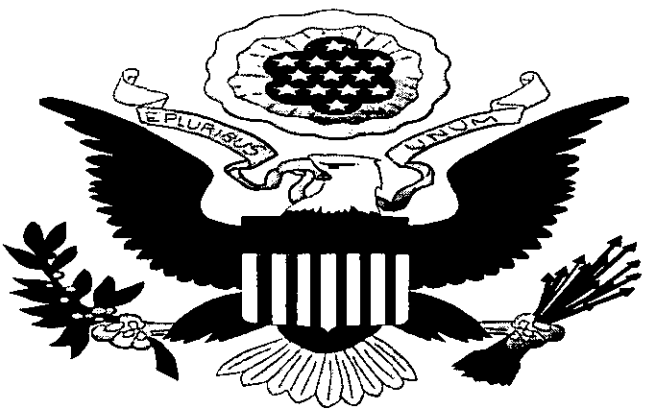
NLWJC - Kagan
DPC - Box 062 - Folder-010

Welfare-Implementation Guidance

File - welfare - implementation guidance



Provided by:

U.S. Department of Health and Human Services
Social Security Administration
U.S. Department of Agriculture
U.S. Department of Labor

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT

Building Families

Building Partnerships

IMPLEMENTATION GUIDANCE

February, 1997

DRAFT

February 12, 1997 (3:45m)

Dear Colleague,

On August 22, 1996 President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which promises to transform our nation's welfare system by requiring work and demanding responsibility, while offering new hope and opportunity for our nation's welfare families. This legislation calls for a landmark shift in public policy affecting needy families, empowering states to design and implement all major aspects of the new Temporary Assistance for Needy Families (TANF) program, strengthening child support enforcement, and building comprehensive child care systems for low-income families.

The ultimate success of welfare reform will require an unprecedented partnership among government, business, and community leaders to develop and implement strategies which will move welfare recipients into sustained and successful careers. Since the law was enacted, we have been working closely with states, localities, non-profits, businesses, religious institutions, tribes, and advocates in the development of regulations and other program guidance. As you may know, we have been working together to coordinate policy development in Washington and to conduct join outreach projects at the regional level. Please be assured that we intend to continue this close consultation in all forthcoming federal policy making.

In the spirit of open communication and information-sharing, enclosed is the first in a series of informational packages relating to the new welfare reform law. The materials contained in this package have already been distributed separately by the relevant federal agencies; however, this is the first compilation of such documents in a single package. We intend for the appended analysis, data, and guidance documents to serve as a helpful reference for a wide range of interested parties. Please share these documents with your colleagues, constituents and other interested organizations.

On behalf of the agencies in this Department and our partners at the Federal level, I want to take this opportunity to pledge our continuing assistance to you as our nation implements this historic welfare reform law. We would encourage you to contact representatives within the federal agencies to obtain further information regarding PRWORA. Enclosed is a list of our key regional leadership and Washington contacts who are available to answer questions, provide briefings and offer technical assistance.

We appreciate your interest in welfare reform and strongly urge your continued personal involvement in the success of welfare reform. We look forward to continued opportunities for collaboration as we move toward the final goal of helping needy families achieve self-sufficiency.

Sincerely,

Donna E. Shalala

IMPLEMENTATION INFORMATIONAL PACKAGE

I. Personal Responsibility and Work Opportunity Reconciliation Act
- A. Summary of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996
- B. Side by side comparison of Prior Law and PRWORA
- C. TANF - Guidance on Maintenance of Effort, Definition of Assistance and Other Provisions of PRWORA.

II. Welfare and Work
- A. Questions and Answers received from states on Implementing welfare reform.
- B. Fact Sheet - tax credits and the Welfare-to-Work Jobs initiative

III. Medicaid
- A. Fact Sheet - Link between Medicaid and Temporary Assistance for Needy Families
- B. Fact Sheet - Link between Medicaid and SSI coverage of children
- C. Fact Sheet - Linkage between Medicaid and Immigration provision of PRWORA
- D. Fact Sheet - Federal matching rates for administrative costs of eligibility determination
- E. State Medicaid eligibility quality control letter to state Medicaid Directors
- F. Summary and contact sheet of the State Medicaid Manual

IV. Child Care and Development
- A. Fact Sheet - Child Care and Development Fund
- B. Child Care Program Instruction
  1. The Matching Fund of the CCDF
  2. Meeting the "Maintenance of Effort" Requirement for Child Care
- C. Interim Application and Planning Document and CCDGB Amendments of 1996
- D. Access and Visitation Grants - Guidance
- E. Fact Sheet - Child Support Enforcement

V. Immigration Issues
- A. Draft- Summary of Immigrant Provisions
- B. Presidential Letter on Naturalization
- C. Eligibility of Aliens for Food Stamps

VI. Supplemental Security Income (SSI)
- A. SSI Provisions from PRWORA
- B. New Definition of Disability for Children
- C. Supplemental Income for Noncitizens

VII. Domestic Violence Issues
- A. Progress Report on Guidelines to States for Implementing the Family Violence Provisions in the New Welfare Law

VIII. Food Stamps
- A. Guidance for States Seeking Waivers for Food Stamp Limits
- B. State Implementation Guidance of the Food Stamp Program
- C. Commissioners Letter on Work Verification Procedures for Legal Immigrants

Federal Agencies - Welfare Reform Contacts

Implementation Guidance Website - http://www.acf.dhhs.gov/news/welfare/wrpack.htm

I. Regional HHS Leadership

The office of the HHS Regional Director hosts the Welfare Reform Implementation Working Team in your region. Please direct state specific questions to their office for referral to the appropriate team official.

Region I	Region II	Region III
Maureen O'Solnick	Alison Greene	Lynn Yeakel
(617) 565-1500	(212) 264-4600	(215) 596-6492
Region IV	**Region V**	**Region VI**
Patricia Ford-Roegner	Hannah Rosenthal	Patricia Montoya
(404) 331-2442	(312) 353-5160	(214) 767-3301

Region VII	Region VIII	Region IX	Region X
Kathleen Steele	Margaret Cary	Grantland Johnson	Patrick McBride
(816) 426-2821	(303) 844-3372	(415) 437-8500	(206) 615-2010

Regional Food and Consumer Service Leadership - Food Stamps

Mid-Atlantic	Midwest	Northeast
Chris Martin	Tom Pate	Fran Zorn
(609)259-5025	(312)353-6664	(617)565-6370
Southeast	**Montain Region**	**Western**
Virgil Conrad	Staff	Allen Ng
(404)730-2565	(303)844-0300	(415)705-1310

II. **Washington D.C. Leadership** - Please look to the officials listed below guidance on national issues.

Intergovernmental Affairs	Medicaid	Social Security Income
Jim Mason	Lloyd Bishop	SSA - Hotline
(202) 690-6036	(202) 690-8501	(800) 772-1213
TANF, Child Care, Child Support		**Food Stamps**
Michael Kharfen		Grady Forrer
(202) 401-9215		(703) 305-2281

Michael King, Outreach Coordinator, (202)690-7508

III. **Welfare Reform Resources On the World Wide Web**

Administration for Children and Families
http:// www.acf.dhhs.gov/news/welfare/index.htm

Health Care Financing Administration
http://www.hcfa.gov/medicaid/wrefhmpg.htm

Immigration and Naturalization Service
http://www.usdoj.gov/ins/hqopp/welfare/index.html

Social Security Administration
http://www.ssa.gov/welfare/welfare.html

United States Department of Agriculture
http://www.usda.gov/fcs/welfare.htm

United States Department of Labor/Employment and Training
http://www.doleta.gov/

Personal Responsibility and Work Opportunity Reconciliation Act

Contacts:

Implementation Guidance Website
http://www.acf.dhhs.gov/news/welfare/wrpack.htm

Administration for Children and Families Website
hhtp://www.acf.dhhs.gov/news/welfare/index.htm

TANF, Child Care, Child Support - Office of Public Affairs
Michael Kharfen (202) 401-9215

Outreach Coordinator - U.S. Department of Health and Human Services
Michael King (202) 690-7508

Major Provisions of the
Personal Responsibility and Work Opportunity
Reconciliation Act of 1996 (P.L. 104-193)
(ASPE - February, 1997)

Eliminates AFDC's open-ended entitlement and creates a block grant for states to provide time-limited cash assistance for needy families, with work requirements for most recipients. The law also makes far-reaching changes to child care, the Child Support Enforcement Program, benefits for legal immigrants, the Food Stamp Program, and SSI for children. Modifications to the child nutrition program and reductions in the Social Services Block Grant (SSBG) are also included.

TITLE I: TANF BLOCK GRANT

Eliminates the AFDC program, JOBS, and Emergency Assistance (EA) and creates the Temporary Assistance to Needy Families (TANF) Block Grant. Annual TANF funding is $16.38 billion in FYs 1997-2003. States receive their allotment based upon previous expenditures in AFDC, EA, and JOBS. States can transfer 30% of the TANF funds into the child care block grant or SSBG.

States may use their TANF funding in any manner "reasonably calculated to accomplish the purposes of TANF." These purposes are: to provide assistance to needy families so that children can be cared for in their own homes; to reduce dependency by promoting job preparation, work and marriage; to prevent out-of-wedlock pregnancies; and to encourage the formation and maintenance of two-parent families. States have broad flexibility to determine eligibility, method of assistance, and benefit levels. Individual Development Accounts, restricted accounts which can only be used for education, homeownership, or other self-sufficiency activity, are specifically mentioned as a possible use of funds. The state plan must have "objective criteria" which are "fair" and "equitable" for eligibility and benefits and must explain appeal rights.

Restrictions on use: Federal TANF funds cannot be used to assist families who have already received assistance under the program for a cumulative total of 60 months (or less at State option). Up to 20% of the caseload in any one year can be exempted from the five-year limit. Families must include a child or expectant mother to receive assistance. Unmarried teen parents must stay in school and live at home or in an adult-supervised setting. Persons who do not cooperate with child support enforcement requirements, including paternity establishment, receive a reduced benefit or may lose it entirely. Persons ever convicted of a drug-related felony are banned for life from TANF and the Food Stamp Program, although states can opt out of the ban or limit it. No more than 15 percent of a state's TANF grant may be used for administrative costs.

State maintenance of effort: To receive their full allocation, states must demonstrate they have spent on activities related to TANF 80% of the amount of non-federal funds they spent in FY 94 on AFDC and related programs. If they meet minimum work requirements, their mandatory state effort is reduced to 75%.

Additional funding: There are several ways that states can supplement their block grant funding, including: a $2 billion (over 5 years) contingency fund for states experiencing economic downturns, an $800 million (over 4 years) fund to provide supplemental grants for states with high population growth, a $1.7 billion federal loan fund, a $1 billion (over 5 years) appropriation to make performance bonuses, and a $100 million annual appropriation for bonuses to states that reduce the number of out-of-wedlock births and abortions.

Effective dates: States have until July 1, 1997 to submit their state plans and begin implementing TANF, although they can opt to implement earlier. HHS reviews the plans only for completeness. States must allow for a 45-day comment period on the state plan by local governments and private organizations.

Work requirements: The following work requirements are established under TANF:

- Unless a state opts out, non-exempt adult recipients who are not working must participate in community service two months after they start receiving benefits.
- Adults are required to participate in work activities two years after they start receiving assistance under the block grant unless the state exempts them.
- States may exempt parents with children under 1 from work requirements, and may disregard them in calculating participation rates.
- States may not penalize parents with children under 6 for not working if child care is not available.

Each state must meet the following minimum work participation rates:

	All Families		Two-Parent Families	
Fiscal Year	Participation Rate	Weekly Hours of Work	Participation Rate	Weekly Hours of Work
1997	25%	20	75%	35
1998	30%	20	75%	35
1999	35%	25	90%	35
2000	40%	30	90%	35
2001	45%	30	90%	35
2002	50%	30	90%	35

The law provides for a pro rata reduction in the participation rates for caseload reductions below FY 1995 levels that are not due to changes in eligibility or federal law.

The rules governing what activities count toward these work participation rates are complex. In general, participants must do real subsidized or unsubsidized work. Circumstances under which education (except in the case of teen parents), training or job search count toward meeting the requirements are limited.

Penalties: States can be penalized for misusing TANF funds and for failure to:

- Submit required reports
- Satisfy work requirements
- Participate in the Income and Eligibility Verification System
- Comply with paternity establishment and Child Support Enforcement requirements
- Repay a federal loan on time
- Meet state maintenance of effort requirements under TANF, and those that are required for states to draw down monies under the contingency fund
- Comply with five-year limit on assistance
- Maintain assistance when parents cannot find child care for child under age 6.

In all cases, states are given the opportunity to develop a corrective compliance plan before they can be penalized. All penalties assessed in a given year may not exceed 21 percent of a state's block grant allotment.

Medicaid: Medicaid eligibility is delinked from receipt of family assistance, except that states are required to provide medical assistance to individuals based on income and resource eligibility requirements under Title IV-A as in effect prior to passage of the new law. Up to $500 million is authorized for increased federal Medicaid matching for additional administrative costs related to this provision.

TITLE II: SUPPLEMENTAL SECURITY INCOME

New definition of disability for children: The law changes the definition of disability for children that requires a child, in order to be eligible for SSI benefits, to have a specific medically determinable physical or mental impairment which results in "marked and severe" functional limitations and which can be expected to last for at least 12 months or to result in death. The Social Security Administration (SSA) is required to remove the references to "maladaptive behavior" as a medical criterion for evaluating mental disabilities in children.

Application to new and current cases: The new definition applies immediately to new claims for assistance, including claims that have not been finally adjudicated as of the date of enactment. SSA must redetermine the cases of children currently receiving SSI to determine whether they meet the new criteria, but the earliest that current recipients may lose benefits is July 1, 1997. SSA must notify all children potentially affected by the change by January 1, 1997. The SSA appeals process is available to individuals who are found ineligible.

TITLE III: CHILD SUPPORT

Connection to TANF program: In order to receive the TANF block grant, states must operate a child support enforcement program. Applicants for and recipients of TANF assistance and Medicaid must assign support rights to the state and cooperate with child support enforcement efforts. States must deduct a minimum of 25 percent from a family's cash assistance grant (and may deny cash assistance entirely) for a failure to cooperate with child support without good cause. States that fail to do so will be penalized up to 5 percent of the TANF block grant in the next fiscal year. States are no longer required to pass through $50 of child support collected to recipients. States can pass through any amount they want to the family, but they are also required to reimburse the federal government for its share (about 50%) of any child support collected. Under the "Family First" policy, families no longer receiving cash assistance will have priority in the receipt of past-due child support payments.

Data systems requirements and other provisions: In order to make it more difficult for people who owe child support to evade collection efforts, the law requires a set of new data systems. By October 1, 1997, states must develop a state directory of new hires. By October 1, 1998 states must operate an automated central unit to collect and disburse support systems. The Federal Parent Locator Service is expanded to include a National Directory of New Hires and a Federal Case Registry of Support Orders. Automated systems shall be used to match information from these registries, so that automatic withholding orders may be implemented. Social security numbers shall be recorded on a variety of official documents, in order that parents who owe support may be tracked. States must adopt laws that allow them to suspend driver's, professional, occupational, and recreational licenses of individuals who owe overdue support. The new law also provides for uniform rules, procedures and forms for interstate cases, and streamlines the legal process for paternity establishment.

TITLE IV: RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Almost all legal immigrants are ineligible for SSI and Food Stamps: Most legal immigrants will no longer be eligible for SSI or Food Stamp Program assistance when their eligibility is reviewed under a "redetermination" process. These redeterminations must be completed no later than August 22, 1997. The recent immigration bill provides that current Food Stamp Program recipients shall remain eligible until April 1, 1997. The welfare law states that SSA must notify SSI recipients regarding redeterminations no later than March 31, 1997.

States have the option to continue to serve most current legal immigrants in Medicaid, TANF, and SSBG: Beyond SSI and the Food Stamp Program, states have the authority to decide whether or not most legal immigrants in their state as of August 22, 1996 will be eligible for Medicaid (except all immigrants remain eligible for emergency medical services), the new Temporary Assistance for Needy Families (TANF) block grant, which replaces AFDC, and the Social Services Block Grant (SSBG). States may not deny assistance to certain legal immigrants, including refugees and asylees and immigrants who have worked in the United States long enough to qualify for social security coverage (40 quarters), or are veterans or active

duty military service personnel. Individuals who are eligible for free public education benefits under state or local law are also eligible to receive school meal benefits.

New immigrants are subject to a 5-year exclusion from means-tested benefits: Finally, legal immigrants entering after August 22, 1996 are ineligible for certain federal means-tested benefits for 5 years after entry. People who sponsor new immigrants for entry into the country will be required to sign legally-binding affidavits of support, under which the income of the sponsor will be "deemed" as available to support the immigrant for purposes of determining the immigrant's eligibility for means-tested benefit programs. These deeming rules would apply after the 5-year ban and until the immigrant is naturalized as a U.S. citizen or has worked for 40 qualifying quarters. Under the recent immigration law, battered and indigent immigrants are exempted from these new deeming rules. Since the law does not define which programs are "means-tested," we are currently working to determine which federal programs would be covered by these new rules. Certain programs and services are specifically excepted from the 5-year ban and deeming provisions, including: certain public health services related to immunizations and communicable diseases, Head Start, job training (JTPA), and certain programs of student assistance.

Illegal immigrants are banned from most public assistance: Illegal immigrants are banned from receiving most federal public assistance. States have the option to determine whether to provide WIC and other child nutrition benefits to illegal aliens and certain other noncitizens. Illegal immigrants may only receive state or local public assistance if the state enacts a law specifically allowing them to receive aid. Exceptions are made for emergency medical assistance, public health, and certain in-kind relief programs, among others. In order to enforce these restrictions, applicants for virtually all federal, state, and local programs will be required to prove that they are citizens or qualified legal immigrants. States will have 24 months after regulations are issued in order to implement verification systems. Under the recent immigration law, battered immigrants are exempted from these verification requirements, as are nonprofit charitable organizations.

TITLE V: CHILD PROTECTION

Most prior law provisions are continued: Most provisions of prior law regarding child protection are retained. States are required to use the AFDC rules and requirements in effect as of June 1, 1995, under their state plan to determine eligibility for child protective services under Title IV-E. The law allows states to use IV-E dollars to pay for-profit providers to care for children in foster care, and requires states to give preference to relatives when deciding upon foster care placements, provided that the relative caregiver meets all relevant state child protection standards. The law also authorizes a national random sample study of children who are at-risk of abuse or neglect or have been abused or neglected.

TITLE VI: CHILD CARE

Consolidates multiple funding sources into single child care fund: Consolidates previous IV-A child care funding sources with the Child Care Development Block Grant, as of October 1, 1996. States will automatically get about $1.2 billion in "Mandatory" funds (formerly IV-A) and appropriated "Discretionary" funds (CCDBG), authorized at $1 billion each year. In order to receive additional "Matching" funds, states must obligate all of their Mandatory funds and meet a maintenance of effort (MOE) requirement. Spending above the MOE level will be matched at the FY 1995 federal matching assistance percentage. Two percent of all funds will be reserved for Indian tribes.

Relationship to TANF: States must use at least 70 percent of Mandatory and Matching funds for families receiving assistance under TANF, families transitioning from TANF receipt, and families at risk of becoming dependent on TANF. However, the previous individual entitlements to child care for AFDC recipients and former recipients who have left AFDC for work are eliminated. States may not penalize single parents with children under 6 who cannot find child care for failure to participate in work activities.

Health and safety standards preserved: Health and safety standards specified in the CCDBG program are maintained for all child care funded through the combined programs. States must use at least 4 percent of their combined grants to improve the quality and availability of child care.

TITLE VII: CHILD NUTRITION PROGRAMS

Establishes two-tier system of reimbursements for Child and Adult Care Food Program: The law establishes a two-tier system of reimbursements under the Child and Adult Care Food Program (CACFP). The current rates will continue for family or group day care homes located in areas in which at least 50 percent of the children are in households that are below 185 percent of the poverty level, or are operated by a provider whose income is below 185 percent of the poverty level. Other homes will receive reduced meal reimbursements. The law also reduces the maximum reimbursement rates in the Summer Food Service Program and for full-price meals in the school breakfast and school lunch programs and in child care centers.

TITLE VIII: FOOD STAMPS AND COMMODITY DISTRIBUTION

Benefit levels: The law sets maximum food stamp benefit levels at 100% of the Thrifty Food Plan and retains annual indexing. It also retains the cap on the excess shelter deduction and sets it at $247 through 12/31/96, $250 through FY 1998, $275 through FY 2000, and $300 for FY 2001 and beyond. The standard deduction was frozen at the FY 1995 levels without indexing.

New work requirement for childless adults: Able-bodied recipients age 18-50 with no dependents must be engaged in work or work programs (at least 20 hours per week) in order to be eligible for food stamps. Otherwise, their eligibility is limited to 3 months in any 36-month period. Recipients who find work and then lose their job may receive up to 3 additional months of benefits. Work programs include job training and workfare, but not job search or job

readiness programs. At state request, individuals may be exempt if they live in an area with more than 10 percent unemployment. States will have greater flexibility in operating the Food Stamp Employment and Training Program.

Interaction with TANF: States may operate a "simplified Food Stamp Program" for households that include individuals receiving assistance under TANF. The simplified program allows for a single set of rules to determine eligibility and benefits. Such a program may not increase federal costs above what they would have been under the regular program. States may disqualify food stamp recipients who fail to cooperate with child support enforcement or who are delinquent in paying child support.

Administrative provisions: The law contains a variety of administrative provisions, including: increasing waiver authority, allowing administrative flexibility, allowing states to reduce allotments for collecting overpayments due to state agency errors, and increasing the penalties for fraud. All states must implement Electronic Benefit Transfer programs by October 1, 2002, unless waived by USDA.

See also: Title II for restrictions on receipt of Food Stamps by legal immigrants.

TITLE IX: MISCELLANEOUS

Teen pregnancy prevention provisions: HHS is required to develop and implement a national strategy to reduce the incidence of teenage pregnancy. Beginning in FY 1998, a mandatory formula grant program is added to the Maternal and Child Health Block Grant to provide $50 million annually to states to operate abstinence education programs. Under TANF, HHS is also authorized to make annual bonus grants to the five states which reduce all out-of-wedlock births (not just to teens) by the greatest amount, without increasing the abortion rate.

Social Services Block Grant provisions: The welfare law set funding for the Social Services Block Grant at $2.38 billion in FYs 1996-2002, and $2.8 billion in FY 2003 and thereafter. Non-cash vouchers for children that become ineligible for cash assistance under TANF time limits are authorized as an allowable use of SSBG funds. The omnibus spending bill changed the FY 1997 spending level for SSBG and appropriated $2.5 billion for that year.

Comparison of PRIOR LAW and the PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (P.L. 104-193)

PROVISION	PRIOR LAW	P.L. 104-193
Title I: Block Grants for Temporary Assistance for Needy Families		
AFDC, EA, and JOBS	AFDC provided income support to families with children deprived of parental support. JOBS was an employment and training program for AFDC recipients. Emergency Assistance (EA) provided short term emergency services and benefits to needy families. The federal government established eligibility criteria for AFDC and EA benefits and guidelines for the JOBS program. States determined benefit levels which were required to be applied uniformly to all families in similar circumstances.	The law block grants AFDC, Emergency Assistance (EA), and JOBS into a single capped entitlement to states -- Temporary Assistance to Needy Families (TANF). States are required to implement their block grants programs by 7/1/97. States have the option to submit plans immediately subsequent to the President's signing of the bill (8/22/96). After the Department of Health and Human Services reviews the plan for completeness, the state plan is retroactive to the date of receipt.
Funding	Open-ended funding was on a matching basis for AFDC benefits and administration and EA. JOBS was an entitlement requiring state match and was capped at $1 billion in FY 1996.	The total cash assistance block grant is estimated to be $16.4 billion for each year from FY 1996 to FY 2003. Each state receives a fixed amount -- based on historical expenditures for AFDC benefits and administration, EA, and JOBS -- equal to the greater of: (1) the average of federal payments for these programs in FYs 1992-1994; (2) federal payments in FY 1994, plus additional EA funding for some states; or (3) estimated federal payments in FY 1995. States can carry over unused grant funds to subsequent fiscal years.
AFDC Entitlement	AFDC was an entitlement to states. Recipients of SSI and Foster Care payments were not eligible for AFDC. Eligible individuals were guaranteed aid at state-established benefit levels, although benefits could not fall below May 1988 levels. Certain individuals also received guaranteed child care benefits. States received federal matching dollars for expenditures, without a cap. Benefits were guaranteed to eligible individuals even in recessions and fiscal downturns.	No individual guarantee of benefits, but the state plan must have "objective criteria for delivery of benefits and determining eligibility" and provide an "explanation of how the state will provide opportunities for recipients who have been adversely affected to be heard in an appeal process."

PROVISION	PRIOR LAW	P.L. 104-193
Time Limits for Cash Assistance	Recipients remained eligible for benefits as long as they met program eligibility rules.	Families who have received federally-funded assistance for 5 cumulative years (or less at state option) would be ineligible for federally-funded cash aid. States are permitted to exempt up to 20% of the caseload from this time limit. Months spent living on Indian reservations with populations of at least 1,000 and unemployment rates of at least 50% do not count against the time limit. Block grant money transferred to Title XX can be used to provide non-cash assistance to families after the federal time limit. State funds that are used to count toward the maintenance of effort requirements may be used to provide assistance to families beyond the federal time limit.

PROVISION	PRIOR LAW	P.L. 104-193
Work Requirements	For FY 1994, 15% of non-exempt caseload was required to participate in JOBS activities for at least 20 hours per week. This increased to 20% in FY 1995. (There were no statutory single-parent standards after FY 1995). For FY 1994, 40% of two-parent families were required to participate in work activities for at least 16 hours per week. This was scheduled to increase to 75% by FY 1997. Matching rate on JOBS dollars could have been reduced for failing to meet general or AFDC-UP participation rates. Individuals were exempt from JOBS if they were: ill, incapacitated, or aged; had a child under age 3 (or 1 at state option); were under age 16 and in school full time; were in 2nd or 3rd trimester of pregnancy; were needed in the home to care for ill or incapacitated family member; were employed 30 hours or more per week; resided in an area where the program was not available; was a child under 16 attending school; or was providing care to a child under 6 and child care would not be guaranteed.	**General Requirements:** As part of their state plan, states must demonstrate that they will require families to work after two years on assistance. **Work Rates:** A state's required work participation rate for all families is set at 25% in FY 1997, rising to 50% by FY 2002 (states will be penalized for not meeting these rates). The rate for two-parent families increases to 90% by FY 1999. The law provides pro rata reduction in the participation rate for reductions in caseload levels below FY 1995 that are not due to eligibility or federal law changes. **Work Hours:** Single-parent recipients are required to participate 20 hours per week upon implementation of the law, increasing to at least 30 hours per week by FY 2000. Single parents with a child under age 6 are deemed to be meeting the work requirements if they work 20 hours per week. Two-parent families must work 35 hours per week. **Exemptions:** Single parents of children under age 6 who cannot find child care cannot be penalized for failure to meet work requirements. States can exempt from the work requirement single parents with children under age one and disregard these individuals in the calculation of participation rates for up to 12 months. **Other:** For two-parent families, the second spouse is required to participate 20 hours per week in work activities if they receive federally funded child care (and are not disabled or caring for a disabled child). Individuals who receive assistance for 2 months and are not working or exempt for the work requirements are required to participate in community service, with the hours and tasks to be determined by the state (states can opt-out of this provision).

PROVISION	PRIOR LAW	P.L. 104-193
Work Activities	States were required to provide basic and secondary education, ESL, job skills training, and job readiness. States were required to offer 2 of the following work activities: job search, on-the-job-training, work supplementation, or the community work experience program. Post-secondary education was optional. Two-parent families were required to participate in work activities.	To count toward the work requirement, single-parent families are required to participate at least 20 hours per week and two-parent families 30 hours per week in unsubsidized or subsidized employment, on-the-job training, work experience, community service, up to 12 months of vocational training, or provide child care services to individuals who are participating in community service. Up to 6 weeks of job search (no more than 4 consecutive weeks) counts toward the requirement, except that states with unemployment rates at least 50% above the national average may count up to 12 weeks of job search. Beyond 20 hours per week for single-parent families (or 30 hours per week for two-parent families), participation may also include job skills training related to employment, education directly related to employment (for someone without high school or Graduate Equivalency Degree [GED]), and secondary school or GED (for someone without high school or GED). Teen heads of household (up to age 19) in secondary school also count toward work requirement. However, no more than 20% of the caseload can count vocational training toward meeting the work requirement (including teen parents in secondary school). Individuals who had been sanctioned (for not more than 3 of 12 months) are not included in the denominator of the rate.

