child care? Would attempting unsuccessfully to arrange for child care be considered completion of the required activity?

If participants were required to report that the WORK activities were completed, would the reports be verified in any way? If so, how extensive would the verification be?

Would child care be provided as needed for participation in these interim activities (e.g., community service or day work)? More generally, what level of resources should the WORK program be expected to devote to these WORK activities?

If benefits are contingent on an individual's self-reporting that he or she completed required activities successfully, under what circumstances would individuals report that they did not complete the activities?

#### 4. SUSPENSION FROM THE WORK PROGRAM/DUE PROCESS

Individuals could be found ineligible to participate in the WORK program for quitting an unsubsidized job without good cause. How would the State determine whether such a quit was for good cause? What would be the definition of good cause in this context?

Does this imply that an individual who left the WORK program for reasons other than employment could return to the WORK program, while an individual who left for employment but subsequently quit could not?

Would vendor payments to prevent homelessness or cancellation of utility service be made on behalf of the families of persons suspended from the WORK program?

#### 5. TIME LIMIT ON PARTICIPATION IN WORK

What is meant by "the individual's record of cooperation"? Other than a history of having been suspended from the WORK program, what would be considered a record of noncooperation? Under what circumstances, if any, could an individual who had not been suspended be declared ineligible for continued participation in the WORK program due to noncompliance?

The clause before the "Referrals for Intensive Services" paragraph seems to imply that for an individual to be found ineligible, he or she would have to both be noncompliant and live in an area in which jobs were available. Are there any circumstances under which a person who had complied could be found ineligible?

The paper indicates that the State should examine the individual's ability to work as indicated by success or problems in WORK assignments. Is "success" good or bad in this context? Could a person who had been successful in WORK assignments be found ineligible on the grounds that he or she could find an unsubsidized job (e.g., the economic situation in the area was not particularly bad), while a person who had tried hard but had not been particularly successful in his WORK assignments be found eligible? How strong would the local economy need to be to deny eligibility to persons who had complied? What is the definition of "local area"?

#### 6. WAGE SUPPLEMENTS

The paper states that the WORK program would be "authorized" to provide stipends. Does "authorized" mean "required" in this context, or could a WORK program decide not to provide stipends, even if such a decision would leave some WORK participants worse off than they would be on AFDC?

What, other than not engaging in misconduct, is meant by "continuing satisfactory participation in WORK"? What, other than misconduct, would lead to a reduction in the WORK stipend?



THE BOCA RATON RESORT & CLUB\*

1) Reemploy — those pros that  
not be governed by WIBS  
govern JOBS  
— increased proportion of labor

MYSE

2) Govs. be required to integrate  
JOBS + JTPA (MBS united) — Juris.  
option — dicta  
— Govs can say work is governed  
by whoever

Govs → Prisons (Liz Fine)

WR SPECS -  
WORK

## ALTERNATIVE WORK SPECS

### 1. AFDC Ends

- (a) When an individual reaches the time limit for transitional assistance, their AFDC case is closed and their eligibility for cash benefits ends.
- (b) Individuals who reach the time limit, have complied with their employability plan and JOBS requirements, and have been unable to find an unsubsidized job are eligible to enroll in the WORK program.
  - Difference from specs The specs envision most WORK participants having AFDC cases. AFDC would be reduced when someone is in a WORK assignment but would continue to supplement WORK wages in most cases. People on the waiting list between assignments or pending hearings over disputes with the program would receive AFDC as they did before the time limit.

### 2. Nature of the WORK Program

- (a) The WORK program is a jobs program, not a benefits program.
- (b) WORK participants receive income in the form of wages from their employer when they work.
- (c) WORK participants who are not working because there are no available assignments must be enrolled in some other activity (job search, job club, etc.) for which they will be paid a WORK stipend.
- (d) Those enrolled in WORK only receive compensation for activity. There is no underlying guarantee to cash income.

### 3. Paid Activities

- (a) States may pay WORK stipends to participants when they are not in a WORK assignment under the following circumstances:
  - the state has at least the minimum required number of WORK participants in assignments, and has more people in the WORK program than positions or
  - to fill gaps of no more than [30?] days during while arranging an appropriate assignment for a participant.
- (b) States may have flexibility in designing these activities. They may, for instance, be job search, job clubs, etc. for a set number of hours per week. WORK stipends need not be paid as an hourly wage, but are compensation for successfully completing required activities.

(c) States must pay WORK stipends for satisfactory participation in these activities that are equal to the wages that would be received if the participant were in a WORK placement.

- Difference from specs The specs envision people on the waiting list continuing to receive unconditioned cash assistance in the form of AFDC, with the possibility of JOBS-like sanctions for failure to participate in job search.

#### 4. Wage Supplements

(a) States may supplement WORK wages, as well as wages from private, unsubsidized jobs through WORK support payments.

(b) WORK support payments may be made either directly to participants/recipients in a supplementary check or states may use WORK support money to create or enhance state EITCs. For WORK participants, these payments would be contingent on continuing satisfactory participation in WORK.

- Difference from specs The specs envisions AFDC continuing to provide earnings supplementation. Only "willful misconduct" would lead to the family's AFDC being reduced.

#### 5. Suspension from the WORK Program

(a) There are a variety of circumstances under which individuals may be found ineligible to participate in the WORK program ("Suspended");

- (1) Refusing a WORK assignment or unsubsidized job without good cause
- (2) Quitting a WORK assignment or unsubsidized job without good cause
- (3) Getting fired from a WORK assignment

(b) The Secretary shall issue regulations establishing standards by which WORK agencies shall establish good cause. These shall include physical ability to perform the work, access to the work site by available transportation, availability of child care during the hours required, etc.

(c) Persons suspended from the WORK program for these reasons would be allowed to re-apply according to the following schedule:

- One month after the first suspension
- Three months after the second suspension
- Six months after the third and subsequent suspensions

- Difference from specs

- "Sanction" in the specs is approached as a benefit cut; here it is approached as eligibility for a government program, much like, for instance, JTPA.

## 8. Hearings/Due Process

- (a) If an applicant is found ineligible, or participant suspended, for the reasons listed above, they may request a hearing to appeal the determination. The WORK agency is required to hold hearings and make final determinations within thirty days of a request. Pending the outcome of the hearing, the WORK agency must provide the participant with a WORK assignment, if available, or with a paid activity.
- (b) If there is no finding of good cause at the hearing, the participant will be suspended for the time period outlined above. Exception: first suspensions are curable, i.e., if the participant is found to be subject to a first suspension but is successfully working in a new position, they could be allowed to remain in the new position.
- Difference from specs
  - the posture of the hearing is not that the state is trying to take away a benefit, but is determining compliance with the rules governing participation in a jobs program.

## 9. Time Limit on Participation

- (a) Individual WORK assignments limited to 12 months.
- (b) Mandatory job search following each assignment.
- (c) After every two assignments (regardless of time frame), states would be required to do a comprehensive assessment of the participant and be required to take one of several actions:
  - i) Continue eligibility for another WORK assignment
  - ii) Return to JOBS/JOBS PREP, because determined to have serious barriers to finding work in the private sector
  - iii) Find ineligible for continued participation in the WORK program.
- (d) The Secretary shall issue guidelines for these assessments that require states to examine at least the following factors:
  - the economic situation in the local area in which the participant lives including the unemployment rate and the rate at which other JOBS and WORK participants are finding work
  - the individual's ability to work as indicated by success or problems in the WORK assignments
  - the individual's record of cooperation with the requirements of the JOBS and WORK program.

These guidelines should ensure that people who have complied with the rules and live in areas with weak economies are not found ineligible, while finding ineligible those who have not complied and live in areas where appropriate jobs are available.

- (e) The Secretary shall further issue regulations that require that families found ineligible for further WORK assignments are referred to an appropriate local social services agency for assessment of the children's needs and for consideration of the appropriateness of possible alternative placements for them.

\* \* \* \*

#### NEXT LEVEL QUESTIONS

Without an AFDC program, how do you determine ongoing eligibility, how many hours of WORK a state must provide, and how much a recipient should take home.

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WORK

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## WORK

### Current Law

*There is at present nothing in Title IV of the Social Security Act concerning a work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (Section 482(e) and 482(f), Social Security Act, CFR 250.61, 250.62, 250.63). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (CFR 250.47).*

### Vision

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

*The WORK program would make work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit for transitional assistance. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and non-profits to place persons in unsubsidized private sector jobs.*

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

### 1. ADMINISTRATIVE STRUCTURE

[paper forthcoming on the question of which agency would administer the JOBS and WORK programs at the State level]

- (a) Each State would be required to operate a WORK program which would make WORK assignments available to persons who had reached the 24-month time limit.
- (b) Localities would be required to designate a body with balanced private sector, union and community (e.g., community-based organization) representation, such as the local Private Industry Council (PIC), to provide guidance to the WORK program. The extent of such a WORK board's authority would be determined at the State or local level. Localities, subject to State approval, would have the option of designating the WORK board as the administrative entity for the WORK program.

or WIS

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- (c) Each State would be required to make the WORK program available in all areas of the State (where it is feasible to do so) by a specified date.

## 2. FUNDING

[See companion paper on WORK program funding.]

## 3. FLEXIBILITY

- (a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit.

Approaches could include the following:

- Subsidize not-for-profit or private sector jobs (for example, through expanded use of on-the-job training vouchers).
- Offer employers other incentives to hire JOBS graduates.
- Execute performance-based contracts with private firms or not-for-profit organizations to place WORK program participants in unsubsidized jobs.
- Create positions in public sector agencies.
- Support microenterprise and self-employment efforts.
- Employ adult welfare recipients as mentors for teen parents on assistance. <sup>or day care providers</sup>

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

- (b) States would be required to submit a joint JOBS/WORK plan to the Secretary of HHS (and possibly the Secretary of Labor) for approval.

## 4. LIMITS ON SUBSIDIES TO PRIVATE SECTOR EMPLOYERS

- (a) The WORK program subsidy for a position in a private, for-profit firm would be limited to 50 percent of the wages paid to the participant. *Handwritten: Howard, Bl: general authority, not rigid limit*
- (b) For WORK assignments in the private sector, the wages of a participant could be subsidized for no more than 12 months, consistent with the 12-month time limit on any single WORK assignment (see below). If an employer chose to retain a participant after the subsidy ended, the position would no longer be considered a WORK assignment, but rather unsubsidized employment.

?? NO

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## 5. COORDINATION

- (a) States would be required to coordinate the WORK program with other employment programs, including the Employment Service and One-Stop Shopping, as well as with the efforts of the Corporation for National and Community Service.

## 6. RETENTION REQUIREMENTS

- (a) States would be required to track and monitor the performance of private, for-profit employers in retaining WORK program participants after the subsidy ended. Employers who had demonstrated a pattern of failing to retain WORK program participants at wages comparable to those of similarly situated employees would be excluded from the program. Prohibited employers would not be eligible for WORK program funds. The definition of a pattern of not retaining WORK program participants would be left to the discretion of the State (to be described in the JOBS/WORK plan).

TOO  
STRONG.

## 7. NON-DISPLACEMENT

- (a) Non-displacement language would be based on current law (Section 484(c), Social Security Act), except that WORK program participants could be placed in unfilled vacancies in the private sector, provided the vacancies were not created by layoffs (H.R. 11 would have eliminated the restriction on placing Work Supplementation participants in unfilled vacancies in the private sector).
- (b) Anti-displacement language applying to the public sector would be adapted from the non-displacement language in the National and Community Service Trust Act.

## 8. NUMBER OF WORK ASSIGNMENTS

*OPTION 1: A State would be required to provide a minimum average monthly number of WORK assignments. WORK assignments would be defined as subsidized positions in the public, private and not-for-profit sectors. The minimum number of WORK assignments for each State would be set by the Secretary, based on the State's allocation from the capped pool of funding. The minimum number of assignments would be set such that each State could meet the standard and still have money from the capped allocation available for supervised job search and other strategies (e.g., performance-based placement contracts with private firms). A State would be required to generate the minimum number of WORK assignments, regardless of the number of hours for each WORK assignment (see HOURS OF WORK).*

Part  
#2

*OPTION 2: There would not be a minimum number of WORK assignments for each State. Instead, the Federal match rate for benefits to families of persons on the waiting list would be set substantially lower than the FMAP, to encourage States to generate as many WORK assignments as possible.*

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## 9. ELIGIBILITY CRITERIA AND APPLICATION PROCESS

- (a) Adult recipients who had reached the time limit for cash assistance and who otherwise met the AFDC eligibility criteria (e.g., income and asset limits) would be eligible for a WORK assignment. In instances in which the cash benefit to the family did not exceed \$100 per month, the adult recipient(s) would not be required to participate in the WORK program. /?
- (b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all adult recipients at least 45-90 days before they were slated to reach the time limit for cash benefits--at the beginning of the required period of job search. States would be permitted to establish an application process for the WORK program separate from the application process for cash benefits, but would be prohibited from denying eligible persons entry into the WORK program, provided they agreed to comply with all WORK program rules and requirements.
- (c) States would have the option to apply the work requirement to only one parent in a two-parent family--only one parent would be permitted to participate in the WORK program.
- (d) An individual who had left the WORK program but had not earned back any months of AFDC benefits would be permitted to re-enroll in the WORK program. A person who exited the system upon reaching the time limit, without entering the WORK program, but had not earned back any months of AFDC benefits would also be allowed to enter the WORK program.

## EXAMPLE:

A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after just one month, before earning back any months of cash assistance (see JOBS and Time Limits specifications for discussion of the earn-back provision). This person would be eligible for a WORK assignment.

- (e) States would be required, for persons in WORK assignments, to conduct an eligibility determination on a monthly basis. If the circumstances of an individual in a WORK assignment changed (e.g., increase in earned income, marriage) such that the family were no longer eligible for AFDC as of the determination, the participant would be considered ineligible for the WORK program. In instances in which WORK wages, net of work expenses, exceeded the level of the benefit, WORK wages would not be included in countable income for purposes of determining WORK eligibility. An individual found to be ineligible while in the midst of a WORK assignment would not be permitted to complete that assignment. A person found to be ineligible while not in an assignment would not be eligible for a new WORK assignment or for any other WORK program services.

**OPTION:** *Permit States to conduct the eligibility determination on a quarterly or ~~semi~~annual basis (in addition to at the conclusion of a WORK assignment). As above, persons found to be ineligible while in the midst of a WORK assignment would not be able to complete the assignment.* good

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### Discussion

In instances in which the WORK program were administered by an entity other than the IV-A agency, performing a monthly eligibility determination for persons who were not receiving an earnings supplement could be problematic. Requiring a monthly eligibility determination could have the effect of discouraging low-benefit States, in which many WORK participants would not be eligible for a supplement, from operating the WORK program through an entity other than the IV-A agency. Monthly eligibility determinations could also have the effect of pulling individuals who became ineligible for reasons other than earnings (e.g., a change in household composition) out of subsidized private sector positions which had the potential of becoming permanent jobs.

### 10. ALLOCATION OF WORK ASSIGNMENTS/WAITING LIST

- (a) States would be required to keep a list of all persons seeking WORK assignments. WORK positions would not need to be allocated on a first-come, first-served basis. Persons new to the WORK program would have priority for WORK assignments over persons that had already held a WORK position. Subject to this requirement, States would be permitted to allocate work slots so as to maximize the chance of a successful placement, provided that placements were made in a non-discriminatory manner.
- (b) The family of a person who was either awaiting a WORK assignment or engaged in another WORK program activity (e.g., an individual who had been referred to a placement firm) would be eligible for AFDC benefits, provided he or she were complying with all applicable WORK program requirements (e.g., for persons awaiting an assignment, performing supervised job search). Such persons would include WORK participants who completed an initial WORK assignment without finding unsubsidized employment and work participants whose assignments ended prematurely for reasons other than the participant's misconduct (see SANCTIONS).
- (c) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(c). States would not be permitted to distinguish between such families and other recipients of cash assistance with respect to the determination of eligibility and calculation of benefits--States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

### 11. WAGES

- (a) Participants in WORK assignments would be compensated for hours worked at no less than the higher of the Federal minimum wage or any applicable State or local minimum wage law. States would have the option to provide WORK assignments which pay an hourly wage higher than the minimum wage.

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12. HOURS OF WORK

- (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.

A State could, for example, set the same number of weekly hours (e.g., 20 or another number convenient for employers) for all WORK assignments, regardless of the size of the AFDC (or equivalent program) grant, and provide an earnings supplement (see below) such that the family of a person in a WORK assignment would be no worse off than a family of the same size on pure cash assistance. High-benefit States might choose to set the number of hours per week at 30 or 35, as opposed to 15 or 20. States could also opt to calculate the number of hours for each participant by dividing the AFDC grant by the minimum wage (as under CWEP), provided that the number of hours per week for each participant was at least 15 and no more than 35.

25% of costs cover supplement

NOTE: The marginal cost of enrolling an individual in a WORK assignment would not vary based on the number of hours of the WORK assignment (since wages would replace cash benefits on a dollar-for-dollar basis, apart from the work expense disregard), unless the hours were set such that WORK assignment wages, net of the disregard, were higher than the cash benefit for a family of that size.

13. EARNINGS SUPPLEMENTATION

- (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 be eligible for an earnings supplement sufficient to leave the family no worse off than a family of the same size on assistance (with no earned income). Any wages lost due to the willful misconduct of the participant shall be presumed to have been received by the family.

