

NLWJC - Kagan

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Welfare - Family Cap Policy

**Welfare Reform Q&A on Family Cap
June 9, 1998**

Q: A Rutgers' University report shows that New Jersey's family cap is increasing abortions among women on welfare. What is the Administration's reaction?

A: The President has always believed that the decision to enact a family cap policy is best made by individual states. Both his 1994 welfare reform bill, and the law he signed in 1996, left this issue to states. It is important to carefully evaluate the effects of this policy, but that will take time. We believe it is far too early to draw conclusions from what the state of New Jersey and HHS characterize as a draft report. The family cap policy is intended to promote parental responsibility by denying additional benefits to a family if they have an additional child while on welfare.

Prior to the federal welfare reform law signed by the President in 1996, the Administration granted waivers to allow 14 states to test a family cap policy. States were required to carefully evaluate the impact of policies enacted under waivers. New Jersey was the first state to implement the family cap under a waiver granted in October 1992. The federal welfare reform law does not specifically address family caps, but states have the flexibility to enact such policies if they choose. Twenty-two states now have family caps.

Q: Are you worried that the "illegitimacy bonus", for which HHS released guidelines in March, have the same effect?

A: No. The statutory language for the illegitimacy bonus included in the welfare reform law makes clear that the bonuses will go only to states that simultaneously reduce both out of wedlock births and abortions. HHS will first rank states on how much they've reduced the percentage of births that are out of wedlock, since that is the main purpose of the bonus. Then the top five qualifying states will be asked to provide abortion data, and only those that shows a decrease in abortions will receive a bonus. Thus, unlike earlier versions of the bonus considered by congress, the final version makes sure that we are not awarding bonuses to states that decrease their out of wedlock birth rate simply by increasing abortions. The regulation closely tracks the statute in this area.



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

WR - family cap policy

JUN 10 1998

MEMORANDUM FOR THE PRESIDENT

I want to provide you with some background information regarding recent coverage in the press on the New Jersey family cap policy (see attached Washington Post and New York Times articles). According to press accounts, the findings of an evaluation indicate that the policy has resulted in an increase in the number of abortions among welfare recipients. The National Organization for Women (NOW) Legal Defense Fund, the American Civil Liberties Union, the Catholic Conference of New Jersey, and other groups are concerned about the possible increase in abortions and have also questioned whether the State of New Jersey is trying to alter the findings.

Background

Under 1992 Aid to Families with Dependent Children waivers, the New Jersey Department of Human Services (DHS) implemented a family cap policy, which eliminates benefit increases for additional children conceived while a family is receiving welfare benefits. The State is continuing the family cap under Temporary Assistance to Needy Families (TANF). A draft Rutgers University evaluation of the New Jersey family cap indicates a rise in the number of abortions among welfare recipients over the time that the policy has been in effect. NOW and others who have spoken out on the issue speculate that the State is trying to alter the findings. This speculation is based on the fact that the State has asked Rutgers to revise the report to address methodological concerns.

HHS Analysis of the Rutgers Evaluation

HHS shares the State of New Jersey's concerns about the methodology of the Rutgers' study. We believe that the evaluation results to date are inconclusive with respect to whether the family cap caused an increase in abortions because of possible methodological flaws in the study. Since the Department provided a portion of the funds for the evaluation, we have made extensive comments to the New Jersey DHS regarding methodological problems. Our most significant concerns are as follows:

- The evaluation may not have sufficiently controlled for factors other than the family cap and these other factors may have contributed to the reported increases in abortions. If the group changed its behavior for reasons other than the family cap, the results could be biased. This is particularly possible in this evaluation because the composition of the group studied changed over time as individuals entered and exited the welfare rolls.
- Some of the assumptions made in the evaluation were unrealistic. For example, the evaluation established a baseline for comparing changes in the number of abortions. This baseline assumed that, absent the family cap, the number of abortions would have fallen

among welfare recipients until eventually they would equal zero within a few years. Any abortions above this baseline were assumed to be a result of the family cap policy. This unrealistic assumption could lead to overstating the number of abortions attributable to the family cap policy.