PROVISION	PRIOR LAW	P.L. 104-193
Supplemental Funds	For AFDC and EA, open-ended funds were available as needed. No provision for JOBS.	Establishes a $2 billion contingency fund. For eligible states, state TANF spending in excess of FY 1994 levels of AFDC-related spending is matched to draw down contingency fund dollars. If a state draws down matching child care funds (for which it must exceed its FY 1994 level of child care spending), its child care spending under TANF would not be eligible for a contingency fund match and AFDC-related child care would be subtracted from the FY 1994 base. States can meet one of two triggers to access the contingency fund: 1) an unemployment rate for a 3-month period that was at least 6.5% and equal to 110% of the rate for the corresponding period in either of the two preceding calendar years; or 2) a trigger based on food stamps. Under the second trigger, a state is eligible for the contingency fund if its food stamp caseload increased by 10% over the FY 1994 or 1995 level (adjusted for the impact of the law's immigrant and food stamp provisions on the food stamp caseload). Payments from the fund for any fiscal year is limited to 20% of the state's base grant for that year. A state can draw down no more than 1/12 of its maximum annual contingency fund amount in a given month. The match rate for the contingency fund is the state's Medicaid match rate, times the number of months the state received contingency funds in a fiscal year, divided by 12. The law also includes: 1) an $800 million grant fund for states with exceptionally high population growth, benefits lower than 35% of the national average, or above average growth and below average AFDC benefits (no state match); and 2) a $1.7 billion loan fund.
Maintenance of Effort	States were required to match the federal dollars provided for AFDC, EA, and JOBS. There was no maintenance of effort requirement in AFDC and EA. For JOBS, states were required to spend no less than total state and local expenditures for FY 1986 for training, employment, and education programs whose purpose was preventing welfare dependency.	Each state is required to maintain 80% of FY 1994 state spending on AFDC and related programs, including JOBS, EA, and child care. For states who meet the work participation requirements, the maintenance of effort provision may be reduced to 75%. States must maintain 100% MOE for access to the contingency fund.

PROVISION	PRIOR LAW	P.L. 104-193
Transfers	No provision.	A state is permitted to transfer up to 30% of the cash assistance block grant to the child care block grant and/or the Title XX block grant. No more than one-third of transferred amounts can be transferred to Title XX, and all such funds transferred must be spent on children and their families whose income is less than 200% of the poverty line.
Persons Convicted of Drug-Related Crimes	No provision.	Individuals who after the date of enactment are convicted of drug-related felonies are prohibited for life from receiving benefits under the TANF and Food Stamps programs. States may opt out of this provision or limit the length of the sanction. Federal benefits specifically exempted: emergency medical services; short-term, noncash disaster; public health for immunizations and communicable diseases; prenatal care; job training programs; and drug treatment programs.
Penalties	Penalties could have been imposed for JOBS and Quality Control. If a state failed to achieve general and two-parent participation rates, the federal matching rate for JOBS spending (which generally ranged from 60% to 79% among states) was to be reduced to 50%. In addition, states faced a reduced federal match unless 55% of JOBS funds were spent on long-term recipients, those under age 24 with no high school diploma, or those who were within two years of becoming ineligible for aid because of the age of their child. A state could also have been penalized if its payment error rate (based on Quality Control) exceeded national standards.	The following penalties can be imposed on states: (1) for failure to meet the work participation rate, a penalty of 5% of the state's block grant in the first year increasing by 2 percentage points per year for each consecutive failure (with a cap of 21%); (2) a 4% reduction for failure to submit required reports; (3) up to a 2% reduction for failure to participate in the Income and Eligibility Verification System; (4) for the misuse of funds, the amount of funds misused (if the Secretary of HHS was able to prove that the misuse was intentional, an additional penalty equal to 5% of the block grant will be imposed); (5) up to a 5% penalty for failure, by the agency administering the cash assistance program, to impose penalties requested by the child support enforcement agency; (6) escalating penalties of 1% to 5% of block grant payments for poor performance with respect to child support enforcement, (7) a 5% penalty for failing to comply with the 5-year limit on federally-funded assistance; (8) a 5% penalty for failing to maintain assistance to a parent who cannot obtain child care for a child under age 6; and (9) penalties for failure to meet conditions for loan and contingency funds received. States that are penalized must expend additional state funds to replace federal grant penalty reductions.

PROVISION	PRIOR LAW	P.L. 104 -193
Individual Responsibility Plans	An employability plan was required in JOBS.	States are required to make an initial assessment of recipients' skills. At state option, Individual Responsibility Plans can be required.
Teen Parent Provisions	AFDC benefits were available to each eligible dependent child and parent, regardless of whether the mother was under age 18. States were given the option to require minor parents to reside in their parents' household, with a legal guardian, or in another supervised living arrangement, with certain exceptions. Teens who were not in school were required to participate in educational activities. No provision to locate adult-supervised homes.	Unmarried minor parents are required to live with an adult or in an adult-supervised setting and participate in educational and training activities in order to receive assistance. States are responsible for locating or assisting in locating adult-supervised setting for teens. The Secretary of HHS is required to establish and implement a strategy to: (1) prevent non-marital teen pregnancies; and (2) assure that at least 25% of communities have teen pregnancy prevention programs. The Department will report to Congress annually on progress in these areas. No later than January 1, 1997, the Attorney General shall establish and implement a program that provides research, education, and training on the prevention and prosecution of statutory rape.
Performance Bonus to Reward Work	No provision.	The Secretary of HHS, in consultation with NGA and APWA, is required to develop a formula measuring state performance relative to block grant goals. States will receive a bonus based on their score on the measure(s) in the previous year, but the bonus can not exceed 5% of the family assistance grant. $200 million per year is available for performance bonuses (in addition to the block grant), for a total of $1 billion between FYs 1999 and 2003.
Family Cap	Families on welfare received additional AFDC benefits whenever they had another child.	No provision, so state option.

PROVISION	PRIOR LAW	P.L. 104-193
Illegitimacy Bonus	No provision for Illegitimacy Bonus, however states were required to provide family planning services (to prevent/reduce the incidence of births out of wedlock) to any AFDC recipient who requested the services. The law required a reduction of 1% in AFDC matching funds if a state failed to offer and provide family planning.	The law establishes a bonus for states who demonstrate that the number of out-of wedlock births and abortions that occurred in the state in the most recent two-year period decreased compared to the number of such births in the previous period. The top five states will receive a bonus of up to $20 million each. If less than five states qualify, the grant will be up to $25 million each. Bonuses are authorized in FYs 1999-2002.
Waivers	The Secretary of HHS had the authority under Section 1115 of the Social Security Act to waive specified provisions of the Act in the case of demonstration projects that were likely to promote the objectives of the Act. Such demonstration projects were required to be cost-neutral to the federal government and rigorously evaluated.	Under the new law, states which receive approval for welfare reform waivers before July 1, 1997 have the option to operate their cash assistance program under some or all of these waivers. For states electing this option, provisions of the new law which are inconsistent with the waivers will not take effect until the expiration of the applicable waivers in the geographical areas covered by the waivers.
Medicaid Guarantee	*These policies remain in effect in P.L. 104-193.* Federal Medicaid law mandates that state Medicaid programs cover specified categories of individuals, including members of families receiving AFDC; other low-income families, children and pregnant women; low-income Medicare beneficiaries; and, in general, recipients of SSI. Federal law also specifies numerous groups whom states could, at their option, have made eligible for Medicaid. These groups include those whose medical costs impoverish them ("medically needy"), as well as persons who are in nursing facilities or other institutions, or who required institutional care if they are not receiving care in the community.	Regardless of a state's TANF eligibility requirements, for purposes of Medicaid eligibility the new law requires states to provide medical assistance to individuals based on AFDC income and resource eligibility requirements they had in place on 7/16/96; however, states may terminate Medicaid eligibility for adults who are terminated from TANF for failure to work. (The new law does not change other Medicaid eligibility categories). States have the option of using more liberal income and resource standards or methodologies for Medicaid eligibility. States are not permitted to reduce income standards below those in place in 5/1/88. States are not permitted to increase the income standard above that of 7/16/96 by more than the percentage increase in the consumer price index for all urban consumers over the same period.
Transitional Medicaid	*These policies remain in effect in P.L. 104-193.* AFDC recipients are entitled to one year of transitional Medicaid when they lose welfare due to increased earnings from work. This provision sunsets 9/30/98. Families who lose welfare due to collection of child or spousal support are entitled to 4 months of transitional Medicaid.	Families losing Medicaid benefits due to increased earnings from work, child support, or spousal support will receive transitional Medicaid benefits as under prior law. The sunset has been extended to 9/30/01.

PROVISION	PRIOR LAW	P.L. 104-193
Reductions in Federal Government	No provision.	The Secretary of HHS is required to reduce the number of positions at HHS related to the conversion of AFDC, JOBS, and EA into the TANF block grant by 75% or by 245 full-time equivalent program positions and 60 managerial positions.

PROVISION	PRIOR LAW	P.L. 104-193
	Title II: Supplemental Security Income	
SSI for Children	Children with disabilities who did not meet or equal the Listing of Medical Impairments were determined to be disabled (thereby eligible for cash benefits if all other criteria were satisfied) if they suffered from any medically determinable physical or mental impairment of comparable severity to an adult. Comparable severity was found if the child was not functioning at an age appropriate level as measured by the Individual Functional Assessment (IFA) and evaluated by SSA.	Provides a new definition of disability for children. Under this new definition, a child will be considered to be disabled if he or she has a medically determinable physical or mental impairment which results in marked and severe functional limitations, which can be expected to result in death or which has lasted or can be expected to last for at least 12 months. In addition, this law instructs SSA to remove references to maladaptive behavior as a medical criteria in its listing of impairments used for evaluating mental disabilities in children. All of these provisions will apply to new claims filed on or after enactment and to all claims that have not been finally adjudicated (including cases pending in the courts) prior to enactment. SSA is also required to redetermine the cases of children currently receiving SSI to determine whether they meet the new definition of disability. Redeterminations of current recipients must be completed during the year following the enactment. The earliest that a child currently receiving SSI can lose benefits is July 1, 1997. If the redetermination is made after that date, then benefits will end the month following the month in which the redetermination is made. SSA is required to notify all children potentially affected by the change in the definition by January 1, 1997. An additional $150 million for FY 1997, and $100 million for FY 1998 is authorized for continuing disability reviews and redeterminations. For privately insured, institutionalized children, cash benefits will be limited to $30 per month. The law requires that large retroactive SSI payments due to child recipients be deposited into dedicated savings accounts, to be used only for certain specified needs appropriate to the child's condition. The law provides that large retroactive benefit amounts will be paid in installments (applies to children and adults).

PROVISION	PRIOR LAW	P.L. 104-193
SSI Continuing Disability Reviews (CDRs)	Required the Social Security Administration (SSA) to conducts CDRs on at least 100,00 SSI cases (including both adults and children) in each of FYs 1996-1998.	Requires CDRs once every 3 years for recipients under age 18 with non-permanent impairments and not later than 12 months after birth for low-birth weight babies. Requires that the representative payee of a recipient whose continuing eligibility is being reviewed to present evidence, at the time of the review, that the recipient is receiving medical treatment, unless the Commissioner of SSA determines that such treatment would be inappropriate or unnecessary. The Commissioner may change the payee if he/she refuses to cooperate. Applies to benefits for months beginning on or after enactment.
SSI Redetermination Upon Attainment of Age 18	Required redeterminations, using the adult initial eligibility criteria, of the eligibility of one-third of the recipients who attain age 18 in or after May 1995 in each of the FYs 1996 through 1998. Required SSA to submit a report regarding these reviews to Congress not later than 10/1/98.	Requires eligibility determinations, using adult initial eligibility criteria during the one-year period beginning on a recipients' 18th birthday. No provision for reports to Congress regarding these reviews.

PROVISION	PRIOR LAW	P.L. 104-193
	Title III: Child Support	
Child Support	The state was required to establish paternity and establish and enforce child support orders for AFDC, Medicaid, IV-E recipients, and for all others upon request. States were required to disregard the first $50 a month in child support payments collected by the state and pass that amount through to the family.	States must operate a child support enforcement program meeting federal requirements in order to be eligible for the Family Assistance Program. Recipients must assign rights to child support and cooperate with paternity establishment efforts. Distribution rules are changed so that families no longer on assistance have priority in receipt of child support arrears. Current law $50 pass-through is not required. Individuals who fail to cooperate with paternity establishment will have their monthly cash assistance reduced by at least 25%. Streamlines the process for establishing paternity and expands the in-hospital voluntary paternity establishment program. The law requires states to establish central registries of child support orders and centralized collection and disbursement units. Requires states to have expedited procedures for child support enforcement. Establishes a Federal Case Registry and National Directory of New Hires to track delinquent parents across states lines. Requires that employers report all new hires to state agencies and new hire information to be transmitted to the National Directory of New Hires. Expands and streamlines procedures for direct withholding of child support from wages. Provides for uniform rules, procedures, and forms for interstate cases. Requires states to have numerous new enforcement techniques, including the revoking of drivers and professional licenses for delinquent obligors, expanding wage garnishment, and allowing states to seize assets. Provides grants to states for access and visitation programs.

PROVISION	PRIOR LAW	P.L. 104-193
Title IV: Restricting Welfare and Public Benefits for Aliens		
Immigrants	Legal immigrants were eligible for SSI benefits (subject to deeming); illegal immigrants were not eligible. Legal immigrants were eligible for AFDC, Medicaid, Food Stamp, and Social Services benefits (subject to deeming in AFDC and Food Stamps); illegal immigrants were not eligible, except for emergency Medicaid services. The Social Services block grant did not take immigration status into account. A portion of a sponsor's income and resources was "deemed" available to a sponsored immigrant for 3 years under AFDC, Food Stamps, and SSI (although deeming was temporarily extended 3 to 5 years in SSI (from 1/1/94 to 10/1/96). Some immigrants were required to satisfy State Department or INS that they were not likely to become a public charge. Courts ruled affidavits of support (which were used by AFDC, SSI, and Food Stamps to determine when sponsor deeming was applied) to be morally, rather than legally, binding.	Most legal immigrants (both current and future, and including current recipients) will be ineligible for SSI until citizenship. Exemptions are made for refugees and persons whose deportation has been withheld under section 243(h) of the INA for first 5 years in country; asylees until 5 years after granting of asylee status; Active Armed Forces personnel, veterans, and their spouses and dependent children; and people with 40 quarters of work). Eliminates eligibility of legal immigrants for SSI and Food Stamps immediately at the time of recertification (no later than one year after enactment). Medicaid, TANF block grants, Title XX Social Services, State-funded Assistance: States have the option to make most current legal immigrants already in the U.S. ineligible for Medicaid, TANF, Title XX Social Services, and state-funded assistance until citizenship (with same refugee/asylees and other exemptions as described above). Current recipients are eligible to continue receiving benefits until January 1, 1997. Future immigrants (entering on or after enactment) will be ineligible for 5 years for certain federal means-tested programs, including Medicaid, with same refugee/asylee and other exemptions as described above. All applicants for most federal, state and local programs would be subject to new verification requirements (with certain exceptions) to determine if they are qualified and eligible for benefits. Not later than 18 months after enactment, the Attorney General in consultation with the Secretary of Health and Human Services, shall issue regulations on programs requiring verification. States that administer a program that provides a federal public benefit have 24 months after such regulations are issued to implement a verification system that complies with the regulations.

PROVISION	PRIOR LAW	P.L. 104-193
Immigrants, continued	States were generally determined to be constitutionally prohibited from denying benefits to legal immigrants, due primarily to the equal protection clauses of the 14th Amendment to the Constitution. Illegal immigrants were ineligible for major means-tested entitlement benefits (except emergency Medicaid). Immigration status was required to be verified. Eligibility criteria for most discretionary-funded programs (e.g., Head Start, public health clinics) did not take into consideration immigration status. Health and welfare workers were generally prohibited from reporting illegal immigrants to law enforcement agencies.	Future sponsors/immigrants will be required to sign new, legally binding affidavits of support (which are to be promulgated by the Attorney General 90 days after enactment). For these future immigrants, the law extends deeming to citizenship or 40 work quarters; changes deeming to count 100% of a sponsor's income and resources; and expands the number of programs that are required to deem, including Medicaid (except emergency Medicaid). These rules are effective immediately with regard to programs that currently deem, and effective 180 days after enactment for programs that do not currently deem. People exempted from 5-year ban on future immigrants and deeming: Refugees/asylees, veterans, and Cuban/Haitian entrants receiving refugee/entrant assistance.

PROVISION	PRIOR LAW	P.L. 104-193
	Title V: Child Protection	
Child Protection and Adoption	States received entitlement funds under several programs for a variety of purposes. Most funds were reimbursements to states for a portion of their costs incurred in maintaining eligible children in foster care or assisted adoptions, as well as related administrative and child placement services. States also received funds from formula grants for the provision of child welfare services, family preservation and support services, independent living services, and child abuse prevention and treatment services. Some of these programs were capped entitlements while others were appropriated funds. Several demonstration authorities were aimed at providing funds for innovative programs through which new knowledge may be developed. The states were required to have in place approved plans with regard to funds provided under IV-B (Child Welfare Services and Family Preservation and Support Services), and IV-E (Foster Care and Adoption Assistance). Eligibility for CAPTA state grant program was tied principally to the existence of laws and procedures regarding child abuse and neglect reports and investigations. States were required to comply with a series of protections designed to assure children were not removed from their parents unnecessarily and that efforts were made to assure that children in the state's care were quickly placed in a permanent home, either through reunification or adoption. Every child was required to have a case plan, the child's status to be reviewed periodically, and reasonable efforts must have been made to reunify the family.	Child Protection Block grant provisions have been dropped. Current provisions are: (1) authority for states to make foster care maintenance payments using IV-E funds on behalf of children in for-profit child care institutions; (2) extension of the enhanced federal match for statewide automated child welfare information systems through 1997; (3) appropriation of $6 million per year in each of FYs 1996-2002 for a national random sample study of abused and neglected children or children at risk of abuse and neglect; and (4) a requirement that states consider giving preference for kinship placements, provided that the relative meets state standards for child protection.

PROVISION	PRIOR LAW	P.L. 104-193
	Title VI: Child Care	
Child Care	There are two child care funding types: * Title IV-A welfare-related child care entitlement -- AFDC/JOBS, Transitional (TCC), and At-Risk Child Care. * Discretionary Child Care and Development Block Grant (CCDBG). Open-ended entitlement funding for AFDC & TCC in FY 1995 equaled approximately $893 million. At-Risk was capped at $300 million per year. $935 million was authorized in FY 1995 for CCDBG. Child care was guaranteed for working AFDC recipients, those participating in JOBS or state-approved training or education programs, as well as for up to one year during transition off welfare due to employment. Provided good cause exception from participation in JOBS to parents who did not have child care.	There is a separate allocation specifically for child care. The law authorizes $13.9 billion in mandatory funding for FYs 1997-2002. States receive approximately $1.2 billion of the mandatory funds each year. The remainder is available subject to state match (at the 1995 Medicaid rate). Also, states must maintain 100% of FY 1994 or FY 1995 child care expenditures (whichever is greater) to draw down the matching funds. Also authorizes $7 billion in discretionary funding for FYs 1996-2002. The law provides no child care guarantee, but single parents with children under 6 who cannot find child care may not be penalized for failure to engage in work activities.
Child Care -- Health and Safety/Quality and Supply	Child care providers receiving federal child care subsidy were required to meet health and safety standards set by the states. Under CCDBG, states were required to protect health and safety of children in child care by setting standards in three areas: 1) building and physical premises safety; 2) control of infectious disease; 3) health and safety training for providers. Required states to use 25% of CCDBG funds to improve the quality of child care and to increase the availability of early childhood development and before- and after-school programs. Appropriate quality expenses included: 1) resource and referral; 2) grants or loans to assist in meeting state standards; 3) monitoring of compliance with licensing and regulatory requirements; 4) training; and 5) compensation.	Extends current law requirement that all states establish health and safety standards for prevention and control of infectious diseases, including immunizations, building and physical premises safety, and minimum health and safety training. Extends health and safety protections to all federally funded child care (including mandatory funding). Requires states to use not less than 4% of total federal (mandatory and discretionary) child care funds to provide consumer education to parents and the public, to increase parental choice, and to improve the quality and availability of child care (such as resource and referral services).

PROVISION	PRIOR LAW	P.L. 104-193
	Title VII: Child Nutrition Programs	
Child Nutrition	Eligibility criteria did not take into account immigration/citizenship status.	The law makes individuals who are eligible for free public education benefits under state or local law also eligible for school meal benefits under the National School Lunch Act and the Child Nutrition Act of 1966, regardless of citizenship or immigrant status. States have the option to determine whether to provide WIC and other child nutrition benefits to illegal aliens and certain other noncitizens.
	Prior law rates were $2.235 for each lunch/support, $1.245 for each breakfast, and $.5875 for each snack. Rates were rounded to the nearest quarter cent.	Effective for the summer of 1997, reduces maximum reimbursement rates for institutions participating in the Summer Food Service Program to $1.97 for each lunch/supper, $1.13 for each breakfast, and 46 cents for each snack/supplement. Rates are adjusted each January and rounded to the nearest lower cent.
	All meals served in family or group day care homes received the same reimbursement rates of $1.625 for each lunch/supper, $.8875 for each breakfast, and $.485 for each snack.	Restructures reimbursements for family or group day care homes under the Child Care Food Program to better target benefits to homes serving low-income children and reduces reimbursement rates for higher income children to 95 cents for lunches/suppers, 27 cents for breakfasts, and 13 cents for supplements.
	Reimbursement rates for full price meals rounded down to the nearest quarter cent.	Rounds down to the nearest cent when indexed the reimbursement rates for full price meals in the school breakfast and school lunch programs and in child care centers. Eliminates School Breakfast start-up and expansion grants. Makes funding for the Nutrition Education and Training (NET) Program discretionary.

PROVISION	PRIOR LAW	P.L. 104-193
Title VIII: Food Stamps and Commodity Distribution		
Food Stamps	Six categories of legal aliens were allowed to receive food stamp benefits if they met eligibility criteria.	Most legal immigrants (both current and future, and including current recipients) will be ineligible for Food Stamps until citizenship (exemptions for: refugees/asylees, but only for the first five years in the U.S.; veterans; and people with 40 quarters of work). Eliminates eligibility of legal immigrants at the time of redetermination. (Implementation of this provision was delayed until April 1, 1997 by the subsequently passed immigration provisions in the 1997 appropriations law.) Redeterminations must take place by August 22, 1997. Future immigrants entering after enactment will be ineligible for five years (same exemptions as noted earlier).
	The income and resources of an alien's sponsor and the sponsor's spouse, less a pro-rated share for the sponsor and spouse, were attributed to aliens for 3 years.	For sponsors/immigrants signing new legally binding affidavits of support: extends deeming until citizenship and changes deeming to count 100% of sponsor's income and resources.
	Maximum benefit levels were based on 103% of the cost of the Thrifty Food Plan and were indexed annually.	Reduces maximum benefit levels to the cost of the Thrifty Food Plan and maintains indexing.
	The Shelter deduction cap was $247; it would have increased October 1, 1996 and each October 1 thereafter. The standard deduction was $134; it would have increased October 1, 1996 and each October 1 thereafter. All governmental energy assistance was excluded as income. Earnings of elementary and high school students under 22 were excluded as income. Individuals under 22 who lived with their parents could be certified as separate households if they also lived with their spouses and/or children.	Retains the cap on the excess shelter deduction and sets it at $247 through 12/31/96; $250 from 1/1/97 through 9/30/98; $275 for FYs 1999 and 2000; and $300 from FY 2001 and thereafter. Freezes the standard deduction at the FY 1995 level of $134 for the 48 states and DC, and makes similar reductions for other areas. Includes as income for the Food Stamp Program energy assistance provided by state and local government entities. Lowers the age for excluding from income the earnings of elementary and secondary students to those who are 17 and under. Requires individuals 21 and under living with a parent to be part of the parent's household.

PROVISION	PRIOR LAW	P.L. 104-193
Food Stamps, continued	Able-bodied adults between 16 and 60 were expected to register for and accept jobs or participate in the Employment and Training Program unless they were already working, subject to the requirements of other work programs, students, or responsible for dependents under six or incapacitated people.	Establishes a new work requirement under which non-exempt 18-50 year olds without dependent children or not responsible for dependent children will be ineligible to continue to receive food stamps after 3 months in 36 unless they are working or participating in a workfare, work, or employment and training program. Individuals may qualify for three additional months in the same 36-month period if they have worked or participated in a work or workfare program for 30 days and lose that placement. Permits states with waiver requests denied by August 1, 1996 to lower the age at which a child exempts a parent/caretaker from food stamp work rules from 6 years to 1 year old for up to 3 years.
	Disqualified recipients for 6 months for first intentional violations; 1 year for second violations or first drug violations; and permanently for third violations, second drug violations, or first violations involving firearms. States were required to collect claims resulting from overissuances to households but could not require households whose claims were due to state errors to repay claims through allotment reductions; states could retain 50% of amounts recovered from fraud claims and 25% of nonfraud recoveries.	Program Integrity and Additional Retailer Management Controls: Doubles recipient penalties for fraud violations to one year for first offense and two years for second offense; permanently disqualifies individuals convicted of trafficking in food stamp benefits of $500 or more; disqualifies for 10 years those convicted of fraudulently receiving multiple benefits; mandates that states collect claims by various means including the Federal Tax Refund Offset Program (FTROP); allows retention of 35% of collections for fraud claims and 20% for other client error claims; and allows allotment reductions for claims arising from state agency errors.
	USDA had limited tools for insuring that only qualified stores were authorized to accept and redeem food stamps, monitoring their participation, and deterring violations.	The law also requires a waiting period for retailers denied approval; permits disqualification of retailers disqualified under WIC; expands criminal forfeiture; disqualifies up to permanently retailers who intentionally submit falsified applications; and improves USDA's ability to monitor authorized stores.
	No prior law counterpart.	Gives states the option to require cooperation with Child Support Enforcement agencies for custodial and non-custodial parents. Permits states to disqualify non-custodial parents with child support orders who are not paying support.
	No prior law counterpart.	Work Supplementation: Permits use of food stamp benefits to subsidize jobs for Title IV-A food stamp recipients.

PROVISION	PRIOR LAW	P.L. 104-193
Food Stamps, continued	The Food Stamp Act contained many prescriptive requirements related to states' administration of the FSP, particularly in the areas of client services, but also related to verification methods and training of states' employees. Demonstration project waiver authority prohibited approving project that would lower or further restrict FSP income or resource standards or benefit levels. A few demonstration projects cashed out food stamp benefits to specific populations (SSI, elderly) to provided benefits in the form of wages, or provided cash benefits as part of welfare reform.	Simplifies program administration by expanding states' flexibility. Allows states to submit standard cost allowances to use in calculating self-employment income; deletes detailed federal requirements over application form; deletes detailed federal customer service requirements over areas such as toll-free telephone numbers; extends expedited service processing period to seven days and eliminates requirement to provide expedited service to homeless persons; makes use of the income and eligibility verification system (IEVS) and the immigration status verification system (SAVE) optional; permits states to determine their own training needs; and authorizes the Simplified Food Stamp Program, through which states can employ a single set of rules for their state cash assistance programs and the Food Stamp Program. Expands Food Stamp waiver authority to permit projects that reduce, within set parameters, benefits to families. New demonstration projects testing cash-out of benefits are prohibited under the new waiver authority.
	The Fair Market Value of most licensed vehicles was counted toward households' resource limit to the extent that the value exceeded $4600. This amount would have increased to $5000 October 1, 1996 and was indexed thereafter.	Sets and freezes the Fair Market Value for the vehicle allowance at $4650.
	USDA has been moving expeditiously to implement electronic benefit issuance.	Requires EBT implementation by all states by October 1, 2002, unless waived by USDA. Exempts Food Stamp EBT from the requirements of Regulation E. Consolidates the Emergency Food Assistance Program and the Soup Kitchen/Food Bank Program; provides for $100 million in mandatory spending in the Food Stamp Act to purchase commodities. Provides for state option to restrict benefits to illegal aliens.

PROVISION	PRIOR LAW	P.L. 104-193
	Title IX: Miscellaneous	
Title XX – Social Services Block Grant	Title XX social services block grant program provided assistance to states to enable them to furnish services directed at: 1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency; 2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency; preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving rehabilitating or reuniting families; 4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and 5) securing referral or admission for institutional care when other forms of care were not appropriate, or providing services to individuals in institutions. Funding for the Social Services Block Grant was capped at $2.8 billion a year. Funds were allocated among states according to the state's share of its total population.	Annual funding for the Social Services Block Grant is $2.38 billion in FYs 1996-2002, and $2.8 billion in FY 2003 and each succeeding fiscal year. Non-cash vouchers for families that become ineligible for cash assistance under family caps or Title IV-A time limits are authorized as an allowable use of Title XX funds.
Drug Testing	No provision.	Nothing in federal law prohibits states from performing drug tests on recipients or from sanctioning recipients who test positive for controlled substances.
Abstinence Education	No provision.	Starting in FY 1998, $50 million a year in mandatory funds will be added to the appropriations of the Maternal and Child Health (MCH) Block Grant. The funds will be allocated to states using the same formula used for Title V MCH block grant funds. Funds will enable states to provide abstinence education with the option of targeting the funds to high risk groups (i.e. groups most likely to bear children out-of-wedlock). Education activities are explicitly defined.