NO

*OPTION 1: The earnings supplement would be in the form of AFDC benefits. In other words, WORK wages would be treated as earnings from unsubsidized employment for the purpose of determining AFDC eligibility and benefits.*

*OPTION 2: The Earnings Supplementation program would be separate from AFDC. The program would be similar to AFDC with respect to the determination of eligibility and benefits, except that only the families of individuals who had reached the time limit and who were either in WORK assignments or who were working at least 20 hours per week (30 hours if no children under 6) in an unsubsidized job would be eligible for the Earnings Supplementation program. The accounting period for the Earnings Supplementation program could be set at 6 or 3 months, to simplify administration to sharpen the distinction between the program and AFDC.*

NO

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- (b) The work expense disregard for WORK assignment wages would be set at the same level as the standard work expense disregard (\$120 per month). States which opted for more generous earnings disregard policies would not be required to apply these policies to WORK wages.

#### 14. TREATMENT OF WORK WAGES WITH RESPECT TO BENEFITS AND TAXES

- (a) Wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, Medicaid, public and Section 8 housing).
- (b) Persons in WORK assignments would be subject to FICA taxes. States would be required to ensure that the corresponding employer contribution to OASDI and HI was made, either by the employer or by the entity administering the WORK program (or through another method).
- (c) Earnings from WORK positions would not be included in Adjusted Gross Income, and consequently would not be treated as earned income for the purpose of calculating the Earned Income Tax Credit.
- (d) Wages to WORK participants would not be subject to the Federal Unemployment Tax Act (FUTA). Quarters in WORK assignments would not count as employment for purposes of determining eligibility for Unemployment Compensation (UC).
- (e) To the extent that a State's workers' compensation law is applicable, workers' compensation in accordance with such law would be available with respect to WORK participants. To the extent such law is not applicable, the IV-A agency would be required to provide WORK participants with medical and accident protection for on-site injury at the same level and to the same extent as that required under the relevant State workers' compensation statute. *(by regulation, as under CFR 251.2)*
- (f) WORK program funds would not be available for contributions on behalf of any participant to retirement systems or plans.
- (g) For WORK program participants not receiving an earnings supplement in addition to WORK wages (see below), child support collected would be paid directly to the WORK program participant. In instances in which the WORK program participant were receiving an earnings supplement in addition to WORK program wages, child support would be treated just as it would for a family receiving cash benefits (i.e., a \$50 pass-through, with the IV-A agency retaining the remainder to offset the cost of the earnings supplement).

#### 15. SUPPORTIVE SERVICES

- (a) States would be required to guarantee child care for any person in a WORK assignment, as with JOBS program participants under current law (Section 402(g), Social Security Act). States would also be mandated to provide other supportive services as needed for participation in a WORK position (as with JOBS participants, Section 402(g), Social Security Act).

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**16. WORK PLACE RULES**

- (a) Providers of WORK assignments, whether public, private or non-profit, would be required to treat WORK program participants as other entry-level employees with respect to working conditions and other workplace rules. A State would have the option to waive this requirement for specific employers of WORK program participants, provided that the employer were complying with all applicable Federal and State laws concerning workplace rules.
- (b) All participants shall be entitled to a minimum number of sick and personal leave days, to be established by the Secretary. These shall be provided by the employer, if they are provided to other employees of similar tenure (employers may offer more days). A person in a work assignment who becomes ill and exhausts her sick leave, or whose child requires extended care, shall be placed in JOBS PREP if he or she meets the eligibility requirements. ??
- (c) A parent of a child conceived while the parent was in the WORK program would be placed in JOBS-Prep for a twelve-week period following the birth of the child (or such longer period as is consistent with the Family and Medical Leave Act).
- (d) A participant may request to leave a WORK assignment for good cause (see SANCTIONS). Participants who left a WORK assignment for good cause would be placed in another WORK assignment or enrolled in another WORK program activity (e.g., job search, until a WORK is available). While awaiting a WORK assignment, such persons would be eligible for cash benefits. ?

**17. SANCTIONS**

- (a) WORK program participants may be sanctioned for willful misconduct related to the WORK program. Misconduct would include:
- i) being terminated from a job for misconduct;
  - ii) failure to report to a WORK job without good cause;
  - iii) quitting a job without good cause;
  - iv) failure to engage in any required job search; and
  - v) failure to accept an offer of unsubsidized employment without good cause.
- (b) A recipient shall be notified of the agency's intent to impose a sanction and shall have a right to request a hearing prior to the imposition of a sanction. The Secretary shall establish regulations for the conduct of such hearings, which shall include setting time frames for reaching decisions. A State shall be permitted to follow the same procedures it utilizes in hearings regarding claims for unemployment compensation. ?
- (c) The Secretary shall establish regulations defining good cause for refusal to accept a WORK assignment or an offer of unsubsidized employment. Such definition shall include the reasons provided in 45 CFR 250.35 for refusal to accept a JOBS assignment, except that a parent of a child under 6 would not be permitted to refuse an assignment of more than 20 hours per week solely for that reason. Accordingly, a person would be entitled to refuse an unsubsidized job ?

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offer if accepting the offer would result in a net loss of cash income (as under 45 CFR 250.35 and Section 402(a) of the Social Security Act). ETC

- (d) The Secretary shall <sup>with the employer</sup> establish regulations defining good cause for purposes of an employee's quitting a job. These regulations shall include the provision that an employee must notify the WORK agency prior to quitting a position. The regulations shall be consistent with the voluntary quit provisions that apply to applicants for food stamps.
- (e) The Secretary shall establish regulations defining misconduct for purpose of determining whether a participant who is fired from an assigned job shall be subject to sanction or returned to the waiting list without sanction. The regulations shall allow a State, subject to the approval of the Secretary, to apply the definition of misconduct utilized in its unemployment insurance program. (A IV-A agency might be allowed to contract with the State UI hearing system to adjudicate these cases.)
- (f) A person who refuses to accept a WORK assignment without good cause shall be removed from the waiting list until the person accepts an assignment or a period of one month, whichever is shorter. Why 7 days from quit?
- (g) A person who turns down an offer of an unsubsidized job without good cause shall be ineligible for a WORK assignment or the waiting list for a period of 3 months. AFDC benefits during this period would be calculated as if the job offer had been accepted. When calculating benefits in this manner for families so sanctioned, the relevant disregards would apply.
- (h) Sanctioned families who were otherwise qualified would still be eligible for other assistance programs, including food stamps, Medicaid and housing assistance.
- (i) A person who quits an assignment without good cause or who is fired for misconduct shall be subject to a sanction of:

**OPTIONS:**

**For a first occurrence**

1. Removal of the adult from the benefit for 3 months.
2. A 25% reduction in the cash and food stamp benefit for 3 months.
3. A loss of cash benefits (removal from the waiting list) for a period of one month.
4. A loss of cash benefits for 3 months, with vendor payments for rent and utilities (up to the level of the grant).
5. Same as #4, except that vendor payments would only be made to prevent homelessness or utility shut-off.

Where?

In addition to any of the above, the participant could be required to engage in job search activities until a new WORK assignment is made.

**For a subsequent occurrence**

1. A loss of cash benefits for 6 months, with vendor payments as above.

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2. The agency would do an intensive evaluation of the reasons why the person is having trouble maintaining employment, and in conjunction with CPS, of the adequacy of care being provided the children. The agency could determine that the parent should be placed in JOBS PREP, should undergo a period of intensive counseling, or that only an economic sanction is appropriate.

### Discussion

Choosing the appropriate type and level of sanctions requires determining the purposes that sanctions are supposed to serve, evaluating the potential costs as well as potential benefits of particular sanctions, and assessing the reasons for the creation of the WORK component.

Presumably, sanctions are not designed to be retributive. Their purpose is to deter future behavior by the particular participant and to provide a general deterrent for other participants. Since imposing sanctions may be very harmful to children, in the extreme resulting in inappropriate family break-up, it is important not to have greater sanctions than are necessary to achieve these goals. It might well be that if an error is to be made, it should be in the direction of protecting the children at the cost of some deterrence rather than vice versa. (If sanctions do result in more parents performing well at work and thereby increasing their chances of moving into higher paying jobs, it could be argued that this ultimately will benefit more children than are hurt by sanctions. A rather complicated calculus.)

The utility of sanctions as a deterrent will depend, in part, on the characteristics of the people who end up in the WORK program. Some participants may be prone to "game" the system and can be influenced by sanctions. But a significant number may not easily have their behavior influenced by the possibility of sanctions, at least during periods when they are experiencing personal or family crises. It might be that some lapses need to be expected, and that sanction policy should reflect this, especially since it is not clear that those with poor work habits are also inadequate parents (and therefore we don't want to risk family break-up).

Finally, sanction policy should reflect the purposes of the WORK program. If the WORK program is seen as a way of providing jobs to parents who worked hard to complete the JOBS component but who could not otherwise find jobs, these parents should not be worse off for non-compliance than parents in the JOBS component of the program. If the program is seen as a last chance for those who failed to perform in the JOBS component, stronger sanctions may be justified. Conceptualizing the issue as making WORK like the "real world" may not lead to a different conclusion, since parents fired from jobs in the "real world" are entitled to AFDC, so that their children have support.

### 18. JOB SEARCH

- (a) WORK program participants would generally be required to engage in job search at the conclusion of a WORK assignment or while otherwise awaiting a WORK assignment or enrollment in another WORK program activity. The number of hours per week and the duration of periods of required job search would be set by the State.

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**19. TIME LIMIT ON PARTICIPATION IN THE WORK PROGRAM**

- (a) Individuals would be limited to a maximum of 12 months in any single WORK assignment, after which they would be required to perform supervised job search for a period of time to be set by the State.
- (b) There would be no time limit on overall participation in the WORK program.
- (c) States would be required to conduct a comprehensive assessment of any person who had been in the WORK program for at least two years. A State would be required to take one of 3 actions following the reassessment:
- i) Require further job search followed by another placement. This would be for persons judged currently employable.
  - ii) Return the person to JOBS, if it is determined that the participant needs further education or training services in order to obtain unsubsidized employment.
  - iii) Return the participant to JOBS PREP. The criteria for placing WORK participants in the JOBS-Prep phase would be identical to the JOBS-Prep criteria for persons who had not yet reached the two-year time limit (see JOBS and Time Limits specifications).

Persons who were assigned to JOBS-Prep after reaching the time limit would be eligible for cash benefits. Such individuals would be treated exactly the same as persons assigned to JOBS-Prep before reaching the time limit, except that if the condition necessitating placement in JOBS-Prep ended, they would enter or re-enter the WORK program, rather than the JOBS program. Adult recipients placed from the WORK program into JOBS-Prep would count against any relevant cap on the number of JOBS-Prep placements (see JOBS and Time Limits specifications).

where is it?

NO

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### Return of WORK PROGRAM FUNDING

This paper attempts to detail the WORK program funding structure that arose from the Tuesday legislative specifications meeting and to mention a few issues associated with such a mechanism.

#### Allocation Strategy

There would be two WORK program funding streams:

- 1) A capped entitlement which would be distributed to States according to the total number of persons in the JOBS and WORK programs in a State--the average monthly number of persons required to participate in JOBS plus the average monthly number of persons in the WORK program (including individuals in the WORK program who were not in WORK assignments).
- 2) An uncapped entitlement equal to the amount which would have been paid in benefits to persons in the WORK program. For low-benefit States, the amount would be adjusted to permit a State to provide 15 hour per week minimum-wage WORK assignments to persons in the WORK program.

While there would be two funding streams, a State would be able to use money from either stream both for WORK wages and for WORK operational costs. Operational costs would include expenditures to develop WORK assignments, payments to placement contractors and spending on other WORK program services such as supervised job search.

There would either be two match rates, one for the capped entitlement and one for the uncapped entitlement, or a single WORK match rate for both.

If there were separate match rates for the two funding streams, a State would effectively receive matching funds, up to the amount of the capped allocation, for WORK expenditures--both operational costs and wages--at one match rate. For WORK expenditures in excess of the amount reimbursed at that rate, up to a sum equal to what would have been paid in benefits to persons in the WORK program, the State would receive matching funds at the uncapped pool match rate.

If there were only one match rate, a State would receive matching funds for all WORK expenditures at that rate, up to an amount equal to the sum of its capped allocation and the Federal share of the amount otherwise payable in benefits.

**EXAMPLE:** State A's allocation (annual) from the capped entitlement for FY 99 is \$1.5 million. The amount (Federal and State share) that would have been paid, for FY 99, in benefits to persons in the WORK program turns out to be \$4 million. The State actually spends a total of \$5.2 million on the WORK program, which includes the cost of generating the WORK assignments, payments to placement contractors, funding for job search services, subsidies to private employers and wages for WORK participants in the public and non-profit sectors. If there are two match rates, the State receives the first \$1.5 million in reimbursement at the capped allocation match rate and, for

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expenditures in excess of the amount reimbursed at that rate, up to the amount otherwise payable in benefits, matching funds at the uncapped pool match rate. If there is only one match rate, the State is reimbursed for the full \$5.2 million in spending at that match rate.

If the match rate for the capped allocation were higher than the match rate for the amount otherwise payable in benefits, each State would almost certainly draw down the full capped allocation. If the State in the example above spent \$1.1 million on WORK operational costs and \$4.1 million on WORK wages, the State would still be eligible for \$1.5 million (the amount of the capped allocation) in matching funds at the higher match rate.

### A Few Considerations

First of all, there is the question of whether the "amount that would have been paid in benefits" would be equal to the amount that would have been paid in benefits *for the entire year*, or only the amount that would have been paid for the *portion of the year during which the individual was in the WORK program*. If it were the latter, a State would be severely constrained in using the funds from the uncapped pool to, for example, make a payment to a placement firm.

Let's say a State pays a placement contractor \$2,000 to find an unsubsidized job for an individual in the WORK program. The placement firm succeeds and the person leaves the WORK program after only six weeks. If the amount payable in benefits were based on the time spent in the WORK program, the State would receive credit for only six weeks worth of benefits for that family. The rapid exit would not free up any Federal WORK funding to cover the \$2,000 payment. If, on the other hand, the amount were based on an annual measure, the State would receive credit for one year's worth of benefits for the family, and consequently the rapid placement would free up 10.5 months worth of benefits, which could be used to fund not only the \$2,000 payment but also wages or services for other WORK participants. The amount otherwise payable in benefits could also be based on another measure, such as the average length of time a recipient spends on assistance during any 12-month period (i.e., if the average length of stay were 10 months over a 12-month period, the State would receive credit for 10 months worth of benefits for the family, meaning that the quick placement would free up 8.5 months worth of benefits).

Even if the uncapped pool were based on the amount that would have been paid in benefits for the entire year, States might still be reluctant to take advantage of the proffered flexibility to use dollars from the uncapped pool for services as opposed to for benefits or wages. If a State chose to spend \$2,000 from the uncapped pool on a contract with a placement firm, that would be \$2,000 not available for wages or income support for persons in the WORK program. If such investments did not pay off, the State would presumably have to make up the shortfall out of 100 percent State funds. Consequently, States might opt to be rather cautious, notwithstanding the flexibility available under this funding structure.

Calculating the amount that would otherwise have been paid in benefits, regardless of whether it is defined as the amount payable for time in the WORK program or for the entire year or for some other period, would not be a simple exercise. While States currently estimate quarterly AFDC expenditures in advance and then report actual AFDC expenditures following the quarter, under this

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structure a State would essentially have to estimate and then calculate the payments that *would have been made*, rather than reporting actual outlays. This could prove to be considerably more complicated than tallying aggregate expenditures.

Moreover, there is the question of who would handle this complex operation. As it stands now, a governor would have the option to designate an entity other than IV-A agency to administer the WORK program. If a governor elected this option, would the other entity, for example, the State JTPA agency, perform the benefit calculations to determine the amount that would otherwise have been paid in benefits to persons in the WORK program? Would the JTPA agency subcontract with the IV-A agency to handle the calculation?

Persons who, for example, had been referred to a placement contractor would presumably be eligible for cash benefits while awaiting placement, as would persons who were performing job search between WORK assignments. If the cash benefits are to be drawn from WORK funds, the same question arises: If the WORK program is not administered by the IV-A agency, who will be responsible for the eligibility determinations and benefit calculations?

Apart from the question of cash benefits, who will handle the monthly eligibility determination needed to ascertain whether an individual still qualifies for the WORK program?

A related question is whether States would be required to meet some sort of WORK participation standard. If so, would it be a minimum number of WORK assignments or a percentage measure (e.g., 80% of those in the WORK program must be participating)? If it's the latter, what would count as participation? Referral to a placement contractor? Job search? Would a State be permitted to assign all persons in the WORK program to services from placement contractors and to job search, rather than developing any WORK assignments?

Another matter to be resolved is the match rate issue. If there is to be only one match rate for the WORK program, how will that rate be determined? If the WORK match rate were set above the FMAP (e.g., between the FMAP and the JOBS match rate), the match rate for WORK wages and for cash benefits to persons in the WORK program would be higher than the AFDC match rate. If the WORK match rate were equal to the FMAP, the State match for the cost of generating WORK assignments would be considerably higher than the State match for JOBS spending (especially in the poorer States) and would present a particularly serious financial burden for the poorer States.

LR SPECS -  
LJORK

SPECS SECTION	CURRENT DRAFT PROVISION	SUGGESTED MODIFICATION
1. Administrative Structure	Exact options forthcoming. Current thinking: State flexibility to determine who runs JOBS and/or WORK	Same.
2. Funding	Flexible pool with both the benefit and administration dollars included.	Same.
3. Flexibility: Eligible activities for WORK spending	Current draft provides near total flexibility to states in providing work opportunities.	Same.
4. Limits on Subsidies to Private Sector Employers	Limit to 50 percent of wages and 12 months.	Permit subsidy of additional training, supervision and overhead.
5. Coordination	Mandate coordination	No comment
6. Retention Requirements	Employers who demonstrate a pattern of failing to retain WORK participants would be excluded from program.	Too strong. Limit statutory requirement to keeping track of retention rates. Allow states to decide whether they want to keep dealing with particular employers.
7. Non-displacement		No comment.
8. Number of WORK assignments	OPTION 1: Mandate states to provide a minimum number of slots -- determined to be the allocated funding/average estimated cost per position	This approach needs to be fleshed out more, but should be fine as long as it is not a participation rate.