- In general, we feel the authors overstated the strength of their findings and did not discuss sufficiently the measurement problems inherent in social science research. The family cap policy was implemented with a large degree of publicity and as part of a comprehensive package of policy changes. This makes it difficult to identify accurately those families who believed they were affected at any specific time, and to estimate the impacts of each policy intervention. Furthermore, it is difficult to identify all the factors that affect childbearing decisions or to disentangle precisely how much of an effect is attributable to each factor.

Rutgers is currently revising the evaluation and results are expected during the month of June. The New Jersey DHS is planning to have a panel of researchers review the revised report to comment on its methodological soundness. The revised results could show either increased or decreased impact on abortions. There may continue to be disagreement among researchers as to whether the current or revised draft of this report supports a finding that the family cap policy caused an increase in abortions.



Donna E. Shalala

Attachments

Report Tying Abortion To Welfare Is Rejected

New Jersey Officials Question Its Validity

By TAMAR LEWIN

A team of Rutgers University researchers hired by the New Jersey government to examine the effects of the state's new welfare policy found that it has contributed to an increase in abortions, but the state has rejected the findings, and asked for revisions of the report.

In a December report, commissioned by the State Department of Human Services and the Federal Department of Health and Human Services and obtained by The New York Times, the Rutgers researchers said the welfare overhaul provision known as the family cap, which was enacted in 1992 and cuts off extra benefits from welfare recipients who have additional children, has caused some women to abort their pregnancies.

"The Family Development Program does appear to exert a small but non-trivial effect on abortion rates, adding about 240 abortions per year over what would be expected due to trend and population composition changes," the report said. There were 31,860 abortions in New Jersey in 1996.

The Rutgers findings are likely to add new fuel to the nationwide debate over welfare because 20 other states have imposed family caps similar to New Jersey's.

Welfare recipients generally have abortions at a higher rate than other women: In New Jersey, in the quarter ending December 1991, the abortion rate for the welfare population was 27 per 1,000 compared with 4 per 1,000 for all New Jersey women of child-bearing age. And although the abortion rate in New Jersey, and nationwide, declined between 1991 and 1996, the abortion rate among New Jersey's welfare recipients rose during the same period. By 1996, the Rutgers report found, the gap had widened further, with 29 abortions per 1,000 women receiving welfare, compared with 3 per 1,000 women in the general population.

But the state has not accepted those findings, calling the report a draft that needs substantial revision.

In a May 14 letter to the research team, the Department of Human Services said the document should be labeled a draft, criticized the methodology and asked for a reworking that would explain all the difficulties of determining whether it was the welfare policy that had caused the increase in abortions. The letter also questioned the validity of studying the behavior of the welfare population before and after the law changed, since the changes themselves may have altered that population, causing some recipients to get off welfare, and other people to avoid it.

But the lawyers challenging the family cap provision contend that the state's response reflects political problems, not methodological ones.

"We think this is a final report that the state is trying to cover up by

saying it's a draft," said Martha Davis, a lawyer with the NOW Legal Defense and Education Fund, one of the groups challenging the family cap. "And we think the real reason for their objections is concern about what legislators will do if they see the conclusions the Rutgers researchers have drawn."

Jacqueline Tencza, a spokeswoman for the State Department of Human Services, denied that interpretation. Rather, she said, the state is committed to understanding what effects the family cap has had, and is concerned about the release of draft findings based on a methodology that the state says is flawed.

"This is just a draft," she said. "Neither of the two clients, us or Health and Human Services in Washington, has approved it, and it's not final until it's approved. We want to make sure that what we get is good social science research that is clear about the effects of the policy."

The question of how welfare recipients' reproductive decisions are affected by a family cap, removing any financial incentive to have more children, has been one of the most hotly argued issues in the debate over welfare.

Some conservatives have argued that family caps help discourage welfare recipients from having more babies than they can support, and prevent long-term welfare dependency. But in an unusual political alliance, the Roman Catholic Church and conservative Christian groups joined with advocates for the poor to argue against family caps, on the ground that they would encourage abortion and increase child poverty by forcing welfare families to stretch their meager benefits too far.