Temporary Assistance for Needy Families Policy Announcement

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Family Assistance
Washington, DC 20447

No. TANF-ACF-PA-97-1 Date: January 31, 1997

TO: State agencies administering the Temporary Assistance for Needy Families program and other interested parties.

SUBJECT: Guidance concerning maintenance of effort, definition of assistance and other provisions in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

BACKGROUND: This announcement provides guidance in several areas of policy important to implementation of the Temporary Assistance for Needy Families Program.

INQUIRIES: Comments and questions should be directed to the appropriate Administration for Children and Families (ACF) Regional Administrator.

Lavinia Limón
Director
Office of Family Assistance

I. Nature and Purpose of this Guidance

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) gives States enormous flexibility to design their Temporary Assistance for Needy Family (TANF) programs in ways that promote work, responsibility, and self-sufficiency and strengthen families. Except as expressly provided under the statute, the Federal government may not regulate the conduct of States.

Within this context, we are planning to focus our proposed TANF regulations on areas where Congress has expressly provided for the Secretary to take action -- i.e., with respect to data collection, penalties and bonuses. We have also been undertaking extensive outreach to ensure consultation with a wide range of persons and organizations holding perspectives on children and families. To date, we have asked State executive and legislative officials and their national representatives, advocates, local government representatives, non-profit organizations and foundations, labor, and business organizations to participate in this consultation process.

Because State legislative sessions are starting and the TANF statute is so far-reaching, we have frequently heard of the need for early guidance on certain issues of immediate importance to the development of State programs. Among these issues are Federal requirements related to the expenditure of Federal grant funds, including the definition of "assistance" which triggers these requirements; the scope of State flexibility in using State funds which qualify as expenditures for maintenance-of-effort (MOE) purposes; and State flexibility in using State MOE funds in State programs operated apart from TANF.

Consequently, we are providing preliminary guidance on these important issues. However, because of the scope of the TANF statute, and the interrelationships among its many pieces, it is important to note that many other questions will be answered through the regulatory process. We believe the guidance reflects Congressional intent on TANF policies, and that it will promote program accountability, support substantial innovation in program design, provide States the flexibility they need to serve needy families effectively, and help achieve the central goal of welfare reform: moving people from welfare to work.

Key Points

The guidance makes the following key points:

1) States have the flexibility to count, toward their general TANF MOE requirement, expenditures of State funds under separate State programs. These expenditures must meet the statutory requirements for "qualified State expenditures," including the requirement that they are made on behalf of "eligible families," but are not subject to requirements which apply to the TANF program. (see section VI discussion and chart).

Because the statutory language for Contingency Fund MOE is different, States do NOT have the flexibility to count expenditures under separate State programs for the purpose of meeting the Contingency Fund MOE. All expenditures counted toward the 100% Contingency Fund

MOE requirement must be made under the TANF program and therefore must meet TANF requirements.

2) In order to ensure that State decisions to establish separate programs do not undermine the work provisions of the new law, undercut Congressional intent to share child support collections between the Federal and State governments, or have other negative consequences, we will be taking steps to obtain additional information on State practices, exercising the administrative authority available under the statute to support the legislative goals of PRWORA, and seeking certain legislative changes (see discussion in section II below).

3) Under the definition of "assistance" included in section VII, all but two forms of assistance provided to families under the TANF program would be considered "assistance." Thus, TANF requirements such as time limits, work requirements, assignment of child support, and data collection are applicable (depending on the nature of funding involved).

4) During the interim period before final rules are available, any penalty decisions will be based solely on whether violations of the statute occurred. Further, statutory interpretations forthcoming in final rules will apply prospectively only; they will not be a basis for penalties during this interim period. States will need to conform their programs to Federal rules after final rules are promulgated.

II. Ensuring Positive Impacts

Program Accountability. At this point, we do not know what States will do with the flexibility they have to set up separate programs which qualify for MOE purposes, but are not subject to many of the TANF rules (see section IV). The flexibility provided in this guidance gives States the opportunity to try out some innovative and creative strategies for supporting the critical goals of work and responsibility. For example, States might choose to use State funds to support a State EITC or transportation assistance that would help low-wage workers keep their jobs.

At the same time, States could use this new flexibility in ways that might undermine important goals of welfare reform. In particular, we are concerned that States could design their programs so as to avoid the work requirements in section 407 or to avoid returning a share of their child support collections to the Federal government.

We believe it is our responsibility to use the administrative avenues available to us to mitigate these potential negative consequences.

WORK

We intend to take administrative action to collect information about the families served by States under their separate MOE programs, so that we can: 1) better identify which States are truly successful in serving needy families; and 2) promote work and the other legislative goals. For example, in the proposed regulations we are developing on work requirements, penalties, and high performance bonuses, we intend to require that information be provided on families served by

separate State programs and, to the maximum extent possible, consider the effects of State policies in setting up separate programs. More specifically, we intend to propose regulations to:

- deny States any reduction in the work participation requirements applicable to them (i.e., not give them credit for caseload reductions) unless they provide us with caseload information for separate MOE as well as TANF programs, and they demonstrate by this data that TANF caseload reductions are not artifacts of the way they structured their programs (i.e., the result of transferring beneficiaries from TANF to separate MOE programs);

- deny "reasonable cause" to a State whose MOE policies work to circumvent the work requirements of the Act. If a State fails to meet the participation rates, the Secretary would not entertain "reasonable cause" considerations unless the State provided information about its MOE program. It must also demonstrate that it was making a good faith effort in the work area with respect both to its TANF and its separate MOE programs and that it was not using its separate MOE program to evade the force of the work participation rates; and

- look at a State's overall work effort in deciding whether it qualifies for a high performance bonus, i.e., a State's success with its TANF program cannot be adequately judged without knowing how the State's TANF and separate MOE programs are configured and what is happening to needy families in the separate MOE programs.

Additional information on participants in separate MOE programs will help us evaluate whether work goals are being undermined and publicly report our findings.

To ensure that we have critical information which will enable us to determine whether the work and other legislative goals are being achieved, we will propose a change to the statutory provisions on data collection which will enable collection of information on recipients served by separate State programs that are used as MOE.

This guidance sets forth our best current interpretation of the statutory language on the fiscal and programmatic implications of different program configurations. However, we would consider a different interpretation in the final TANF regulation if we learn that the work provisions are being undermined during this interim period.

Also, we strongly advise States to think carefully about the risks to the long-term viability of their TANF program if they rely too extensively on separate State programs. Because States cannot receive Contingency Funds unless their expenditures within the TANF program are at 100 percent of historical State expenditures, excessive State reliance on outside expenditures for their TANF MOE may make access to Contingency Funds much more difficult during economic downturns.

Finally, we intend to work with Congress and the Governors in a bipartisan fashion to ensure that each State's overall work effort meets the statute's work participation requirements. Specifically, we will seek language making clear that calculation of whether a State has met the applicable participation rate shall take into account the State's success in placing participants in both TANF and MOE programs in work activities.

CHILD SUPPORT

In assessing the potential budgetary impact of this bill, Congress apparently did not envision major losses in the Federal share of child support collections. We are advising States not to set up separate State programs which retain what would otherwise be the appropriate Federal share of child support collections.

In order to track State practices in this area, as part of the regulatory efforts proposed above, we will seek to incorporate requirements for States to report child support information for families in State MOE programs, as well as TANF. Likewise, in our legislative proposal on data collection for recipients served outside the TANF program, we will be asking for authority to collect child support data.

We also intend to work with the Governors and the Congress to identify approaches that will ensure that States do not use the flexibility provided to retain Federal dollars in State coffers.

Summary. Because the States' ability to set up separate State programs can result in much more responsive and effective programs, we do not want to stifle creative State thinking about how best to serve their needy families and children. We will monitor the overall implementation of this legislation to assess whether the goals of welfare reform are being achieved. We will work with the Congress and the Governors on legislative remedies in the areas noted.

III. Overview of Guidance.

This section summarizes the remaining sections of the guidance, provides some additional context, and sets forth our policies on penalties in the interim period before final rules are available.

> Section IV. Basic State Options in Program Design (p. 6) -- a conceptual framework for the TANF program and its Federal and State components.
>
> Section V. Use of Federal Funds (p. 7) -- the flexibility available to States and the limits on use of Federal funds, including restrictions on the assistance payable with Federal funds.
>
> Section VI. Basic Requirements Governing State MOE Expenditures (p. 9) -- the requirements governing State expenditures that qualify for TANF MOE purposes and the expanded flexibility available to States to expend State funds on certain needy families, including certain immigrants, individuals who exceed the time limits and teen parents. [NOTE: The immigrant policy on pp. 11-12 gives States broader flexibility to spend State MOE funds on immigrant families than was previously indicated in guidance sent to State Commissioners on October 9, 1996. The new interpretation reflects the additional work done on interpreting "State program under this part" and on trying to find the appropriate meaning for the many pieces of the statute which directly and indirectly speak to this issue.]

Section VII. Definition of Assistance (p. 14) -- guidance needed to assess the scope of key TANF provisions, including time limits, work requirements, child support assignment, and data collection.

Section VIII. Conclusion (p. 15)

Section IX. Overview of TANF Provisions (p. 16) -- a chart depicting the applicability of key provisions in the TANF statute, depending on whether Federal or State funds -- and whether a State TANF program or a separate State program -- are involved.

We recognize that this guidance does not provide answers to all the major issues and does not answer many specific questions. Through the regulatory process, we will provide broader and more specific guidance. The rulemaking process will also permit us to take into consideration ongoing input we receive from various interested parties.

Interim Penalty Policies. We want to strongly encourage State efforts to implement effective and innovative program designs and develop targeted service strategies which will produce the best outcomes for families (including those with special needs, such as those headed by grandparent caretakers). Thus, during this interim period, States should not be unduly fearful of incurring penalties under section 409. Before Federal regulations are in effect, States will not be subject to penalties under the new law so long as they implement programs which are related to the intent of the statute and operate within a reasonable interpretation of the statutory language.[1] Also, there are possible "reasonable cause" exceptions and an opportunity to undertake corrective compliance before imposition of most penalties.

IV. Basic State Options on Program Design

To understand the basic options available to States under the new title IV-A, it is important to make note of some of the key terminology used in the statute.

The term "grant" refers to Federal funds provided to the State under the new section 403 of the Social Security Act.[2] References to amounts "attributable to funds provided by the Federal government" have a similar meaning.

The terms "under the program funded under this part" and "under the State program funded under this part" refer to the State's TANF program. Unlike "grant" references, they encompass programs funded both with Federal funds and with State expenditures made under the TANF plan and program.

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[1] This would include the requirement that both Federal and State "maintenance-of-effort" expenditures must generally support the statutory purposes outlined in section 401 of the Social Security Act, as amended.

[2] References to a grant under section 403(a) would exclude the Contingency Fund, but would include other TANF funds in section 403.

What counts as a State expenditure for TANF maintenance-of-effort (MOE) purposes is governed by the language in the new section 409(a)(7) of the Social Security Act. The statutory language in this section allows expenditures "in all State programs" to count as TANF MOE when spent on "eligible families" and meeting other requirements.

When the statutory provisions are read with these terms in mind, it is possible to distinguish three different types of program configurations under the new title IV-A: TANF programs funded by expenditures of Federal grant funds or by co-mingling of State funds and Federal grant funds; TANF programs where Federal grant and State funds are segregated; and programs outside of TANF and funded by expenditures of State funds, but counting toward meeting the State's MOE requirements. The language used in a specific TANF provision (or in a related provision elsewhere in the statute) will determine its applicability to these three types of programs.

In order to tailor programs to meet the specific needs of families moving from welfare to work, States may find some advantage to segregating Federal and State TANF dollars or spending State MOE funds in separate programs outside of TANF. We encourage States to take great care in making such decisions and to ensure that any such decisions are consistent with meeting the goals of the program.[3]

The definition of "assistance" is also a critical factor in determining the applicability of key TANF provisions. This paper includes a separate discussion of that definition.

V. Use of Federal TANF Funds

Compared to prior law, the TANF statute provides States with enormous flexibility to decide how to spend the Federal funds available under section 403. In repealing the IV-A and IV-F statutes, Congress freed the States from very detailed rules about the types of families that could be served, the benefits that could be provided, administrative procedures that needed to be followed, etc. However, to ensure that programs would achieve key program goals, the new statute imposes certain requirements and limitations on how States can use Federal funds to provide assistance. To a lesser extent, it also limits State flexibility on how to use State funds that count toward MOE.

The key provisions applicable only to the use of Federal funds are time limits, restrictions on expenditures for medical services and prohibitions on assistance to certain individuals and families, including certain aliens[4] and teen parents. Also, when Federal TANF funds are spent, all provisions applicable to the TANF program apply. Most importantly, work requirements, data collection, and requirements for child support assignment and cooperation apply.

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[3] Later in the paper, we provide a chart summarizing the applicability of key provisions of the statute to the different program configurations. We also summarize the rules governing allowable uses of Federal and State MOE funds. Because of the complexity of the TANF statute, States should review all of these sections in concert, together with the underlying statutory language, in deciding what program design to pursue.

[4] Other restrictions on the use of State funds for aliens are contained in title IV of the PRWORA.

More specifically, provisions governing the use of Federal TANF funds are found in three sections of the statute.

The new section 404 of the Social Security Act sets forth the basic rules for expenditure of Federal TANF funds.

- They must be: (a) reasonably calculated to accomplish the purposes of the TANF program; or (b) an authorized expenditure for the State under title IV-A or IV-F as of September 30, 1995.

  --The statute specifies that assistance to low-income families for home heating and cooling costs falls within the purview of category (a) above.

  --To fall under category (b), the expenditure would need to be recognized as an allowable expenditure under the State's approved IV-A or IV-F plan in effect as of September 30, 1995.

- Administrative expenditures may not exceed 15 percent of the total grant amount. The statute specifically excludes expenditures on "information technology and computerization needed for tracking or monitoring" required by or under TANF.

- States may transfer up to 30 percent of the total grant to either the Child Care and Development Block Grant or the Social Services Block grant program.

  --No more than 1/3 of the total amount transferred may go to the Social Services Block grant.[5]

  --Once transferred, funds are no longer subject to the requirements of TANF, but are subject instead to the requirements of the program to which they are transferred. However, funds transferred to the Social Services Block grant may only be spent on children or families with income below 200 percent of poverty.

- States may reserve their Federal TANF funds for future TANF expenditures without fiscal year limitation.

- States may also use their Federal TANF funds for employment placement programs and for programs to fund individual development accounts.

The new section 408 imposes some restrictions on the use of Federal grant funds. Under this section, Federal funds may not be used to:

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[5] In other words, States must transfer $2 to the Child Care and Development Block Grant in order to transfer $1 to the Social Services Block Grant.

1) provide assistance to families that do not include a minor child residing with a custodial parent or other adult caretaker relative (or a pregnant individual);

2) provide assistance to a family that includes an adult who has received 60 months of countable assistance, unless the family qualifies for a hardship exception;

3) provide assistance to families which have not assigned rights to support or to individuals who do not cooperate in establishing paternity or obtaining child support[6];

4) provide assistance to unmarried parents under age 18 who have a child at least 12 weeks old and are not attending high school or an equivalent training program;

5) provide assistance to unmarried parents under age 18 who do not live in appropriate adult-supervised settings (unless exempt);

6) pay for medical services, except pre-pregnancy family planning services;

7) provide cash assistance for a 10-year period following conviction of fraud in order to receive benefits in more than one State;

8) provide assistance to fugitive felons, individuals fleeing felony prosecution or violating conditions of probation, and parole violators; or

9) provide assistance for a minor child who is absent (or expected to be absent) from the home, without good cause, for a specified minimum period of time.

Finally, section 115 of PRWORA calls for denial of TANF assistance to any individual convicted of a drug-related felony after August 22, 1996. However, the State may opt out of this provision or reduce its applicability, and certain kinds of Federal benefits are excepted.

VI. Basic Requirements Governing State MOE Expenditures

TANF[7] MOE Requirements--General. States may expend their MOE funds on a broad range of activities without necessarily triggering Federal TANF requirements (such as time limits). Although States have significant discretion, especially with respect to State expenditures they make under separate State programs, there are statutory requirements which define the State expenditures which can be counted as TANF MOE. These are found at the new section 409(a)(7) of the Social Security Act.

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[6] Section 408(a)(2) provides that there must be a deduction of not less than 25 percent and the State may deny the family any assistance.

[7] For Contingency Fund MOE purposes, State expenditures outside the TANF program do not count. See discussion in the following subsection for a further explanation.

Section 409(a)(7)(A) provides for a dollar-for-dollar reduction in a State's State Family Assistance Grant (SFAG) to the extent that "qualified State expenditures" in the immediately preceding fiscal year are less than an applicable percentage of "historic State expenditures." "Historic State expenditures" are subsequently defined to include expenditures by the State for FY 1994 under title IV-A (AFDC, EA, and child care) and IV-F (JOBS), as in effect during FY 1994.[8]

If a State fails to meet the work program participation requirements for a fiscal year, its MOE requirement is set at 80 percent of "historic State expenditures." If a State meets these requirements, its MOE requirement is set at 75 percent of historic State expenditures.

Also, in determining a State's MOE requirement, any IV-A expenditures made by the State in 1994 on behalf of individuals now covered by a Tribal TANF program are excluded from "historic State expenditures."[9]

Contingency Fund MOE Requirements. MOE requirements governing State access to the Contingency Fund are found at section 403(b) and 409(a)(10). In general, this paper does not address special requirements pertaining to the Contingency Fund MOE. However, for the purpose of program planning, it is important for States to note that only State expenditures made within the TANF program count toward the Contingency Fund MOE. State expenditures in outside programs may count toward the TANF MOE, but they do not qualify for Contingency Fund MOE purposes.[10]

Qualified State Expenditures. In order for State expenditures to be considered "qualified State expenditures" for TANF MOE purposes, they must: (1) be made to or on behalf of a family that is eligible under TANF or that would be eligible for TANF except for the fact that the family had exceeded its 5-year limit on assistance or has been excluded from receiving assistance under TANF by PRWORA's immigration provisions (see discussion elsewhere in this paper for guidance on definition of "eligible families" and allowable immigrant expenditures); (2) be for one of the types of assistance listed in section 409(a)(7)(B)(i)(I); and (3) comply with all other requirements and limitations in section 409(a)(7).

Section 409(a)(7)(B)(i) defines "qualified State expenditures" as total expenditures by the State in a fiscal year under all State programs for the following activities with respect to "eligible families":

(aa) - Cash assistance;

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[8] See section 409(a)(7)(B)(iii) for the statutory provisions governing the definition of historic State expenditures.

[9] In section 409(a)(7)(B)(iii)(II), the statute suggests an alternative calculation of historic expenditures. This language is apparently left over from a time when the bill included a fixed appropriation for State Family Assistance grants. We believe it is no longer viable, based on the final appropriation language.

[10] The statutory language in both sections dealing with Contingency Fund MOE refers to State expenditures "under the State program funded under this part." The TANF MOE counts expenditures "under all State programs," if otherwise qualified.

(bb) - Child care assistance;
(cc) - Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family;
(dd) - administrative costs in connection with the matters described in items (aa), (bb) and (cc) and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year;
(ee) - any other use of funds allowable under section 404(a)(1).

Meaning of "Eligible Families." Under the new section 409(a)(7)(B)(i)(I) of the Social Security Act, in order to count as qualified State expenditures for MOE purposes, State expenditures must be made with respect to "eligible families." Subclause (III) defines "eligible families" for this purpose to mean families eligible for assistance under the State TANF program and families who would be eligible for assistance except for the time-limit provision and the alien restrictions at section 402 of PRWORA.

We interpret this language to mean that State expenditures count as MOE only if made to or on behalf of families which:

- have a child living with a parent or other adult relative (or to individuals which are expecting a child); and
- are needy under the TANF income standards established by the State under its TANF plan.[11]

Finally, many of the restrictions at section 408 -- including the teen parent provisions and the provisions on denial of assistance in fraud and fugitive felon cases -- do not apply to State MOE expenditures because they are written as restrictions on the use of the Federal grant. Additional information on these restrictions can be found in the chart and the discussion on use of Federal funds.

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[11] We are not suggesting a definition of "child" for this purpose, but would expect States to use a definition consistent either with the "minor child" definition in section 419 or some other definition of child applicable under State law.

We are also not proposing Federal guidelines for what income standards would be used to determine if a family is needy, but will defer to State standards, for both TANF and MOE purposes.

Allowable Immigrant Expenditures.[12] States have the flexibility to use State MOE funds to serve "qualified"[13] aliens. They also have the flexibility to use Federal TANF funds to serve "qualified" aliens who arrived prior to the enactment of the PRWORA (August 22, 1996). For "qualified" aliens arriving after enactment, there is a bar on the use of Federal TANF funds which extends five years from the date of entry.[14]

States also have the flexibility to use State MOE funds to serve legal aliens who are not "qualified".[15]

Finally, under section 411(d) of PRWORA, States have the flexibility to use State MOE funds to serve aliens who are not lawfully present in the U.S., but only through enactment of a State law, after the date of PRWORA enactment, which "affirmatively provides" for such benefits.

Restrictions on Educational Expenditures. We believe the intent of the language in section 409(a)(7)(B)(i)(I)(cc) is to exclude general educational expenditures by State or local governments for services or activities at the elementary, secondary, or postsecondary level which serve general educational purposes. Expenditures on services targeted on "eligible families," but not available to the general public, may be included. For example, MOE could include special classes for teen parents (that are TANF eligible) at high schools or other educational settings. Services to "eligible families" designed to accomplish the purposes specified in section 401 may also be included, pursuant to section 409(a)(7)(B)(i)(I)(ee).

General restrictions. Pursuant to section 409(a)(7)(B)(iv), the following types of expenditures may NOT be included as part of a State's MOE:

(1) expenditures of funds which originated with the Federal government;

(2) State Medicaid expenditures;

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[12] As noted on p. 2, the following immigrant policy gives States broader flexibility to spend State MOE funds on immigrant families than was indicated in guidance sent to the State Commissioners on October 9, 1996 (i.e., in the answer to Q. 3). The new interpretation reflects the additional work done on interpreting "State program under this part" and on trying to find the appropriate meaning for the many pieces of the statute which directly and indirectly speak to this issue.

[13] As defined under section 431 of PRWORA.

[14] Pursuant to section 403(b) of PRWORA, the five-year bar does not apply to refugees, asylees, aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act, and U.S. veterans and their spouses and unmarried dependent children.

[15] There is a technical problem in section 411 of PRWORA that prevents States from providing State or local public benefits to a handful of categories of legal aliens, e.g., temporary residents under IRCA, aliens with temporary protected status, and aliens in deferred action status. The structure of section 411 indicates Congress' belief that section 411(a) included all groups of aliens lawfully present in the U.S. Therefore, the Administration has proposed a technical amendment that would allow States to provide State or local public benefits to all aliens lawfully present in the U.S.

(3) State funds which match Federal funds (or State expenditures which support claims for Federal matching funds); and

(4) expenditures which States make as a condition of receiving Federal funds under other programs.[16]

Special Child Care Rules. The statute provides an exception to restriction (4) for certain child care expenditures. When the following requirements are met, expenditures by a State for child care may satisfy both the TANF MOE requirement and the MOE requirement related to accessing child care matching funds at the new section 418(a)(2)(C) of the Social Security Act. First, the amount of child care expenditures countable for TANF MOE purposes may not exceed the child care MOE requirement for the State. Secondly, to count as TANF MOE, the expenditures must meet all the other requirements of section 409(a)(7); to count as child care MOE, expenditures must be allowable under the requirements of the Child Care and Development Fund.[17] Before claiming child care expenditures under both MOE provisions, States need to check that the expenditures in fact meet the requirements of both programs. (E.g., there may be different families eligible for child care assistance under the two programs which prevent all expenditures from counting as MOE in both.)

Because of general restriction (3) cited above, child care expenditures by the State which are matched with Federal funds (pursuant to section 418(a)(2)(C)) do not qualify as expenditures for TANF MOE.[18]

Interpretation of MOE Exclusion Language. Numerous questions have arisen about the language at section 409(a)(7)(B)(i)(II), entitled "Exclusion of Transfers from Other State and Local Programs."

We believe part of the confusion derives from the caption; it refers to transfers, but the actual statutory language does not. Our view is that the provision should be read as a provision applicable only to State MOE expenditures made under separate State programs. Such expenditures may not involve a literal transfer of funds, but in a figurative sense, they would involve taking funds that are outside the program and bringing them into the program's purview (for MOE purposes).

In general, our view is that this provision is designed to prevent supplantation. We believe Congress wanted to prevent States from substituting expenditures they had been making in outside programs for expenditures on cash welfare and related benefits to needy families. The language in (aa) specifically addresses this point. It provides that States may get credit for MOE purposes only for additional or new expenditures from State and local programs. The standard for determining this is whether their

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[16] Note the special child care rules below.

[17] This is the name given by ACF for all the child care funding streams under title VI of PRWORA, including the discretionary Child Care and Development Block Grant and the non-discretionary funds under section 418 of the Social Security Act.

[18] Likewise, State expenditures which are used to qualify for Federal child care matching funds do not qualify as child care MOE.

expenditures in the preceding fiscal year were above the levels expended in the 12 months preceding October 1, 1995.

Section 409(a)(7)(B)(i)(II)(bb) can be read as an exception to the general rule in (aa). It would allow a State to make expenditures in programs outside of TANF which were previously authorized under section 403 (and allowable at the time of enactment) and get full credit for such expenditures. In other words, there is not a requirement that these expenditures be additional or new expenditures (above FY 95 levels).

Through regulation, we do expect to require that States be able to document that any outside expenditures they claim for MOE purposes meet the requirements of (aa).[19] At a minimum, States would have to identify the outside programs whose expenditures will be reflected as State MOE, establish what the State contributions to such programs were in the 12 months preceding October 1, 1995, and document the total State expenditures in such programs for the preceding fiscal year. States would also have to provide evidence that expenditures in outside programs which they want credited as MOE be expenditures on behalf of "eligible families". This evidence may be in the form of documentation of eligibility rules and procedures, or in other forms established by the State.[20]

VII. Definition of Assistance

The terms "assistance" and "families receiving assistance" are used in the PRWORA in many critical places, including: 1) in most of the prohibitions and requirements of section 408, which limit the provision of assistance; 2) the denominator of the work participation rates in section 407(b); and 3) the data collection requirements of section 411(a).[21] Largely through reference, the term also affects the scope of the penalty provisions in section 409. Thus, it is important that States have some idea of our views of what constitutes assistance. At the same time, because TANF replaces AFDC, EA and JOBS, and provides much greater flexibility than these programs, what constitutes assistance is less clear than it was previously.

Because States are currently making key program decisions for which this information is relevant, we are offering an initial perspective on the matter. Our general view is that, because of the combining of the funding streams for AFDC, EA and JOBS, some forms of support that a State is permitted to carry out under TANF are not what would be considered to be welfare. Thus, our initial perspective

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[19] Pursuant to the Paperwork Reduction Act of 1995, States will not be subject to specific documentation or reporting requirements prior to OMB approval.

[20] States would also have to be able to document that MOE expenditures on educational assistance and administrative costs meet the special limitations at sections 409(a)(7)(B)(i)(I)(cc) and (dd), respectively.

[21] In the absence of any statutory language or legislative history to indicate the contrary, we are viewing the term "assistance" as having the same meaning wherever it occurs in the statute in phrases such as "families receiving assistance" and "no assistance for..."

is to exclude some of those forms of support as assistance. More specifically, we would define "assistance" as every form of support provided to families under TANF except for the following:

1) services that have no direct monetary value to an individual family and that do not involve implicit or explicit income support, such as counseling, case management, peer support and employment services that do not involve subsidies or other forms of income support; and

2) one-time, short-term assistance (e.g., automobile repair to retain employment and avoid welfare receipt and appliance repair to maintain living arrangements).

We believe that these exclusions are consistent with Congressional intent to provide States with flexibility to design programs that will focus their resources on enhancing parental responsibility and self-sufficiency. At the same time, it will enable them, for example, to exclude families who receive no financial support from participation rate calculations and individuals who only receive one-time help in avoiding welfare dependency from requirements such as assignment of child support rights.

The complexities involved in formulating a definition of "assistance" suggest that it is an area which could be greatly illuminated by both State practice under TANF and by the rulemaking process. Thus, we welcome suggestions from States and other parties as to what an appropriate definition would be.

VIII. Conclusion

As we continue to work on the development of proposed -- and then final -- TANF rules, we welcome comments and suggestions on major issues like those discussed in this paper. In particular, we welcome suggestions about policy positions and administrative actions which we could adopt which would help further the work objectives and other goals of welfare reform.