Anybody can show up

We agreed to drop or make similar

9. Eligibility Criteria	AFDC eligible; reached the time limit; AFDC less than \$100/month. Re-enrollment for those with no earn-back. Monthly redetermination.	After the time limit, person would no longer receive cash assistance. Eligibility would be to enroll in the WORK program -- not for a cash benefit.
10. Allocation of WORK assignments/waiting list	State flexibility, but newest WORK enrollees must go into a slot not on the wait list. While on the wait list, family receives AFDC. There could be requirements such as job search, and there could be JOBS-like sanctions for those not complying.	No AFDC for wait list. Instead, states will enroll WORK participants in some other activity for which they will be paid a WORK stipend -- job search, job club, etc. In the WORK program, there would only be payment for activity, not underlying guarantee of a cash income.
11. Wages	Minimum wage. State option to go higher.	Same.
12. Hours	State flexibility to set between 15 and 35 per week.	State flexibility is fine; would add condition that WORK wage must be 75% of AFDC grant, to raise floor for hours in high benefit states.

See report on this.

<p>13. Earnings Supplementation</p>	<p>AFDC would supplement WORK as if the WORK income were regular wages. Wages lost due to willful misconduct would be presumed to be received. This allows any other loss of WORK income to be automatically made up for by AFDC.</p>	<p>States may supplement WORK wages, as well as wages from private, unsubsidized jobs through "WORK Support" payments. WORK support payments could be made either directly to participants/recipients in a supplementary check, through a state EITC, or through employers. These payments would be contingent on WORK (like EITC) and not be a cash entitlement (like AFDC).</p>
<p>14. Treatment of WORK Wages</p>	<p>Treated as income for all programs other than AFDC. Subject to FICA. In AGI, but not subject to EITC.</p>	<p>Same.</p>
<p>15. Supportive Services</p>	<p>Child care, other supports mandated as under JOBS.</p>	<p>Same.</p>
<p>16. Work Place Rules</p>	<p>Treat same as other entry level employees. Provide minimum number of personal days. 12 weeks of leave for a new child. May request reassignment for good cause.</p>	<p>Employer's work place rules would apply. Sick leave, annual leave set by employer. 12 weeks of leave for a new child. May request reassignment for good cause.</p>

*Provide help for hearings, etc.*

17. Sanctions

WORK participants may be sanctioned for misconduct (defined in the specs).

Notice and opportunity to be heard prior to sanction.

Aid paid pending the hearing.

Rather than approaching this as a sanction against an cash entitlement, the approach should be to find participants ineligible ("suspend them") from the program for the same reasons as in the specs. (How do people get removed from a JTPA training program?)

Secretary shall issue regs establishing standards by which WORK agencies shall establish good cause.

These shall include physical ability to perform the work, access to the work site by available transportation, availability of child care, etc.

Persons suspended from the WORK program would be allowed to re-apply according to the following schedule:

- 1 month for first suspension
- 3 months for second suspension
- 6 months for third and subsequent suspensions

→ 3 strikes  
you're out

<p>Hearings/Due Process</p>		<p>If an applicant is found ineligible, or participant suspended, they may request a hearing to appeal the determination.</p> <p>The WORK agency is required to hold hearings and make final determinations within thirty days of a request. pending the outcome of the hearing, the WORK agency must provide the participant with a WORK assignment, if available, or with a paid activity.</p> <p>If there is no finding of good cause at the hearing, the participant will be suspended for the time period outlined above.</p> <p>Exception: first suspensions are curable, i.e., if the participant is found to be subject to a first suspension but is successfully working in a new position, they could be allowed to remain in the new position.</p>
<p>18. Job Search</p>	<p>WORK participants generally required to engage in job search at the conclusion of a WORK assignment or while on the waiting list.</p>	<p>Require job search after each assignment. Require paid activity, not necessarily job search for others.</p>

<p>19. Time Limit on WORK program</p>	<p>12 month limit on each assignment.</p> <p>No limit on overall participation in program.</p> <p>Comprehensive assessment after two years with three options:</p> <ul style="list-style-type: none"> <li>• stay in WORK</li> <li>• return to JOBS</li> <li>• send to JOBS PREP</li> </ul>	<p>12 month limit on each assignment</p> <p>After every two assignments (regardless of time frame), states would be required to do a comprehensive assessment of the participant with three options:</p> <ul style="list-style-type: none"> <li>• another WORK assignment</li> <li>• return-to-JOBS/JOBS-PREP</li> <li>• find ineligible for the WORK program</li> </ul> <p>The Secretary shall issue guidelines for these assessments that require states to examine at least the following factors:</p> <ul style="list-style-type: none"> <li>• the economic situation in the local area in which the participant lives including the unemployment rate and the rate at which other JOBS and WORK participants are finding work</li> <li>• the individual's ability to work as indicated by success or problems in the WORK assignments</li> <li>• the individual's record of cooperation with the JOBS and WORK programs.</li> </ul>
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See Florida - Work centers

• Availability of work slots? (Priority list - more than to back it some up)

20. Referral to Intensive  
Social Services

No provision

The Secretary shall issue regulations that require that families found ineligible for further WORK assignments are referred to an appropriate local social services agency for assessment of the children's needs and for consideration of the appropriateness of possible alternative placements for them.

WR SPECS  
(WORK)

LEGISLATIVE SPECIFICATIONS MEETING

Thursday, April 21, 1994

7:30am - 12:30pm, Room 415F

Agenda

- 7:30 WORK Program - Resolve major differences in conception
- 8:15 JOBS/Time Limit - Complete all decisions
- 9:00 Break
- 9:10 Loose Ends - Finish any outstanding issues
- 10:30 Status Report on Legislative Language, Cost Estimates
- 10:40 Break
- 10:50 State matching Rates or WORK - As appropriate
- 12:30 Adjourn

TO: Jeremy Ben-Ami  
Bruce Reed  
Kathi Way

FROM: Emil Parker  
Wendell Primus  
Michael Wald

DATE: April 19, 1994  
SUBJECT: WORK Specifications

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Thank you for sending over the WORK specifications so rapidly. We found them very helpful. We have a number of questions about the specifications; some concern small details which need to be clarified for drafting purposes. Please call one of us if you have questions about our questions.

1. APPLICATION/ELIGIBILITY/EFFECT ON BENEFITS

*Eligibility*

What is meant by "have complied with the employability plan?" Completed a training or education program? Or should it be read as "no history of sanctions within the JOBS program?" Would the WORK program be expected to verify that an applicant to WORK had satisfactorily participated in JOBS?

2. PARTICIPATION AND INCOME IN THE WORK PROGRAM

*WORK Stipends and WORK Activities*

What if the State does not have the minimum required number of WORK participants in assignments? In such a case, would it not be able to provide WORK stipends?

*work experience*

The minimum required number of assignments, as currently envisioned in the specifications, would be an annual average. Does this language imply that a State would have to be meeting the minimum at all times? For example, if a State is below the minimum in one month but has exceeded it for all previous months, would it be permitted to pay WORK stipends during that month?

What would happen if the State took longer than the set number of days (e.g., 30) to provide a WORK assignment for a particular individual? Would the person no longer be eligible for a WORK stipend, even if he or she were participating satisfactorily in the interim activity (e.g., job search, job club)?

At what level would the WORK stipends for people in "WORK activities" be set? At the level of the AFDC benefit? Higher? Would the WORK stipend in, for example, Alabama, equal the benefit (\$164 for a family of three) or the wages from a 15-hour per week minimum wage WORK assignment (\$274)?

*benefit?*

If the WORK stipend is equal to the AFDC benefit, then in instances in which the WORK program is operated by an entity other than the IV-A agency, would this entity, for example, the State JTPA

agency, be responsible for calculating the WORK stipend? If not, who would perform the calculation? The IV-A agency?

What is meant by "successfully completing required activities"? For example, let's say a WORK participant is assigned to job search and is expected to make 10 employer contacts per week. Would nine contacts be considered successfully completing required activities? Eight? Seven? Would the State, for example, pay 7/10 of the stipend if 7 contacts were made, or would it pay the full stipend provided the individual more or less did what was expected?

substantial compliance

What if the activity were work preparation, e.g., arranging for child care? Would attempting unsuccessfully to arrange for child care be considered completion of the required activity?

NO

If participants were required to report that the WORK activities were completed, would the reports be verified in any way? If so, how extensive would the verification be?

NO

Would child care be provided as needed for participation in these interim activities (e.g., community service or day work)? More generally, what level of resources should the WORK program be expected to devote to these WORK activities?

How many were on wait list?

If benefits are contingent on an individual's self-reporting that he or she completed required activities successfully, under what circumstances would individuals report that they did not complete the activities?

#### 4. SUSPENSION FROM THE WORK PROGRAM/DUE PROCESS

Individuals could be found ineligible to participate in the WORK program for quitting an unsubsidized job without good cause. How would the State determine whether such a quit was for good cause? What would be the definition of good cause in this context?

Does this imply that an individual who left the WORK program for reasons other than employment could return to the WORK program, while an individual who left for employment but subsequently quit could not?

= what?

Would vendor payments to prevent homelessness or cancellation of utility service be made on behalf of the families of persons suspended from the WORK program?

#### 5. TIME LIMIT ON PARTICIPATION IN WORK

What is meant by "the individual's record of cooperation"? Other than a history of having been suspended from the WORK program, what would be considered a record of noncooperation? Under what circumstances, if any, could an individual who had not been suspended be declared ineligible for continued participation in the WORK program due to noncompliance?

The clause before the "Referrals for Intensive Services" paragraph seems to imply that for an individual to be found ineligible, he or she would have to both be noncompliant and live in an area in which jobs were available. Are there any circumstances under which a person who had complied could be found ineligible?

area w/ jobs

The paper indicates that the State should examine the individual's ability to work as indicated by success or problems in WORK assignments. Is "success" good or bad in this context? Could a person who had been successful in WORK assignments be found ineligible on the grounds that he or she could find an unsubsidized job (e.g., the economic situation in the area was not particularly bad), while a person who had tried hard but had not been particularly successful in his WORK assignments be found eligible? How strong would the local economy need to be to deny eligibility to persons who had complied? What is the definition of "local area"?

#### 6. WAGE SUPPLEMENTS

The paper states that the WORK program would be "authorized" to provide stipends. Does "authorized" mean "required" in this context, or could a WORK program decide not to provide stipends, even if such a decision would leave some WORK participants worse off than they would be on AFDC?

What, other than not engaging in misconduct, is meant by "continuing satisfactory participation in WORK"? What, other than misconduct, would lead to a reduction in the WORK stipend?

*Personal* JOBS AND TIME LIMITS: Outstanding Issues

*Mutual Responsibility Agreement*

Should all new applicants, or just those in the phased-in group, be required to sign the mutual responsibility agreement? What about current recipients?

CHANGE NAME

RECOMMENDED ANSWER: All new applicants and all recipients undergoing redetermination would be required to sign the mutual responsibility agreement. Exempting those not in the phased-in group from the mutual responsibility agreement would not seem consistent with revamping the welfare system.

*JOBS-Prep*

Would there be good cause placements in JOBS-Prep, i.e., would States be permitted to place up to a percentage of adult recipients (e.g., 5%) in JOBS-Prep for reasons not covered by the specified criteria?

RECOMMENDED ANSWER: Yes.

Should a modest amount of funding be set aside for services to persons in JOBS-Prep status?

RECOMMENDED ANSWER: Yes. In order to make the argument that JOBS-Prep is not another word for exemption, the proposal will have to take some step to ensure that States will devote at least a minimal amount of time and resources to persons in JOBS-Prep status. If there are no participation standards, setting aside money (presumably at a very high match) is one other way to accomplish this. The other alternative is to admit openly that everyone will not be doing something and that JOBS-Prep status will be equivalent to exemption.

Use JOBS 4

*Teen Parents*

Should comprehensive case management services be provided to nineteen-year-old custodial parents who had not completed high school or the equivalent, or should such services be provided only through age eighteen?

RECOMMENDED ANSWER: Provide comprehensive case management services to all teen parents who had not completed high school. From the standpoint of the benefits of case management, it is difficult to draw a distinction between a nineteen-year-old teen mother and an eighteen-year-old teen mother if both are still in high school.

*Job Search*

Should there be an initial job search requirement? If so, what form should it take? Should it apply to recipients not in the phased-in group?

Option One: Require all persons to perform job search from the date of application.

Option Two: Require all job-ready persons to perform job search from the date of application. States would have to enroll a certain percentage of applicants in job search.

Option Three: Same as Options One or Two, except that the job-search requirement would kick in after eligibility determination, rather than after application.

Option Four: Require job search to be the first activity in the employability plan.

Option Five: State discretion

RECOMMENDED ANSWER: A variant of Option Two--all job-ready persons would be required to perform job search from the date of application, but there would be no percentage measure States would be required to meet. States would not welcome another process standard, and moreover writing the requirement into statute would send a clear signal about the orientation of the revamped JOBS program. Due to capacity constraints, the requirement should probably be applied only to phased-in recipients.

WHY NOT NEW APPLICANTS?

NOT STRONG ENOUGH  
-Req. all w/any previous work experience  
All APPLICANTS

**Participation Rates**

Should the participation standard for the phased-in group be set at 45%? What should the participation standard be for the not-phased-in JOBS-mandatory recipients? What changes should be made to the definition of participation?

RECOMMENDED ANSWER: The participation standard for the not-phased-in group could be set lower than the FY 95 20% rate, depending on the cost and administrative capacity constraints, but should not be set so low as to give the appearance that there would be no expectations for the not-phased-in group.

[85% or 3] set by Secy

The performance measures team has been discussing participation rates, including substantial changes in how the rate is calculated, and we need a concrete proposal from that group regarding participation rates and definitions ASAP.

next to State Volunteers as phased-in

**Earn-Back Policy**

What should the earn-back policy be? Should there be an earn-back policy, or should re-entrants who had reached the time limit go into the WORK program, regardless of how long they had been out of the system?

RECOMMENDED ANSWER: Preserve the policy currently described in the specifications--one month of assistance for every four months off, with total months of eligibility not to exceed 24, and no State flexibility (to avoid administrative difficulties when persons move between States).

NO!

6 mos Job Search

## ADMINISTRATION OF JOBS/WORK

### **Current law**

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

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

States currently deliver JOBS services through a variety of structures. It often varies within a state by county. In general, welfare agencies do not deliver education and training services themselves, except for some that do job search. Depending on the staffing they get from their state legislatures, they may or may not deliver case management services themselves. In a few states such as Florida and Michigan, Governors have decreed that JOBS be administered with other employment and training programs. In these states, it would appear that a handful of staff have been left in the IV-A agency to meet the requirement of IV-A administration, but that for all intents and purposes, administration has been lodged with another entity.

### **Vision**

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

*good -  
one-step?*

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

## ISSUES

### 1. The vision:

Our group was charged with developing the "vision" of the administration of the JOBS/WORK program if we gave the Governor the authority to designate the administering agency rather than mandating that it be the IV-A agency. It should be noted that at staff meetings to flesh out the vision, there was considerable discussion about whether the goal of changing the culture of the welfare system can be achieved if an entity other than the welfare agency is given full administrative responsibility for JOBS/WORK. However, given the charge to the group, we did not pursue this issue but believe that it is worth at least flagging for the larger group.

### 2. Must JOBS/WORK be administered by the same entity?

At one of the 7:30 meetings, there was general agreement that JOBS/WORK should be administered by the same entity. However, in that discussion it was assumed that it would be the IV-A agency that administered JOBS/WORK. If our vision is that the Governor is in the best position to determine how JOBS/WORK should be administered in the State, should we revisit whether they have to be administered by the same entity?

*Maybe*

### 3. Should we require that the entity selected by the Governor remain the designated entity for a specific period of time?

DOL has recommended that we require Governors to stay with the same organization arrangements for at least four years, with some escape clause for failure to meet performance standards.

### 4. What does it mean to administer JOBS/WORK?

For the purpose of answering this question, it is important to understand the vision of how people generally would flow through the system. The following lists some key activities that need to be carried out. (It is clearly not an exhaustive list, but hopefully it hits on major functions). To the extent that the same entity administers one, two, or three of these programs, words such as "refer" or "notify" may be irrelevant, but the functions still need to be performed. Functions that are bolded are those where we think it is not clear that decisions have been made about the locus of that responsibility. Discussion about some of the areas of uncertainty follows the list.