New Jersey's family cap went into effect in 1993, under a Federal waiver allowing the state to conduct welfare experiments. Two years later, the Federal welfare overhaul bill opened the way for any state to adopt such a policy, and family caps are now in effect in 20 other states.

"The Rutgers findings have very serious implications for children in every state that has instituted a family cap," said Regina Purcell, a spokeswoman for the Catholic Conference of New Jersey. "It's important to remember not only the number of babies that were aborted due to the family cap, but also the number of children born who were denied assistance. As of December, more than 25,000 children in New Jersey had been denied cash assistance because of the family cap."

Last year, Ms. Davis's group, along with the American Civil Liberties Union of New Jersey and Gibbons Del Deo, a New Jersey law firm, filed suit charging that the family cap violated the state constitution by interfering with women's reproductive rights and treated children differently depending on their birth status.

In late February, in the course of

preparing a summary judgment motion in the case, Ms. Davis said, the lawyers asked the state whether the final report from Rutgers, which had been long scheduled for release in December, was available.

A lawyer in the Attorney General's office gave them a copy of the December report, which they shared with representatives of the Catholic Church and others who oppose the family cap at a May 12 meeting. Ms. Davis said the lawyers challenging

those rates might have been without the welfare changes, and the suggestion that the welfare changes may have caused the difference. And it said that the researchers need not redo the study, but should submit a revised version making clear the difficulties of determining causality.

Michael Camasso, the lead researcher on the \$1 million evaluation project, declined to discuss the specifics of the December report or he re-working now under way.

"We have three different studies of the family cap, this pre/post research, a cost-benefit analysis, and another using an experimental group and a control group," he said. "All I can say is that the final reports on all three, which are not that far off, will present the most comprehensive view possible of the effects of the family cap."

The lawyers challenging the family cap are convinced that the policy encourages abortions, both from the Rutgers research and from interviews with welfare recipients.

"We showed the report to outside experts, including statisticians and economists, and they agreed that it shows that the family cap is causing women to have abortions," said Lenora Lapidus, legal director of the New Jersey A.C.L.U. "In a state where there's been this strong effort to cut back on access on abortion, there's a real irony here. This state now has two choices, they can backpedal and try to change the study. Or with the Governor leading, they can take the high road and reconsider the policy."

the cap had also asked for, and been granted, permission to talk to the Rutgers researchers.

But, she said, on May 14 — the same day the department's letter went out to the researchers — the Attorney General's office called to say that the report was only a draft and to withdraw permission to talk to the researchers.

"This is a report filed in December, and there was plenty of time for back and forth about the methodology before May," Ms. Davis said. "The timing, together with the fact that this was in no way labeled a draft, as an earlier interim report had been, lead us to conclude that something else was going on here."

Ms. Tencza said there were no political machinations involved: discussions of the methodology had gone on since the report was filed, she said, and the May 14 letter only reflected continuing discussions. And she said that the lawyer for the Attorney General's office who gave out the report was simply unaware that it was a draft.

"It was an oversight, and it should not have been released," Ms. Tencza said. "This is very complicated, very important social science research, and there are many serious concerns about methodology. We're not confident that there is any methodology that would result in establishing a cause-and-effect relationship. That's one thing we've learned through this process."

The letter questioned the researchers' use of trends in abortion and birth rates to estimate what

Adding new fuel to a continuing debate over welfare.

N.J. Study Links Abortion Rise To Welfare Cap

By JUDITH HAVEMANN
Washington Post Staff Writer

A research team from Rutgers University has concluded that New Jersey's welfare law increased abortions among the state's approximately 85,000 welfare families by about 240 a year, but state officials have disputed the report and sent it back for revisions, state officials and opponents of the policy said yesterday.

New Jersey became the first state in 1991 to pass a controversial "family cap," which denies additional benefits to mothers who have more children while on the welfare rolls. Such families lost \$64 a month as a result of the policy.