IX. OVERVIEW OF TANF PROVISIONS IN DIFFERENT PROGRAM CONFIGURATIONS

PROVISION	FEDERAL TANF PROGRAMS[1]	SEGREGATED STATE TANF PROGRAMS[2]	SEPARATE STATE PROGRAMS[3]
Covered by State plan	Yes	Yes	No
Needy per income stds in State TANF plan	Yes	Yes	Yes [4]
Restricted disclosure	Applicable	Not applicable	Not applicable
Allowable expenditures	For purposes and as authorized under IV-A or IV-F as of 9/30/95	Count toward both TANF and Contingency Fund MOEs. Must be for purposes of program or for cash asst, child care, certain education, or admin costs	Count only toward TANF MOE (not Contingency Fund MOE). See State TANF section for allowable purposes.
15 % admin cost cap	Yes; ADP exception	Yes	Yes
Medical services	Only pre-pregnancy family planning	No specific restriction	No specific restriction
24-month work reqt	Yes	Yes	No
2-month work reqt	Yes	Yes	No
407 work reqts	Yes	Yes	No
work sanctions	Yes	Yes	No
non-displacement	Yes	No	No
child reqt	Yes; "minor child"	Yes [4]	Yes [4]
child ineligible when absent minimum period	Yes	No	No
child support	Assignment & cooperation req'd. Share of collections to Fed govt.	Assignment & cooperation req'd. Share of collections to Fed govt.	Assignment & cooperation may not be req'd. No share of collections for Fed. govt.
time limit on assistance	Yes	No	No
teen school attendance	Required	No requirement	No requirement
teen parent living arrangements	Must be adult-supervised	No requirement	No requirement
Federal non-discrimination statutes	4 statutes applicable	4 statutes applicable	No specific provision
fraud cases	10-yr exclusion	No exclusion	No exclusion
drug felons	Receive reduced benefits	Receive reduced benefits	No provision
data reporting	Required	Required	Not required
fugitive felons	Barred from assistance	No bar	No bar

[1] This column would also apply to programs where State MOE funds are co-mingled with Federal TANF funds.

[2] Under this scenario, Federal and State funds are not co-mingled. Since State funds are segregated, some -- but not all -- of the Federal TANF rules apply.

[3] These programs count towards State MOE. They are not subject to TANF requirements, per se, but are subject to the MOE restrictions at section 409(a)(7).

[4] Per definition of "eligible families."

WELFARE AND WORK

Contacts:

Implementation Guidance Website
http://www.acf.dhhs.gov/news/welfare/wrpack.htm

Administration for Children and Families Website
hhtp://www.acf.dhhs.gov/news/welfare/index.htm

TANF, Child Care, Child Support - Office of Public Affairs
Michael Kharfen (202) 401-9215

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FA
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

October 9, 1996

Mrs. Martha S. Nachman (ATTACHED LIST
Commissioner
Alabama State Department of Human Resources
50 Ripley Street
Montgomery, Alabama 36130-4000

Dear Mrs. Nachman:

We have heard from many State leaders on the importance of Federal guidance on key policy questions in assisting their efforts to successfully implement the new welfare reform law. In response, we have decided to periodically share with you, in a question and answer format, information on critical areas of the law.

To initiate this process, we have prepared the first six questions and answers which we understand are of most immediate interest to States (enclosed). The issues addressed include TANF State plans, transfer of funds to SSBG, maintenance of effort, participation rates and caseload reductions, claims and disallowances and, the $50 disregard.

We hope you will find this information helpful. As indicated in the last response of the attachment, we are working to design a process which will make this information available electronically via our Home Page on the Internet.

Sincerely,

Olivia A. Golden

Olivia A. Golden
Acting Assistant Secretary
for Children and Families

Enclosure

(ACF - October, 1996)

Q1. "What constitutes completeness and how long will certification take, from what date will block grant funds flow (date of submission, implementation date identified in state plan, or when deemed complete), when do requirements take effect, what counts as 45-day comment period for initial plan, and is comment period also required for plan amendments?"

Answer:

The Department is committed to ensuring that States can move ahead promptly on welfare reform and receive the resources that Congress made available to them for the TANF block grant. We understand that the situations of individual States vary greatly and that for many States, the initial plan submitted this fall is likely to be amended as a result of later discussions and, in many cases, State legislative action. The guidance below has been developed to balance several critical goals: to allow States to move promptly, to ensure maximum flexibility for individual State circumstances, to carry out the Department's statutory responsibilities to review completeness, and to encourage States to take advantage of the State plan and public comment processes to the fullest extent possible.

Plan Completeness

A plan is complete if it contains all the information required by section 402 of the Social Security Act, as amended. Section 402 requires States to outline how they intend to achieve certain key goals. While there can be no fixed rule for the amount of detail required, the plan should provide enough information to make possible informed public comment. An optional State plan guide has been distributed by HHS in case it is useful to States.

The determination that a plan is complete must be made on a case-by-case basis.

Completeness Determinations

The Act requires the Secretary to find that a State plan contains the elements necessary under section 402 of the Social Security Act, as amended, i.e., that the plan is complete. It is our goal to determine plan completeness as promptly as possible and not more than 30 days after receipt. If a State submits a plan to

the Secretary at the same time that it begins the 45-day comment period, we would expect to have determined whether a plan is complete shortly after the end of the 45-day period.

Effective Dates for Requirements

In order to provide maximum flexibility to accommodate individual State circumstances, we have identified three basic scenarios that are possible under the statute:

a. A State which has fulfilled its 45-day consultation requirement may submit a complete plan, as described in the new section 402(a), to the Secretary and implement the plan immediately. The Secretary will review the plan, may request further explanation, and will assure that it includes the necessary elements. The State may implement immediately and does not have to wait for the Secretary's review. The State is subject to the TANF statutory rules upon implementation.[1]

b. A State which has not fulfilled a 45-day consultation requirement may submit an otherwise complete plan, as described in the new section 402(a), to the Secretary, but it may not implement the plan until the 45-day period has expired. The Secretary will review the plan during that period, may request further explanation, and will assure that it includes the necessary elements. The State is subject to TANF statutory rules on the date that it provides assurance that the 45-day comment requirement has been satisfied or such later date as elected by the State.

c. A State which has fulfilled its 45-day consultation requirement may submit a complete plan, as described in the new section 402(a), to the Secretary and request that the Secretary assure that it includes the necessary elements. The State could elect to delay implementation until the Secretary's review is conducted or until some other future point (but prior to July 1, 1997). In this case, the new

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[1] If a State implements a plan in violation of the Act, it may be subject to imposition of a penalty. An intentional violation may subject the State to an enhanced penalty.

TANF statutory rules would take effect after the plan submittal, on the delayed implementation date.

Effective Dates for Funding

Section 116(b)(1)(B) of PRWORA specifies how a State's SFAG is calculated in FY 1997. A State's FY 1997 SFAG is the lesser of:

(1) the State's annual SFAG amount determined under section 403(a)(1) prorated by the number of days in FY 1997 between the date the Secretary first receives from a State the plan described in section 402(2) and September 30, 1997; or

(2) the difference between the State's annual SFAG amount determined under section 403(a)(1) and the amount of Federal payment the State receives with respect to expenditures made in FY 1997 for AFDC, JOBS, and EA.

In the first and third scenarios, above, the same date, i.e., the date the State actually implements TANF, will be used in both calculations. In the first scenario, the date ACF receives the plan is the same as the date on which the State implements TANF. In the second scenario (if the State elects to delay implementing TANF beyond completion of the 45-day comment period) and the third scenario, where a State elects to delay implementing TANF until a date after its plan is received by the Secretary for her review, ACF will deem the date of receipt of the plan to be the same as the date the State elects to implement TANF.

For the second scenario, above, if the State chooses to implement immediately following completion of the 45-day comment period, then ACF will use the date it first receives the State plan for purposes of computing the first of the two amounts above. The date the State actually comes under TANF, i.e., the date the State completes its 45-day comment period, will be used in computing the amount of AFDC, EA, and JOBS reimbursement used in calculating the second of the amounts, above. In no case can a State receive both AFDC and TANF funds for the same time period.

45-day Comment Period on Initial Plan

For a plan to be complete, the State must explain how it has met the 45-day comment period required under the statute. Under

section 402(a)(4), the certification by the State must include assurances that local governments and private organizations have been consulted and "have had at least 45 days to submit comments on the plan and the design of such services." While a State may certify that this requirement has been met by a process that occurred prior to enactment of PRWORA, we would encourage States to consider carrying out a period of public comment in the context of PRWORA.

At State option, a State may submit a plan that is complete in every other respect but has not yet received a period of public comment. In this case, the 45-day comment period can run concurrently with the Secretary's review of the plan; the State's TANF grant will be calculated back to the date of submission of the plan. Minor changes or corrections, additions or deletions in response to comments received during the 45-day comment period would not require a new comment period.

Comments on Plan Amendments

The statute does not specifically require a comment period for amendments. We believe a comment period is not necessary for minor, procedural or non-substantive changes. However, we are considering whether to require a 45-day comment period if the amendment would significantly change the plan, either in its entirety, or with regard to any major provision of the plan. Additional guidance on this issue will be provided in future regulations.

The 45-day comment period will be necessary for biennial plan submittals that are required under the statute.

Q2. "Transferability: Pending technical amendments, is there an immediate/interim mechanism to allow TANF funds to be transferred directly to SSBG (without requiring transfer into CCDBG)?"

Answer: In light of the statutory language, we have no mechanism available to permit transfers to SSBG only. The practical impact of the statutory language is that a State must transfer $2 from TANF to CCDBG in order to transfer $1 to SSBG.

A State may transfer in total in a fiscal year up to 30% of the

funds paid to it under section 403(a). The funds paid to it under section 403(a) include: State Family Assistance Grant; Bonus to Reward Decrease in Illegitimacy; Supplemental Grant for Population Increases in Certain States; and, Bonus to Reward High Performance States. (Funds may not be transferred from the Contingency Fund which is under section 403(b)).

All 30% of the funds may be transferred to the CCDBG program. However, if a State wishes to transfer funds to SSBG, funds must be transferred to the CCDBG program. The restriction on the transfer of funds to SSBG is found at section 404(d)(2) which stipulates that, of the amount transferred, no more than one-third may be transferred to SSBG.[2]

Q3. "Spending on immigrants counted toward MOE: pending technical amendments, is there an immediate/interim mechanism for permitting spending on legal immigrants to count towards MOE as suggested in the Managers Agreement?"

Answer: Section 409(a)(7)(B)(i)(III) of the Social Security Act (SSA), as amended by the PRWORA, provides that States may use State expenditures for families that would have been eligible for TANF but for the application of section 402 of Title IV of PRWORA. Thus, we can only count toward MOE spending on families who would be eligible but for the application of section 402 of title IV of PRWORA.

We recognize that a State would not often be in a position where it would choose to use its own funds when it is authorized to use TANF funds. Thus we agree that this provision would make more sense if it referenced section 403, instead of section 402. However, absent a technical amendment, we can only count toward MOE spending on families who would be eligible but for the application of section 402 of title IV. HHS shares the States'

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[2] The statutory language is: "Notwithstanding paragraph (1) [relating to the 30% limit], not more than 1/3 of the total amount paid to a State under this part for a fiscal year that is used to carry out State programs pursuant to provisions of law specified in paragraph (1) [CCDBG and title XX] may be used to carry out State programs pursuant to title XX."

concern about this important policy issue and will be looking at it in the context of the technical amendments proposal required under section 113 of PRWORA.

Background

In general, section 402(b)(1) of Title IV of PRWORA provides that States have the option to provide TANF assistance to qualified aliens. If a State opts not to provide TANF to qualified aliens, such aliens receiving benefits as of the date of enactment (August 22, 1996) shall continue to receive such assistance until January 1, 1997.

However, aliens who are identified in the exceptions listed at section 402(b)(2)(A) cannot be denied benefits under TANF for the 5-year periods specified in section 402(b)(2)(A).

Section 402(b)(2)(B) and (C) identifies those aliens who cannot be denied benefits under TANF for any future period, so long as they meet the State's eligibility criteria for the TANF program.

Thus, if a State uses its own funds for an individual (and his/her family) who becomes ineligible for TANF (1) because the State has chosen not to provide assistance with TANF funds to those individuals after January 1, 1997, or (2) because the State has chosen not to provide assistance with TANF funds to those individuals who have exceeded the specific 5-year time limitations in section 402(b)(2)(A), these State funds can be used to meet the State's MOE requirement, provided that the expenditures are otherwise "qualified state expenditures" and the immigrants to whom the State provides assistance would be "eligible families" but for the application of section 402.

Q4. "Pro Rata Reductions: will FY 1997 work participation rates be reduced by the caseload reductions from FY 1995 to FY 1996? If so, does HHS intend to provide written guidance and/or standard data for states reflecting adjusted rates by state? How will pro rata reductions be calculated for two-parent families (based on entire caseload reduction or only two-parent/AFDC-UP reduction)?"

Answer:

Reductions for Fiscal Year 1997

Yes, FY 1997 work participation rates will be reduced by the caseload reductions from FY 1995 to FY 1996. As required by section 407(b)(3), such reductions in caseload cannot take into account families that are diverted from a State program as a result of (1) differences in eligibility criteria or (2) changes required by Federal law. Any State that implements TANF prior to January 1, 1997, will be subject to the participation rate requirements effective July 1, 1997, or for the last quarter of FY 1997. (Any State implementing after January 1, 1997, will be subject to participation rates effective 6 months after TANF implementation.) Caseload reductions from FY 1995 to FY 1996 will be used to make the pro rata reductions required by revised section 407(b)(3) of the Social Security Act.

Written Guidance

Regarding the question on written guidance, section 407(b)(3) specifies that the Secretary of Health and Human Services must prescribe regulations for reducing the minimum participation rate for a fiscal year based on decreases in the average monthly number of families receiving assistance. We anticipate that these regulations will address calculations for both the entire caseload and two-parent families.

We are interested in hearing from our State partners on how the pro-rata reductions should be calculated and how to factor out the effects of reductions resulting from changes in Federal law or differences in eligibility criteria. This input will assist us in drafting the applicable regulations.

Q5. "Claims and disallowances. Can HHS clarify/confirm that prior-year claims will not be paid out of TANF funds? Will state funds used for prior-year disallowances count as qualified expenditures for MOE? Will disallowance payments be made separately or paid through a reduction in TANF grant?"

Answer:

Payment of Prior-Year Claims

Claims for prior-year expenditures, i.e., expenditures made prior to FY 1997, for AFDC and Emergency Assistance will be paid through the AFDC appropriation. They will not affect how much a State receives for FY 1997 for AFDC/JOBS and TANF. Prior-year JOBS expenditures will be charged to the JOBS grants for the appropriate prior year.

Treatment of Prior-Year Disallowances under MOE

State funds used for prior year disallowances will not count as qualified expenditures for MOE. The MOE provisions at section 409(a)(7) require that a State make its expenditures in the fiscal year for which TANF funds are provided. Thus, for FY 1997, prior year expenditures, whether disallowed or not, cannot count towards meeting a current year's MOE requirement.

Recoupment of Disallowances

For TANF penalties, the various provisions in section 409 provide that penalties will be taken through offset of the next fiscal year's TANF grant. For AFDC and JOBS program disallowances, ACF's policy is to reduce claims for Federal reimbursement for AFDC or EA expenditures so long as such funds are available to offset. If sufficient funds are not available, debts will be collected via offsetting any grant to the State as required by the Debt Collection Improvement Act of 1996.

Q6. "$50 Child support pass-through. What are states required to do vis-a-vis the $50 pass-through and $50 disregard after October 1, 1996? How and when will this information be communicated?"

State Requirements

Under title I of PRWORA (TANF block grant), if a State chooses not to implement Temporary Assistance to Needy Families sooner, it must continue to disregard for AFDC eligibility purposes until July 1, 1997, the first $50 of any child support passed through to a family receiving assistance. However, under title III of the law (child support enforcement), effective October 1, 1996, in cases receiving assistance, a State must first pay the Federal

government its share of the child support collection and then may retain, or pass through to the family, the State share of the collection. Therefore, the mandate to pass through to the family the first $50 of support collected in assistance cases is eliminated after September 30, 1996.

A grace period is allowed until after the next State legislative session, however, in States in which a change in State law is required in order to eliminate the $50 pass-through. In these States, the $50 pass-through would remain in effect, as required under State law, during the grace period. Any support passed-through, whether required by State law or by State option, must come entirely from the State's share of the collection.

Distribution of Guidance

We have received numerous questions on the above issue and have shared this response widely. We have provided it to each of our Regional Offices to ensure that quick, accurate and consistent responses are provided to questions on this topic.

We will send this send answer and the other answers to all States now. In addition, we hope to soon set up a web site to transmit policy questions and answers related to welfare reform and the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act electronically.

(ACF - October, 1996)

Q: "Transitional rules regarding data collection requirements: HHS has issued an action transmittal for data collection rules, effective October 1996. States are questioning why they would have to continue to collect any data on JOBS (such as participation rates, participation data) through the NIOCS considering that this program has been repealed in the Act and a state will not be operating JOBS once it receives its TANF grant. We would like to engage in a consultative process with HHS to come up with reasonable data elements that States might collect in the transition before the TANF reporting requirements are effective."

Answer:

In recognition of the optional effective date of TANF and the delay in reporting data under TANF, Congress provided for the continuation of reporting of AFDC and JOBS data under section 116(b) of PRWORA through June 30, 1997, even for States that implemented TANF earlier. (The earliest data collection begins under TANF is for the July - September 1997 quarter, and reporting could begin as late as the January - March 1998 quarter.)

We have not issued final transitional data collection requirements to States. We circulated a draft for comment at a conference in September which included State representatives and would welcome comments prior to our issuing the final document. In this draft, we proposed that States continue to collect AFDC recipient characteristic data through the National Integrated Quality Control system and use that system, at their option, to collect payment accuracy and other State data. We also proposed that States continue to collect financial and program data for work activities under the system set up for the JOBS program.

Our proposal is based on several factors. First, we believe that collection of these transitional data is important to provide information on what happens during the transitional period and baseline data for assessing the new programs. Secondly, the nature and type of data required to be reported under section 411 of TANF are very similar to the data now reported. Thirdly, the burden of reporting these data are not significant since much of the data comes from existing automated systems.

We do not believe that it would be an efficient use of either Federal or State resources to work on development of temporary transitional data elements. Significant modifications could necessitate costly and time consuming State system modifications which would be used only on a temporary basis. We need to reserve our resources to work, in consultation with the States, on developing the data collection elements and reporting under TANF.

Q: "Definition of administrative costs. While the definition will presumably be defined in regulations it is very hard for states to operate without some notion of how HHS intends to define admin. Is the report language around the definition of admin. under the child care block grant an appropriate model that HHS might follow for TANF? Additionally, because case managers will be undertaking so many activities beyond eligibility determination, states believe that case managers salaries should not be considered administration. What is HHS's view of this?"

Answer:

We believe that there will be some differences between the definitions for "administrative costs" for TANF and the child care program. Each of these programs has unique programmatic differences as well as different statutory and report language specifically related to administrative costs. As with the child care programs, HHS anticipates that the definition for administrative costs for TANF will be more flexible than what has traditionally been considered administrative costs under the AFDC program.

We do anticipate addressing the definition of administrative costs through the regulatory process. A notice of proposed rulemaking that will define administrative costs for TANF is expected to be released in January of 1997. We plan to conduct an open consultative process prior to the issuance of these regulations and look forward to input from our partners.

Q: "Timetable for distribution and allocation formula for Medicaid. When will HHS/HCFA provide information on how the $500 million available for Medicaid eligibility determination will be distributed among states as well as allocated among programs that have eligibility links to Medicaid?"

Answer:

HCFA will issue a proposed Federal Register Notice for comment in December. HCFA will be consulting broadly with States, through NGA, APWA, and NCSL prior to issuance of the proposed notice.

Q: "Tribal JOBS. Tribes currently operating a JOBS program will be able to continue to receive separate funding and operate a work program. Will individuals served by these tribes be included in a state's work participation rate calculation even though a state has no authority over the operation of the tribe's work program?"
ANSWER:

Section 412(a)(2) of the Social Security Act, as amended, authorizes grants to the tribes that conducted a JOBS program in FY 1995. Section 412(a)(2)(C) specifies that the funds are to be used to "make work activities available to members of the Indian tribe".

Under section 407(b)(1)(B)(ii), the denominator in calculating the State's participation rate includes "the number of families receiving such assistance during the month that include an adult or a minor child head of household receiving such assistance..." minus certain sanction cases. Thus it includes tribal families receiving assistance under a State's TANF program. For purposes of meeting its work participation rate, a State may count participation in section 412(a)(2) activities that conform to section 407 requirements in the numerator. If the section 412(a)(2) activity is not a countable work activity under section 407, the State may still require work activities of the tribal participant in order to meet its work participation rate requirement.

We hope to work closely with States and tribes in the next few months to help design and promote mutually supporting programs which ensure that tribal members participate in appropriate activities which will prepare them for work and economic independence. We will also be looking at the language in section 407 and 412 in the context of the Secretary's report to the Congress on technical amendments to PRWORA.

PRESIDENT CLINTON'S WELFARE-TO-WORK JOBS CHALLENGE
Providing Opportunity For All, Demanding Responsibility From All

> *"This is not the end of welfare reform, this is the beginning. And we have to all assume responsibility. Now that we are saying with this bill we expect work, we have to make sure the people have a chance to go to work."*
> -- President Bill Clinton

PRESIDENT CLINTON BEGINS THE PROCESS OF MOVING PEOPLE FROM WELFARE TO WORK. The goal of welfare reform is to move people from welfare to work and President Clinton is committed to ensuring that there are job opportunities for welfare recipients. President Clinton is proposing a Welfare-To-Work Jobs Challenge -- a three-pronged $3.4 billion initiative to create job opportunities for the hardest-to-employ welfare recipients. This initiative is fully paid for with the elimination of corporate subsidies: not one penny of this challenge is paid for with savings from welfare reform. The three components of the Welfare-To-Work Jobs Challenge are:

1. TARGETED WELFARE-TO-WORK TAX CREDIT. Building off of the Work Opportunity Tax Credit (WOTC) -- signed into law by President Clinton on August 20, 1996 -- President Clinton proposes a targeted Welfare-To-Work Tax Credit to create new job opportunities for long-term welfare recipients. This proposal costs $383 million.

- New Tax Credit To Help Move People From Welfare To Work. The targeted Welfare-to-Work Tax Credit would enable employers to claim a 50 percent credit on the first $10,000 of wages for long-term welfare recipients, claim this tax credit for up to two years, and treat employer-provided education and training assistance, health care, and dependent care spending as wages.

- Expanded Work Opportunity Tax Credit. The Work Opportunity Tax Credit -- which is currently funded through the end of September 1997 -- would be expanded to include adults age 18 to 50 who are no longer eligible for food stamps because they did not satisfy the work requirements under the welfare reform bill.

2. TAX INCENTIVES TO INCREASE INVESTMENT IN DISTRESSED AREAS. President Clinton has a comprehensive strategy to increase investment in distressed communities. Today, President Clinton expands on his strategy to propose a new tax credit to investors in qualified community financial institutions and venture capital funds.

CDFI Initiative. The Community Development Banking and Financial Institutions Act of 1994 created a Federal CDFI Fund to provide grants, loans, and technical assistance to qualifying lenders. Today, President Clinton proposes to provide nonrefundable tax credits to equity investors in qualified CDFIs. This proposal will cost $48 million between FY97 and FY 2002. Currently, the CDFI Fund has $45 million in assistance to provide to various qualified institutions. President Clinton's balanced budget proposes to expand the CDFI Fund to $125 million next year, and continue to increase it each year thereafter.

- Empowerment Zones/Enterprise Communities. In his current balanced budget, President Clinton proposed a second round of Empowerment Zones (EZs)/Enterprise Communities (ECs) that would designate 20 additional EZs (15 urban, 5 rural or Indian nation) and 80 ECs (50 urban, 30 rural or Indian nation). For EZs, the Federal government provides tax benefits for businesses that set up shop, and grants to community groups for job training, day care, and other purposes. For ECs, the Government provides grants to community groups for the same array of purposes. EZs and ECs both can apply for waivers from Federal

regulations, enabling them to better address their local needs.

- Brownfields Initiative. Yesterday, the President called for an expansion of the Brownfields initiative by increasing EPA grants to communities for site assessment and redevelopment planning, and support for revolving loans to finance brownfields cleanup efforts at the local level. In his 1996 State of the Union, President Clinton challenged Congress to enact a Brownfields tax incentive which would provide incentives to businesses to clean up abandoned, contaminated industrial properties in distressed communities.

3. WELFARE-TO-WORK JOBS INITIATIVE. President Clinton's Welfare-To-Work Jobs Initiative is designed to help communities move one million of the hardest-to-employ welfare recipients into jobs by the year 2000. This proposal will cost $3 billion over three years.

- Targeting Long-Term Recipients. Funds will be targeted to areas with the basis of hard-to-employ welfare recipients. Funds will flow through state governments, but the proportionate share of the funds will flow automatically to the 100-150 cities -- and where appropriate counties -- with the largest number of long-term welfare recipients. These cities (and counties) would be required to coordinate their plans with the States. States will receive and directly administer funds for all other cities and localities.

- Flexibility. The emphasis of this initiative is to provide assistance to help create new job opportunities in the private and non-profit sectors for long-term welfare recipients. State and localities, however, would be granted maximum flexibility to develop job creation strategies -- including, where appropriate, in the public-sector. There will be strict anti-displacement provisions and all jobs would be covered by the Fair Labor Standards Act and all other relevant labor laws.

- Performance and Accountability. This initiative will only provide full funding upon a showing of successful placements of the target population into jobs lasting at least nine months. The funds used by states and localities would go to assist employers -- who would also be eligible for using the targeted Welfare-to-Work Tax Credit -- to create lasting job opportunities for long-term welfare recipients. And the states or localities, working with employers, would have to show that for each $3,000 they receive one long-term welfare recipient is being placed in a new job that lasts at least nine months. To ensure accountability, 25 percent of the funds will be withheld until there is a substantial showing that the new job opportunities promised are being delivered.

- Building On What Works. This initiative relies on proven job creation/job placement models, such as the San Jose Center for Employment and Training (CET), which provides highly structured basic education, skill training and work experience leading to job placement in the private sector; America Works, a successful private job placement firm for hard-to-place recipients in New York, Indiana, and Connecticut; and the welfare-to-work program in Riverside, California, which provides intensive job search and private sector job placement to move recipients into jobs as quickly as possible. Local communities could also focus on creating jobs through cleaning up the environment such as under Brownfields programs and rebuilding communities through housing redevelopment programs such as YouthBuild, or expanding child care opportunities so there are new jobs for welfare recipients and a place for their children if they find other work.

Tax Incentives for Community Development:
President Clinton's CDFI Investment Initiative

PRESIDENT CLINTON ANNOUNCES NEW TAX INCENTIVES TO INCREASE INVESTMENT IN DISTRESSED AREAS. In his current balanced budget, President Clinton proposes to more than double the current Community Development Financial Institution (CDFI) Fund. Today, President Clinton announces a new tax credit to investors who are investing in community development institutions and venture capital funds. These initiatives -- along with the second round of Empowerment Zones and Enterprise Communities and President Clinton's Brownfields initiative -- should help leverage billions of dollars of private-sector investment in community development and distressed areas.

- Expand The CDFI Fund to $125 Million Next Year. Currently, the CDFI Fund has allocated $45 million in assistance to qualified community development institutions, even though it received applications for over $300 million this year. Now, President Clinton proposes to nearly triple the CDFI Fund next year, increasing it to $125 million as part of the FY 1997 Budget.

- Create Tax Incentives to Increase Investment in Distressed Areas. This initiative will provide $100 million in nonrefundable tax credits that would be made available to the CDFI fund to be allocated among equity investors in community development banks and venture capital funds.

  -- Allocation. The allocation of credits would be determined by the CDFI Fund using a competitive process similar to the one used to allocate the $45 million they currently have available. The maximum amount of credit allocable to a particular investment would be 25% of the amount invested, though a lower percentage could be negotiated.The full credit would be available the year the investment is made.

  -- How Does It Work? The investor's tax basis in the equity interest would then be reduced by the amount of the credit -- having the effect of increasing any capital gain, or reducing any capital loss -- in the event the investor sells the interest in the CDFI. In order to ensure long-term investments, the credit would be recaptured if the investment is sold or redeemed within 5 years.

PRESIDENT CLINTON'S CDFI INITIATIVE IS DESIGNED TO EXPAND THE AVAILABILITY OF CREDIT, INVESTMENT CAPITAL, AND FINANCIAL AND OTHER DEVELOPMENT SERVICES IN DISTRESSED URBAN AND RURAL COMMUNITIES.

- The President's historic reform of the Community Reinvestment Act has already focussed the nation's major banks and thrifts on performance rather than paperwork and thereby unleashed billions of dollars in private capital to help rebuild low and moderate-income communities throughout the country.

- In 1994, President Clinton signed the Community Development Banking & Financial Institutions Act which created the CDFI Fund. The Fund is designed to expand the availability of credit, investment capital, financial services, and other development services in distressed urban and rural communities. The CDFI Fund provides grants, loans, and technical assistance to qualifying financial institutions.

- CDFIs include a wide range of financial institutions -- community development banks, and venture capital funds, community development credit unions, community development loan funds, and microenterprise loan funds. CDFIs provide such services as mortgages for first-time homebuyers, commercial loans and investments to start or expand small businesses, loans to rehabilitate rental housing, and basic financial services.