**To administer cash assistance and other aspects of JOBS/WORK that relate to eligibility, the IV-A agency must:**

- Provide orientation (perhaps with others)
- Enter into the mutual responsibility agreement with applicant
- Determine eligibility
- Make AFDC payments
- Notify families of time limits
- Track time limits
- Determine deferrals
- Reassess deferrals (see issue below)

- Notify JOBS of changes in AFDC/deferral status
- Refer to JOBS
- Hold fair hearings (including determination of deferral status, denial of extensions, months of eligibility for cash assistance, performance in JOBS)
- Notify JOBS/WORK agency of those approaching their time limit so that JOBS/WORK can do necessary job search and then can begin working with them immediately to find an appropriate WORK site if that is necessary.
- Make supplemental payments to WORK participants who are eligible because of low benefits and number of hours of required participation
- Transmit data to National Clearinghouse on client statuses
- ??Continue to determine eligibility of WORK participants for cash assistance and notify WORK of those who become ineligible**

**To administer JOBS, the administrative entity is responsible for the following functions (either delivered directly or by others):**

- Conduct assessment and develop employability plan for all persons referred from IV-A agency
- Arrange services (education, training, job search, employment) for JOBS participants
- Provide JOBS Prep services
- Reassess appropriateness of referral to JOBS (more appropriate for JOBS Prep)?
- Arrange/pay for supportive services other than child care; refer to child care
- Provide intensive case management for teen parents
- Refer to IV-A for hearing on failure to participate
- ??Grant extensions to complete education/training and notify IV-A if extensions have been granted (?)**

**To administer WORK, the administrative entity is responsible for the following functions (either delivered directly or by others):**

- Perform assessment to match participants to WORK slots
- Develop WORK slots/make referrals, assignments
- Refer for child care services
- Conduct job search
- Make payments for wages either directly to participants or to employers to make to participants
- ??Make income support payments to those in job search, on waiting lists, between assignments, eligible for aid paid pending (assuming that's required) OR refer back to IV-A agency to make those payments in a timely manner**
- ??Hold hearings on failure to participate in WORK OR refer to IV-A agency for hearing**
- Refer people back to IV-A for determination of appropriateness for deferral/JOBS Prep
- Perform reassessment (at end of WORK if there is an end to WORK)

There are a couple of areas of responsibility that we have bolded above because we believe they need some further consideration:

**Deferrals/extensions:** The decision about what entity grants deferrals and/or extensions requires a delicate balancing of competing interests. On granting deferrals, there was basic

agreement that the IV-A agency should be responsible. However, when we discussed the situation in which someone had been referred to JOBS and now the JOBS agency questioned the appropriateness of the referral, there was some concern for the client (and the process) if s/he had to go back to welfare to be deferred only to be referred back to the JOBS administering entity for JOBS Prep.

On granting extensions, there was a sense that the JOBS administering entity would be in the best position to do so since they had ostensibly been monitoring the individual's participation. Some extensions seem clearcut, but what happens when a state nears its limit on extensions? As with deferrals, the question of what entity HHS hold accountable for exceeding deferral and extension limits and what the penalty for doing so muddied the immediate recommendation that JOBS administering entity have the responsibility.

**Hearings:** We began with the premise that there should be only one hearing process, and there was general agreement that such responsibility would have to lie with the IV-A agency since it pays the cash benefits that are subject to due process. We believe this is still true relative to JOBS although we have some reservations (see below).

However, in thinking about the WORK program, we thought there might be some other considerations. Most important is what entity is responsible for making payments to individuals in the WORK program. If it is the IV-A agency, then hearings by that entity make sense. However, as we discuss below, it's not clear how such an arrangements is administratively feasible in which case the WORK entity might be responsible for ensuring that the WORK participant got paid either wages or benefits. Then there would be very good reason for hearings to be the responsibility of the WORK agency.

Furthermore, it's fair to say that to the extent that JOBS/WORK is administered by another entity, it is hard to imagine how the IV-A agency can fairly and accurately apply the policies of that agency to determine whether someone has failed to comply or not. Under the current JOBS program, the IV-A agency is the administering agency, and it is basically its own policies that it is enforcing (even if another entity is actually delivering the services, the IV-A agency has, for instance, defined "good cause"). Under this vision, it's another agency's policies that the IV-A agency would be judging; this seems at least minimally problematic. (Under WIN, which is the closest approximation we have to separate administration, clients were entitled to a hearing on their failure to participate in the program through the administering agency; they, then, were eligible for another hearing on the cash benefits which was a problem, too).

## 5. How should funding flow?

The vision assumes that grants would be made directly to the administering entity by HHS. This seems relatively straight forward for JOBS itself where a formula allocation makes such a grant possible. It also seems possible with the formula part of the WORK grant because it would be an amount that could be predetermined for each state.

However, based on the discussion about funding for the wage part of the WORK program, it is less clear how that would work for the wage portion of WORK. We understand that FFP would be available for State expenditures on WORK (wages part) up to a total amount calculated by summing

the amounts that eligible WORK participants would otherwise have received in welfare benefits each month. The Federal government would then match expenditures up to that total for each month. Information on eligibility and payment amounts would clearly seem to be in the purview of the IV-A agency so--

**OPTIONS:**

(1) The IV-A agency is responsible for telling HHS and the administrative entity what the maximum each month that the administrative entity could claim for expenditures and then HHS would make a grant award to the administrative entity based on that amount. The administrative entity would then be responsible for filing necessary expenditure reports.

(2) The IV-A agency notifies HHS of the amount available and receives the grant directly. It enters into arrangement to transfer available funds to the administrative entity for WORK. The IV-A agency would be responsible for filing necessary expenditure reports.

The first option would seem viable only if the WORK administrative entity had responsibility for payments to anyone subject to the WORK. (See section on administrative functions above) Otherwise if the IV-A agency is responsible for income support payments to WORK registrants who are waiting assignment or between assignments and, therefore, individuals could get checks from two entities, it's not clear how either agency would ever know how much money it had available to expend. / ?

6. Would expenditures made by the IV-A agency on either JOBS or WORK-related functions (such as reporting, hearings, etc.) be matchable under the regular IV-A program or would the administrative entities be required to pay for those functions out of the JOBS or WORK allocation?

7. Should we consider setting aside extra TA money or incentive funds to encourage states in certain directions such as integrating services?

Under the grant competition for One-Stop centers that DOL is sponsoring, States which bring in more than the minimum required human resource agencies will be awarded additional points in scoring their proposals. Are there directions that we wish to encourage or assist states in achieving that could be helped by either extra TA money or incentive funds? Should we also think about planning grants to States to encourage and facilitate the transition to the new system? Yes?

## JOBS AND TIME LIMITS

CONFIDENTIAL

All provisions below apply only to phased-in recipients unless otherwise specified.

### 1. PROGRAM ENROLLMENT

#### Current Law

*The Family Support Act required a State to make an initial assessment of AFDC applicants with respect to child care needs, skills, prior work experience, and employability. On the basis of this assessment, the State must develop an employability plan for the applicant. The State may require participants to enter into a formal agreement which specifies the participant's obligations under the program and the activities and services provided by the State. The employability plan is not considered a contract. States may require some applicants to undergo job search activities for 8 weeks and an additional 8 weeks for AFDC recipients.*

#### Vision

*At the point of the intake process, applicants will learn of their specific responsibilities and expectations regarding the JOBS program and time limits. All States and applicants will now be required to enter into an agreement specifying the responsibilities of each party. This will be accomplished through a mutual responsibility agreement and an employability plan. While the mutual responsibility agreement will outline a general agreement, the employability plan will be focussed on the specific employment-related needs of the applicant. Although these are not legal contracts, these agreements will serve to refocus the direction of the welfare program.*

#### Rationale

*States must change the culture of the welfare system by changing the expectations of both applicants and case workers. This can be done by modifying the mission of the welfare system at the point of the intake process to stress the shift from eligibility and benefit determination to employment and access to education and training. The mutual obligations of the State and the participant must be spelled out and enforced. JOBS programs must continue to be utilized as an entity designed to link clients to services in the community.*

- (a) All applicants will be required as part of the application process to sign a Mutual <sup>Personal</sup> Responsibility Agreement with the State specifying the general responsibilities of both the participant and the State agency under the revised transitional assistance program.

**ISSUE:** Should applicants not in the phased-in group be required to sign a Mutual <sup>Personal</sup> Responsibility agreement?

- (b) All applicants must also be provided, as part of the application process, with information about the revised JOBS program and the time limit on cash assistance. Each applicant would

be informed of the number of months of cash assistance for which he or she was eligible (e.g., 24 for first-time applicants).

- (c) The Mutual Responsibility Agreement shall not be a legal contract.

## 2. EMPLOYABILITY PLAN

- (a) Change current Social Security Act language that a State "may" require the participant to enter into an agreement with the State agency to follow the employability plan as developed to "must." (applicable to all recipients, including those not phased-in)
- (b) Add language requiring States to complete the assessment and employability plan within a period of time (e.g., 60 days from date of application) specified by the Secretary of Health and Human Services.
- (c) The employability plan shall specify a time frame for achieving self-sufficiency and the prescribed activities would be designed to enable the participant to obtain employment within this time period.
- (d) Amend section 482(b)(1)(A) by adding "literacy" after the word "skills." (applicable to all recipients, including those not phased-in)

## 3. JOBS-PREP

### Current Law

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

### Vision

*Under new provisions, a greater number of participants will be JOBS-mandatory. Single-parent and two-parent families will be treated similarly under the new JOBS system. The current exemption policy, which is based on an individual's characteristics, will be replaced with a policy under which persons not yet ready for participation in JOBS will be assigned to the JOBS-Prep phase.*

Rationale

*In order to change the culture of welfare, it is necessary to stress the importance of full participation in the JOBS program. It is also important to ensure that all welfare recipients who are able to participate in JOBS have such services made available to them by the States. Elimination of exemptions sends a strong message that full participation in JOBS should be the normal flow of events, and not the exception. The JOBS-Prep policy gives States the ability to consider differences in the ability to work and participate in education and training activities.*

- (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 JOBS-Prep phase either prior to or after entry into the JOBS program. For example, if an individual became seriously ill after entering the JOBS program, he or she would then be placed in JOBS-Prep status.
- (b) Persons in the JOBS-Prep 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 JOBS-Prep status would detail the steps, such as finding permanent housing or obtaining medical care, needed to enable him or her to enter the JOBS program.

Recipients not likely to ever participate in the JOBS program (e.g., those of advanced age) would not be expected to engage in JOBS-Prep activities. For individuals who are expected to enter the JOBS program shortly in any event (e.g., mothers of young children), JOBS-Prep services could be provided, when appropriate, to address any outstanding barriers to successful participation in JOBS.

- (c) No funds would be set aside for services to persons in JOBS-Prep status. States could provide services to individuals in the JOBS-Prep phase, using JOBS funds, but would not be required to do so. Likewise, States would not be required to guarantee child care or provide other supportive services for persons in JOBS-Prep status. Persons in JOBS-Prep status would not be subject to sanction for failure to participate in JOBS-Prep activities. In other words, in order to actually require an individual to participate in an activity, a State would have to make him or her JOBS-mandatory.
- (d) States would be required to maintain an employability plan for persons in JOBS-Prep status.
- (e) Persons in JOBS-Prep would not be subject to the time limit, e.g., months in which a recipient was assigned to JOBS-Prep would not count against the two-year limit on cash benefits.

**EXAMPLE:**

An individual applies for cash assistance in January of 1996. She and her caseworker design an employability plan in March of 1996 and she begins participating in the JOBS program activities in the plan. In September 1996, her father becomes seriously ill and she is needed in the home to care for him. At that point, she is placed in the JOBS-Prep phase. Her father's condition improves and by August 1997 he no longer requires full-time care. As of August 1997, she is eligible for 16 more months of cash assistance. She re-enters the JOBS program and reaches the 24-

Everyone  
Does  
Something

why point  
this out?  
E.g.)  
(immigration)

BAD  
EXAMPLE

month time limit in November 1998. At that point, however, she is only four months from completing her Licensed Practical Nurse (LPN) training. She is then granted a 4-month extension to finish her LPN training.

(f) The criteria for JOBS-Prep status would be the following:

(1) A parent of a child under one, provided the child was conceived prior to the family's most recent application for assistance, would be assigned to the JOBS-Prep phase. A parent of a child conceived after the most recent application for assistance would be placed in JOBS-Prep 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 three, under one at State option, are exempted from JOBS participation, and no distinction is made between children conceived before and children conceived after application for assistance)

(2) Illness, including mental illness, incapacity or advanced age;  
(Definition of illness and possibly of incapacity would be tightened by regulation)  
[see specifications on substance abuse for discussion of the approach for persons with drug or alcohol problems]

(3) Needed in the home to care for another member of the household who is ill or incapacitated;  
(Same as current law)

(4) Third trimester of pregnancy; and  
(Under current law, pregnant women are exempted from JOBS participation for both the second and third trimesters)

(5) Living in a remote area (i.e., more than two hours round-trip travel time from the nearest JOBS program site or activity).  
(Same as current law, CFR 250.30.5)

(g) States would be permitted, in addition, to place up to 5% of all adult recipients and minor custodial parents in JOBS-Prep for good cause as determined by the State. The percentage would be specified in statute.

\*\*  
5% of  
Phase in  
not  
custodial  
careload

(h) Recipients who met the criteria for placement in the JOBS-Prep phase would be permitted to volunteer for the JOBS program. Such a volunteer who was participating in JOBS would be subject to the time limit but would be permitted to opt out—return to the JOBS-Prep phase—at any time, provided he or she still met the JOBS-Prep criteria.

(i) A State would be required to promptly inform a recipient of any change in his or her status with respect to JOBS participation and/or the time limit (e.g., movement from the JOBS-Prep phase into the JOBS program).

#### 4. DEFINITION OF TIME LIMIT

##### Current Law

*The AFDC program provides cash assistance to households in which needy children have been deprived of parental support (Section 401, Social Security Act), including two-parent households in which the principal earner is unemployed (AFDC-UP program, Section 407). Operating within broad Federal guidelines, States set standards used to determine need and payment. In order to be eligible for AFDC, the household's gross income cannot exceed 185 percent of the State's need standard (Section 402(a)), its countable income must be less than the need standard, and the total value of its assets must be below the limit set by the State.*

*The cash assistance is provided to, and accounts for the needs of, the parent(s) or other caretaker relative, as well as the dependent children (Section 402(a) and others, Social Security Act). Some States (those which did not have an AFDC-UP program in place as of September 26, 1988) are permitted to place a type of time limit on participation in the AFDC-UP program, restricting eligibility for AFDC-UP to 6 months in any 12-month period (Section 407(b)). Thirteen states presently impose time limits on AFDC-UP eligibility. Under current law, however, no other type of time limits may be placed on participation in the AFDC program.*

##### Vision

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

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

*The proposal would impose, on adults, a cumulative time limit of two years on the receipt of cash assistance, with deferrals of and extensions to the time limit to be granted under certain circumstances. Months in which a recipient was working part-time would not count against the time limit. The two-year limit would be renewable--once an individual left welfare, he or she would begin to earn back eligibility for assistance.*

*The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency through work. This time limit gives both recipient and the welfare agency a structure that necessitates steady progress in the direction of employment and economic independence. As discussed elsewhere, recipients who reach the two-year time limit without*

*finding a private sector job will be offered publicly subsidized work assignments to enable them to support their families.*

- (a) The time limit would be a limit of 24 on the cumulative number of months of cash assistance an adult could receive before being subject to the work requirement (see Teen Parents for treatment of custodial parents under 19). Months in which an individual was receiving assistance but was in JOBS-Prep rather than in JOBS would not count against the 24-month time limit.
- (b) The time limit, as indicated in (a) above, would generally be linked to JOBS participation. Recipients required to participate in JOBS would be subject to the time limit. Conversely, the clock would not run for persons assigned to JOBS-Prep status.
- (c) States would be required to update each adult recipient every month as to the number of months of eligibility remaining for him or her.

#### 5. APPLICABILITY OF TIME LIMITS

- (a) The time limit would apply to parents (for treatment of teen parents, see Teen Parents below). A record of the number of months of eligibility for cash assistance remaining would be kept for each individual subject to the time limit. Caretaker relatives would not be subject to the time limit.

#### 6. TWO-PARENT FAMILIES

- (a) In a two-parent family, both parents would be subject to the time limit, provided neither parent was placed in JOBS-Prep status. If one parent had reached the time limit and the other had not, the parent who had reached the time limit would be required to enter the WORK program. If the parent who had reached the limit declined to participate in the WORK program, that parent would be removed from the assistance unit, but the family would still be eligible for the remainder of the benefit (the other parent and the children's portion) until the other parent's clock struck 24.
- (b) A parent in a two-parent family who had reached the time limit but declined to enter the WORK program would not be considered part of the assistance unit for the purpose of calculating either the AFDC benefit or the earnings supplement (if the other parent did enter the WORK program). If such a parent subsequently reversed course and entered the WORK program, he or she would be considered part of the assistance unit for the purpose of determining the supplement and would also be eligible for a WORK assignment. As discussed in the WORK specifications, a State would not be required to provide WORK assignments to both parents in a two-parent family.

?

why is label applied in 2-parent families?

**EXAMPLE:**

A single father with two children who came onto the rolls twelve months ago marries a woman with no children and no prior welfare receipt. Both are required to participate in JOBS. Twelve months later, the father reaches the time limit, but refuses to enter the WORK program. At that point, the father is removed from the assistance unit. The mother continues to participate in JOBS and the family receives the mother and children's share of the benefit. Twelve months later, the mother reaches the time limit. At that point, she decides to enter the WORK program and is assigned to a 20-hour per week WORK position. For purposes of calculating the earnings supplement, the assistance unit consists of the mother and the children, even though the father is still in the home. Three months later, the father changes his mind and enters the WORK program. The State refers the father to a placement agency, rather than assigning him to a WORK slot. He is now considered part of the assistance unit for the purpose of calculating the family's earnings supplement.

Under current law, the second parent in a two-parent family is not exempted from participation in JOBS. If, however, under the proposed law a State chose to place the second parent in JOBS-Prep status (e.g., for good cause rather than under one of the specified criteria), the second parent would not be subject to the time limit. The second parent would then be counted toward any relevant cap on the number of adult recipients (and minor parents) a State would be permitted to place in the JOBS-Prep phase.

**RATIONALE:**

While the provision described above might be interpreted to favor two-parent families over single-parent households, its intent is actually to equalize treatment of one and two-parent families. Applying the time limit to a parent in a two-parent family who did not have access to JOBS services (due to placement in JOBS-Prep) but not to a single parent assigned to JOBS-Prep would constitute, to some extent, a bias against two-parent families.

*But work  
bias isn't  
right*

**NOTE:** If a second parent who would otherwise be placed in JOBS-Prep status volunteered for the JOBS program, that second parent would be subject to the time limit, as with any other volunteer.