The family cap was designed to send a powerful signal to mothers to postpone having children they can't support. An unusual coalition of Catholics, conservative family groups and liberal advocates argued against it, saying it would raise the abortion rate and increase child poverty.

In a report to the state and the federal Department of Health and Human Services in December, researchers from Rutgers and Princeton universities concluded that the family cap, which has been adopted by 22 other states, had a "small but non-trivial effect on abortion rates ... over what would be expected due to trend and population composition changes."

While the abortion rate was going up among welfare mothers by about 6 percent, it declined for the general population.

The report was disclosed to the NOW Legal Defense and Education Fund and the American Civil Liberties Union by a state lawyer during routine pretrial document exchanges in a suit the groups filed against the policy. The conclusions were shared with representatives of the Catholic Church on May 12. On May 14, the state sent a nine-page letter to the researchers disputing their methodology and requesting revisions.

"The state is backing away from the findings because they don't like the conclusions the researchers came up with," said Martha Davis, legal director of the NOW Legal Defense and Education Fund. "In no way was this a draft," she said. "It shows the real conflict when the states have a political agenda and are trying to influence this kind of research."

But a New Jersey Department of Human Services spokeswoman sharply disputed the advocates' conclusions. Jacqueline Tencza said, "We have a lot of concerns about the way the number was derived because there were a lot of changes in the caseload during the period they were studying."

A spokesman for the federal Department of Health and Human Services said the report was a draft "that is still being worked on." Its \$250,000 cost was paid by HHS and the Kaiser Foundation.

Welfare child cap boosts abortions

TRENTON, N.J. (AP) — A research study has concluded that New Jersey's policy of holding welfare benefits level when recipients have additional children has contributed to an increase in abortions.

And critics of the policy say state officials, who commissioned the study, are now trying to play it down because they don't like the results.

The \$1 million study by Rutgers University was commissioned by the state Department of Human Services and the federal Department of Health and Human Services. Researchers were asked to examine the effects of New Jersey's "family cap," which was the first of its kind in the nation when it was enacted in 1992.

Twenty other states have since instituted family caps similar to New Jersey's, and the Rutgers report is likely to fan the fire of debate over welfare reform.

The December 1997 report, obtained yesterday by the Associated Press, said the new welfare policy "does appear to exert a small but non-trivial effect on abortion rates." The researchers estimated that the number of abortions in the state was about 240 higher per year than it would have been without the welfare change.

"We were concerned that this law could cause an increase in abortions," Marie Tasy, a spokeswoman for New Jersey Right to Life said. "If the Rutgers study is accurate, our fears have been confirmed."

State officials have rejected the report's findings, declaring it a "draft," and asking for a revision.

But groups that are challenging the cap in court say the report was not labeled a draft when it was distributed to them in February as part of their preparations for trial.

"We think this is a final report that the state is trying to cover up by saying it's a draft," Martha Davis, a lawyer with the National Organization for Women's Legal Defense and Education Fund, said in yesterday's editions of the New York Times. "And we think the real reason for their objections is concern about what legislators will do if they see the conclusions the Rutgers researchers have drawn."

Miss Davis' group, along with the American Civil Liberties Union of New Jersey, sued the state last year, charging that the family cap violated the state constitution by interfering with women's reproductive rights and treating children differently depending on their birth status.

Other opponents to the cap include the Roman Catholic Church and conservative Christian groups that believe the cap encourages abortions.

State officials say their concerns are methodological, not political.

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WELFARE AND ABORTION: Denying additional aid to welfare recipients who have more children — a policy in effect in 20 states — could increase abortions, a controversial New Jersey report says. The preliminary finding by researchers at Rutgers University, disputed by state officials, poses a potential dilemma for lawmakers who voted for the "family cap" policy. The impact on abortions was slight: an estimated 240 more per year. New Jersey had about 32,000 in 1996. But it could prompt abortion foes to seek repeal of the provision in states that adopted it under the 1996 federal welfare reform law. — Richard Wolf