- In July, out of nearly 270 applications, 31 community development organizations were chosen to receive

The Targeted Welfare-To-Work Tax Credit

TARGETED WELFARE-TO-WORK TAX CREDIT -- EXPANDING NEW JOB OPPORTUNITIES. Building off of the Work Opportunity Tax Credit (WOTC) -- signed into law by President Clinton on August 20, 1996 -- President Clinton proposes a targeted Welfare-To-Work Tax Credit to create new job opportunities for those on welfare for at least 18 months.

- A $5,000 Tax Credit For Businesses That Create New Jobs For The Hardest-To-Employ Welfare Recipients. The targeted Welfare-to-Work Tax Credit would enable employers to claim a 50 percent credit on the first $10,000 of annual wages paid to long-term welfare recipients. The business could claim this tax credit for up to two years, and would be able to treat education and training assistance, health care, and dependent care expenditures as eligible wages.

- Long-term welfare recipients are defined as (1) members of families that have received family assistance (AFDC or its successor program) for at least 18 consecutive months ending on the hiring date; (2) members of families that have received family assistance for at least 18 months after the date of enactment and who are hired within two years of the time the 18-month total is reached; and (3) members of families who are no longer eligible for family assistance because of Federal or state time limits and who are hired within two years of the date that they become ineligible for family assistance.

- President Clinton Proposes To Expand The Work Opportunity Tax Credit. When President Clinton signed the minimum wage increase into law, he also signed into law a reformed tax credit to encourage businesses to hire economically disadvantaged workers -- the Work Opportunity Tax Credit. President Clinton proposes to expand this tax credit to adults age 18 to 50 who are no longer eligible for food stamps under the new welfare reform bill.

- The Work Opportunity Tax Credit. The Work Opportunity Tax Credit will enable employers to claim a 35 percent credit on up to $6,000 of first-year wages paid to a qualifying individual. This credit is effective October 1, 1996 and expires on September 30, 1997. Members of families receiving welfare assistance for more than 9 months; qualified veterans; qualified ex-felons; 18-24 year olds who live in an Empowerment Zone or Enterprise Community; vocational rehabilitation referrals; qualified food stamp recipient who are 18 to 24 years old and a member of a family receiving food stamps for a six-month period; and qualified summer youth employees.

- President Clinton Proposes To Expand The Work Opportunity Tax Credit -- To Create More Opportunity And More Jobs. President Clinton's proposal would expand the Work Opportunity Tax

- Credit to include adults age 18 to 50 who are no longer eligible for food stamps because they did not satisfy the minimum work requirements under the Welfare Reform Act of 1996.

MEDICAID

Contacts:

Implementation Guidance Website
http://www.acf.dhhs.gov/news/welfare/wrpack.htm

Health Care Financing Administration
http://www.hcfa.gov/medicaid/wrefhmpg.htm

HCFA - Office of Intergovernmental Affairs
Lloyd Bishop (202) 690-8501

The complete State Medicaid Manual can be attained through any of the contacts listed above.

FACT SHEET #1

LINK BETWEEN MEDICAID AND TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Prior to enactment of P.L. 104-193, the Personal Responsibility and Work Opportunities Act of 1996:

- Individuals who received AFDC cash assistance or who were deemed to have received AFDC were automatically eligible for Medicaid. (Section 1902(a)(10)(A)(i)(I) of the Social Security Act)

- Families who lost AFDC cash assistance because of employment or receipt of child (or spousal) support payments were eligible for transitional Medicaid assistance for an additional period of time. (Sections 1902(a)(10)(A)(i)(I) and 1925 of the Social Security Act)

- Various rules of the AFDC program were used to establish Medicaid eligibility for other Medicaid-only eligibility groups (e.g., pregnant women and children whose eligibility is related to the poverty level, optional groups of children and caretaker relatives who do not receive AFDC, and the medically needy.) (Section 1902 of the Social Security Act)

The new welfare reform law eliminates the AFDC cash assistance program and replaces it with a block grant program called Temporary Assistance for Needy Families (TANF) (Section 103 of the new law). However, families who meet the AFDC eligibility criteria prior to welfare reform will be eligible for Medicaid. States are not required to make a complete eligibility determination using all the pre-reform AFDC program rules. This determination is replaced by two basic eligibility requirements.

- The family income and resources must meet the pre-reform AFDC standards (Section 1931(b)(1)(I) of the Social Security Act)

- The pre-reform AFDC deprivation requirement must be met. (i.e., a child must be living with a parent or other relative and deprived of parental support or care by the death, absence, incapacity or unemployment of a parent.) (Section 1931(b)(1)(A)(ii) of the Social Security Act)

As under pre-reform law, if a family loses Medicaid eligibility because of employment or receipt of support payments or employment and received Medicaid in three of the preceding six months, the family is eligible for a period of extended Medicaid benefits. (Sections 408(a)(11) and 1931(c) of the Social Security Act)

States are permitted to deny Medicaid benefits to adults and heads of household who lose TANF benefits because of refusal to work. However, welfare reform law specifically exempts poverty-related pregnant

women and children from this provision and mandates their continued Medicaid eligibility (Section 1931(b)(3) of the Social Security Act)

Because the AFDC cash assistance program is eliminated, welfare reform provides that any reference in Title XIX to an AFDC provision or an AFDC State Plan will be considered a reference to the AFDC provision or plan in effect for the State on July 16, 1996, i.e. "pre-reform" AFDC. This effectively freezes the pre-reform AFDC program for all Medicaid eligibility purposes, except that welfare reform also permits States to retain flexibility to change the applicable income and resource methodologies, as follows

- A State may lower its income standards, but not below the standards it applied on May 1, 1988 (Section 1931(b)(2)(A) of the Social Security Act)

- A State may increase its income and resource standards up to the percentage increase in the CPI subsequent to July 16, 1996 (Section 1931(b)(2)(B) of the Social Security Act)

- A State may elect to use less restrictive income and resource methodologies than those in effect on July 16, 1996 (Section 1931(b)(2)(C) of the Social Security Act)

Related Fact Sheets

Link Between Medicaid and SSI Coverage of Children under Welfare Reform

Link Between Medicaid and the Immigration Provisions of the Personal Responsibility and Work Opportunity Act of 1996

Increased Federal Matching Rates for Increased Administrative Costs of Eligibility Determinations under Welfare Reform

FACT SHEET #2

LINK BETWEEN MEDICAID AND SSI COVERAGE OF CHILDREN UNDER WELFARE REFORM

Under the new law, the definition of childhood disability is no longer linked to the definition of disability for adults. The reference to "comparable severity" in the old law has been deleted.

The new definition says: (1) an individual under the age of 18 shall be considered to be disabled under SSI if that child has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of at least twelve months; and (2) no individual under the age of 18 who engages in substantial gainful activity may be considered disabled.

In addition to the new definition of disability for children, the law mandates two changes to current evaluation criteria in SSA's regulations. SSA must (1) discontinue the individualized functional assessment (IFA) for children, and (2) eliminate maladaptive behavior in the domain of personal/behavioral function in determining whether a child is disabled

In most States, individuals who are eligible for SSI are also eligible for Medicaid These changes will result in some children losing SSI, and therefore Medicaid eligibility However, many of the children affected could still continue to be covered under Medicaid because they meet other Medicaid eligibility criteria. States are required to perform a redetermination of Medicaid eligibility in any case where an individual loses SSI and that determination affects the individual's Medicaid eligibility

Section 204(a) of the new law provides that SSI payments, for all beneficiaries, including children, may only begin as of the first day of the month following (1) the date the application is filed or, if later, (2) the date the person first meets all eligibility factors This is a delay in SSI eligibility in comparison with the old law

Under Section 211 of the new law, SSA is required to redetermine the eligibility of recipients under age 18 by August 22, 1997 No SSI-eligible child may lose benefits by reason of a redetermination of disability using the new definition earlier than July 1, 1997

Also under Section 211, SSA is required to send notices to the representative payees of all affected recipients no later than January 1, 1997

Related Fact Sheets:

Link Between Medicaid and Temporary Assistance for Needy Families (TANF)

Link Between Medicaid and the Immigration Provisions of the Personal Responsibility and Work Opportunity Act of 1996

Increased Federal Matching Rates for Increased Administrative Costs of Eligibility Determinations Under Welfare Reform

FACT SHEET =3 10 11 96

LINK BETWEEN MEDICAID AND THE IMMIGRATION PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996

Medicaid Eligibility of Legal Immigrants

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) identifies two categories of legal immigrants: "qualified aliens" and others.

"Qualified Alien" Defined: *A "qualified alien" is an alien who is lawfully admitted for permanent residence under various sections of the Immigration and Nationality Act (INA) including: an asylee, a refugee, an individual who has been paroled into the U.S. for a period of one year, an individual who has had his her deportation withheld, and who has been granted conditional entry. This definition also includes certain battered immigrants.*

States have the following options to cover legal immigrants, as long as these individuals meet the financial and other eligibility requirements of the program

Immigrants Residing in the U S

States are not required to end Medicaid coverage or eligibility for any "qualified aliens" residing in the U S before August 22, 1996 If the State Plan already provides such coverage and eligibility, HCFA will presume the State will continue to provide Medicaid to these individuals, until a State Plan Amendment is submitted to the contrary

- For immigrants who are "qualified aliens" receiving Medicaid benefits (were enrolled in the State's Medicaid program) on August 22, 1996, States must continue Medicaid coverage until at least January 1, '997 After that date, HCFA will assume that States are continuing to cover these individuals, unless the State amends its State Plan to discontinue coverage of these individuals

- For immigrants who are "qualified aliens" residing in the United States before August 22, 1996, but were not enrolled on that date, whether eligible or not, States have the option not to provide Medicaid beginning on August 22, 1996 To do so, the State must amend its State Plan.

- For other immigrants who are not "qualified aliens," Medicaid eligibility was terminated on August 22, 1996 under P.L. 104-193, except for those receiving SSI. For these immigrants, Medicaid eligibility continues until SSA redetermines eligibility (see page 4).

Excepted Groups of Immigrants

There is an excepted group of immigrants to whom the State ***must*** provide Medicaid coverage, provided the individuals are otherwise eligible. The following groups of immigrants are considered part of the excepted group:

- Refugees -- For the first 5 years after entry to U.S. in that status
- Asylees -- For the first 5 years after granted asylum
- Individuals whose deportation is being withheld by the INS -- For the first 5 years after grant of deportation withholding
- Lawful Permanent Residents -- After they have been credited with 40 quarters of coverage under Social Security (based upon their own work and/or that of spouses or parents) and no Federal means-tested public benefits were received by the individual in the quarter to be credited (or the spouse parent on whose work record quarters were credited). Members of this group are not excepted if the immigrant arrives in the U.S. after August 22, 1996
- Honorably discharged U.S. military veterans, active duty military personnel, and their spouses and unmarried dependent children -- At any time.

Immigrants Admitted to the U.S. On or After August 22, 1996

There is a mandatory ban on Medicaid eligibility for immigrants who are "qualified aliens" newly admitted to the U.S. on or after August 22, 1996. The ban is in effect for the first five years they are in the U.S. in that status, unless the individual is a member of one of the excepted groups. After the five-year ban expires, an immigrant's access to Medicaid is at State option (for those otherwise eligible). For those who have individual sponsors who sign new, legally binding affidavits of support (required elsewhere in welfare reform, beginning no later than February 1997), States must deem the income and resources of the immigrant's sponsor (and sponsor's spouse) to be available to support the immigrant when determining the immigrant's eligibility for Medicaid. For most immigrants, deeming will not take effect for five years.

Individuals who have been credited with 40 quarters of work without receiving assistance are not considered an excepted group under these provisions.

Sponsor to "Qualified Alien" Deeming of Income and Resources

There is no deeming of sponsors' income and resources for individuals who entered the U.S. under the old affidavits of support. The new deeming requirements apply to Medicaid in the following situations:

- o Deeming applies only to sponsors signing new, legally binding affidavits of support.
- o The sponsor's and sponsor spouse's income and resources will be counted when determining the income and resources available to the immigrant they sponsor.
- o Deeming applies only to immigrants who are sponsored by individuals.
- o Under the omnibus appropriations amendments, deeming does not apply to battered immigrants or those who would be indigent, defined as unable to obtain food and shelter without assistance, because their sponsors are not providing adequate support
- o Deeming continues until the earlier of naturalization by the immigrant or the immigrant's being credited with 40 quarters of Social Security coverage. Such quarters do not include any quarters after December 31, 1996 in which the immigrant (or the immigrant's spouse parent on whose work record the immigrant is credited with quarters) receives Federal means-tested benefits
- o Sponsors must reimburse Federal, State, and local governments for the cost of means-tested benefits received by the sponsored immigrant during the deeming period, but excluding the costs of emergency medical services

Emergency Services

Provided they meet the financial and categorical eligibility requirements, both qualified aliens and non-qualified aliens continue to be eligible for emergency services under Medicaid.

SSI/ Medicaid Connection for "Qualified Aliens"

Other provisions of welfare reform ban receipt of SSI cash benefits for both current and new otherwise eligible " qualified aliens," unless they are a member of one of the excepted groups listed above.

Individuals who continue to receive SSI cash benefits would be eligible for Medicaid under the usual rules. The Social Security Administration must redetermine the SSI eligibility of all immigrants within one year of enactment. Upon redetermination, the immigrant may lose cash assistance if he/she is not a member of one of the above excepted groups.

States are required to perform a redetermination of Medicaid eligibility in any case where an individual loses SSI and that termination affects the individual's eligibility for Medicaid. Those losing or barred in the future from receiving SSI cash benefits will find their Medicaid benefits affected in the following ways:

- o A State that has opted under its Medicaid plan to cover non-cash SSI-related groups would automatically continue Medicaid for "qualified aliens" who fit into those groups.

- o A State that has not previously opted under its Medicaid State plan to cover non-cash SSI-related groups could, as always, submit a State plan amendment to provide coverage for non-cash SSI-related groups. HCFA is exploring options to permit States to do this as simply as possible

In addition, a State that opts to cover only SSI cash recipients may still be able to cover some of the "qualified aliens" under other provisions of current Medicaid law (i.e., poverty-related pregnant women and children, medically needy, etc.)

An immigrant who loses SSI cash benefits would continue to be eligible for Medicaid until the State conducts a Medicaid eligibility redetermination (which requires consideration of other bases for Medicaid eligibility for which the individual may qualify) and has found that the individual does not qualify for Medicaid by any other means

Related Fact Sheets.

Link Between Medicaid and Temporary Assistance for Needy Families (TANF)

Link Between Medicaid and Coverage of SSI Children under Welfare Reform

Link Between Medicaid and the Immigration Provisions of the Personal Responsibility and Work Opportunity Act of 1996

FACT SHEET #4

INCREASED FEDERAL MATCHING RATES FOR EXTRA ADMINISTRATIVE COSTS OF ELIGIBILITY DETERMINATION UNDER WELFARE REFORM

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) has substantial implications for Medicaid eligibility systems and responsibilities. Section 114 of the law (Section 1931(h) of the Social Security Act) provides a special fund of $500 million for enhanced Federal matching for States' expenditures attributable to the administrative costs of Medicaid eligibility determinations due to the law. The specific features of this provision are described below:

Federal Financial Participation (FFP) Rates

The normal FFP rate for States' administrative costs for eligibility determinations in the Medicaid program is 50 percent. However, under this new law, the Secretary is given discretion to increase the FFP rate above 50 percent, up to a fixed national cap of $500 million for this enhanced funding. This enhanced funding is for extra administrative costs applicable to the increased cost of eligibility determinations due to welfare reform.

National Limitation on Total Funding

The total Federal funds available for enhanced match are limited to $500 million.

Time Limitations

The $500 million is available nationally for expenditures during the Fiscal Years 1997 through 2000. For each state, however, the enhanced funding is available for only the first 12 calendar quarters in which a State's Temporary Assistance to Needy Families (TANF) program is in effect after August 21, 1996.

Related Fact Sheets:

Link Between Medicaid and Temporary Assistance for Needy Families (TANF)

Link Between Medicaid and Coverage of SSI Children under Welfare Reform

Link Between Medicaid and the Immigration Provisions of the Personal Responsibility and Work Opportunity Act of 1996

DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

6325 Security Boulevard
Baltimore, MD 21207

OCT 22 1996

Dear State Medicaid Director:

This letter is to provide you with preliminary guidance on the options available for modifying your State Medicaid eligibility quality control (MEQC) sampling procedures to accommodate the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. These options may not apply to those States that choose to operate alternative MEQC programs under either an approved MEQC pilot or a section 1115 waiver.

The new legislation replaces the Aid to Families with Dependent Children (AFDC) program with the Temporary Assistance for Needy Families (TANF) program effective, July 1, 1997. However, States have the option to implement TANF earlier. The new legislation also repeals section 408 of the Social Security Act (the Act) governing payment accuracy and performance measures under the AFDC program effective October 1,1996. Section 1903(u) of the Act on which the MEQC program is based remains in place.

Although welfare reform did not repeal or revise section 1903(u) of the Act, it does impact the MEQC program. Specifically, the requirement to operate an AFDC quality control (QC) program no longer exists. As a result, States that choose to cease conducting AFDC/QC reviews will have their Medicaid error rates based on a single overall medical assistance only (MAO) sample, which will include as AFDC-related those individuals who would have been eligible for AFDC cash.

States have a menu of three options available for MEQC sampling. Those States that choose to delay implementation of TANF and continue their AFDC/QC programs may continue to incorporate the AFDC/QC findings in their MEQC error rate calculation. Otherwise, States have two options for including the population formerly eligible for AFDC cash in the MEQC sample. You may retain your current MAO sample size and continue to conduct full-field case reviews (the AFDC-related cases will be part of the MAO stratum). Alternatively, you may increase your sample size by a minimum of 25 percent to accommodate the larger MAO universe but conduct abbreviated reviews (e.g., cease home visits). States that elect the latter option should document a maintenance of staffing effort in their sampling plan.

You may also wish to consider stratifying your MAO sample to assure that your sample reflects two or more coverage groups; e.g., long-term care cases and other MAO cases. When you determine a sampling method for your State, please submit an amended sampling plan to indicate the choices you made.

We believe these options are the most reasonable approaches to MEQC since they do not increase current State staffing levels for MEQC and provide you with flexibility in meeting the requirements of the MEQC program. The options were developed in consultation with the State Medicaid QC Directors attending the recent national quality control directors' conference. Please direct any questions on this matter to your servicing regional office.

Sincerely,

Judith D. Moore
Acting Director
Medicaid Bureau

cc:
All Regional Administrators

All Associate Regional Administrators
Division of Medicaid

State Medicaid Quality Control Directors

Lee Partridge
American Public Welfare Association

Joy Wilson
National Conference of State Legislators

Jennifer Bexendell
National Governors' Association

Lloyd Bishop
Office of Legislative & Inter-Governmental Affairs, HCFA

state medicaid manual
Part 3 — Eligibility

Department of Health and Human Services
Health Care Financing Administration

Transmittal No. 67 **Date** FEBRUARY 1997

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Secs. 3600-3611.1	3-7-5 - 3-7-6.1 (3 pp.)	3-7-5 - 3-7-6 (2 pp.)

NEW IMPLEMENTING INSTRUCTIONS--EFFECTIVE DATE: 02-28-97

This instruction interprets the Medicaid provisions of P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), enacted August 22, 1996.

Section 3200, Changes Due to Welfare Reform, explains that PRWORA eliminated the AFDC program and replaced it with a block grant program for temporary assistance to needy families (TANF).

Section 3207, Changes in SSI Definition of Disability Due to Welfare Reform, explains changes PRWORA made to the SSI definition of disability for children and how these changes affect eligibility for Medicaid for children who apply for or are currently receiving SSI.

Section 3210, Citizenship and Alienage, explains changes PRWORA made in Medicaid eligibility for individuals who are not citizens of the United States.

Section 3211, Aliens, defines the terms "qualified aliens," "non-qualified aliens," and "ineligible aliens" and discusses the circumstances under which individuals who meet the various definitions can or cannot be eligible for Medicaid.

Section 3212, Documentation and Verification Status as Citizen or Alien, explains the preliminary requirements for documentation and verification of Medicaid applicants' status as citizens or nationals of the United States, or as qualified aliens. Further guidance may be provided shortly.

Section 3300, Introduction, and Section 3300.1, Changes Due to Welfare Reform, describe the new Medicaid eligibility group for low income families and children created by PRWORA (§1931 of the Social Security Act). This group replaces the categorically needy eligibility group consisting of those receiving AFDC benefits.

Section 3301, Low Income Families With Children, explains the requirements for Medicaid eligibility for low income families and children under PRWORA.

Section 3314, Extended Medicaid Benefits to Families Who Lose Eligibility Because of Income From Support Payments, explains the circumstances under which families who lose Medicaid because of income from support payments receive extended benefits both before and after the State TANF program becomes effective.

Section 3405, Changes Due to Welfare Reform, discusses a change required by PRWORA in the month of actual payment of SSI benefits (from the month of application to the month following application), and how this affects the effective date of eligibility for Medicaid.

Section 3500.1, Changes Due to Welfare Reform, explains that PRWORA eliminated the AFDC program and replaced it with a block grant program for temporary assistance to needy families (TANF).

Section 3600.1, Changes Due to Welfare Reform, discusses changes in the limitation of Federal Financial Participation (FFP) if States change their AFDC income standards for the new Medicaid eligibility group and options States have with regard to changing their medically needy income levels.

The following sections have been **deleted**:

Section 3205, Maintenance of Effort Requirements,

Section 3210.3, FFP for Services Provided to Aliens,

Section 3212.10, Illegal Aliens Eligible for Emergency Services,

Section 3213.3, Legalized Aliens Eligible for Full Medicaid,

Section 3213.4, Legalized Aliens Eligible Only for Emergency Services and Services for Pregnant Women,

Section 3213.5, Federal Financial Participation (FFP) for Emergency Services,

Section 3213.6, Termination of Medicaid Eligibility, and

Section 3213.7, Chart of Eligibles Under IRCA.

HCFA understands that a number of States are moving ahead to submit plans to implement their TANF programs. In such cases, HCFA will assume that you will continue to provide Medicaid eligibility to all the groups you covered on July 16, 1996, including permissible legal immigrants. For administrative purposes, HCFA requests that you notify HCFA to that effect. If you are going to make any change to Medicaid coverage of eligibility groups, please submit a State Plan Amendment to that effect. However, you are not required to submit a plan amendment until you change your program.

Additional guidance may be provided in the future on the following issues:

- o Persons losing SSI,
- o State election to cover qualified aliens entering the United States before August 22, 1996,
- o One month delay in receipt of SSI benefits,
- o Definition of unemployed parent for purposes of §1931 of the Act (the new low income families and children eligibility group),
- o Cuban/Haitian immigrants,
- o Vaccines for children,
- o Alien sponsor deeming,
- o Federal means-tested benefits,
- o Federal public benefit,
- o Fugitive felons,
- o Definition of 40 quarters,
- o Immigration and Naturalization Service reporting requirements, and
- o Verification.

DISCLAIMER: The revision date and transmittal number only apply to the redlined material. All other material was previously published in the manual and is only being reprinted.

Effective immediately, page numbers will no longer appear in the Table of Contents. However, they will only be deleted on an Issuance-by-Issuance basis.

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CHAPTER III

GENERAL AND CATEGORICAL ELIGIBILITY REQUIREMENTS

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GENERAL AND CATEGORICAL ELIGIBILITY REQUIREMENTS

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CHILD CARE AND DEVELOPMENT

Contacts:

Implementation Guidance Website
http://www.acf.dhhs.gov/news/welfare/wrpack.htm

Administration for Children and Families Website
hhtp://www.acf.dhhs.gov/news/welfare/index.htm

TANF, Child Care, Child Support - Office of Public Affairs
Michael Kharfen (202) 401-9215

f. 6906562

Child Care Bureau Mission

The Child Care Bureau is dedicated to enhancing the quality, affordability, and supply of child care available for all families. The Child Care Bureau administers Federal funds to States, Territories, and Tribes to assist low income families in accessing quality child care for children while parents work or participate in education or training. The Child Care Bureau is part of the Administration on Children, Youth and Families in the United States Department of Health and Human Services.

Vision for Child Care

Two Generational Focus
Child care services that promote healthy child development and family self-sufficiency

Quality Services
Safe and healthy learning environments
Parent involvement
Training and support for providers
Continuity of care

Comprehensive Services
Child care services that are linked to health, family support, and other community agencies

Information and Referral
Consumer Education
Public Awareness
Outreach to the private sector and community services

Child Care and Development Fund

The newly established Child Care and Development Fund (CCDF) has made available $2.9 billion to States. Tribes receive approximately $59 million for FY 1997. This new program, authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, will assist low-income families and those transitioning off welfare to obtain child care so they can work or attend training/education. The award represents an increase in child care funding of $568 million for States over FY 1996.

The Child Care and Development Fund brings together, for the first time, four Federal child care subsidy programs and allows States to design a comprehensive, integrated service delivery system to meet the needs of low-income working families. Additionally, the Child Care and Development Fund sets aside a minimum of four percent of Federal and State funds to improve the quality and availability of healthy and safe child care for all families.

Major Change for Child Care

The major change for child care services under Child Care and Development Fund is the requirement for States to serve families through a single, integrated child care system. Four Federal child care programs are now combined. Three programs, AFDC/JOBS Child Care, Transitional Child Care, and At-Risk of Welfare Dependency Child Care (formerly called Title IV-A child care), have been repealed and all child care funding is now combined under the former Child Care and Development Block Grant (CCDBG) program. CCDBG regulations will apply to the combined Child Care and Development Fund program where they correspond with the statute. New regulations will be developed to revise and conform the old regulations with the new law.

Child Care Services Funded by CCDF

Subsidized child care services will be available to eligible parents through certificates or contracted programs. Parents may select any legally operating child care provider. Child care providers serving children funded by CCDF must meet basic health and safety requirements set by States and Tribes. These requirements must address prevention and control of infectious diseases, including immunizations; building and physical premises safety; and minimum health and safety training.

P-5

Quality Activities

A minimum of four percent of CCDF funds must be used to improve the quality of child care and offer additional services to parents, such as resource and referral counseling regarding the selection of appropriate child care providers to meet their child's needs. To improve the health and safety of available child care, many States have provided training, grants and loans to providers, improved monitoring, compensation projects, and other innovative programs. Tribes may use a portion of their funds to construct child care facilities provided there is no reduction in the current level of child care services.

Public Input For State And Tribal Child Care Plans

All States and Tribes must submit comprehensive plans by July 1, 1997. The legislation has strengthened the requirements for conducting public hearings regarding these plans and public comment is invited through this process.

Child Care Bureau Activities

1997

Sharing Information

The National Child Care Information Center is a central point for child care information for States, Territories, Tribes, policy makers, child care organizations, providers, parents, and the general public. Contact them at:

- ☎ 1-800-616-2242
- ☎ Fax 1-800-716-2242
- ☎ TDD 1-800-516-2242
- ✉ 301 Maple Avenue West, Suite 602, Vienna, Virginia 22180
- 🖵 http://ericps.ed.uiuc.edu/nccic/nccichome.html
- 🖵 agoldstein@acf.dhhs.gov

The Child Care Bulletin is published six times a year and is distributed freely to all interested in national child care issues. Topics for this year will include linkages to child care, community planning, consumer education, and child care workforce issues. For more information contact the National Child Care Information Center.

CCAdmin and FirstNations electronic discussion groups have been established via e-mail to promote communication among grantees and their federal partners around child care issues. State, Territorial, and Tribal administrators who wish to participate should contact Linda B. Adams or Roger Iron Cloud at:

☎ 202-690-7885 202-690-6244

🖳 lbadams@acf.dhhs.gov rironcloud@acf.dhhs.gov

Promoting Healthy Child Care

The Healthy Child Care America (HCCA) Campaign, launched in 1995 is a collaborative, grass roots effort of health care and child care providers to improve the health and safety of children and families. Using the *Blueprint for Action*, communities all over the country can make linkages between health programs and child care. A technical advisory group will guide this year's efforts. This year a newsletter will be available to participants in HCCA.

The Bureau has established an interagency agreement with the Maternal and Child Health Bureau (MCHB) in partnership with the American Academy of Pediatrics to promote health linkages between child care and health agencies. MCHB provided funding to 42 States for the implementation of Healthy Child Care America activities at the state and local levels.

A National Healthy Child Care America Conference will be held to bring together leaders in the child care and health community to focus on the development of health services for children in child care.

For additional information contact Moniquin Huggins at:

- ☎ 1-202-690-8490
- ☎ FAX 1-202-690 -5600
- ✉ Child Care Bureau, 200 Independence Ave SW, Washington, DC 20201
- 🖳 mhuggins@acf.dhhs.gov

Convening State Administrators

National State Child Care Administrators Conference is convened annually to focus on planning for effective child care programs by State agency administrators.

Ten Regional Meetings are being convened in 1997 to focus on the implementation of welfare reform.

An Administrative Issue Workgroup meets quarterly to advise the Bureau about administrative issues facing States as they implement State level child care programs.

Regular audioconference calls are convened to address state-level child care issues.