- (c) With respect to the phase-in, both parents in a two-parent family would be considered subject to the new rules if the principal earner were in the phased-in group. If the parents subsequently separated, both would still be subject to the new rules.

**7. TEEN PARENTS**

- (a) All custodial parents under 19 who had not completed high school or the equivalent (e.g., a GED program) would be required to participate in the JOBS program, with education as the presumed activity. The 24-month time clock, however, would not begin to run until a custodial parent turned 18. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (b) Custodial parents under 19 who had a child under one but who had not completed high school would be required to participate in JOBS, rather than placed in JOBS-Prep status. Such parents would be expected to return to school as rapidly as possible following the birth of the child. Custodial parents under 19 with a young child could be placed in JOBS-Prep only for a period of up to twelve weeks following the birth of the child. States would be permitted to

assign custodial parents under 19 to JOBS-Prep status in exceptional circumstances, for example, in the event of a serious illness which precludes school attendance.

- (c) Nineteen-year-old custodial parents would be subject to the same rules with respect to placement in JOBS-Prep status and to the time limit as all other adult recipients. Education would, as under current law, be the presumed activity for nineteen-year-old custodial parents who had not completed high school or the equivalent and were required to participate in JOBS.
- (d) Individuals who were eligible for and receiving services under the Individuals with Disabilities Education Act would receive an automatic extension up to age 21 if needed to complete high school. These extensions would not be counted against the cap on extensions.
- (e) States would be required to provide comprehensive case management services to all custodial parents under 20 who had not completed high school or the equivalent.

**ISSUE:** Should comprehensive case management services be provided to nineteen-year-old custodial parents who had not completed high school or the equivalent, or should such services be provided only through age eighteen?

[see Promote Parental Responsibility and Prevent Teen Pregnancy specifications for a discussion of all provisions in the plan concerning teen parents, including further detail on comprehensive case management.]

## 8. JOBS SERVICES AVAILABLE TO PARTICIPANTS

### Current Law

*A range of services and activities must be offered by States under the current JOBS program, but States are not required to implement JOBS uniformly in all parts of the State and JOBS programs vary widely among States. The services which must be included are: educational activities, including high school and equivalent education, basic literacy, and English proficiency; jobs skills training; job readiness activities; job development and job placement; and supportive services to the extent that these services are necessary for participation in JOBS. Supportive services include child care under a variety of circumstances, and transportation and work related expenses. States must also offer at least 2 of the following services: group and individual job search; on-the-job training (OJT); work supplementation programs (WSP); and community work experience programs (CWEP). There is a need to expand the definition and range of services available under JOBS. States would maintain the flexibility to determine the mix of JOBS services available and required for participants.*

### Vision

*The definition of satisfactory participation in the JOBS program will be broadened to include activities that are important to helping individuals achieve self-sufficiency. States will have broad latitude in determining which services are provided. Additionally, job search activities will be emphasized to promote work and employment.*

All provisions below, with the possible exception of any initial job search requirement under (a)(2), would apply to all recipients, including those not phased-in and not subject to the time limit.

(a) Amend job search rules to accomplish the following:

- (1) Require States to include job search among the JOBS services offered;
- (2) Extend permissible period of initial job search from 8 weeks to 12;

*Option One:* Require all persons to perform job search from the date of application.

*Option Two:* Require all job-ready persons to perform job search from the date of application. States would have to enroll a certain percentage of applicants in job search.

*Option Three:* Same as Options One or Two, except that the job-search requirement would kick in after eligibility determination, rather than after application.

*Option Four:* Require job search to be the first activity in the employability plan.

*Option Five:* State discretion

**ISSUE:** Should the same initial job search requirements be applied to recipients not in the phased-in group?

ALL WORK HISTORY

YES

- (3) Remove the requirement that job search after initial job-search period may only be required in combination with education and training; and
  - (4) Clarify the rules so as to limit job search to 4 months in any 12-month period. Initial job search would be counted against the 4-month limit, but the 45-90 days of job search required immediately before the end of the 2-year time limit (see Transition to Work/WORK) would not.
- (b) Eliminate the requirement that States expend 55 percent of JOBS funds on services to the target groups.
  - (c) Change the anti-displacement language to permit work supplementation participants to be assigned to established unfilled vacancies in the private sector.
  - (d) Limit Alternative Work Experience to 90 days within any 12-month period (*by regulation*).
  - (e) Amend section 482(d)(1)(A) by replacing "basic and remedial education to achieve a basic literacy level" with "employment-oriented education to achieve literacy levels needed for economic self-sufficiency."

## 9. PART-TIME WORK

[Detailed specifications awaiting resolution of key questions]

## 10. JOBS PARTICIPATION

Current Law

*Under the Family Support Act of 1988 which established the JOBS program, certain minimum participation standards were established for fiscal years 1990-1995 for the AFDC caseload. States face a reduced federal match rate if those standards are not met. In FY 1993 at least 11% of the non-exempt caseload in each State must participate in JOBS. The standards increase to 15% for FY 1994 and 20% for FY 1995. There are no standards specified after FY 1995. There is a need to extend and increase minimum participation standards beyond 1995 in order to implement JOBS and transform the welfare system from an income support system into a work support system.*

Vision

*In order for the JOBS program to become the centerpiece of government assistance, the JOBS program must experience a dramatic expansion of both services and participants. Under the provisions of the new transitional assistance program, JOBS participation will be greatly expanded and increased participation rates will be phased-in until States reach a full-participation model. States will be given flexibility in designing systems to achieve these objectives.*

- (a) The participation standard would be increased from the current level (20% in FY 1995) to 45 percent for phased-in recipients required to participate in JOBS. The 20 percent participation standard would be extended with respect to JOBS-mandatory recipients not phased-in (there are no participation standards in current law for FY 96 and beyond). For example, if the phase-in of the new rules began with adult recipients and minor parents born in 1972 or later, States would be required to meet a 45 percent participation standard for mandatory recipients born in 1972 or later and a 20 percent participation standard for mandatory recipients born before 1972.

WHAT  
IMPACT?

All of the provisions below would apply to both phased-in and non-phased-in recipients.

- (b) Alter the definition of participation such that an individual enrolled half-time in a degree-granting post-secondary educational institution who was making satisfactory academic progress (as defined by the Higher Education Act) would be considered to be participating satisfactorily in JOBS, even if such a person were scheduled for fewer than 20 hours of class per week. *(by regulation)*
- (c) Broaden the definition of JOBS participation to include participation in activities, other than the optional and mandatory JOBS services, which are consistent with the individual's employability plan. *(again, by regulation)*

?

- (d) The broadened definition of participation would include participation in the Small Business Administration Microloan Demonstration program or another *structured* self-employment program. As above, satisfactory participation in a structured self-employment program would meet the JOBS participation requirement, even if the scheduled hours of the self-employment program were fewer than 20 per week. (by regulation)

good

11. ANNUAL ASSESSMENT

- (a) States would be required to conduct an assessment of all adult recipients and minor parents, including both those in the JOBS-Prep phase and those in JOBS, on at least an annual basis to evaluate progress toward achieving the goals in the employability plan. This assessment could be integrated with the annual eligibility redetermination (see Reinvent Government Assistance specifications). Persons in JOBS-Prep status found to be ready for participation in employment and training could be assigned to the JOBS program following the assessment. Conversely, persons in the JOBS program discovered to be facing very serious obstacles to participation could be placed in the JOBS-Prep phase.
- (b) The assessment would entail an evaluation of the extent to which the State was providing the services called for in the employability plan. In instances in which the State was found not to be delivering the specified education, training and/or supportive services, the agency would be required to document that failure and establish a plan to ensure that the services would be delivered from that point forward.

12. SANCTIONS

Current Law

*The sanction for non-compliance under the current JOBS program is the loss of the non-compliant individual's share of the grant, until the failure to comply ceases. In the event of subsequent non-compliance, the sanction is a minimum of 3 months for the second failure to comply, and a minimum of 6 months for all subsequent non-compliance. The State, however, cannot sanction an individual for refusing to accept an offer of employment, if that employment would result in a net loss of income to the family.*

← 50%

ETC

*For sanctioned two-parent families, both parents' shares of the total benefit are deducted from the family's grant, unless the second parent is participating satisfactorily in the JOBS program.*

No

Vision

*Under these provisions, States would gain some flexibility regarding sanction policy but much of the current sanction policy would remain intact.*

→ 25% APWA

(a) Program Interactions:

- 1. Sanctioned families would still have access to other available services, including JOBS activities, child care and Medicaid.

→ Conciliation?

2. Sanctioned months would be counted against the time limit on cash benefits.

- (b) Change the statute such that for sanctioned two-parent families, the second parent's share of the benefit would not also be deducted from the grant, unless the second parent were also required to participate in JOBS and were similarly non-compliant. (applicable to all two-parent families, including those not phased-in)

Why?

13. TRANSITION TO WORK/WORK

- (a) Persons would be required to engage in job search during a period of not less than 45 days (up to 90 days, at State option) before taking a WORK assignment. In most cases, the job search would be performed during the 45-90 days immediately preceding the end of the time limit.
- (b) States would have the option of providing additional months of cash assistance to individuals who found employment just as their eligibility for cash assistance ended, if necessary to tide them over until the first paycheck.

EXAMPLE:

January is the last month in which a recipient is eligible for cash benefits. At the end of January, he finds a job. He will not, however, receive his first paycheck until the end of February. The State would have the option of issuing a benefit check for the month of February, even though he reached the time limit in January.

- (c) At State option, persons who had left the JOBS program for work would still be eligible for selected JOBS services, including case management.

Require

14. EXTENSIONS

- (a) States would be required to grant extensions to persons who reached the time limit without having had adequate access to the services specified in the employability plan. In instances in which a State failed to substantially provide the services, including child care, called for in the employability plan, the recipient would be eligible for an extension equal to the number of months needed to complete the activities in the employability plan (up to a limit of 24 months). States would be required to take the results of the annual assessment(s) into account in determining if services were delivered satisfactorily. [Office of the General Counsel is developing language for this provision]
- (b) Persons enrolled in a structured learning program (including, but not limited to, those created under the School-to-Work Opportunities Act) would be granted an extension up to age 22 for completion of such a program. A structured learning program would be defined as a program that begins at the secondary school level and continues into a post-secondary program and is designed to lead to a degree and/or recognized skills certificate. Such extensions would not count against the cap on extensions (see below).
- (c) States would also be permitted, but not required, to grant extensions of the time limit under the circumstances listed below, up to 10% of all adult recipients and minor parents required to

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Why 10%?

participate in JOBS. Persons granted extensions due to State failure to deliver services, as discussed above, would be included under the cap.

- (1) For completion of a GED program (extension limited to 12 months).
- (2) For completion of a certificate-granting training program or educational activity, including post-secondary education or a structured microenterprise program, expected to enhance employability or income. The extension is contingent on the individual's making satisfactory academic progress (extension limited to 24 months).
- (3) For some persons who are learning disabled, illiterate or who face other substantial barriers to employment. This would include a seriously learning disabled person whose employability plan to date has been designed to overcome that obstacle and who consequently has not yet obtained the job skills training needed to secure employment (extension not limited in duration).

link to work

- (d) States would be required to continue providing supportive services as needed to persons who had received extensions of the time limit.
- (e) A State would be permitted, in the event of unusual circumstances, to apply to the Secretary to have its cap on extensions raised.

?

15. EARNING BACK ELIGIBILITY

- (a) Persons who had left the cash assistance program would earn back eligibility for months of cash assistance at a rate of one month of cash assistance eligibility for every four months during which the individual did not receive cash assistance and was not in the WORK program. The total months of assistance for which a person was eligible at any time could never exceed 24.

NO  
6 mos

EXAMPLE:

An individual applies for assistance for the first time in January 1997, is not deferred from the JOBS program and enters a JTPA in-class vocational training program in March 1997. She obtains a private sector position and leaves the JOBS program in December of 1997. At that point, she is eligible for 13 months of cash assistance. Two years later, she is laid off from her job and is unable to find another. She re-applies for assistance in February 2000, 26 months after leaving welfare. At this point, she has earned back 6.5 months of cash assistance (26 total months divided by 4), which, when added to the original 13 months, gives her 19.5 months of eligibility remaining.

- (b) Persons who left the WORK program would also be able to earn back months of cash assistance, just as described in (a).
- (c) States would be able to assign persons re-entering the JOBS program to work activities (e.g., CWEP, Work Supplementation) within the JOBS program, when appropriate.

## IMPROVING GOVERNMENT ASSISTANCE - OUTSTANDING ISSUES

### 1. **ISSUE: Do we want to continue the mandatory 6-month AFDC-UP provision?**

Current Proposal - UP Provisions - Allow states, at their option, to eliminate the special eligibility requirements for two-parent families (i.e. the 100-hour rule and the work history test). Remove the sunset provision that calls for the termination of mandatory AFDC-UP in 1998 and make it a permanent program.

*Staff recommends including this provision (as written in the proposal).*

**Cost: Under Development**

### 2. **ISSUE: Should IDAs be created and defined in the tax code as a national initiative, or be limited to demonstrations?**

IDAs - The Department of Treasury will amend the tax laws to allow for the development of IDAs. Amend both the Social Security Act and the Food Stamp Act to allow the asset limit to be increased to establish IDAs and demonstration projects which test the effectiveness of different levels of resource accumulations. The resource limit would be increased to \$10,000 for purposes of the IDAs. Under both options, funds in an IDA will be disregarded for current recipients and former recipients who reapply within 12 months of leaving the rolls.

(a) Lump sum income: Non-recurring lump sum income would not be counted, for AFDC and Food stamp purposes in the month of receipt or the next following month, if put in the IDA.

(b) Limits: There would be no limit on the number of IDAs eligible members in a family may have. However, the total exclusion per family would not exceed \$10,000.

(c) Penalties for non-designated use of IDA: The penalty would be 10 percent of the amount withdrawn for each non-designated withdrawal. The penalty would be applicable as long as the IDA was in effect.

**Total AFDC Cost: \$5 million**

**Federal AFDC Cost: \$3 million**

**Food Stamp Cost: Under Development, is anticipated to be very large.**

### 3. - **ISSUE: What is the status of the March 31, proposal for Self-employment/Microenterprise demonstrations? (see attached)**

- **ISSUE: Should microenterprises be limited on the basis of their net worth and/or number of employees?**

- **ISSUE: AFDC State agencies would determine the time-frames for the resource exclusion on the basis of the recipient's or applicant's approved business plan, which would be developed in accordance with the State criteria. Should this method of monitoring microenterprises apply to Food Stamp-only households also?**

- **ISSUE: Approving of the business plan: do States have the competency? Or is this for monitoring purposes only?**

### Additional Access and Visitation Options

There has been concern expressed by non-custodial parents and some children's advocates that not enough attention has been focussed on the detrimental effects that parent absence can have on the well-being of children and on the need for more coherent access and visitation policies which protect the children's rights to have access to emotional support, as well as financial support, from both parents. Some non-custodial parents groups have recommended that an independent commission, similar to the proposed Guidelines Commission be established to address these issues.

#### OPTIONS:

- (1) establish an independent commission to study the issue of access and visitation.
- (2) extend for an additional year and sufficiently fund the Child Welfare Commission created within the Child Support Recovery Act of 1992. The commission's agenda primarily related to child welfare issues, such as foster care, but included among the topics to be addressed is the issue of visitation and custody.
- (3) fund the National Institute of Child and Human Development (NICHD) to more fully investigate the significance of the role of fathers in the social development of children and the consequence of father absence on that development.

The three options noted above attempt to address the very real concern that we do not currently know enough about the effects of father absence on the well-being of children to have a national policy debate on the appropriate federal role in access and visitation issues. The first two options begin to address the issue by gathering facts and testimony about the problems and issues that non-custodial parents have in continuing to provide support and nurturance to children who do not live with them. The third option focuses on a more basic research question concerning the consequences of father absence on child well-being.

Option 1 provides the non-custodial parent and family advocates with a public forum for addressing the issue they believe is crucial to the child support debate-how should the government facilitate support, both emotional and financial, for children who do not live with both their parents. It is also the most po-litical volite option because it would appear to some child support enforcement advocates to give the same weight to access and visitation issues as to payment of financial child support. The current child support proposal establishes a commission to study the issue of child support guidelines.

No

Option 2 proceeds with the Commission option, but in a more low-key manner. It proposes additional funding to a Commission that the Congress has already established. One of the items the Congress asked the Commission to address is access and visitation. Under this option we would be fulfilling a Congressional mandate rather than establishing a new high profile entity. While this option reduces the political cost of proposing such a Commission, it may also reduce any positive outcomes. The main mission of the Commission is related to the more traditional child welfare issues. The persons likely to serve on such a commission would have little knowledge or even interest in the visitation and access issues. Such a situation could lead to more frustration by non-custodial parents groups than having no Commission at all.

The 3rd option, a father oriented research agenda, steps back to look at what we know and what we can find out about the importance of fathers in the lives of children. Much less attention have been

Yes

paid to the father's role in child development than the mother's role. Currently there is no theoretical meeting ground between the clinical practioners who see father absence as having negative social consequences on child well-being and child support advocates who maintain that any discussion of the father-child relationship is irrelevant to the issue of ensuring financial support. This option would try to build a knowledge base which could help bridge between the issues of financial and emotional support. The strength and the weakness of this option is that it is not as politically visable an approach as a Commission and would not generate public interest or awareness.

DRAFT - for discussion only

→ FRAND  
 → Placement Bonus  
 CONFIDENTIAL

[Apr 20, 4:30pm]

## PERFORMANCE MEASURES PROPOSAL

### Current JOBS Law

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

(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

(2) submit his/her recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may be reasonably expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation. Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.

### Current JOBS Program Performance Measures

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

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

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

### Current Data Reporting System

The JOBS Case Sample Reporting System (CSRS) was established to meet some of the reporting requirements mandated by section 487 of the Social Security Act. However, the data necessary to establish the performance standards such as participation rates is collected through both the CSRS and hard copy aggregate reports. Only the data necessary to establish the numerator for the overall participation rate is collected by CSRS. The population from which each state must draw its sample (or in lieu of drawing a sample, the State may submit the entire population each month) is defined as the number of JOBS participants that were engaged in at least one hour of activity in an approved JOBS program component during the sample month. In addition to JOBS program data, a limited amount of demographic data and child care data is also required to be submitted.

DRAFT - for discussion only

Current QC Law

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

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

Vision

*The proposed performance measurement system would consist of a limited set of broad measures that would reflect the intended outcomes (i.e., self-sufficiency, client satisfaction, etc.) of the transitional support program. These and other measures would be used to monitor the quality of State programs, to trigger corrective actions, such as sanctions and technical assistance, incentives as appropriate (e.g. changes in FFP), and to monitor program implementation. The current targeting and participation standards are eliminated (see draft specifications on JOBS/TIME-LIMITS/WORK).*

*All interested parties will be included in the process for determining performance measures and standards. For example, State and local program administrators will take part in their formulation and client feedback measures will be developed in consultation with welfare recipients.*

**GENERAL DISCUSSION ISSUES:**

- To what extent should specific requirements (i.e., outcomes such as economic self-sufficiency, reduced welfare receipt, etc) be articulated in the legislative language? Should the legislative language merely specify a process by which to determine performance measures? Should a time-frame for the process be specified?
- Participation rates -- which are a performance measure -- are specified in JOBS/TIME-LIMITS; is this appropriate? Shouldn't participation rates be a part of a PM system?
- In general, how and for what purposes should performance information be utilized? Are there Federal reporting requirements which we can eliminate? Should the legislative language specify consequences for failure to meet performance standards? What should these consequences be? Should the legislative language specify incentives for meeting standards?
- How should the non-phased-in population be accounted for under the new performance measurement system? Would the EA and child care programs be included?

DRAFT - for illustration only

1. Performance Measurement System

- (a) The Secretary shall, in consultation with the Secretaries of other Departments, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, establish and direct a system for measuring State performance pursuant to the requirements of this act for the purposes of assessing and monitoring State performance.
- (b) The Secretary shall, in consultation with appropriate interested parties, have the authority to modify the performance measurement system as appropriate.

ISSUE: Should specific goals (i.e., outcomes and participation rates) of the system be articulated in statute?

MAMBE

- (c) Amend Sec. 487 (b) to read: The Secretary may require States to gather such information and perform such monitoring functions as are appropriate to assist in the development of a performance measurement system and shall include in regulations provisions establishing uniform reporting requirements for such information.

2. Performance Standards

- (a) For the purposes of implementing appropriate actions, the Secretary shall, in consultation with the Secretaries of other Departments, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, establish standards based on the performance measures defined pursuant to this act.
- (b) Once in effect, performance standards shall be reviewed periodically and modified by the Secretary, in consultation with those parties identified in 1.(a), as appropriate.

ISSUE: Should the time-frame for issuance and modification of measures and standards be specified in statute?

- (c) The Secretary shall, in consultation with those parties identified in 1.(a), define in regulation the consequences of failure or success in meeting such performance standards.

ISSUE: What consequences for achieving or failing to achieve standards should be specified in legislation?

- (d) Where appropriate, the Secretary may approve alternative State-specific performance measures and standards, as well as alternative data reporting requirements, upon written request of the State.

3. Revised Quality Control System

- (a) Amend Section 408 of the Social Security Act to permit the Secretary, in consultation with the Secretaries of other Departments, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, to revise the current

DRAFT - for discussion only

payment accuracy Quality Control system to a broader system focused on self-sufficiency and program improvement.

*The existing QC system requires an evaluation of all factors of eligibility and payment, except a few that are specifically excluded by the Statute, e.g., monthly reporting. The new system would focus on only error prone factors with significant dollar effects (e.g. earned income, filing unit, deprivation, etc.), or only on factors viewed as critical to public confidence in the program.*

- Revise the regulations to reduce the verification and documentation required to substantiate a review finding.

*The current system requires a detailed description and calculation of all errors found in a case review, and that a specified amount of verification be obtained to substantiate the error finding. Under this option, documentation/verification standards would be relaxed by establishing new minimum standards and the payment error determination process will be simplified.*

- Revise the regulations to change the sample design.

*The current system requires each state (or jurisdiction) to select a minimum of 300 to 1200 review cases each year. The Federal staff examines a portion of each state's sample to validate the review findings. The precision (confidence level) of the payment errors is primarily a function of the sizes of the State and Federal samples and the expected frequency with which the attribute being measured occurs in the population being sampled. They have been tested and judged adequate for holding States accountable for prescribed payment accuracy standards. Commitment of resources to achieve this level of precision may not be necessary in an incentive/technical assistance response to State performance. It should be noted that smaller sample sizes will reduce the amount and degree of reliability of performance data on the transitional system. We can study the potential impact of various reduced sample size models on the precision of payment error estimates and other process measures.*

#### OPTION 2: Operational Design

*States would be required to conduct periodic, internal audits of their JOBS and WORK processes to ensure the accuracy of reported data and annual audits to establish payment accuracy rates. The Federal government would specify the minimum sample sizes to achieve 90 or 95 percent confidence at the lower limit (the method generally used by OIG). States would also be permitted to use current QC resources to conduct special studies to test and improve the current system. To ensure that State data and procedures are valid and reliable, the Federal government would conduct periodic, targeted, and unannounced audits for that purpose.*

#### 4. Incentives vs. Penalties

- States would be eligible for performance-based incentive payments – for example, a 1-10 percent increase in FFP (administrative costs, or JOBS, or WORK).
- Sanctions for unacceptable performance could also be included, if needed to foster appropriate behavior.
- The incentive/sanction formula would be developed by the Secretary taking into consideration and appropriately weighting desired results, including payment accuracy.

Microenterprise (Self-employment) -

- (1) Require the AFDC and Food Stamp programs to disregard from resources of applicants and recipients any portion of the net profit of the microenterprise necessary to fulfill the business plan. The period of time for the exclusion would be determined by the State agency on the basis of the approved business plan, which would be developed in accordance with criteria established by the State. States may count establishing and participating in a microenterprise as fulfillment of the JOBS requirements.

Proposed Resource Changes

- (2) Amend the Social Security Act to conform to the resource exclusions under the Food Stamp Program. AFDC regulations would be revised to exclude:
  - (a) property which annually produces income consistent with its fair market value;
  - (b) property which is essential to the self-employment of a household member;
  - (c) installment contracts for the sale of lands and buildings, if the contract is producing income consistent with fair market value;
  - (d) resources of self-employed persons, which has been prorated as income;
  - (e) non-liquid assets with liens resulting from business loans; and
  - (f) real or personal property that is needed for maintenance.
- (3) Amend the Food Stamp Act to exclude business loans from resources.

Cost: Negligible

4. **ISSUE:** FNS is considering a statutory change to achieve consistency with AFDC by using equity value rather than FMV (See Appendix A for detailed description of the FNS proposal). Should the additional provision be included in welfare reform?

NO -  
\$\$

Auto Resource Limit (by regulation) - Exercise Secretarial authority and amend the regulations to increase the AFDC automobile limit to an equity value that is compatible with the current Food Stamp FMV limit with the goal of assuring that a vehicle will meet the requirements of both programs.

5. **ISSUE:** Michael Wald suggested that underpayment policy needs to be consistent with overpayment policy. Are we comfortable with this proposal?

*ACF staff recommends that this provision is for purposes of conformity.*

Underpayments - Amend section 402(a)(22) of the Social Security Act to conform to Food Stamp law by requiring the issuance of agency caused underpayments to current and former recipients for a period not in excess of 12 months from the date that the agency learns about the underpayment.

Rationale

Since clients are responsible for reporting changes in circumstances that affect eligibility and benefits, a 12-month limit on restoring lost benefits due to agency error reinforces positive behavior. The change also achieves consistency between the AFDC and Food Stamp underpayment policies. However, because the proposal represents a contraction of AFDC program policy (i.e., the prohibition on underpayments due to client error) client advocacy groups are likely to object.)

7

Total AFDC Savings: \$24 million  
Federal AFDC Savings: \$13 million  
Food Stamp Cost: \$ 7 million

6. **ISSUE:** Should we remove the Supplemental Payments provision from current law?

Current Law

Section 402(a)(28) of the Social Security Act requires those States that deduct income from the need rather than the payment standard (fill-the-gap) now and in July of 1975 to provide a supplemental payment to families who have less disposable income because child support is paid to the child support agency instead of directly to the family. No such provision exists in the Food Stamp program.

Supplemental Payments - Amend the Social Security Act to remove this provision.

Total AFDC Savings: \$42 million  
Federal AFDC Savings: \$27 million

7. **ISSUE:** The following provisions are proposed technical fixes to be included as part of the welfare reform proposal that have not been previously reviewed.

Staff recommends that these provisions be included.

- Declaration of Citizenship and Alienage - Amend the Social Security Act by revising section 1137(d)(1)(A) as follows:

(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child or a spouse in a two parent unit, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in satisfactory immigration status.

→ REPORTING TO INS

Rationale

The current requirement is administratively burdensome as it requires each adult in the AFDC unit to sign a separate declaration. This proposal will allow the adult payee or principal earner in an assistance unit to declare on behalf of his/her spouse and children, thereby simplifying the application and redetermination process. This proposal would also provide consistency with Food Stamps.

Savings: \$1 million

- **Retrospective Budgeting** - Amend the Social Security Act at section 402(a)(13) to delete the clause "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14)." This technical amendment will make retrospective budgeting optional for States without regard to whether families are required to monthly report.

Rationale

*Allowing States to use retrospective budgeting without requiring cases to monthly report will foster consistency between the AFDC and Food Stamp programs, and will give States greater flexibility to administer their programs.*

**Savings: Negligible**

- **Recovery of Overpayments** - Amend section 402 (a)(22)(b) of the Social Security Act to permit State agencies to coordinate with the IRS to intercept Federal Income Tax Returns for the retrieval of outstanding AFDC overpayments, provided that they pursue other means of collection under State law, prior to using the Federal tax intercept program. The tax intercept recovery method would only be used to recover overpayments made to individuals who are no longer receiving aid under the plan.

The administrative costs incurred by a State with a Federal tax intercept program would have a 50% Federal match rate for State contributions.

Rationale

*There has been significant pressure from the States, other Federal agencies, and from within the Department of Health and Human Services to pursue overpayment recovery more aggressively in the AFDC program. More specifically, States have been urging AFDC to adopt an Internal Revenue Service (IRS) tax intercept program similar to the demonstration project which the Food and Nutrition Service is operating within the Department of Agriculture to collect over-issuances in the Food Stamp program.*

Cost: Savings estimated in millions of \$ are as follows:

<u>FY 1994</u>	<u>FY 1995</u>	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>
\$ 16	\$ 17	\$ 18	\$ 20	\$ 21

→ Why  
KEEP  
SAVINGS  
QUIET?

## Appendix A TREATMENT OF VEHICLES IN THE FOOD STAMP PROGRAM

### Background

FNS is interested in achieving some conformity in the treatment of vehicles between the Aid to Families with Dependent Children Program (AFDC) and the Food Stamp Program (FSP). Currently, FSP bases its vehicle tests on Fair Market Value (FMV) while AFDC uses equity. This difference in treatment has meant that households with modest equity and moderate FMV are eligible for FSP but not AFDC. Although AFDC households are categorically eligible for food stamps, welfare reform could create a situation where some AFDC recipients who leave AFDC to take low-paying jobs also loses their FSP eligibility on the basis of the value of their vehicles. Moving to conformity will eliminate this unfair treatment.

The options below try to move to an equity-based treatment of vehicles while minimizing both cost and the number of households who lose FSP eligibility. All options continue to exempt vehicles used to produce income, provide housing, or transport disabled household members.

### Options

1. **Exempt first vehicle of any not previously exempted, and count all equity in remaining vehicles.**

- The estimated 1995 cost is \$320 million.
- An estimated 370,000 newly-eligible people are expected to receive FSP benefits.
- Few current FSP participants are expected to lose eligibility.

Exempting vehicles for each additional earner will add to costs and increase the number of newly-eligible persons receiving benefits.

2. **Total the equity of all nonexempt vehicles, but only count the equity in excess of \$4,500.**

- The estimated cost of a \$4,500 equity threshold is \$330 million.
- An estimated 450,000 newly-eligible people are expected to receive FSP benefits.
- Few current FSP participants are expected to lose eligibility.

Setting a lower equity threshold reduces costs and the number of newly-eligible people receiving FSP benefits, but it also increases the number of current FSP recipients who lose eligibility for food stamps.

3. **Disregard up to \$4,500 in equity in the first nonexempt vehicle and count all equity in all other nonexempt vehicles.**

- The estimated cost of a \$4,500 equity threshold is \$180 million.
- An estimated 225,000 newly-eligible people are expected to receive FSP benefits.
- Few current FSP participants are expected to lose eligibility.

Setting a lower equity threshold reduces costs and the number of newly-eligible people receiving FSP benefits, but it also increases the number of current FSP recipients who lose eligibility for food stamps.

**SELF EMPLOYMENT/MICROENTERPRISE DEMONSTRATION AND JOB CREATION FOR LOW INCOME INDIVIDUALS**

**Legislative Specifications**

**I. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT OPPORTUNITIES TO WELFARE RECIPIENTS AND LOW-INCOME INDIVIDUALS.**

**A. PROGRAM DEVELOPMENT.** The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") and the Administrator of the Small Business Administration (hereinafter in this section referred to as the "Administrator"), shall jointly develop a self-employment/ microenterprise demonstration program for at least five years in length that will build on the experience of microenterprise and self-employment programs previously carried out by the federal government and other entities. The program shall be designed to achieve the following goals:

(1) to identify regulatory and other barriers that prevent welfare recipients and low-income individuals from becoming self-sufficient through self-employment and microenterprise development, and to identify and test effective means to eliminate such barriers;

(2) to develop, test and evaluate innovative program models, based upon existing effective practices, which have the potential to (a) increase the number of welfare recipients and low-income individuals who become self-sufficient through self-employment and microenterprise development and (b) reduce federal spending on transfer payments and services to welfare recipients and low-income individuals; and

(3) to demonstrate the potential for expanding the capacity of local organizations to provide services, technical assistance and loans which help welfare recipients and low-income individuals become self-employed or develop microenterprises.

To carry out such program, the Secretary and Administrator shall jointly enter into agreements with local intermediaries that--

(1) apply to participate in such program, and

(2) demonstrate that they are capable of implementing the provisions of the agreement."

In order to facilitate a randomized evaluation, as provided for in subsection [F, below], the Secretary and Administrator shall identify those predominate and effective program models currently used by existing intermediaries to provide self-employment and related services to low-income individuals, and shall design the demonstration in order to test and evaluate at least two distinct types of program models with contrasting levels of technical assistance. In designing the demonstration program, the Secretary and Administrator shall consult with appropriate parties, such as--

(1) state and local agencies and private, nonprofit organizations with experience in administering self-employment programs that serve low-income individuals; and

(2) other persons with recognized expertise in conducting randomized evaluations of self-employment programs or other related programs.

**B. ASSISTANCE TO INTERMEDIARIES.** To carry out the program, the Secretary and the Administrator may provide technical assistance, grants, guaranteed loans, and loans to intermediaries selected to participate in the program. Assistance awarded pursuant to this section may fully fund project periods of up to five years. The Secretary and the Administrator may revoke, terminate or reduce assistance to an intermediary if the intermediary fails to comply with the terms of the agreement it entered into with the Secretary and Administrator.

**C. SELECTION OF INTERMEDIARIES.** In determining whether to enter into an agreement with an intermediary under this section, the Secretary and the Administrator shall take into consideration--

- (1) the intermediary's record of success in serving low-income individuals;
- (2) the intermediary's record of success in providing technical assistance or loans to low-income individuals for the purpose of self-employment;
- (3) the nature, types, and costs of technical assistance and/or lending methods the intermediary will employ in serving the target population;
- (4) the intermediary's ability to garner matching funds from private sources; and
- (5) such other matters as the Secretary and Administrator deem appropriate.

In addition to the intermediaries selected to participate under this section, the Secretary and Administrator may select up to 5 demonstration sites that would operate independently of the randomized evaluation provided for in subsection [F, below], where such sites demonstrate promising, innovative strategies that do not lend themselves to evaluation by a randomized experimental design.

**D. ELIGIBLE INDIVIDUALS.** An individual eligible to participate in a program conducted under this section is any low-income individual or welfare recipient. The Secretary and Administrator shall ensure that an appropriate minimum percentage of welfare recipients will participate in each demonstration program funded under this section.

**E. PROVISIONS OF AGREEMENTS.** Any agreement entered into with an intermediary under this section shall provide that--

- (1) the intermediary has or will have an agreement with the local agency responsible for administering the JOBS and WORK programs such that JOBS and WORK program funds will be used to provide support services, including training and technical assistance, to participants in the demonstration programs funded under this section;
- (2) the intermediary will implement a program that is approved by the Secretary and Administrator;
- (3) the intermediary will cooperate with any independent evaluator(s) selected pursuant to section [F, below]; and
- (4) the intermediary will meet any other obligations required by the Secretary and

Administrator, including any fund matching requirements.

**F. PROGRAM ADMINISTRATION.** The Secretary and the Administrator shall enter into a memorandum of understanding for the joint administration of the demonstration program. The designation of intermediaries to participate in the program shall be completed no later than 12 months after the date of appropriation of funds for this Act.