An information system technical advisory workgroup will meet on a regular basis to design technical assistance around information system development and the new reporting requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This group will make recomendations for the development of state-level technical assistance

Special Initiative on School-Age Care

Ten Technical Assistance Events will address specific issues on school-age child care with State child care administrators, State Department of Education leaders, and community school-age groups. A special training package will be developed for these meetings.

Providing Leadership on Emerging Issues

A national leadership forum is scheduled to focus on consumer education. Entitled, **"Becoming Beter Informed about Child Care: Innovations in Consumer Education"**, forum participants will share information concerning the development of model programs for reaching parents with information about the selection of appropriate, high quality care for their children. State-level issues surrounding consumer education issues will be discussed.

Child Care as a Job: Critical Issues will be the title a national leadership forum concerning child care workforce issues.

New Partners: Housing and Child Care will be convened to address the issues of child care programs in public housing for low-income families.

Focusing on Research

Child Care Research Partnerships are three cooperative agreements funded to study child care issues concerning child care demand, supply, and outcomes for low income families. Three lead projects, along with their partnership organizations, meet regularly to build a national network of researchers studying child care for low-income children and families.

Working with Other Partners

The Commissioner of the Administration on Children Youth and Families has announced a **Head Start/Child Care Collaboration Initiative**. The purpose of the initiative will be to provide Federal leadership in combining the strengths Head Start and Child Care services to meet the needs of working parents, and increase quality and comprehensiveness of care. Activities of the initiative include promoting discussion, soliciting input, sharing of materials and training convening joint meetings, sharing resources, promoting innovative collaboration models, and identifying strategies to guide communities.

The **Federal Interagency Child Care Partnership** meets to network with other federal agencies and to explore and develop collaborative efforts to improve and expand child care. Federal agencies represented include the Department of Labor, Agriculture, Education, Defense, Justice, Interior, General Services Administration, Commerce, Housing and Urban Development, Government Accounting Office, as well as divisions within the Department of Health and Human Services.

A workgroup of national child care organizations meets quarterly to discuss and advise the National Child Care Information Center concerning child care issues as they relate to their constituents. Coordination with these groups is vital to the planning technical assistance efforts for States and Tribes.

Addressing Tribal Issues

National Tribal Child Care Conference is convened annually and includes representatives from 507 Tribal Child Care Programs to focus on management and leadership issues.

A Tribal Information Workgroup meets quarterly to provide input concerning Tribal administrative issues.

Collaboration with the **Administration for Native Americans** has provided new funding for training on health and safety in child care. Activities by the American Indian Higher Education Consortium will promote collaboration in selected communities with member colleges and child care programs.

A number of regional technical assistance visits to Tribes are planned for this year to provide a picture of Tribal child care. A special training package will be developed for these visits.

Regular audioconference calls are convened to address Tribal child care issues.

ESTIMATED FY 1997 STATE ALLOCATIONS FOR THE CHILD CARE AND DEVELOPMENT FUND

State	Mandatory Funds 1/	State Share Requirement (MOE) 2	Matching Funds 3/	State Share of Matching Funds 4/	Discretionary Funds 5/
Alabama	$ 16,441,707	$ 6,896,415	$ 11,097,223	$ 4,654,690	$ 20,236,065
Alaska	3,544,811	3,544,811	2,028,753	2,028,753	1,906,673
Arizona	19,890,997	10,065,324	12,763,447	6,458,612	18,512,030
Arkansas	5,300,283	1,886,541	6,627,908	2,359,086	11,896,069
California	92,945,658	92,945,659	98,164,172	98,164,172	120,466,746
Colorado	10,173,800	8,985,899	10,285,029	8,084,141	11,059,692
Connecticut	18,738,357	18,738,357	8,559,338	8,559,338	7,224,585
Delaware	5,179,351	5,179,351	1,900,182	1,900,182	2,111,607
District of Columbia	4,720,514	4,720,514	1,286,615	1,286,615	1,979,409
Florida	43,026,524	33,424,300	35,964,891	27,938,589	50,046,337
Georgia	36,522,787	22,167,213	20,202,308	12,261,629	32,187,871
Hawaii	5,220,634	5,220,634	3,323,894	3,323,894	3,662,385
Idaho	2,867,578	1,175,819	3,492,470	1,486,814	5,133,856
Illinois	59,609,473	59,609,473	33,025,568	33,025,568	37,706,575
Indiana	26,181,989	16,356,949	15,294,176	9,570,738	15,066,411
Iowa	8,877,745	5,299,427	7,298,922	4,356,974	8,229,278
Kansas	9,811,668	6,672,989	7,151,279	4,880,112	8,898,861
Kentucky	16,701,803	7,274,356	9,863,568	4,312,299	17,942,749
Louisiana	13,864,552	6,219,484	12,714,858	4,786,667	25,680,153
Maine	3,137,105	1,928,151	3,116,236	1,806,728	3,873,126
Maryland	23,301,407	23,301,407	13,667,018	13,667,018	13,203,338
Massachusetts	44,973,373	44,973,373	15,376,582	15,376,582	14,385,116
Michigan	32,081,922	24,360,587	26,216,778	19,907,040	29,217,891
Minnesota	23,357,543	19,690,395	12,863,121	10,838,963	13,483,420
Mississippi	6,293,116	1,715,431	7,766,786	2,114,413	17,359,322
Missouri	24,668,568	16,548,765	14,257,606	9,564,625	18,227,212
Montana	3,190,691	1,315,295	2,371,213	977,486	3,212,536
Nebraska	11,338,103	6,955,059	4,539,602	2,784,298	5,836,815
Nevada	2,580,422	2,580,422	4,288,070	4,288,070	4,133,817
New Hampshire	5,061,606	5,051,606	3,102,286	3,102,286	2,866,956
New Jersey	31,662,653	31,662,653	20,978,406	20,978,406	18,639,612
New Mexico	8,702,694	3,034,328	5,213,343	1,818,024	9,446,628
New York	104,883,534	104,883,534	48,586,869	48,586,869	57,492,936
North Carolina	68,638,228	37,978,185	18,951,163	10,335,129	28,148,318
North Dakota	2,506,022	1,017,135	1,720,613	782,825	2,344,878
Ohio	70,444,792	45,628,354	29,558,734	19,145,722	35,115,219
Oklahoma	24,909,978	10,650,305	8,994,937	3,846,801	15,232,903
Oregon	19,408,790	11,714,991	8,189,250	4,942,966	9,972,899
Pennsylvania	55,336,804	46,628,930	30,311,476	25,541,621	32,711,417
Puerto Rico	-	-	-	-	24,966,838
Rhode Island	6,633,774	5,321,126	2,525,420	2,026,706	2,720,600
South Carolina	9,867,433	4,087,361	9,805,962	4,061,896	18,120,563
South Dakota	1,710,868	502,897	2,095,014	983,173	3,155,183
Tennessee	37,702,046	18,975,714	13,556,698	6,823,185	20,848,597
Texas	59,844,129	34,681,426	57,033,621	33,052,654	92,920,868
Utah	12,591,564	4,474,925	6,838,604	2,467,430	9,396,746
Vermont	4,148,060	2,804,331	1,518,624	978,227	1,214,663
Virginia	21,328,766	21,328,766	17,051,693	17,051,693	19,258,060
Washington	41,948,341	38,768,113	14,818,125	13,694,719	15,904,935
West Virginia	8,840,727	2,971,383	4,132,279	1,406,969	7,219,178
Wisconsin	24,611,381	16,470,677	13,858,837	9,312,601	14,823,937
Wyoming	2,815,041	1,553,781	1,347,236	795,656	1,626,938
State Total	$ 1,139,050,700	$ 908,252,925	$ 723,691,800	$ 581,286,747	$ 972,500,000

NOTE: Mandatory, Matching and Discretionary funds have been reduced by one quarter of one percent for technical assistance, pursuant to 45 CFR 98.60(a)(1). Mandatory and Matching funds have been reduced by the tribal set-aside. Discretionary funds have been reduced by the tribal and territorial set-aside. Territories are not eligible for Mandatory or Matching funds.

1/ Mandatory Funds are allocated based on the Federal share of expenditures for IV-A child care in FY 1994, FY 1995, or the average of FY 1992-1994, whichever is greatest. Allocations are based on expenditure data as of Feb. 28 and April 28, 1995.

2/ Preliminary calculation based on available aggregate data; may need to be adjusted. In order to be eligible for Matching Funds, States are required to maintain the greater of FY 1994 or FY 1995 expenditures for IV-A child care.

3/ Matching Funds are allocated according to the proportion of children under age 13 using Census data as of July, 1995 (in accordance with the At-Risk Child Care program allocation formula). Each State's maximum allocation is shown; unused funds will be redistributed among States.

4/ State expenditures above the MOE level are matched based on the FY 1995 FMAP rate.

5/ Discretionary allocation is preliminary and based on the $1 billion in authorized funds. Final State allocations may change. For Discretionary Funds, Puerto Rico is included in the State allocation formula.

23-Aug-96

CHILD CARE AT THE CROSSROADS:

A Call For Comprehensive State and Local Planning

The Child Care and Development Block Grant Amendments of 1996 provide an important opportunity for states and communities to plan a more cohesive child care system that responds to the needs of all families and helps promote safe and healthy care for children of all ages. Federal funding levels over a six year period allows for multi-year planning.

Child Care assistance is at a crossroads. It it can grow to become a critical support for children and families or it may leave many hard working families without access to child care support they need and provide only minimum protections for children.

States and communities are encouraged to consider the following five principles during the planning process.

BUILD CAPACITY

to ensure quality, supply, and system support

In order to meet the increasing demands for child care, ensure parental choice and ensure quality environments for children; states and communities will need to build capacity in critical areas. States should consider establishing or expanding:

- **Apprenticeship** and other professional development programs that lead to state recognized credentials for all categories of care and all levels of providers.
- Resource and Referral, including **consumer education** and outreach to parents and providers.
- **Adequate payment rates that assure families equal access** to a range of services in their community.
- **Outreach campaign and resources to build the supply** of family child care, infant care, school-age care, night-time care, and care for special needs populations.
- **Systems** for data collection and reporting.
- **Staff capacity** for administration, coordination, licensing and monitoring and oversight.

EXPAND ASSISTANCE
to families to pay for services

In their efforts to provide child care assistance to more families, states and communities should consider the need to:

- Serve both working families and those transitioning off welfare
- Make all families below a certain income level eligible for child care assistance (i.e., a percentage of state median income assistance)
- Provide enough assistance so that no family is forced to pay more than 10 percent of their income for quality care.

DEVELOP LINKAGES
to promote comprehensive services to families

To remain self-sufficient, many families need other services along with child care. State and local planning should link child care to the following ten critical services:

- Health
- Family Support Services
- Head Start
- School and Youth programs
- Employment Services
- Transportation
- Housing
- Child Support Enforcement
- Temporary Assistance to Needy Families
- Child Welfare

LEVERAGE
private sector funds

The growing demand for child care assistance may strain available public funds. In order to build up resources that can be used to provide assistance to an increasing number of working families and to ensure quality, we need to leverage private sector dollars.

States and communities should consider using some of their new child care funds to reach out to businesses in their area to help build child care funds that will grow

over time. Public dollars can be used to establish a "*Working Parent Assistance Trust Fund*" in a community or a state. Corporations could be challenged to donate resources to this fund which in turn would help improve the supply of quality services for the total community or provide targeted scholarships to help families pay for care.

EVALUATE

resources, needs and progress

In the past, there have been very few efforts made to evaluate public investments in child care. States and communities should take this opportunity to:

- Include parent and provider feedback into the evaluation of services.
- Evaluate the supply of child care available, the current level of assistance, and the anticipated demand.
- Establish benchmarks or targeted goals for the use of child care funds.
- Measure progress in reaching the goals
- Develop research and evaluation projects that assess the quality of care provided, the effect on children and the impact on the parents' ability to work.
- Improve data collection and reporting

THE MATCHING FUND OF THE CHILD CARE & DEVELOPMENT FUND

Background: The Child Care and Development Fund

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 repealed the 3 title IV-A child care programs and requires that all Federal child care funds be spent in accordance with the provisions of the amended Child Care and Development Block Grant. In consolidating the Federal child care programs under a single set of eligibility requirements, Congress nevertheless instituted 3 funding sources. ACF has chosen to refer to the combined funding as the Child Care and Development Fund – CCDF. This term recognizes the different sources of monies flowing into child care but the common purposes for which they may be expended. The 3 sources of Federal monies are the:

- o Mandatory Fund
- o Discretionary Fund
- o Matching Fund

The amounts authorized (and in the case of the Mandatory and Matching Funds, appropriated) for these Funds are:

CHILD CARE & DEVELOPMENT FUND				
Year	Mandatory Fund	Discretionary Fund	Matching Fund	TOTAL
1997	$1.2B	$1.0B	$ .767B	$2.967B
1998	$1.2B	$1.0B	$ .867B	$3.067B
1999	$1.2B	$1.0B	$ .967B	$3.167B
2000	$1.2B	$1.0B	$1.167B	$3.367B
2001	$1.2B	$1.0B	$1.367B	$3.567B
2002	$1.2B	$1.0B	$1.517B	$3.717B

Requirements of the Matching Fund

Both the Mandatory and Discretionary Funds are 100% Federal Funds – no State match is required to use these Funds. As its name implies, the Matching Fund is available to match allowable State costs for child care. In order to receive Matching Funds the State must:

- o Obligate all of its Mandatory Funds by the end of the fiscal year (FY). Mandatory Funds need not be obligated before Matching Funds are claimed, provided that all Mandatory Funds will be obligated by the end of the FY.

Requirements of the Matching Fund (continued)

- Expend State-only dollars in an amount that equals the maintenance of effort thresholds in Attachment A. These State-only dollars need not be expended before Matching Funds can be claimed, provided that all of the State-only dollars will be expended by the end of the FY.

  NOTE: The amounts in Attachment A are tentative at this time. Final amounts will be provided later.

- Obligate the Federal and State share of the Matching Fund by the end of the FY.

All costs are matched at the Federal Medical Assistance Percentage (FMAP) for FY 1995, irrespective of the year of expenditure. The FMAP rate pertains to both child care services and administrative expenditures.

What counts as "match"

A State's expenditures must be in cash and may include public and donated private funds, meeting the conditions described below.

In-kind contributions are not counted as a State expenditure. (31 Comp. Gen. 459 (1952))

Federal matching funds are only available to match State expenditures for those child care service and related activities, including quality activities, that are allowable and are also included by the State as part of its program under the Act and noted in the approved State Plan.

Example: A State provides child care services in some child protective services cases (CPS) using non-Federal funds. The State could claim Federal match for these child care services under the CCDF provided the child care services would be allowable under the CCDF and that the State Plan indicates that it also funds child care for CPS cases from the CCDF.

Parent fees, because they do not represent State expenditures, are not eligible for Federal matching funds.

Requirements for public funds to be used as match

Public funds which are expended for child care may be claimed as State expenditures for reimbursement from the Matching Fund when the public funds are:

- o Appropriated directly to the lead agency, or transferred from another public agency to the lead agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for Federal match.
- o Not used to match other Federal funds.
- o Not Federal funds, or are authorized by Federal law to be used to match other Federal funds.

Requirements for private funds to be used as match

Funds donated from private sources which are expended for child care may be claimed as State expenditures for reimbursement from the Matching Fund when the donated funds:

- o Are transferred directly to the lead agency and under its administrative control.
- o Do not revert to the donor's facility or use.
- o Are donated without any restriction which would require their use for a specific individual, organization, facility or institutions. (Donated funds may be designated for a specific geographic area, however.)
- o Are not used to match other Federal funds.

How the quality requirement applies to the Matching Fund

Section 658G of the CCDBG Act requires that not less than 4% of the Child Care and Development Fund must be expended on "activities to improve the quality of child care."

This "not less than 4%" requirement applies to the total of CCDF: the Mandatory Fund, the Discretionary Fund and the Matching Fund -- including the State's share of the Matching Fund -- it need not be applied individually to the 3 Funds (i.e., States need not allocate the costs of quality improvements to each of the 3 funds).

States need not expend Matching Funds on quality activities to receive Federal match, provided not less than 4% of the total expenditures from the State's CCDF was spent on quality activities as defined in Section 658G. The "not less than 4%" requirement applies to the amounts expended by the State, not to the amounts allocated.

How to claim match

ACF is developing a single financial form which States will use to request Funds. Instructions will be issued later.

MEETING THE "MAINTENANCE OF EFFORT" REQUIREMENT FOR CHILD CARE

Background

Section 418(a)(2)(C) of the Social Security Act requires a State to spend a specified amount of non-Federal funds on child care before it may claim Federal match from the Matching Fund. The State "maintenance of effort" (MOE) amounts are shown in Attachment A.

What counts?

Section 418(a)(2)(C) may be read to mean that the funds that must be expended to meet the MOE requirement must be expended on the types of services that were allowable under sections 402(g) & (i) of the Social Security Act -- the now-repealed IV-A child care programs. These sections describe child care services to low income families on public assistance, who are working or in training/education activities, families transitioning off such assistance and families at risk of needing such assistance if they did not receive child care. ACF believes that States should include in their maintenance of effort totals only those amounts for activities which would have been allowable under the now-repealed title IV-A child care programs.

In addition to non-Federal expenditures for services, States may include in their maintenance of effort total amounts for administrative costs which would have been allowable under title IV-A. The preamble to the title IV-A regulations (54 FR 42231, dated October 13, 1989) describes those administrative costs that would have been allowable, either in whole or on a share-of-cost basis.

Activities counted in the MOE and Matching Funds are not the same

Costs allowable under title IV-A -- either service or administrative -- were limited in scope (e.g., licensing, provider training/technical assistance, and quality activities were not allowable title IV-A costs.). States should recognize that although an activity may not be counted towards meeting the maintenance of effort threshold, the same activity may nevertheless be eligible for Federal match under the Matching Fund. For example, State expenditures on general child care resource development were not allowable under title IV-A. However, such activities may be claimed for Federal match under the "not less that 4%" quality requirement of the Matching fund.

No double counting State expenditures

The State may not include an expenditure in its maintenance of effort total and claim Federal match for that same expenditure from the Matching Fund. Only State expenditures above the maintenance of effort thresholds may be claimed for Federal match. For example, the State may not include the cost of services to at-risk families in its MOE total and claim match for those costs from the Matching Fund.

Reminder: As described on page 3 of this PI, States need not expend all their State-only maintenance of effort dollars before Matching Funds are claimed provided that all of the State-only maintenance of effort dollars are expended by the end of the FY.

ADMINISTRATIVE COSTS

Background

Section 658E(c)(3)(C) of the amended CCDBG Act limits administrative costs to not more than 5% of the Child Care and Development Fund. Although the Act does not define administrative costs, it does state that administrative costs do not include "the costs of providing direct services".

The Conference Agreement directs the Secretary "to define and determine true administrative costs, as distinct from expenditures for services" and goes on to list some activities that should not be considered administrative costs.

Because of the amendments, ACF will regulate in the area of administrative costs. Until regulations are published, States should be guided by the language of the Act and the Conference Agreement.

Applicability of this guidance

The Child Care and Development Block Grants (CCDBG) made available on September 30, 1996 are subject to the regulations at 45 CFR Parts 98 and 99, published on August 4, 1992, until they are expended. The September 30, 1996 grants (and prior FY grants) are <u>not</u> subject to requirements contained in the amendments to the CCDBG Act, and hence the guidance in this PI. This means, for example, that the regulations at 45 CFR 98.50 and 98.52 apply (i.e., administrative cost as defined in those regulations is limited to a maximum 15%), rather than the 5% limit at Section 658E(c)(3)(C) of the amended CCDBG Act.

What are <u>not</u> administrative costs

The Conference Agreement directs that the following activities are <u>not</u> administrative costs:

- o eligibility determination
- o redetermination of eligibility
- o child care placement
- o provider recruitment
- o resource & referral
- o preparation/participation in judicial hearings
- o establishment & maintenance of computerized child care information
- o licensing
- o inspection
- o rate setting
- o training
- o provider reviews & supervision

<u>NOTE</u>: Some of these activities (e.g., eligibility determination) were defined as administrative costs under the existing regulations at 45 CFR 98.52(b). As noted above, in the absence of new regulations, States should be guided by the language of the Act and the Conference Agreement in this area for funds granted on or after October 1, 1996, not the existing regulations.

Administrative costs per 45 CFR 98.52

Where the Conference Agreement did not exclude an activity from considerations of administrative costs (or was silent), the CCDBG regulations at 45 CFR 98.52(b) might still apply. Those regulations indicate that the following might still be considered administrative activities and subject to the 5% limitation at section 658E(c)(3)(C):

- Developing the child care program and Plan (§98.52(b)(1)(ii) & (v))
- Maintaining substantiated complaints files (§98.52(b)(1)(x)).
- Developing agreements (§98.52(b)(1)(vii))
- Monitoring program activities for compliance with program requirements (§98.52(b)(1)(viii))
- Preparing reports (§98.52(b)(1)(ix))
- Providing local officials and citizens with information about the program, including the conduct of the public hearings. (§98.52(b)(1)(iv))
- Coordination activities (§98.52(b)(1)(xi))
- Coordination of the resolution of monitoring & auditing findings; evaluation of program results (§98.52(b)(1)(xii) & (xiii)
- Management of personnel involved in the above activities (§98.52(b)(1)(xiv))
- Travel, rent, equipment, supplies, etc. (§98.52(b)(2) & (5))
- Administrative & audit services (§98.52(b)(3) & (4))
- Indirect costs per §98.55 (§98.52(b)(6))

NOTE: The above list paraphrases the regulations. States should refer to the full text of the regulation cited (including the Preamble discussion) for a more complete description of an activity.

ACF anticipates continuing to consider these as administrative activities when new regulations are issued.

Some §98.52 activities may not now be administrative activities

At least some of the activities listed in §98.52 may not now necessarily be an administrative activity. For example, the activities attendant to "establishing and operating a certificate program" (§98.52(b)(1)(iii)) may fall under the Conference Agreement language on (re)determining eligibility and or establishing/maintaining child care information.

Applying costs across Funds	Section 658E(c)(3)(C) of the amended CCDBG Act limits administrative costs to "not more than 5%" of the Child Care and Development Fund. This "not more than 5%" limitation applies to the <u>total</u> of Child Care and Development Fund: the Mandatory Fund, the Discretionary Fund and the Matching Fund – <u>including</u> the State's share of the Matching Fund – it need <u>not</u> be applied individually to each of the 3 Funds.

Estimated State Maintenance of Effort Thresholds ATTACHMENT A

Alabama	6,896,415
Alaska	3,544,811
Arizona	10,065,324
Arkansas	1,886,541
California	92,945,659
Colorado	8,985,899
Connecticut	18,738,357
Delaware	5,179,351
District of Columbia	4,720,514
Florida	33,424,300
Georgia	22,167,213
Hawaii	5,220,634
Idaho	1,175,819
Illinois	59,609,473
Indiana	15,356,949
Iowa	5,299,427
Kansas	6,672,989
Kentucky	7,274,356
Louisiana	5,219,484
Maine	1,928,151
Maryland	23,301,407
Massachusetts	44,973,373
Michigan	24,360,587
Minnesota	19,690,395
Mississippi	1,715,431
Missouri	16,548,755
Montana	1,315,298
Nebraska	6,955,059
Nevada	2,580,422
New Hampshire	5,051,606
New Jersey	31,662,653
New Mexico	3,034,328
New York	104,893,534
North Carolina	37,978,185
North Dakota	1,017,135
Ohio	45,628,354
Oklahoma	10,650,305
Oregon	11,714,991
Pennsylvania	46,628,930
Rhode Island	5,321,126
South Carolina	4,087,361
South Dakota	802,897
Tennessee	18,975,714
Texas	34,681,426
Utah	4,474,925
Vermont	2,804,331
Virginia	21,328,766
Washington	38,768,113
West Virginia	2,971,393
Wisconsin	16,470,677
Wyoming	1,553,781

Note: Preliminary calculation based on available aggregate data; may need to be adjusted. In order to be eligible for Matching Funds States are required to maintain the greater of FY 1994 or FY 1995 expenditures for IV-A child care.

Temporary Assistance for Needy Families Program Instruction

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Family Assistance
Washington, DC 20447

No. TANF-ACF-PI-96-2 Date: December 6, 1996

TO: State agencies administering the Temporary Assistance for Needy Families program, under Title I of P.L. 104-193, and other interested parties.

SUBJECT: MAINTENANCE OF EFFORT REQUIREMENTS

REFERENCES: Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193

BACKGROUND: P.L. 104-193 replaces the Aid to Families with Dependent Children program (including Emergency Assistance) and Job Opportunities and Basic Skills (JOBS) program with the Temporary Assistance for Needy Families (TANF) Program and establishes a maintenance of effort requirement for State expenditures in the new program.

POLICY: The attached guidance explains the maintenance of effort requirements for State expenditures under the TANF program, outlines statutory penalties for failure to meet those requirements, and specifies State-by-State maintenance of effort expenditure levels.

Norman L. Thompson
Director
Office of Program Support

Lavinia Limón
Director
Office of Family Assistance

MAINTENANCE OF EFFORT REQUIREMENTS

P.L. 104-193 replaces the Aid to Families with Dependent Children (including Emergency Assistance) program and JOBS program with the Temporary Assistance for Needy Families (TANF) program and establishes a maintenance of effort requirement for State expenditures in the new program. In this guidance, section references are to the Social Security Act as amended by P.L. 104-193, unless otherwise noted.

Need for Guidance on Maintenance of Effort

P.L. 104-193 requires States to maintain certain levels of State expenditures in the TANF program each fiscal year. Failure to maintain the specified levels of State spending may result in a penalty which ACF will deduct from the State Family Assistance Grant (SFAG). This program instruction describes the maintenance of effort requirements under the TANF program, outlines statutory penalties for failure to meet those requirements, and provides specific State-by-State maintenance of effort expenditure levels. ACF will carefully monitor State maintenance of effort expenditures and enforce the penalties as specified in the statute. This program instruction contains information which States need to make plans for expending State funds at the required maintenance of effort levels. More detailed information about MOE requirements will be provided in the regulations which will be developed on the penalty provisions of P.L. 104-193.

The Maintenance of Effort Requirement for the TANF Program

Section 409(a)(7) of the Social Security Act as amended by PRWORA (see Attachment 1) provides for a dollar-for-dollar offset against a State's State Family Assistance Grant (SFAG) to the extent that "qualified State expenditures" to, or on behalf of, "eligible families" in the immediately preceding fiscal year are less than a percentage of "historic State expenditures."

"Historic State expenditures" means expenditures by the State for FY 1994 under Title IV, parts A (AFDC, Emergency Assistance and the repealed child care programs under Part A) and F (JOBS), as in effect during FY 1994.

If a State meets the work program participation requirements in section 407(a) for a fiscal year, its qualified State expenditures in that fiscal year must equal at least 75 percent of historic State expenditures in order to avoid a penalty under section 409 (a)(7). If a State fails to meet the work program participation requirements in a fiscal year, its qualified State expenditures must equal at least 80 percent of historic State expenditures in order to avoid a penalty under 409(a)(7).

Attachment 2 is a table which shows the historic State expenditures for FY 1994 and the maintenance of effort requirements at the 75 percent and 80 percent levels. The historic State expenditures were computed using the same data sources for FY 1994 that ACF used in determining State Family Assistance Grant amounts and Mandatory Child Care grant amounts. Specifically, to determine the historic State expenditures, we used data on the State share of expenditures for AFDC, Emergency Assistance, AFDC/JOBS, and Transitional and At-Risk Child Care programs as reported on the ACF-231 as of April 28, 1995. We also included the State share of JOBS expenditures as reported on the ACF-331 as of April 28, 1995.

ATTACHMENT 1

The following is an excerpt from Section 409(a) of the Social Security Act as amended by PL 104-193.

"(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.

"(A) In general.--The Secretary shall reduce the grant payable to the State under section 403(a)(1) for fiscal year 1998, 1999, 2000, 2001, 2002, or 2003 by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

"(B) Definitions.--As used in this paragraph:

"(i) QUALIFIED STATE EXPENDITURES.--

"(I) IN GENERAL.--The term 'qualified State expenditures' means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

"(aa) Cash assistance.

"(bb) Child care assistance.

"(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

"(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

"(ee) Any other use of funds allowable under section 404(a)(1)

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.--Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that--

"(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this part; or

"(bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to the expenditures.

"(III) Eligible families.--As used in subclause (I), the term 'eligible families' means families eligible for assistance under the State program funded under this part, and families that would be eligible for such assistance but for the application of section 408(a)(7) of this Act or section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

"(ii) Applicable percentage.--The term 'applicable percentage' means for fiscal years 1997 through 2002, 80 percent (or, if the State meets the requirements of section 407(a) for the fiscal year, 75 percent) reduced (if appropriate) in accordance with subparagraph (C)(ii).

"(iii) Historic state expenditures.--The term 'historic State expenditures' means, with respect to a State, the lesser of--

"(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as--

"(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

"(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

"(iv) Expenditures by the state.--The term 'expenditures by the State' does not include--

"(I) any expenditures from amounts made available by the Federal Government;

"(II) any State funds expended for the medicaid program under title XIX;

"(III) any State funds which are used to match Federal funds; or

"(IV) any State funds which are expended as a condition of receiving Federal funds under Federal programs other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of such expenditures does not exceed an amount equal to the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).