The Secretary and the Administrator shall also coordinate and consult with the Secretaries of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Labor, on regulatory or other reforms or coordinated efforts by such agencies that may further legitimize and promote microenterprise development by low-income individuals and welfare recipients.

**G. EVALUATION AND REPORT.** The Secretary, in consultation with the Administrator, shall conduct or provide for an evaluation of the effectiveness of the entire demonstration program and shall prepare and submit to Congress a preliminary report of the evaluation no later than 3 years following the designation of intermediaries and a final report no later than 5 years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate. Such evaluation shall be based on an experimental design with random assignment between a treatment group and a control group. In designing the evaluation, the Secretary shall rely on the Assistant Secretary for Planning and Evaluation at the Department of Health and Human Services and shall consider testing for--

(1) greater self-sufficiency as measured by employment or self-employment rates, amount of earned income, poverty rates, and exit and recidivism rates for AFDC, Food Stamps and other public assistance programs;

(2) reduced costs of public support as measured by changes in overall support payments such as AFDC, Food Stamps, Child Care, Housing, JOBS, and other benefits as well as the costs of the asset-related incentives;

(3) number of business start-ups, number of loans to welfare recipients and low-income individuals, repayment rates for the loans, and whether individuals maintain businesses after welfare or other public assistance ends; and

(4) the relative effectiveness and cost-to-benefit ratio of the different program models employed by the intermediaries participating in the demonstration program; and

(5) the program's impact and effectiveness in serving participants in a time-limited welfare system, as compared to other low-income individuals.

The Secretary, in consultation with the Administrator, shall also conduct or provide for an evaluation of the effectiveness of any demonstration sites selected pursuant to [Subsection C, above] to operate independently of the randomized evaluation and shall prepare and submit to Congress a preliminary report of the evaluation no later than 3 years following the designation of intermediaries and a final report no later than 5 years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate.

The Secretary may require each intermediary selected pursuant to this section to provide the Secretary with such information as the Secretary determines is necessary to carrying out the duties of this subsection.

**H. AUTHORIZATION OF APPROPRIATIONS.**

The following amounts are authorized to be appropriated to the Secretary and the Administrator for the purpose of conducting and evaluating this demonstration program: \$10,000,000 each year for FY95-FY99.

No more than 20% of the amounts appropriated may be expended annually for personnel and administrative costs incurred by the Secretary and the Administrator, providing direct technical assistance to designated intermediaries, and conducting the evaluation provided for in subsection [G, above].

**I. DEFINITIONS.--For the purposes of this section--**

(1) the term "intermediary" means an organization, partnership, or consortium of organizations that acts as an intermediary lender and/or as a technical assistance provider to individuals who wish to start or expand a microenterprise;

(2) the term "low-income individual" means an individual whose income level does not exceed 130 percent of the official poverty line as defined by the Office of Management and Budget [should we go to 150%?];

(3) the term "microenterprise" means a business that has a net worth of less than \$10,000 [need definition options from SBA];

(4) the term "technical assistance" includes business technical assistance, entrepreneurial training, and personal development services related to enabling a low-income individual to become self-employed; and

(5) the term "welfare recipient" means a participant in a time-limited welfare program who is also participating in the JOBS or WORK program. [Is it too restrictive to limit it to people who are in a "time-limited welfare program."? If we are going to use such a restriction it must be defined.]

## MEMORANDUM

## COUNCIL OF ECONOMIC ADVISERS

March 31, 1994

**FOR: ECONOMIC DEVELOPMENT SUBGROUP OF  
WELFARE REFORM WORKING GROUP**

**FROM: CONSTANCE DUNHAM** *CD*

**SUBJECT: Costs Estimates for the Microenterprise Demonstration Program**

To date, our subgroup has focused on the goals and administration of the self-employment/ microenterprise demonstration program (Demonstration). Now that we have a good understanding of the design of the program, it is appropriate to revisit our initial cost estimates.

**Cost components.** In this memorandum, I consider five components of costs the Demonstration will incur by:

- conducting a five-year randomized experimental evaluation of the effectiveness and cost-effectiveness of microenterprise assistance programs (Programs),
- reimbursing participating Programs for their data collection and other costs resulting from the evaluation,
- the professional and support personnel at HHS and SBA needed to develop and issue RFPs, hire the consultants, select participating Programs, and oversee the Demonstration,
- the grants, loans, and/or loan guarantees provided to the Programs, to on-lend or otherwise assist their clients, and
- unforeseen contingencies.

In order to estimate these costs, I have consulted with a variety of participants in the microenterprise development field, including: Programs that have been in operation for at least a few years and that reach substantial numbers of clients below the poverty line; foundations that fund a number of microenterprise assistance programs; a government economist who has overseen high-quality randomized experimental evaluations, and two professional consulting firms that have conducted highly-regarded randomized experimental evaluations.

Section I discusses each of these cost components in turn. Section II sums the costs over the entire period of the Demonstration and recommends the expected time pattern of budgetary appropriations.

## **I. Estimates of Microenterprise Demonstration Program Cost Components**

### **1. Conducting a five-year randomized experimental evaluation**

We assume that two major, distinct methodologies of microenterprise assistance will be tested, with a combined treatment group of 2,400, a control group of 2,400, and 20 Programs operating in 40 sites.<sup>1</sup>

Data collection (by telephone) is the largest cost component. It will be conducted at the beginning of the Demonstration and annually thereafter for five years. Individuals participating in the Demonstration will be new clients to the Programs, beginning their participation in years one or two of the Demonstration.<sup>2</sup> During the last three years, the Demonstration will not fund additional new clients. Rather, it will provide funding to assist the clients that are already participating, as well as monitor their progress and that of individuals in the control group.

Consultants estimate that an evaluation would cost approximately \$5-to-5.25 million over the entire period.<sup>3</sup> Using the lower estimate, this implies \$5 million for the five-year evaluation.

### **2. Reimbursing Programs for data collection and other costs of participating in the Demonstration**

One Program estimated annual requirements of \$25,000 to \$40,000 per Program. However, another source estimated annual requirements of \$10,000 for the

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<sup>1</sup> The two major methodologies reach different, but overlapping, groups of poor individuals. Furthermore, few local areas have Programs that are sufficiently large and diverse that they could provide assistance using both types of methodologies to the same overall pool from which participating individuals are drawn. Therefore, it is unlikely that a single control group of 1,200 could be used for both treatment groups.

<sup>2</sup> "Year one" is considered to begin once participating Programs are selected and funds become available to them. We estimate that, once the Demonstration is authorized and funds are appropriated, it could take 12-to-18 months before the administrative agencies (HHS and SBA) develop an RFP for the evaluation, select consultants that will conduct the evaluation, work with the consultants in developing the design of the evaluation, issue an RFP for participating microenterprise programs, select the Programs and make funds available to them.

<sup>3</sup> This assumes that the consultant is selected by HHS and SBA after approximately six months after the Demonstration is authorized and funds are appropriated, helps design the Demonstration and select participating Programs over the next 6-to-12 months, conducts the evaluation over the next five years, and completes the final report within six months after the Demonstration ends.

first year and \$5,000 each subsequent year. This sum would be used to collect programmatic data required by the Demonstration in a consistent manner, as well as to establish and maintain ongoing relationships with local Welfare and Food Stamp offices in connection with the Demonstration. Using the second estimate and assuming 20 Programs participate, this would total \$600,000 over five years.

In addition to these costs, \$30,000 would be used for travel of Program representatives to meet at a central location at the beginning of the Demonstration and annually thereafter. At the meetings, the Program representatives would be provided with in-depth information on the approach of the Demonstration and on the initial findings of the consultants as they evaluate the data collected annually, and would provide feedback on the indicators and other aspects of the Demonstration.<sup>4</sup> This totals \$180,000 over the course of the Demonstration.

Together, these costs of Program participation total \$780,000 over five years.

### 3. Personnel at HHS and SBA

We estimate that a total of three professionals (full-time-equivalents) plus clerical assistance would be required from HHS and SBA to develop the two RFPs, select the consultants and participating Programs, and oversee the program and its evaluation.<sup>5</sup> This would come to approximately \$300,000 annually for professional salaries and benefits, clerical support, limited travel, and direct costs.

This totals \$2.1 million over the six-and-a-half to seven year period of design, Demonstration, and dissemination of results. Considering a three percent annual inflation factor, this would imply \$2.37 million over the entire period (\$791,000 to SBA and \$1.58 million to HHS).<sup>6</sup>

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<sup>4</sup> An alternative approach would fund travel by SBA and HHS personnel to each Program each year. Travel to a sample of sites may be appropriate, but the need to personally visit each Program each year seems unnecessary, considering that the consultants will visit the Programs on-site, and that many of the Programs are visited through other SBA and HHS programs. Annual visits would also reduce significantly the number of staff days available to implement and monitor the Demonstration. Finally, it is desirable to fund meetings with Program participants, to allow them to meet with each other and with agency officials at a central location, in order to involve them more effectively in the progress and ongoing findings of the Demonstration, and to obtain feedback from them.

<sup>5</sup> This assumes one full-time-equivalent (FTE) position in HHS/ASPE, one FTE position in HHS/OCS, and one FTE in SBA/OBD. Each FTE might be comprised of part-time work by several professionals at each office, such as two-thirds time by an expert in evaluation or microenterprise, and one-third by supervisors or assistants.

<sup>6</sup> This period includes 12-to-18 months prior to the funding of Programs, five years of the Demonstration, and six months for analysis, review, and dissemination of the final report.

4. Grants, loans, and/or loan guarantees to the Programs

Cost estimates vary with the size of the Program, the number of years it has been in operation, the methodology it uses (particularly the nature of the technical assistance provided), the number of years clients are involved with the Program, and the degree of subsidy provided on loans. Costs can be roughly considered for each of two treatment types: "Minimalist" methods that emphasize credit and less up-front technical assistance, and "Intensive-TA" methods that provide substantial business and personal development assistance (often including development of a formal business plan) before a loan is made.

Even among relatively mature Programs (three-to-five years old), total costs per client in each group range widely, between \$500 and \$2,500 per year among Minimalist Programs, and between \$500 and \$3,500 per year among Intensive-TA Programs. Costs of newer Programs (one or two years old) are higher because of fixed costs, and can exceed \$8,000 per client per year.

Assuming that cost-per-client is a factor in the selection of participating Programs, this implies that relatively older, larger, and lower-cost Programs will tend to be selected for participation in the Demonstration. If Intensive-TA Programs require up to \$5,000 per year and average \$3,000, and if Minimalist Programs require up to \$5,000 per year and average \$2,000, then annual costs will average \$6 million. If each participating Program is required to provide matching funds of at least 25 cents for every dollar of Demonstration funds, this would imply an annual cost of \$4.8 million, or \$24 million over the five-year program.<sup>7</sup>

Additional costs are incurred by providing a loan subsidy or guarantee of lines of credit supplied to the microenterprise program by private financial institutions. If these costs comprise 15 percent of the dollar volume of loans made, if loans average \$5,000 per client over the life of the Demonstration, and if two-thirds of all clients borrow loans each year, then this implies a cost of \$1.2 million per year, or \$6 million over the five-year period. Additional costs are incurred by providing grants or other assistance to as many as five cutting-edge Programs that cannot be accommodated in the randomized evaluation design. If each is provided with a grant of \$500,000 over the five-year period, this would total \$2.5 million.

These three components of microenterprise program support sum to \$34.5 million over the five-year period.

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<sup>7</sup> Requiring matching funds that consist of some significant proportion of Demonstration costs is desirable because it provides an additional review (from outside foundations or other funding sources) of the cogency of the microenterprise Program's plans and operations.

## 5. Unforeseen Contingencies

Demonstration costs will be affected by a number of factors that cannot be estimated at this point, but that can be anticipated considering the rapid growth and evolution of the microenterprise field, the number and types of Programs that participate, future changes that may be made to public assistance programs (such as the impact of any future changes in definitions of allowable assets and net income for self-employed welfare recipients), and the specific features of the design of the Demonstration that will be developed by HHS, SBA and the consultants.

A standard adjustment in estimating programmatic costs is to allow for a 10 percent contingency for additional costs not included in the preceding cost estimates. Accordingly, an additional \$3.51 million should be budgeted.

## II. Consolidating Cost Component Estimates

### A. Total Costs Of the Microenterprise Demonstration Program

	Total (000)
1. conducting a five-year evaluation, using randomized experimental design	\$5,000
2. reimbursing participating microenterprise Programs for Demonstration-specific costs	780
3. personnel and direct costs at HHS and SBA	2,370
4. grants, loans, and/or loan guarantees	34,500
5. 10 percent contingency	<u>4,270</u>
<b>TOTAL</b>	<b>\$46,900</b>

Therefore, the Microenterprise Demonstration Program's estimated total cost is \$47 million over the entire period, from the point at which funds are appropriated to the dissemination of the final report.

### B. Recommended Pattern of Budgetary Appropriations

We recommend that \$10 million be appropriated in each of five successive years, and that any sums not used in one year be carried over for use in subsequent years. This will provide flexibility during any one year, and reduce incentives to spend the entire authorization during that year.

## Child Care - Issues

### 1. The disregard

Currently the child care disregard has two major problems that limit its effectiveness in supporting the child care needs of the working AFDC population: (1) the level is unrealistic [\$175/month for children 2 and over, \$200/month for children under 2], and (2) a parent must be able to pay costs up front, receiving reimbursement two months later. There are several options for addressing these problems; all have associated costs:

a. Raise the disregard: We could raise the disregard which has not been raised since 1988 (and even then was certainly inadequate). Pros: this is administratively easy; and we could use one amount (suggested \$250, based on what we are projecting for direct payments) for all care, reflecting the likelihood that care for infants and toddlers is part-time and more informal care is used, while children ages 2 and up will more often be full-time and in centers. Cons: this will make more people eligible for AFDC; it is a flat figure, making it difficult to reflect the actual cost of care and still resulting in inequities; and it is still retrospective.

b. Eliminate the disregard: Many advocates support elimination of the disregard. Pros: this would assure equity and solve the retrospective payment issue. Cons: this would result in people losing AFDC eligibility. States will also be especially unhappy with this option as they tend to mask child care costs by using this mechanism. As Mark Greenberg points out, this is a problem unless we have assured for them child care and health care support.

c. Retain the option of the disregard, while mandating that states must either provide two choices to parents (the disregard or direct payments) or that they must supplement the disregard. Some states are now providing supplements. Pros: this solves the equity issue and reduces the retroactive payment issue. Cons: if states choose to continue to use the disregard, this creates an administrative burden for states. ②

Recommendation: c since a does not address the problem with retrospective payments. Increasing the disregard will not reduce the advocates' criticism of it.

### 2. Supply and quality

A good deal of concern is being expressed about the quality of child care (most recently, the Family and Work Institute's study of family day care and the Carnegie report on children 0-3, "Starting Points"). We believe we need to provide in the welfare reform proposal direct support for supply and quality improvements. We are proposing the following:

a. A five percent set-aside within the At-Risk program that parallels the quality set-aside in the Child Care and Development Block Grant. Funds could be used for the purposes spelled out in the CCDBG.

b. A five percent set-aside within the At-Risk program dedicated to increasing the supply of infant and toddler care in low-income communities. ugh

{a and b could be combined into one 10 percent set-aside available for both purposes}

c. A 1/2 of one percent for federal T/TA plus projects of national significance and evaluation.

d. Reimbursement for licensing and monitoring activities as part of administrative costs for IV-A child care limited by a formula established by the Secretary.

Recommendation: that we include all four items as part of a quality improvement package. We believe this will significantly strengthen the proposal in the eyes of advocates and states.

### 3. The Match

States must currently match At-Risk Child Care funds at the FMAP rate. It has been difficult for them to pull down the dollars at the capped \$300 million total. Even at the FMAP + 8% rate, states will be hard pressed to pull down dollars for additional At-Risk care, especially since they will at the same time be forced to match more child care funds for other IV-A programs.

We propose to eliminate the match for the At-Risk program. This will ensure that there are additional, available funds for working poor child care. Since At-Risk is a capped program, expenditures will also be controlled. While the initial reaction was to keep the match rates in all the IV-A programs the same, the At-Risk program is actually more related to the CCDBG than to the other IV-A programs--it serves the same children--and the CCDBG has no required match. ?

Recommendation: that we eliminate the match for the At-Risk Child Care program. Again, we believe this will significantly strengthen the proposal in the eyes of advocates and states.

APR 20 1994

## Prevention Outstanding Issues

### 1. National Youth Mobilization/Challenge Grants for Mentoring

A National Youth Mobilization proposal was presented at the last working group meeting. The major component of this proposal is the creation of a national network of school-linked, community-based teen opportunity and responsibility centers. These centers would ensure a partnership with one or more leading institutions (including schools) in the community who would be responsible for organizing and supporting mentoring programs. Broad-based community support would be required. These programs would address a wide range of issues including teen pregnancy prevention, parenting, education, employment and responsibility.

**If included in the welfare reform bill, how can we ensure that it maintains a broad focus?**

While advocates are supportive of this approach as a component of an overall plan, they are wary of its impact as the centerpiece of a proposal. Given the broad range of issues it addresses, it easily fits into many Administrative priorities such as the crime bill, school-to-work transition, and welfare reform.

*Who cares?*

**How can we fund this proposal given that welfare reform is entitlement funding?**

This type of program is stretching the concept of an entitlement program. Further, this becomes particularly difficult if it is an HHS authority, when it is essentially a Department of Education activity (though responsibility could also be lodged in the Ounce of Prevention Council, as provided for in the crime bill). If included in welfare reform, we can make it fit into an entitlement, but it would be vulnerable.

*Wendell's asking?*

**How much funding should be provided for this initiative?**

DPC/NEC staff envision reaching 2,000 schools (or communities) over a five year phase in approach. The current thought is that each school (or community) would receive \$100,000. The Department of Education is looking at the development and implementation costs of existing initiatives and may revise this number. Rolling out 400 schools (or communities) a year brings the five year total to \$600 million. Under any scenario, in order to foster high quality effective programs, the number of sites should be reduced before the amount of per site funding is reduced.

*OK*

### 2. Minor mothers

The specifications propose requiring that minor parents live in a household with their parents or another responsible adult, with certain exceptions. The proposal maintains current law which takes into account a minor mother's parents' income in determining AFDC eligibility. But, if a minor is living with someone other than their parent, that individual's income is not taken into consideration when determining a minor mother's eligibility.

When we talked to a workgroup organized by the Center for Law and Social Policy (CLASP), they indicated their preference to not take the parent's income into consideration when determining a minor mother's eligibility. We indicated that we were sticking with current law.

However, the minor mother provision says that a State can place a minor mother either with their parents or another responsible adult. This could result in the minor receiving less AFDC if placed with their parents than with an adult relative. This raises two issues:

- Is this an incentive to live with a responsible adult other than a parent?
- If all responsible adults' income is included in the calculation, what impact would this have on finding responsible adults with which minor mothers could live if they are unable to live with their parents?

The experience of ACF staff suggests that it is currently quite difficult to find a responsible adult for a teen to live with and counting that adult's income would make it even more difficult. We believe that current law should be maintained.

### 3. Family Planning

The drafting specifications include a strengthening of an existing family planning provision in 402(a) to ensure that welfare offices coordinate with family planning programs (including Title X) and that they ensure a family planning consultation within 30 days.

Current law indicates that a State cannot receive the 50 percent match for family planning administration if the State provides family planning services under Title XX. We propose to allow States to get the match for family planning administration regardless of whether they provide services under their Title XX program. ACF estimates that the administrative costs of providing better information and referral are minimal.

### 4. Case Management

Currently, the drafting specifications call for all teen parents under age 20 to receive case management. However, cost estimates are currently based on teen parents under age 19 receiving these services.

When we spoke with the workgroup organized by CLASP, they strongly advocated for case management until the teen parent reaches the age of 20. They argued that JOBS administrators report this is a critical transition year and if services are not continued, the investment of the previous years is often lost.

We recommend that case management be provided to teen parents under the age of 20.

### Background

*The performance measures issue group has envisioned a performance measures system for the purposes of monitoring and assessing State programs, and for promoting a system of continuous improvement within those programs. In a separate document we have provided a broad legislative proposal which specifies a process whereby the stakeholders will participate in defining the final measures, to be developed in regulation. Under the proposed language, the Secretary would retain authority to amend the system as appropriate and to require States to report specific data. In that document, various issues are raised; they are raised again in this document in the General Discussion section which follows.*

*This document also includes a short vision summary and a proposed work-plan for continued development of a performance measures system. This proposed work-plan was developed in the anticipation that the legislative specifications are simply a first step in creating a performance based system and that much of the work lies ahead.*

### Vision

For purposes of clarity, we have identified three types of performance measures, each would vary according to focus, use of the information, method of collection, and relative importance to program outcomes. The three are:

- (1) **Program Outcome Measures:** These measures would reflect the broad goals of the transitional assistance program; we envision that in an outcome-based system these measures would be the basis for developing performance standards. Performance standards, once implemented, would be the basis for triggering corrective actions and other incentives to link State program performance with sanctions and rewards.
- (2) **Program Accountability Measures:** These are defined as insuring that the new program is being administered in accordance with governing statute and regulation. For example, participation rates would be included in this category. There may be penalties or incentives linked to these measures.
- (3) **Process Measures:** This information would be made available for program assessment, evaluation, and management improvement; no penalties would be assessed on the basis of this information.

Additionally, client feedback information has been considered by the group but it has not yet been decided whether client feedback information encompasses a separate category or should be included as part of one of the above categories.

## General Discussion Issues

- To what extent should specific requirements (i.e., outcomes such as economic self-sufficiency, reduced welfare receipt, etc) be articulated in the legislative language? Should the legislative language merely specify a process by which to determine performance measures?
- Should the time-frame for issuance and modification of measures and standards be specified in statute?
- Participation rates -- which are a performance measure -- are specified in JOBS/TIME-LIMITS; is this appropriate? Shouldn't this be determined as part of a PM system?
- In general, how and for what purposes should performance information be utilized? For example, linkages with FFP, or technical assistance.
- Should the legislative language specify consequences for failure to meet performance standards? What should these consequences be? Should the legislative language specify incentives for meeting standards?
- What do you envision as the Federal role in data collection? For example, will the Federal role be to collect the data, or be limited to validation of State reported data?
- How should the non-phased-in population be accounted for under the new performance measure system? Would the EA and child care programs be included?

## Additional Options for Consideration:

- (1) Reform the current data reporting system for AFDC and JOBS. This can be done by:
  - Revising the data elements required for collection to meet revised needs;
  - Standardizing definitions of data and collection procedures; and
  - Developing and implementing an automated case-management system.
- (2) The Department could initiate annual (or semi-annual) national (or regional) conferences involving all the stake-holders in a process of developing, and perhaps continuously revising the performance measures system. This is similar to how the current JTPA system operates.
- (3) The results of the performance measures collected could be published annually in a public report.

## Workplan for Performance Measures Working Group

This provides a workplan of issues and questions the Performance Measures team will address in the near future. The team would appreciate any comments from the principals on the direction we are taking or any guidance they may provide on the open questions.

(1) *Develop outcome measures.* The group has developed a preliminary list of outcome measures. However, some of the proposed measures may be too broad-based -- meaning they may be factors the program is unlikely to affect -- or too difficult to define and collect. The next step for the team is to focus on measures that the program can actually influence and that can be operationalized: economic self-sufficiency (i.e. employment and earnings) and welfare receipt. The following issues will be considered by the group in selecting these measures:

- \* How the data will be collected: national registry, QC system (matching sample to AFDC and UI records), surveys
- \* How to define the measure. This entails:
  - an assessment of pros and cons and impact of the measure, particularly whether it creates any adverse incentives
  - determining that it is feasible and relatively simple to collect
- \* Whether to set an actual standard, measure change over time, or measure change compared to national average. If a standard is set, should it be a floor (easy to reach) or ceiling?
- \* What is the time frame for collecting data and producing measures (annually)?
- \* Is there any distinction between what we can do short-run, compared to what may be desirable in the long-run?
- \* To what extent and by what methods will the data be validated?
- \* How will the "playing field" be leveled?

(2) *Develop program accountability measures.* These are key process measures needed to ensure the program is running as intended as defined by statute or regulation. Measures that have been mentioned in this category are:

- \* Participation rate in JOBS -- proportion in activity
- \* Participation rate in WORK -- proportion in work slot
- \* Proportion who reach the two year limit
- \* Duration in activities or between stages (i.e. from registration to employment plan)
- \* Number of work slots filled (minimum number must be met)
- \* Deferral rate in JOBS/WORK
- \* Payment accuracy

Placement  
forms

The team will consider the following when defining these rates:

- \* How the data will be collected: QC system, state/local reporting systems
- \* How to define the measure. Key issue for participation rates is longitudinal vs. point-in-time. This also entails:
  - an assessment of pros and cons and impact of the measure, particularly whether it creates any adverse incentives
  - determining that it is feasible and relatively simple to collect
- \* Whether to set an actual standard, measure change over time, or measure change compared to national average. If a standard is set, should it be a floor (easy to reach) or ceiling?
- \* What is the time frame for collecting data and producing measures (annually)?

- \* Is there any distinction between what we can do short-run, compared to what may be desirable in the long-run?
- \* To what extent will the data be validated?
- \* How will the "playing field" be leveled?

(3) **Refine the QC System.** The team will consider how the current QC system should be modified so payment incentives do not drive the system. Options include streamlining the existing system or developing a new quality auditing system.

(4) **The role of client feedback measures.** An important issue for the team to consider is whether we want the client perspective as a performance measure. The key open questions in this area are:

- \* Would this data be valuable at the federal level (if so, how would it be used), or would it be most useful to local program operators?
- \* What is the appropriate role of client feedback in a mandatory welfare-to-work program?
- \* How would this information be collected: through surveys or focus groups?

(5) **Develop other process measures.** The team will consider whether there are other process measures that we want to collect for monitoring and technical assistance purposes. (These are measures considered to be lower priority than the program accountability measures discussed above.) The key issues to define in this area are:

- \* Which measures should we include? Many of the issues listed under outcome and program accountability measures would arise here as well.
- \* Would we require states to collect this data?
- \* Would the federal government play a lead role in developing systems to help states collect these items?

(6) **Determine the appropriate financial incentives for States.** The team will consider what measures should be used for sanctioning or providing financial incentives to states. This also involves whether we should use incentive payments or sanctions and/or whether measures should be "published" to provide other incentives to states to meet them. Measures that have been mentioned include:

- \* Proportion who hit the time limit
- \* Participation rate in JOBS
- \* Participation rate in WORK and/or minimum slots filled

In addition, the team will discuss other appropriate uses for performance information such as technical assistance and corrective actions.

(7) **Consider the non-phased population.** Contingent on decisions made regarding the performance measures for the non-phased population, it may be necessary to coordinate the new and old systems. The team will address any issues in this area.

(8) **Involve the stakeholders in the process.** The team will consider how to and the extent to which stakeholders should be involved in the development and continual refinement of performance standards. For example, one option would be to include the stakeholders in annual or semi-annual conferences.

APR 15 1994

TO: Wendell P.  
Ann S. *As*

THRU: Steve S. *SS*

FROM: David N. *DN*

SUBJECT: Effect of Immigrant Welfare Reform Proposals on  
State/Local General Assistance Programs

The attached L.A. Times article raises an issue that I believe we will need to address through legislation: the potential of our immigrant-related proposals to affect adversely state/local general assistance programs. These caseloads rise whenever Federal (SSI) or Federal/State (AFDC, Medicaid) caseloads are reduced.

This is a particular problem in the area of immigrant eligibility for benefits. There have been a couple of recent State Supreme court cases (in Michigan and Rhode Island) that have determined that state/local general assistance programs may not utilize the type of sponsor-to-alien deeming provisions that currently govern the SSI, AFDC, and Food Stamp programs. This is due to the interpretation that only the Federal Government can constitutionally enact provisions restricting eligibility for benefits based on the alienage of an individual. Essentially, the Courts ruled that in the absence of clear intent and delegation by Congress, the states and localities may not impose different eligibility requirements on legal immigrants from those applied to citizens.

In view of this, I think the best policy with regard to our immigrant-related proposals is one that avoids shifting costs from the Federal and Federal/State levels to state/local general assistance programs. Therefore, I recommend that if the deeming/eligibility rules are changed, that we include statutory language that would allow state/local general assistance programs to enforce the same type of policies that we may propose. OGC has indicated preliminarily that there should not be any problem in such a proposal. There was a similar provision added to the IRCA of 1986 that allowed state/local assistance programs to deny legalized immigrants benefits for the same five-year time period for which they were denied AFDC, food stamps, and--generally--Medicaid. Good

However, I also want to sound a note of caution. While IRCA provided state/local programs with the authority to deny general assistance payments to the legalized immigrant for five years, Congress also ended up authorizing and funding the SLIAG program (State Legalization Impact Assistance Grants). The purpose of these grants was to minimize any adverse affects on

states/localities from increased destitution resulting from the five-year window of benefit ineligibility for legalized immigrants. There may be analagous effects from our proposals, although the number of immigrants affected should be much less than under IRCA.

Attachment

cc: Nora A.

# Welfare Plan Gouges California, Lawmakers Say

■ **Legislation:** The state's congressional delegation claim that California, with its many legal immigrants, would bear the brunt of the cost of national reform under Clinton's proposal.

AS

By ELIZABETH SHOGREN  
Times Staff Writer

WASHINGTON—California would pay a disproportionate share of welfare reform costs if the Clinton Administration proceeds with plans to fund new programs by reducing benefits to legal immigrants, California members of Congress and local officials warned Monday.

The still-to-be-released Administration proposal, along with competing welfare reform measures awaiting action in Congress, would divert money from benefits for low-income legal immigrants to job-training and child-care programs for all welfare recipients.

California, with its large immigrant population, receives more than 40% of federal dollars spent on immigrant programs; the state is likely to receive less than 20% of the job-training and child-care dollars.

While California has a large share of the country's non-citizen immigrants—36%—and a large percentage of them are poor, the number of citizens on welfare are not disproportionately compared to other states.

"The money taken out of the state would be far greater than the money that would come in for increased services," said Robert Greenstein, executive director of the Center on Budget and Policy Priorities. "California would be financing welfare reform for much of the rest of the country."

"This could have a substantial impact on the state of California and local governments," said Rep. Robert T. Matsui (D-Sacramento). "It's unbelievable what may happen in L.A. County, where there are a lot of recent immigrants."

Presidential adviser Bruce Reed, a key architect of the Administration's welfare reform plan, said "it's not clear that California would be a net loser" under the plan because the state would be freed from some of its obligations to support legal immigrants. The immigrants' sponsors



Florida Atty. Gen. Bob Butterworth, left, and Gov. Lawton Chiles announce filing of lawsuit against federal government Monday in Miami. The state is seeking to collect \$1.5 billion it says the state has spent on services for illegal immigrants.

would be forced to make up the difference.

But California officials said they fear that the state would be overwhelmed by the numbers of indigent immigrants applying for general assistance and medical benefits if they lost federal and state aid under the Supplemental Security Income program.

"These people still have to find ways to survive," Matsui said. "The taxpayers in California will end up paying for it."

The SSI program provides monthly benefits of up to \$448 for indigent individuals and \$669 for couples who are blind, disabled or elderly and ineligible for Social Security.

The number of legal non-citizen immigrants receiving SSI assistance nationally has surged from about 128,000 in 1982 to 601,000 today. The Administration—in an effort to fulfill the President's pledge to "end welfare as we know it" without increasing costs—is designing a plan that would limit welfare payments (primary Aid to Families With Dependent Children) to two years and provide more job training, child care and subsidized employment to help people leave the welfare rolls.

Although it remains unclear how the program would be paid for, the most commonly discussed funding sources are a

gumming tax and a reduction in SSI benefits for immigrants who have sponsors in the United States.

Matsui, an influential member of the House Ways and Means subcommittee on human resources, which will consider welfare reform legislation, said support is strong in Congress for offsetting the cost of new welfare programs by reducing or eliminating immigrants' benefits. Although he said he opposes that option, bills introduced by House and Senate Republicans, as well as a bipartisan Senate bill introduced Monday, all would divert SSI funds to help

Cont'd on next page

David H. Karin  
Denise Pamela  
Don Anita

Interesting

This must be accounted for in analysis of state impacts

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



PHONE: (202)690-7858 FAX: (202)690-7383

Date: 6/17/94

From: David Ellwood

To: Bruce Reed

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

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

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

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

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

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

Fax Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

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REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TO: DAVID ELLWOOD

From: MARK MARTIN

Circle  
WR SPECS (WORK)

Provisions Relating to Written Notification of Labor Organizations Regarding WORK Assignments and expedited grievance proceedings

(1) No position of employment with an employer may be established under this part unless the local labor organizations representing employees of such employer who are engaged in the same or substantially similar work as that proposed to be carried out under such position have been provided written notification of the initial assignment of a participant to such position not less than 30 days prior to the commencement of such assignment. No such notification shall be required with respect to the subsequent assignment of participants to the same position with the same employer.

(2) If a local labor organization provided notice of an assignment pursuant to paragraph (1) objects to an assignment of a participant on the basis that such assignment would violate the nondisplacement requirements under this part, such organization may, as an alternative to the grievance procedures provided pursuant to section 484(b), file a complaint pursuant to an expedited grievance procedure. Such expedited procedure shall be carried out in accordance with the binding arbitration procedures described in section 484(b)(3), except that --

(A) the request for arbitration shall be filed within 30 days of receiving written notice,

(B) the arbitrator must be selected within 10 days of the request, or appointed within 5 days of receiving a request for appointment,

(C) the proceeding shall be conducted not later than 10 days after the arbitrator has been selected or appointed, and

(D) the decision shall be issued not less than 10 days after the arbitration proceeding.

(3) If a local organization files a complaint pursuant to the expedited grievance procedure under paragraph (2), a participant shall not be placed in the position that is the subject of the complaint until it is determined pursuant to the expedited procedure that such placement would not be in violation of this title.

"(ii) Impasse Procedures. -- If the parties are unable to agree on an arbitrator within 10 days from when the request for arbitration is filed, the parties shall request the Federal Mediation and Conciliation Service or the American Arbitration Association to submit a list of arbitrators. The parties shall alternately strike names from such list until the name of one person remains, who shall be the arbitrator.

08/17/94  
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14:37

202 690 7383

6-17-94 11:31AM :

HHS OS ASPE 415F --- BRUCE REED

USDOL SOL LLC-

005/005  
202 690 7383:# 1/ 1

TO: WALLY FULLWOOD

FROM: MARK MARIN

No participant shall be assigned to a position to perform work under a contract for services for the first 90 days after the commencement of such contract if such contract immediately succeeds a contract for services under which an employee covered by a collective bargaining agreement performed the same or substantially similar work for another employer.

**WELFARE REFORM**

**PROPOSED**

**LEGISLATIVE SPECIFICATIONS**

**PART II**

-- *CONFIDENTIAL DRAFT* --

*Rjs*

- I. **JOB, TIME LIMITS, AND WORK**
- II. **PERFORMANCE STANDARDS**
- III. **TECHNICAL ASSISTANCE, EVALUATIONS, AND DEMONSTRATIONS**
- IV. **INFORMATION SYSTEMS**