ATTACHMENT 2

STATE MAINTENANCE OF EFFORT LEVELS REQUIRED UNDER P.L. 104-193

State	FY 1994 State Expenditures 1/	MAINTENANCE OF EFFORT (MOE): 75% MOE Level 2/	80% MOE Level 3/
Alabama	$52,285,491	$39,214,118	$41,828,393
Alaska	65,256,536	48,942,402	52,205,229
Arizona	126,703,568	95,027,676	101,362,854
Arkansas	27,785,269	20,838,952	22,228,215
California	3,643,207,905	2,732,405,929	2,914,566,324
Colorado	110,494,527	82,870,895	88,395,622
Connecticut	244,561,409	183,421,057	195,649,127
Delaware	29,028,092	21,771,069	23,222,474
District of Columbia	93,931,934	70,448,951	75,145,547
Florida	494,558,734	370,919,051	395,646,987
Georgia	231,158,036	173,368,527	184,926,429
Hawaii	97,308,640	72,981,480	77,846,912
Idaho	18,238,307	13,678,730	14,590,646
Illinois	572,027,363	429,020,522	457,621,890
Indiana	151,366,637	113,524,978	121,093,310
Iowa	82,617,695	61,963,271	66,094,156
Kansas	82,332,751	61,749,563	65,866,201
Kentucky	89,891,312	67,418,484	71,913,050
Louisiana	73,886,837	55,415,128	59,109,470
Maine	50,370,048	37,777,536	40,296,038
Maryland	235,953,925	176,965,444	188,763,140
Massachusetts	478,596,697	358,947,523	382,877,358
Michigan	624,691,167	468,518,375	499,752,934
Minnesota	239,660,347	179,745,260	191,728,278
Mississippi	28,965,744	21,724,308	23,172,595
Missouri	160,161,033	120,120,775	128,128,826
Montana	20,919,224	15,689,418	16,735,379
Nebraska	38,628,645	28,971,484	30,902,916
Nevada	33,985,152	25,488,864	27,188,122
New Hampshire	42,820,131	32,115,098	34,256,105
New Jersey	405,274,008	303,955,506	324,219,206
New Mexico	49,933,908	37,450,431	39,947,126
New York	2,281,060,386	1,710,795,290	1,824,848,309
North Carolina	205,567,684	154,175,763	164,454,147
North Dakota	12,092,480	9,069,360	9,673,984
Ohio	520,734,467	390,550,850	416,587,574
Oklahoma	81,667,075	61,250,306	65,333,660
Oregon	123,006,454	92,254,841	98,405,163
Pennsylvania	542,834,133	407,125,600	434,267,306
Rhode Island	80,489,394	60,367,046	64,391,515
South Carolina	47,785,847	35,839,385	38,228,678
South Dakota	11,699,056	8,774,292	9,359,245
Tennessee	110,413,171	82,809,878	88,330,537
Texas	314,299,558	235,724,669	251,439,646
Utah	33,720,733	25,290,550	26,976,586
Vermont	34,204,541	25,653,406	27,363,633
Virginia	170,897,560	128,173,170	136,718,048
Washington	362,747,900	272,060,925	290,198,320
West Virginia	43,601,385	32,701,039	34,881,108
Wisconsin	225,638,309	169,228,732	180,510,647
Wyoming	14,220,435	10,665,326	11,376,348
State Total	$13,913,281,640	$10,434,961,230	$11,130,625,312

1/ The State share of expenditures for AFDC benefits, administration, EA, IV-A child care and JOBS in FY 1994. State expenditures may be revised to account for expenditures made by States on behalf of Tribes.

2/ States must maintain a level of effort at 75% of FY 1994 expenditures if they meet participation rate requirements.

3/ States must maintain a level of effort at 80% of FY 1994 expenditures if they do not meet participation rate requirements

HHS FACT SHEET

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

November 14, 1996

Contact: ACF Press Office
(202) 401-9215

Child Support Enforcement: A Clinton Administration Priority

Existing Child Support Programs

The goal of the Child Support Enforcement (CSE) program, established in 1975 under Title IV-D of the Social Security Act, is to ensure that children are supported financially by both parents.

Designed as a joint federal, state, and local partnership, the program involves 54 separate state systems, each with its own unique laws and procedures. The program is usually run by state and local human service agencies, often with the help of prosecuting attorneys and other law enforcement officials as well as officials of family or domestic relations courts. At the federal level, the Department of Health and Human Services provides technical assistance and funding to states through the Office of Child Support Enforcement and also operates the Federal Parent Locator System, a computer matching system that locates non-custodial parents who owe child support.

Despite recent record improvements in paternity establishment and child support collections, much more needs to be done to ensure that all children born out-of-wedlock have paternity established and that all non-custodial parents provide financial support for their children. Currently, only about one-half of the custodial parents due child support receive full payment. About twenty-five percent receive partial payment and twenty-five percent receive nothing.

For that reason, President Clinton proposed, and Congress passed, legislation to strengthen and improve state child support collection activities. These provisions, included in the Personal Responsibility and Work Opportunity Act of 1996, could increase child support collections by $24 billion over 10 years: a national new hire reporting system, streamlined paternity establishment, uniform interstate child support laws, computerized state-wide collections, and tough new penalties, such as driver's license revocation.

Clinton Administration Increases and Innovations

President Clinton has made improving child support enforcement and increasing child support collections a top priority. Since taking office, President Clinton has cracked down on non-paying parents and strengthened child support enforcement, resulting in record child support collections: In fiscal year 1996, the federal-state partnership collected $11.8 billion from non-custodial parents, an increase of $4 billion, or nearly 50 percent, since 1992.

Executive Action. While working toward comprehensive improvement of child support enforcement. President Clinton has used his executive authority to increase child support collections. Since taking office, President Clinton has directed the Treasury Department to activate a centralized. streamlined Federal system to offset child support debts against most Federal payments; ordered Federal agencies to take necessary steps to deny loans, loan guarantees, or loan insurance to any individual who is delinquent on child support debt; implemented a new program that will help track non-paying parents across state lines; proposed new regulations requiring women who apply for welfare to comply with paternity establishment requirements before receiving benefits; and issued an executive order to make the federal government a model employer in the area of child support enforcement.

Increasing Resources. President Clinton has proposed annual expansions in child support enforcement, increasing resources by 32 percent since taking office. HHS has also launched an initiative and given demonstration grants to states to promote improved performance, service quality and public satisfaction in the child support program.

Prosecuting non-payers. Billions of dollars more in support is owed to children whose parents have crossed state lines and failed to pay. The Justice Department is investigating and prosecuting cases where parents cross state lines to avoid payment under the Child Support Recovery Act. At President Clinton's direction, the Justice Department submitted legislation to Congress in September 1996 that would make it a felony offense to cross state lines to evade a child support obligation if the obligation has remained unpaid for longer than one year or is greater than $5,000; or to willfully fail to pay a child support obligation for a child living in another state if the obligation has remained unpaid for a period longer than two years or is greater than $10,000.

New Hire Program Success. On June 18, 1996, President Clinton announced a new national program to track parents who owe child support across state lines. Under the program, states send their new hire information to the Department of Health and Human Services (HHS). The state information is then matched by computer against lists of non-paying parents sent to HHS from all the states. This information is then sent back to the states so they can issue a wage garnishment order and send it to the delinquent parent's employer. On September 28, 1996, President Clinton announced that preliminary data from 17 states show that the program has already located over 60,000 delinquent parents. Of these, 35,000 were parents who owed support to mothers and children on welfare.

Seizing tax refunds. The Federal government collected a record of over $1 billion in delinquent child support by intercepting income tax refunds of non-paying parents for tax year 1995. The amount was 23 percent higher than the previous year, and up 51 percent since 1992.

Improving paternity establishment. The Clinton Administration has made paternity establishment a top priority. In FY 1996, approximately 800,000 paternities were established, an increase of over 50 percent since 1992. In 1993, the Clinton Administration proposed, and Congress adopted, a requirement that states establish hospital-based paternity programs as a proactive way to establish paternities early in a child's life. Preliminary data from thirty-one states indicates that more than 200,000 paternities were established through the program in 1995.

U.S. Postal Service Posts "Wanted Lists." The U.S. Postal Service is working with states to display "Wanted Lists" of parents who owe child support in post offices. Each state that has such a list will be able to provide it to the Postal Service, and the list will be displayed in post offices within that state. The President has also challenged every state to create a "Wanted List" to expand efforts to track down parents who owe support and send the strongest possible message that evasion of child support responsibilities is a serious offense.

Action through the Internet. HHS's Office of Child Support Enforcement now has a home page on the Internet that provides information on the child support enforcement program, tells parents where they can apply for child support assistance, and provides links to states that have their own home pages (currently 24).

State Flexibility. Since taking office, the Clinton Administration has granted welfare reform waivers to a record 43 states -- more than the previous two administrations combined. Thirty-three states are already pursuing innovative child support enforcement initiatives under waivers approved by the Clinton Administration.

Improvements Under the Personal Responsibility and Work Opportunity Act of 1996

At President Clinton's urging, the new welfare reform law includes the child support enforcement measures the President proposed in 1994 -- the most sweeping crackdown on non-paying parents in history. Under the new law, each state must operate a child support enforcement program meeting federal requirements in order to be eligible for Temporary Assistance to Needy Families (TANF) block grants. Provisions include:

National new hire reporting system. The law establishes a Federal Case Registry and National Directory of New Hires to track delinquent parents across state lines. It also requires that employers report all new hires to state agencies for transmittal of new hire information to the National Directory of New Hires. This builds on President Clinton's June 1996 executive action to track delinquent parents across state lines. The law also expands and streamlines procedures for direct withholding of child support from wages.

Streamlined paternity establishment. The new law streamlines the legal process for paternity establishment, making it easier and faster to establish paternities. It also expands the voluntary in-hospital paternity establishment program, started by the Clinton Administration in 1993, and requires a state affidavit for voluntary paternity acknowledgment. These affidavits must meet minimum requirements set by the Secretary of HHS. In addition, the law mandates that states publicize the availability and encourage the use of voluntary paternity establishment processes. Individuals who fail to cooperate with paternity establishment will have their monthly cash assistance reduced by at least 25 percent.

Uniform interstate child support laws. The new law provides for uniform rules, procedures, and forms for interstate cases.

Computerized state-wide collections. The new law requires states to establish central registries of child support orders and centralized collection and disbursement units. It also requires expedited state procedures for child support enforcement.

Tough new penalties. Under the new law, states can implement tough child support enforcement techniques. The new law will expand wage garnishment, allow states to seize assets. allow states to require community service in some cases, and enable states to revoke driver's and professional licenses for parents who owe delinquent child support.

"Families First." Under a new "Family First" policy, families no longer receiving assistance will have priority in the distribution of child support arrears. This new policy will bring families who have left welfare for work about $1 billion in support over the first six years.

Access and visitation programs. In an effort to increase noncustodial parents' involvement in their children's lives, the new law includes grants to help states establish programs that support and facilitate noncustodial parents' visitation with and access to their children.

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**PARTNERSHIP AGREEMENT BETWEEN
THE OFFICE OF CHILD SUPPORT ENFORCEMENT
(CENTRAL AND REGIONAL OFFICES) AND
THE NATIONAL COUNCIL OF STATE CHILD
SUPPORT ENFORCEMENT ADMINISTRATORS (NCSCSEA)**

Purpose

This agreement is intended to strengthen the working relationships among the State and Federal IV-D partners to achieve the goals of the National Child Support Enforcement Strategic Plan through more effective collaboration and constructive change. This agreement incorporates by reference the National Child Support Enforcement Strategic Plan.

Background

Substantial progress has been made in establishing paternity and obtaining support for children and families. The partners acknowledge that more progress is needed. To this end, the partners commit to improved communication and collaboration, a trusting and respectful relationship and a renewed commitment to actions in support of each other in accomplishing their shared goals.

The partners are committed to changing their relationship from one that emphasized monitoring, compliance, and sanctions to one that emphasizes outcomes, technical assistance, service and recognition. The partners recognize they are dependent on one another for their success.

Commitments

Partners commit themselves to work together to achieve their shared goals. The partners pledge to:

- Negotiate and enter into State-specific Performance Partnership Agreements between individual States and Regional Offices to accomplish the goals of the program and the National Child Support Enforcement Strategic Plan;
- Be flexible in working toward shared goals;
- Understand and respect the different roles, responsibilities and perspectives of the partners, with recognition of their respective external influences and limitations;
- Identify and work to remove barriers to achievement of shared goals; and
- Determine processes by which issues will be identified, work groups appointed and recommendations reported.

Partners to Agreement

Deputy Director, OCSE

JAN 9 1997

President, NCSCSEA

JAN 2 1997

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

JAN 30 1997

The Honorable Fob James, Jr.
Governor of Alabama
Montgomery, AL 36104

Dear Governor James:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) provides up to $10 million annually for grants to the states for access and visitation programs. The authority contained in Title III, Subtitle I - Enhancing Responsibility and Opportunity for Non-Residential Parents (which adds Section 469B to the Social Security Act) presents an opportunity to address problems that have caused much pain and suffering for parents and children alike.

The statutory language contains very general guidance for states on what are considered appropriate activities to be carried out with the grant funds. The grants are "to enable states to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children." Eligible activities include but are not limited to mediation, counseling, education, development of parenting plans, visitation enforcement, and development of guidelines for visitation and alternative custody arrangements.

The amount of the grant for each state for a fiscal year will be an amount equal to the lesser of 90 percent of State expenditures during the fiscal year for eligible activities or an allotment. The allotment formula derives from the ratio of the number of children in the state living with only one biological parent in relation to the total number of such children in all states. The amount of the allotment available to the state will exhibit this same ratio to $10,000,000. The Administration for Children and Families (ACF) will adjust the allotments to ensure that there is a minimum allotment amount of $50,000 per state for federal fiscal year 1997.

The ACF is charged with the responsibility of issuing regulations setting forth how states "shall monitor, evaluate, and report on such programs." Within ACF, program administration will reside with the Office of Child Support Enforcement.

States have considerable flexibility in determining appropriate administrative arrangements. The grants may be used to create or enhance state-run programs or to fund grants or contracts with courts, local public agencies, or nonprofit private entities. Programs do not have to operate statewide.

As a first step, we ask that you designate a single state agency with whom we will interact on a continuing basis in launching and carrying out this new responsibility. Again, the choice of agency is a matter within your discretion. Your selection and the name and title of an appropriate official within the designated agency should be communicated in writing at your earliest convenience to David Gray Ross, Deputy Director of our Office of Child Support Enforcement at 901 D street SW, 4th Floor Washington D.C. 20447.

We look forward to fashioning a partnership in this new program, a program with the potential to positively impact the lives of children and their parents. If any questions should arise, they may be directed to Judge Ross at 202-401-9370.

Sincerely,

Donna E. Shalala

IMMIGRATION ISSUES

Contacts:

Implementation Guidance Website
http://www.acf.dhhs.gov/news/welfare/wrpack.htm

Immigration and Naturalization Service
hhtp://www.usdoj.gov/ins/hqopp/welfare/index.html

Summary of Immigrant Provisions

(*Personal Responsibility and Work Opportunity Reconciliation Act*, Title IV, ["Welfare Reform" P.L. 104-193], as amended by the *Illegal Immigration Reform and Immigrant Responsibility Act* ["Immigration Law" P.L. 104-208])

General: The new Welfare statute seeks to restrict access to programs by legal immigrants and deny access by undocumented immigrants to most government funded programs.

I. "Qualified Aliens" - immigrants defined as "qualified aliens" are eligible for most federal public benefits except SSI and Food Stamps (see below).

Qualified aliens include (sec 431):

- Legal Permanent Residents
- Asylees
- Refugees
- Parolees
- Aliens whose deportations are being withheld
- Aliens granted conditional entry
- Battered alien spouses, battered alien children, and the alien parents of battered children who fit certain criteria. (Added by Immigration bill)

II. Aliens who are "not qualified" aliens are ineligible for federal public benefits

A. Examples of aliens who are not qualified are:

1. **Nonimmigrants (temporary residents)** -- individuals here on time-limited visas to work, study, or travel.

2. **Undocumented immigrants**--Individuals who entered as temporary residents and overstayed their visas, or are engaged in activities forbidden by their visa, or who entered without a visa.

3. **Others**--Individuals who are given temporary administrative statuses (e.g. stay of deportation, voluntary departure) until they can formalize permanent status.

B. All aliens, including those who are "Non-qualified" are eligible for certain excepted programs (Sec 401) such as:

- Emergency Medical assistance under Medicaid, if would otherwise qualify
- Short term, non-cash, in kind emergency relief.
- Public health assistance for immunizations, testing and treatment of symptoms of communicable diseases, but not to include Title 19.
- Programs, services, assistance as specified by the Attorney General, which
  --deliver in kind services at the community level
  --do not condition provision of assistance, amount of assistance, or the cost of assistance provided on the recipient's income or resources
  --are necessary for the protection of life or safety.
- Housing, other HUD assistance if alien is already receiving on date of enactment.

III. "Federal public benefits" (sect 401) - While the statue includes a definition, the conference language indicates a more limited definition may be possible. The decision on this definition is pending. The statute defines "federal public benefits" as:

A. Federally provided or funded grant, contract, loan, professional or commercial license and

B. any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by a federal agency of federally appropriated funds.

IV. "Qualified Aliens" - are ineligible for specified federal programs.

A. SSI and Food Stamps - Most "qualified aliens" (see exceptions below) are banned from receiving SSI & Food Stamps (Sec 402 (a))

SSI: Current recipients will have their eligibility redetermined & ended within year of enactment; new applicants are ineligible.

Food Stamps: For current recipients, eligibility redetermination to happen at recertification, not before April 1, 1997 but within year of enactment; new applicants are ineligible.

B. Five year ban on federal means-tested benefits for "qualified aliens" entering after enactment (Sec 403)

"Federal means-tested benefits" are not defined in the statute. The definition of "federal means-tested benefits" is pending but we expect a narrow definition. However, the statute does list the programs that are not considered to be among them (see below).

1. Five year ban does not apply to the excepted programs listed above (Sec 401), plus:

- School lunch
- Child nutrition programs
- Payments for foster care and adoption assistance
- Student assistance
- Means-tested Elementary and Secondary Education Assistance (ESEA) programs
- Head Start
- Job Training
- Refugee and entrant assistance activities for Cuban and Haitian entrants/parolees (parolees are qualified aliens but otherwise subject to the five year ban).

C. Exceptions to bans (SSI/Food Stamp, and 5-year) and to state flexibility: the following groups are allowed access to federal and state benefit programs;

- **Refugees and Asylees**, for 5 years from entry only.

- **Veterans, members of the military on active duty**, and their spouses and dependent children.

- Those who have worked **40 qualifying quarters** without receiving federal means-tested public benefit during any such quarter beginning after 12/31/96. Quarters worked by parents when the alien was a child, or by a spouse while married, may be counted towards the 40 (NOTE: This exception does not apply to 5-year ban).

D. States can decide eligibility of "qualified aliens" for TANF, Social Services Block Grant (Title XX), and Medicaid (Sec 402 (b))

V. Access to state and local programs for aliens (Sec 411) - States have authority to determine immigrants eligibility for state and local programs, with some conditions.

- **Undocumented immigrants are not eligible for state/local benefits** unless the state passes a new law after 8/22/96 affirmatively making them eligible. No legislation is required to retain access for non-immigrants to state and local benefits. (Sec 411(a))

- **States may restrict the eligibility of qualified aliens, non-immigrants and certain parolees. They may not restrict eligibility for the refugees, veterans, and those who have earned 40 quarters (Sec 412).** States may not deny access by any alien to state or local benefits that meet the definition of excepted services described in Sec 401b (Sec 411(b))

VI. Verification - Within 18 months, **the Attorney General must promulgate regulations requiring verification** that a person applying for a Federal public benefit is a qualified alien and is eligible to receive such benefit. States must have a verification system in place 24 months after the regulations are promulgated for federal benefits they administer (Sec. 432(a)(1)). In addition, the Attorney General, in consultation with DHHS, must issue procedures for applicants to provide proof of citizenship status in a fair and nondiscriminatory manner (Sec 432(a)(2). We expect the Department of Justice to provide interim guidance on verification soon (matter of weeks).

Exemption - Nonprofit charitable organizations are exempt from any requirement to determine, verify or otherwise require proof of alien eligibility or status (Sec 432d).

VII. Affidavits of Support and Attribution of Income (Deeming) - Prior to the new welfare statute, affidavits of support signed for sponsored immigrants were not legally enforceable and time-limited "deeming" of sponsor income occurred in only three programs: SSI, Food Stamps, and AFDC.

A. Affidavit of support - The affidavit must be legally enforceable against the sponsor by the alien and federal and state governments which provide any means-tested benefits, but not later than 10 years after an alien last receives such benefit. The affidavit is enforceable until citizenship or until 40 quarters are earned.

A. **Affidavit of support** - Continued

1. **The Attorney General must develop in consultation with DHHS the affidavit within 90 days of enactment of the Immigration law.** The requirements for a sponsor's affidavit of support shall apply to affidavits executed beginning 60-90 days after the form is formulated by the Attorney General. (Sec. 423(a)).

2. **"Nongovernmental" entities, Federal, state or local governments "shall request" reimbursement from the sponsor** for amount of any non-exempted means-tested public assistance an alien has received. Action may be brought for non-payment anytime within 10 years from receipt of benefit. No reimbursement is required for the excepted services listed in 403(c).

3. **Sponsors must notify the Attorney General and the state of residence of the sponsored immigrant of any address changes of the sponsor** (Sec 423(a)).

B. Sponsorship Requirements - With some exceptions, sponsors must now have an income of at least 125 percent of federal poverty to sponsor an immigrant (previously 100 percent). All family-based immigrants must be "sponsored," meaning that a family member must have signed an affidavit stating that they will provide the assistance necessary to maintain the immigrant at an annual income at least 125 percent of the federal poverty line.

C. Deeming - Under welfare reform, when determining eligibility for federal means tested public benefits (not defined in the statute), the income and resources of the sponsor and sponsor's spouse who executed a new affidavit of support shall be "deemed" available to the sponsored immigrant (Sec 421). Programs specifically excepted from the five year ban (Sec 403(c)) are also excepted from deeming.

1. **These new deeming** rules only apply to immigrants who who have executed the new, legally binding affidavits. The new deeming period extends until citizenship, or until an immigrant has earned the 40 qualifying quarters. However, most aliens will be barred from eligibility anyway due to the 5-year ban on receipt of federal means tested benefits. Over the next 5 years, deeming may only apply to aliens who have executed the new affidavits of support and who are exempt from the 5-year bar, such as veterans, active military and their families.

2. **New indigency and battered spouse and children exceptions to deeming requirement**; under the Immigration law amendments, deeming does not apply to certain battered immigrants; furthermore, if an alien would be unable to obtain food and shelter without assistance, then only the amount of income and resources of the sponsor or the sponsor's spouse actually provided will be attributed to the sponsored alien. (Sec. 421 (e),(f))

C. Deeming - Continued

3. **States are authorized to deem for their public benefits.** States had not been allowed to deem prior to passage of the new welfare statute. Some programs are exempted from state deeming: certain emergency medical, emergency disaster, programs comparable to assistance provided under the school lunch act and the child nutrition act, public health assistance for immunizations, testing and treatment of symptoms of communicable diseases, foster care and adoption, other programs as specified by the Attorney General of a State (Sec. 422).

VII. Other Provisions:

Communication between state and local agencies and the INS: no prohibitions are allowed on states or local governments regarding their ability to send or receive information from INS regarding immigration status of an alien (Sec.434).

Reporting of Illegal Immigrants: States receiving TANF block grants, the Social Security Administration, the Department of Housing and Urban Development and Housing Authorities must report quarterly to INS aliens they know are "unlawfully" in the U.S. (Sec 404).

January 30, 1997
immout1.30

THE WHITE HOUSE

WASHINGTON

August 22, 1996

MEMORANDUM FOR THE ATTORNEY GENERAL
THE SECRETARY OF HEALTH AND HUMAN SERVICES
AND OTHER HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Naturalization

Citizenship is the cornerstone of full participation in our democracy. To become a United States citizen through naturalization represents a pledge to undertake the responsibilities of being a full member of our national community.

Naturalization is the best example of our legal immigration system at work. It reflects our society's recognition of those who came to this country to work hard, play by the rules, and pursue shared ideals of freedom, opportunity, and responsibility.

In the past, hundreds of thousands of eligible people have had to wait unnecessarily to become citizens. In some parts of the country, these people have had to wait well over a year after filing their application to realize their dream of United States citizenship.

This Administration is committed to eliminating the waiting lists of those eligible for citizenship. To accomplish this, we launched "Citizenship U.S.A.," the most ambitious citizenship effort in history. In fiscal year 1996, the Immigration and Naturalization Service (INS) will spend more than $165 million for naturalization.

Citizenship U.S.A. combines three broad strategies: hiring more people to handle applications, improving the naturalization process, and expanding partnerships with local officials and community organizations.

We are already making progress. We have increased the staff 235 percent in the five districts with 75 percent of the pending applications: Los Angeles, New York, Miami, San Francisco, and Chicago. In Los Angeles, where one-fourth of all new applications are filed, we have opened three new processing centers and have more than quadrupled the number of INS officers handling citizenship applications.

But this is just the beginning. This Administration's target is to process and swear-in within 6 months of application all individuals eligible for citizenship. As we meet this target, more than one million newcomers will become citizens by the end of this year. After that, INS shall maintain those reforms necessary to stay current with the demand of new citizen applicants.

Using all of the tools at your disposal, I ask you to ensure that policies and practices necessary to accomplish these targets of one million new citizens sworn-in and the elimination of the waiting list are implemented. This includes continuing, expanding or accelerating, as appropriate and practicable, the following:

1) New Hires. Hiring, training, and deployment of full staff to assist naturalization efforts should proceed to completion as quickly as possible.

2) Cutting Red Tape. This includes: establishing electronic filing and mailing-in of citizenship applications, extended weekday hours and Saturday interviews, further expansion of processing facilities, and improvements to make it easier for people to obtain forms and get immigration information by telephone or computer.

3) Working with Local Officials and Community-Based Groups. We are working in partnership with local officials and community groups to expand outreach. I direct you to expand these efforts to help get naturalization information to people, assist them in filling out applications, offer more local sites for interviews, especially for the elderly and the homebound, and seek other means to jointly facilitate the process. We also will work to expand the availability of local hotlines providing naturalization information.

4) English Training. To assist legal immigrants to move toward citizenship, I request relevant agencies to work with the Domestic Policy Council, the National Economic Council, and other White House offices to present to me by December 30, 1996, a report making recommendations with respect to public/private efforts to teach English to those needing to improve their English-language skills. This report should consider possible roles by private companies, educational institutions, unions, community organizations, and the AmeriCorp program to accomplish this goal.

5) Interagency Outreach. I direct each executive department and agency to take steps to promote naturalization outreach consistent with your agency's mission. In particular, in materials sent to welfare recipients concerning eligibility, I direct that, to the extent authorized by law, you include naturalization information.

6) Refugees and Asylees. Those who flee persecution and suffering in their home country are often in the weakest position to acquire the skills they need to enter the job market, maintain self-sufficiency, and achieve U.S. citizenship. I direct the Secretary of Health and Human Services, in conjunction with other agencies as appropriate, to present to me by December 30, 1996, through the Domestic Policy Council, a report setting out a strategy of additional steps that we can take to promote social adjustment in the United States, economic self-sufficiency, and naturalization.

In taking these steps, this Administration shall maintain and strengthen the standards and requirements of the naturalization test that demonstrate an individual's readiness to accept the responsibilities of citizenship and full participation in our national community. You are directed to continue vigilant oversight to uphold these standards.

Hundreds of thousands of people are seeking the dream and the promise of American citizenship. They have worked to become United States citizens, and these steps should ensure that they are not made to wait unnecessarily.

William J. Clinton

THE WHITE HOUSE

WASHINGTON

August 22, 1996

MEMORANDUM FOR THE SECRETARY OF AGRICULTURE

SUBJECT: Eligibility of Aliens for Food Stamps

Under the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which today I signed into law, aliens receiving food stamps as of the date of enactment will continue to receive benefits until recertification of their eligibility, which shall take place not more than 1 year after enactment of the law. The results of the certification, including decisions as to an individual's immigration classification, veteran status, or work history, will determine whether the individual remains eligible for benefits under the Food Stamp program. Implementation of these new procedures will pose a substantial challenge for all involved Federal and State agencies.

To ensure that eligibility determinations are made fairly, accurately, and effectively, I direct you to take the steps necessary under your authority to permit the State agencies to extend the certification periods of currently participating aliens, provided that no certification period is extended to longer than 12 months, or up to 24 months if all adult household members are elderly or disabled, and provided that in no event shall certifications be extended beyond August 22, 1997.

I further direct you to notify the States of the actions you have taken.

William J. Clinton

BILLING CODE: 4410-01

DEPARTMENT OF JUSTICE

[AG Order No.]

Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation

AGENCY: Department of Justice.

ACTION: Notice.

EFFECTIVE DATE: August 23, 1996.

FOR FURTHER INFORMATION OR TO PROVIDE COMMENT CONTACT: Lisalyn R. Jacobs, Counsel, Office of Policy Development, Department of Justice, 10th Street & Constitution Avenue, N.W., Washington, D.C. 20530, telephone (202) 514-9114.

SUPPLEMENTARY INFORMATION:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, H.R. 3734, which the President signed on August 22, 1996, vests in the Attorney General the authority to designate the kinds of government-funded community programs, services or assistance that are necessary for protection of life or safety and for which all aliens will continue to be eligible. This Order implements that authority.

Background

Section 401 provides a new rule that an alien who is not a "qualified alien," as defined in § 431 of the Act, is not eligible for any "Federal public benefit" -- which, in general, means

(a) any grant, contract, loan, professional license or commercial license provided by a federal agency or through appropriated federal funds; or

(b) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit or any other similar benefit for which payments or assistance are provided to individuals, households or families by a federal agency or through appropriated federal funds.

Section 411 also makes certain non-qualified aliens ineligible for state and local public benefits unless the state enacts new legislation after August 22, 1996 that affirmatively provides for such eligibility. In addition, § 403 of the Act makes qualified aliens ineligible for specific means-tested federal benefit programs for a five-year period after their entry into the United States as a qualified alien.

In addition to certain statutory exceptions, the Act authorizes the Attorney General to establish limited exceptions to these provisions for the following kinds of benefits:

> Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

This authority appears in several places in the Act, including: § 401(b)(1)(D), with respect to federal public benefits; § 403(c)(2)(G), with respect to the five-year limited eligibility for federal means-tested public benefits; and § 411(b)(4), with respect to state and local public benefits. (This authority also appears in § 423(d)(7) in the context of new requirements with regard to individuals who execute an affidavit of support on behalf of a sponsored alien.)

Attorney General Review

As required by the statute, the Department of Justice has conducted preliminary consultations with other federal agencies regarding the scope and interpretation of these provisions and their proper application. Given the great variety of federal, state and local programs conducted or supported at the community level, including those administered by private non-profit organizations, and the limited time available, the Department's consultation process is still ongoing. At my direction, the Department is seeking additional, more specific recommendations from all appropriate federal agencies, from representatives of state and local governments, and from the public.

Given the immediate effective date of provisions of the Act, I have decided to provide a "provisional specification" of programs, services and assistance that will be exempt from the limitations on alien eligibility discussed above, based upon preliminary consultations with appropriate federal agencies and departments. This "provisional specification" is effective

immediately and will continue in effect pending adoption of a revised specification, if necessary, after further consultations. Should ongoing consultations indicate that further refinements in this specification are appropriate under the Act, I will revise it accordingly.

Specification

Therefore, by virtue of the authority vested in me as Attorney General by law, including Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, I hereby specify that:

1. I do not construe the Act to preclude aliens from receiving police, fire, ambulance, transportation (including paratransit), sanitation, and other regular, widely available services and, for that reason, I am not making specifications of such programs, services or assistance. It is not the purpose of this Order, however, to define more specifically the scope of the public benefits that Congress intended to deny certain aliens either altogether or absent my specification and nothing herein should be so construed.

2. The government-funded programs, services or assistance specified in this Order are those that: deliver in-kind (non-cash) services at the community level, including through public or private non-profit agencies or organizations; serve purposes of the type described in paragraph 3, below, for the protection of life and safety; and do not condition the

assistance according to the individual recipient's income or resources, as discussed in paragraph 4, below.

3. Included within the specified programs, services or assistance determined to be necessary for the protection of life and safety are:

(a) Crisis counseling and intervention programs, services and assistance relating to child protection, adult protective services, violence and abuse prevention, victims of domestic violence or other criminal activity, or treatment of mental illness or substance abuse;

(b) Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused or abandoned children;

(c) Programs, services or assistance to help individuals during periods of heat, cold, or other adverse weather conditions;

(d) Soup kitchens, community food banks, senior nutrition programs such as meals on wheels, and other such community nutritional services for persons requiring special assistance;

(e) Medical and public health services (including treatment and prevention of diseases and injuries) and mental health, disability or substance abuse assistance necessary to protect life or safety;

(f) Activities designed to protect the life and safety of workers, children and youths, or community residents; and

(g) Any other programs, services, or assistance necessary for the protection of life or safety.

4. The community-based programs, services or assistance specified in paragraphs 2 and 3 of this Order are limited to those that provide in-kind (non-cash) benefits and are open to individuals needing or desiring to participate without regard to income or resources. Programs, services or assistance delivered at the community level, even if they serve purposes of the type described in paragraph 3 above, are not within this specification

if they condition (a) the provision of assistance, (b) the amount of assistance provided, or (c) the cost of the assistance provided on the individual recipient's income or resources.

August 23, 1996
Date

Janet Reno,
Attorney General

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release August 23, 1995

STATEMENT BY THE PRESS SECRETARY

As the President has said, the welfare reform bill he signed into law yesterday offers a historic opportunity to end welfare as we know it and replace it with a system that offers hope, demands responsibility, and rewards work.

However, as the President has also said, the welfare reform bill contains provisions that will cause unfair and unwarranted harm to many families. That is especially true of legal immigrant families, who have followed the rules, worked, and paid taxes, and who have suffered a calamity that has forced them to seek assistance.

The President has vowed to repair these provisions of the bill. In the meantime, however, he is determined to ensure that they are implemented carefully, and that no individuals not actually covered by these provisions are improperly denied the benefits they and their children need.

For that reason, the President has today issued two directives to ensure that legal immigrants and their children who remain eligible for benefits under the new law do not have those benefits cut off mistakenly, and that legal immigrants who are eligible to become citizens can do so as quickly as possible.

The first measure directs the Secretary of Agriculture to ensure that States have the maximum time allowed under the law to make sure that legal immigrants who remain eligible for food stamp benefits continue to receive them. The Secretary is to grant a waiver allowing any state, subject to certain legal restrictions, to extend the certification periods for eligibility for food stamps that apply to legal immigrants receiving assistance. The extension will give States time to develop the procedures needed to make accurate determinations of the many facts -- such as immigration classification, veteran status, or work history -- that the new law makes relevant to eligibility. In this way, the directive will decrease inaccurate or inequitable decisions to cut off food stamp benefits.

Under the terms of the new law, benefits to legal immigrants and their children are cut off only at the time of recertification of their eligibility for food stamps. When a State extends the certification period, it will, in effect, push back the date on which a legal immigrant will be deprived of food stamp benefits.

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The waiver has specific time limits. Under current law, the Secretary may not allow states to extend certification periods beyond one year for most aliens or two years for certain elderly or disabled aliens. For states that already use that maximum certification period, the waiver will not have a significant impact. For those that have shorter periods, however, the waiver will permit extensions to a full year or 24 months. The Department, however, may not allow states to extend any recertification beyond August 22, 1997.

The second measure directs the Attorney General, the Secretary of Health and Human Services, and other agency heads to make continued efforts to reduce bureaucratic delays in the citizenship process for legal immigrants applying to become citizens. The INS already has made great progress in this area, devoting more resources to processing naturalization applications and reducing long waiting lists. This directive instructs the Attorney General to continue to increase staff used to review citizenship applications and to develop other effective means, including joint efforts with community groups, of assisting applicants for citizenship.

In addition, the directive instructs the heads of all relevant agencies to develop public/private partnerships devoted to providing English-language training to applicants for citizenship; make outreach efforts to those wishing to become citizens; and provide special assistance to refugees and those seeking asylum.

Also today, the Attorney General, under authority granted by the welfare reform law, will issue a memorandum containing a provisional list of non-cash services not conditioned on income or resources that may not be denied to immigrants, because they are "necessary for the protection of life and safety." These services include soup kitchens, medical services, child protection, and services for victims of domestic violence. The Attorney General may amend the list at a later date. Additional information is available at the Justice Department from Myron Marlin, (202) 616-2765.

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SUPPLEMENTAL SECURITY INCOME (SSI)

Contacts:

Implementation Guidance Website
http://www.acf.dhhs.gov/news/welfare/wrpack.htm

Social Security Administration
http://www.ssa.gov/welfare/welfare.html

Social Security Hotline
(800) 772-1213

WELFARE REFORM
SOCIAL SECURITY ADMINISTRATION

THE PRESIDENT SIGNS H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

August 22, 1996

Today President Clinton signed into law H.R. 3734, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The legislation was approved by the House on July 31, 1996 and by Senate on August 1, 1996.

The bill includes the following provisions of interest to SSA:

LIMITED ELIGIBILITY OF NONCITIZENS

Social Security Benefits

Prohibits the payment of Social Security benefits to any noncitizen in the U.S. who is not lawfully present in the U.S. (as determined by the Attorney General), unless the payment is made pursuant to a totalization agreement or treaty obligation.

Effective for benefits based on applications filed after the month of enactment.

SSI BENEFITS

Prohibits SSI eligibility for all noncitizens except:

- refugees (eligibility limited to the 5-year period after their arrival in the United States);
- asylees (eligibility limited to the 5-year period after the date they are granted asylum);
- noncitizens who have had deportation withheld under INA-section 243(h) (eligibility limited to the 5-year period after the date their deportations are withheld);
- certain active duty Armed Forces personnel, honorably discharged veterans, and their spouses and dependent children;
- lawful permanent residents who have earned 40 quarters of coverage for Social Security purposes. An individual under age of 18 would be credited with all quarters of coverage earned by his or her parent, and a married individual (including widow(er)) would be credited with all quarters of coverage earned by his or her spouse during the marriage. However, for quarters earned after December 31, 1996, a quarter would not count as one of the required 40 if the noncitizen or person whose quarters are being credited to the noncitizen received federally funded public assistance during the quarter the work was done.

Effective upon enactment. However, with regard to individuals on the SSI rolls at the time of enactment, requires the Commissioner to redetermine the eligibility of all noncitizens who do not meet the new eligibility categories within 1 year after enactment. If a noncitizen is not in one of the new categories, his or her eligibility would end as of the date of the redetermination. Requires the Commissioner to notify all potentially affected beneficiaries on the SSI rolls of the provision by 3/31/97.

Deeming of Sponsors' Incomes and Resources

For purposes of eligibility under SSI, deems all of the sponsors' (and sponsors' spouses') incomes and resources to the noncitizen until citizenship with the following exception:

Deeming would end before citizenship in the case of lawful permanent residents who earn 40 quarters of coverage. Deeming for children and spouses of workers also could end before citizenship if they are credited with 40 quarters, i.e., an individual under age of 18 would be credited with all quarters of coverage earned by his or her parent, and a married individual (including widow(er)) would be credited with all quarters of coverage earned by his or her spouse during the marriage. However, for quarters earned after December 31, 1996, a quarter would not count as one of the required 40 if the noncitizen or person whose quarters are being credited to the noncitizen received federally funded public assistance during the quarter the work was done.

Effective for sponsored noncitizens who are admitted into the country under new, legally enforceable affidavits of support.

Requirements for Affidavits of Support for Sponsorship

- Makes affidavits of support legally enforceable against the sponsor until the noncitizen becomes a U.S. citizen. The affidavit would be enforceable for a period of 10 years after the noncitizen last received public assistance benefits, including SSI.
- Requires the agency that provides assistance to a noncitizen to request reimbursement from the sponsor for the assistance it provided. If the sponsor does not respond or is unwilling to make reimbursement within 45 days after the agency's request, the agency may take legal action against the sponsor. Would allow the agency to hire individuals to collect reimbursement.
- Requires the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, to develop a standard affidavit of support within 90 days after the date of enactment. Also would require--effective with a date specified by the Attorney General which would be no earlier than 60 and no later than 90 days after development of the standard affidavit--that all newly signed affidavits be legally enforceable.

Reports to INS

Requires the Commissioner to furnish the name, address, and other identifying information to INS of any individual that SSA knows is unlawfully in the United States. Such reports would be required at least four times a year. Also requires the Commissioner to ensure that State supplementary program agreements with States include provisions for the State also to furnish such information.

Effective upon enactment.

CHILDHOOD DISABILITY

SSI Eligibility Based on Childhood Disability

- Eliminates the comparable severity standard and provides instead that a child under age 18 would be considered under a disability if he/she has a medically determinable impairment which results in marked and severe functional limitations and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.
- Directs SSA to eliminate references to maladaptive behavior in the domain of personal/behavioral function in the Listing of Impairments for children and to discontinue the use of an individualized functional assessment in evaluating a child's disability.

These provisions would be applicable to any individual who applies for SSI disability benefits, or whose claim is finally adjudicated, on or after the date of enactment, without regard to whether implementing regulations have been issued.

Current Recipients

- Requires SSA to notify recipients eligible for SSI disability benefits on enactment date and whose eligibility may be affected by the new childhood disability eligibility criteria, no later than January 1, 1997.
- Requires SSA to redetermine the eligibility of such recipients, using the new childhood disability eligibility criteria no later than 1 year after the date of enactment.

Benefits for those recipients who do not meet the new childhood disability eligibility criteria would terminate for the month beginning on or after the later of July 1, 1997 or the date of the redetermination.

Eligibility Redeterminations and Continuing Disability reviews (CDRs)

- Requires CDRs:
  - once every 3 years for recipients under age 18 with non-permanent impairments; and
  - not later than 12 months after birth for low-birth weight babies.
- Requires the representative payee of a recipient whose continuing eligibility is being reviewed to present evidence that the recipient is receiving treatment which is considered medically necessary and available, unless SSA determines that such treatment would be inappropriate or unnecessary. If the representative payee refuses, without good cause, to cooperate, SSA may change the payee.
- Requires an eligibility redetermination, using the adult initial eligibility criteria, during the 1-year period beginning on a recipient's 18th birthday.

  Applies to benefits for months beginning on or after the date of enactment, without regard to whether implementing regulations have been issued.
- Repeals the present law requirement in the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296) that SSA (1) redetermine, using the adult eligibility criteria, the eligibility of one-third of the recipients who attain age 18 in or after May 1995 in each of fiscal years 1996 through 1998 and (2) submit a report regarding these reviews to the House Committee on Ways and Means and the Senate Committee on Finance not later than October 1, 1998.

Medical Improvement Review Standard

Makes conforming changes in the medical improvement review standard to reflect the new definition of disability for children who file for SSI benefits.

Applicable with respect to benefits for months beginning on or after the date of enactment,

without regard to whether implementing regulations have been issued.

Funding

Authorizes the appropriation of an additional $150 million in fiscal year 1997 and $100 million in fiscal year 1998 for the costs of processing CDRs and redeterminations.

Regulations

- Requires SSA to issue regulations implementing the changes relating to benefits for disabled children within 3 months after enactment date.
- Directs SSA to submit all final regulations pertaining to a child's eligibility for SSI disability benefits to the Congress at least 45 days before such regulations become effective.

Reports

- Requires SSA to report to the Congress, not later than 180 days following the date of enactment, on its progress in implementing the changes in the SSI disabled children's provisions.
- Requires GAO, not later than January 1, 1999, to study and report on the impact of the changes made by this Act on the SSI program and the extra expenses incurred by families of children receiving SSI benefits that are not covered by other Federal, State, or local programs.

OTHER SSI CHANGES

Prisoner Reporting

- Provides for incentive payments from SSI program funds to State and local penal institutions for furnishing information (date of confinement and certain identifying information) to SSA which results in suspension of SSI benefits ($400 for information received within 30 days of confinement or $200 for information received from 31 to 90 days after confinement).

- Applies to individuals whose period of confinement commences on or after the first day of the seventh month beginning after the month of enactment.
- Exempts SSI reporting agreements under which incentive payments are made from the Computer Matching and Privacy Protection Act of 1988.
- Requires the Commissioner to study and report to Congress (within 1 year of enactment) on the feasibility of prisoner reporting by courts and mandatory electronic reporting by correctional facilities for purposes of carrying out the suspension of benefits under the SSI program.
- Requires SSA to provide Congress (not later than October 1, 1998) with a list of the institutions that are, and are not, providing information on SSI recipients to SSA.
- Authorizes SSA to provide, on a reimbursable basis, information obtained pursuant to SSI reporting agreements under which incentive payments are made to any Federal or Federally-assisted cash, food, or medical assistance program for eligibility purposes.

Modify the Effective Date of Applications

- Provides that an individual's application for SSI benefits would be effective on the first day of the month following the date on which the application is filed, or on which the individual first becomes eligible, whichever is later. The amendment, in effect, eliminates prorated payments for the month of application.
- Permits the issuance of an emergency advance payment to an individual who is

presumptively eligible and has a financial emergency in the month the application is filed (the month prior to the first month of eligibility).
- Requires that the emergency advance payment be repaid through proportional reductions in benefits payable over a period of not more than 6 months.

Effective for applications filed on or after the date of enactment.

Reduction in Cash Benefits Payable to Institutionalized Individuals Whose Medical Costs are Covered by Private Insurance

Limits to not more than $30 a month cash benefits payable to children who are in an institution receiving medical care covered by private insurance.

Effective with respect to benefits for months beginning 90 or more days after the date of enactment.

Installment Payments of Large Past-Due SSI Payments

- Establishes a schedule for paying retroactive SSI benefit amounts that exceed 12 times the monthly FBR plus the monthly State supplement level. Payments would be made at six-month intervals.
  - The first installment would be 12 times the FBR ($5,640 based on 1996 rates) plus any Federally administered State supplement.
  - Any remaining retroactive benefits would be paid in a second installment (not to exceed the first payment amount).
  - All remaining retroactive benefits would be paid in the third installment.
- Provides that where an underpaid individual has incurred debts to provide for food, clothing or shelter, has expenses for disability-related items and services that exceed the installment limit, or has entered into a contract to purchase a home, the installment payment would be increased by the amount needed to cover these debts, expenses, and obligations.
- Provides that full retroactive payments be paid to an individual who is terminally ill or, if currently ineligible, is likely to remain so for the next 12 months.

Effective with respect to past-due benefits payable after the third month following the month of enactment.

Dedicated Savings Accounts

- Requires the establishment of a bank account to maintain retroactive SSI benefits that exceed 6 times the FBR for disabled/blind children (smaller amounts may be placed in such accounts once established).
- Allows funds to be used for:
  - education or job skill training.
  - personal needs assistance.
  - special equipment or housing modifications.
  - medical treatment, therapy or rehabilitation.
  - other items or services SSA determines appropriate.
- Requires that expenditures must be for expenses related to the impairment of the child.
- Provides that unauthorized expenditures constitute misapplication of benefits and are recoverable from the payee.
- Requires SSA to establish an accountability system to monitor these accounts and payees are required to report on the use of these funds.
- Provides that accounts are excluded from resource counting and that interest earned is excluded from income.

Effective with respect to payments made after the date of enactment.

Denial of Benefits for Fugitive Felons and Parole Violators/Exchange of Information with Law Enforcement Officers

- Denies eligibility for SSI with respect to any month in which an individual is fleeing prosecution, a fugitive felon, or violating a condition of probation or parole imposed under State or Federal law.
- Requires SSA to provide upon written request of any law enforcement officer, the current address, SSN, and photograph of any SSI recipient, provided that the request includes the name of the recipient and other identifying information and notifies SSA that the recipient:
  - is fleeing to avoid prosecution, or custody or confinement after a felony conviction;
  - is violating a condition of probation or parole; or
  - has information that is necessary for the officer to conduct the officer's official duties and the location or apprehension of the recipient is within the officer's official duties.

Effective upon enactment.

Denial of SSI Benefits for 10 Years to Individuals Who Have Misrepresented Residence in Order to Obtain Benefits in 2 or More States

Denies SSI benefits for a period of 10 years to an individual convicted in Federal or State court of having made a fraudulent statement with respect to his or her place of residence in order to receive benefits simultaneously in two or more States.

Effective upon enactment.

Annual Report on the SSI Program

- Requires the Commissioner to report to the President and Congress regarding the SSI program, not later than May 30 of each year, including:
  - a comprehensive description of the program;
  - historical and current data on allowances and denials, reconsiderations, administrative law judge hearings and appeals, characteristics of recipients, and program costs;
  - historical and current data on prior enrollment by recipients in public benefit programs;
  - projections of future numbers of recipients and program costs, through at least 25 years;
  - information on redeterminations, continuing disability reviews, utilization of work incentives, administrative costs, State supplementation programs;
  - summaries of relevant research; and
  - a historical summary of statutory changes to the SSI law
- Provides that each member of the Social Security Advisory Board be permitted to include their views on the SSI program in the annual report.

Effective upon enactment.

USE OF SOCIAL SECURITY NUMBERS

Social Security Card

- Requires the Commissioner of Social Security to develop a prototype of a counterfeit-resistant Social Security card that:
  - -- is made of durable, tamper-resistant material (e.g., plastic);
  - -- employs technologies that provide security features (e.g., magnetic stripe); and
  - -- provides individuals with reliable proof of citizenship or legal resident alien status.
- Requires the Commissioner of Social Security to study and report on different methods of improving the Social Security card application process, including:
  - evaluation of the cost and workload implications of issuing a counterfeit-resistant Social Security card for all individuals over a 3-, 5-, and 10-year period;
  - -- evaluation of the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3-, 5-, and 10-year phase-in options.
- Requires the Commissioner to submit the report and a facsimile of the prototype card to the Congress within 1 year of the date of enactment.

Expansion of the Federal Parent Locator Service

Requires HHS to transmit to SSA, for verification purposes, certain information about individuals and employers maintained under the Federal Parent Locator Service in an automated directory to be known as the National Directory of New Hires. SSA would be required to verify the accuracy of, correct, or supply to the extent possible, and report to HHS the name, SSN, and birth date of individuals and the employer identification number of employers. SSA would be reimbursed by HHS for the cost of this verification service.

Effective upon enactment.

Collection and Use of SSNs for Use in Child-Support Enforcement

Provides that State child support enforcement procedures would have to require that the SSN of any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application. The SSN of any person subject to a divorce decree, support order, or paternity determination or acknowledgement would have to be placed in the pertinent records. SSN's would also have to be recorded on death certificates.

Effective upon enactment.

Earned Income Tax Credit (EITC)

o Provides that, in order to be eligible for the EITC, an individual must include on his or her tax return a Social Security number which was not assigned solely for nonwork purposes.

Effective for taxable years beginning after 1995.

WELFARE REFORM
SOCIAL SECURITY ADMINISTRATION

A New Definition Of Disability For Children

On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 changed the definition of disability for children under the Supplemental Security Income (SSI) program.

The new definition of disability for children:

- requires a child to have a physical or mental condition or conditions that be medically proven and which result in marked and severe functional limitations;
- requires that the medically proven physical or mental condition or conditions must last or be expected to last at least 12 months or be expected to result in death;
- says that a child may not be considered disabled if he or she is working at a job that we consider to be substantial work.

The new law also changes the way we consider certain behavior problems caused by a child's condition or conditions.

Some Children Who Are Now Eligible May Be Affected

Because of these changes, we may no longer consider some children disabled. The law requires us to review the cases of certain children who are now eligible for SSI to see if they are disabled under the new definition of disability for children.

What We Will Do

- We will send letters to the representative payees for these children before January 1, 1997, telling them that we expect to review their cases.
- Before the review starts, we will contact each child's representative payee for information about the child's condition.
- After we review the case, we may decide that the child is still disabled, or we may decide that he or she is not disabled because of the new law. If we find the child is not disabled because of the new law, we will stop the child's SSI. SSI will not stop before July 1, 1997, as long as the child meets all other eligibility rules.
- When we make our decision, we will send another notice to explain it. That letter will also explain the right to appeal the decision and will discuss continuation of benefits during the appeal.

If a child is getting Medicaid based on SSI, Medicaid should continue as long as he or she gets SSI. Even after SSI ends some children can qualify for Medicaid under state programs.

The Law Requires Us To Do Continuing Disability Reviews To Determine Whether Or Not The Child Is Still Disabled

The continuing disability reviews (CDRs) must be done at least every three years for recipients under age 18 whose conditions are likely to improve; and The CDRs must be done not later than 12 months after birth for babies whose disability is based on their low birth weight. We also may do CDRs for recipients under age 18 whose conditions are not likely to improve.

Representative Payees Must Provide Evidence Of Treatment

At the time we do a CDR, the representative payee must present evidence that the child is and has been receiving treatment considered medically necessary and available for his or her disabling condition. This is true in every case unless we determine that requiring such evidence would be inappropriate or unnecessary. If the child's representative payee refuses without good cause to provide such evidence when requested, we will suspend payment of benefits to the representative payee and select another representative payee if it is in the best interest of the child. Or we may pay the child directly, if he or she is old enough.

These rules apply to benefits for months beginning on or after the date of the enactment of the new law.

The Law Requires A Disability Redetermination At Age 18

Any individual who was eligible as a child in the month before he or she attained age 18 must have his or her eligibility redetermined. The redetermination will be done during the one year period beginning on the individual's 18th birthday. We will use the rules for adults filing new claims to do the redetermination.

Important Note About Children In Certain Medical Care Facilities

In addition to the new definition of disability, the new law affects children under age 18 who live, throughout an entire calendar month, in certain institutions where a private health insurance pays for their care. The monthly SSI payment for these children will be limited to $30. Previously, the $30 SSI payment limit applied only when Medicaid paid more than one half of the cost of their care.

For More Information

You can get more information 24 hours a day by calling Social Security's toll-free telephone number 1-800-772-1213. If you want to speak to a representative, you should call between the hours of 7 a.m. and 7 p.m. on Monday through Friday. Our lines are busiest early in the week and early in the month, so it's best to call at other times. Please have your Social Security number handy when you call. Our representatives can give you the address and telephone number of your local Social Security office if you would like to visit the office.

If you have a touch-tone phone, recorded information and services are available 24 hours a day, including weekends and holidays. People who are deaf or hard of hearing may call our

toll-free

"TTY" number, 1-800-325-0778, between 7 a.m. and 7 p.m. on Monday through Friday.

The Social Security Administration treats all calls confidentially--whether they're made to our toll-free numbers or to one of our offices. We also want to be sure that you receive accurate and courteous service. That is why we have a second Social Security representative monitor some incoming and outgoing telephone calls.

Social Security information is also available on the Internet at http://www.ssa.gov.

Social Security Administration
SSA Publication No. 05-11053
September 1996

Return To SSA's Welfare Reform Page

WELFARE REFORM
SOCIAL SECURITY ADMINISTRATION

Supplemental Security Income For Noncitizens

New laws change the way we pay Supplemental Security Income (SSI) benefits to noncitizens. The new laws apply to people who are already receiving SSI benefits and to people who are applying for benefits.

What The Laws Say

Under the new laws, only United States (U.S.) citizens and nationals and certain noncitizens can get SSI benefits.

Who may get SSI on or after August 22, 1996?

- Citizens or nationals of the U.S.
- Noncitizens who were already getting SSI on August 22, 1996, may continue to get benefits until we review their case (see "When Will Your Benefits Stop?" on the back of this factsheet).
- Noncitizens who have been lawfully admitted to the U.S. for permanent residence and have a total of 40 qualifying work credits.
  - Work credits earned by your spouse or parent may also count toward the 40 credits. (These work credits count for SSI eligibility, but not for Social Security benefit purposes.)
  - Work credits earned after December 31, 1996, cannot be counted if the noncitizen, spouse, or parent received certain types of federally funded benefits based on limited income and resources during that period.
- Certain noncitizens who are active duty members, or who are honorably discharged veterans, of the U.S. Armed Forces, their spouses, and unmarried dependent children.
- Certain other noncitizens may be eligible for five years after:
  - the date of admission as a refugee under Section 207 of the Immigration and Nationality Act (INA);
  - the date granted asylum under Section 208 of the INA; or
  - the date deportation is withheld under Section 243(h) of the INA.

Your local Social Security office can tell you whether you are eligible.

Proof Of Your Status Is Required

If you file a new application for SSI benefits, you must give us proof of your U.S. citizenship or noncitizen status. Noncitizens who have served in the U.S. Armed Forces may also need to give us proof of military service. Although procedures have not been finalized, here are some examples of the kind of information you may need to provide:

- As proof of citizenship a U.S. birth certificate, passport, or naturalization certificate;

- As proof of your noncitizen status an unexpired Form I-94 or I-551 from the Immigration and Naturalization Service (INS); or
- As proof of military service U.S. military discharge papers (DD Form 214) showing honorable discharge not based on your noncitizen status.

If you were receiving SSI as of August 22, 1996, you may also need to give us proof of citizenship or noncitizen status.

When Will Your Benefits Stop?

For noncitizens who are getting SSI as of August 22, 1996, the new law requires that we look at your case within 12 months to make sure that you are eligible under the new law. During February and March 1997, we will send you a letter telling you about the law and what you have to do to prove that you are in one of the eligibility categories. If you are unable to prove that you are in one of the eligibility categories, we will send you a second letter telling you when your SSI benefits will stop.

If you can receive SSI benefits for only five years because of your particular noncitizen status, we will send you a letter telling you when the five-year period ends. We will also send you a letter before we stop your benefits.

When we send you a letter about stopping your benefits, we will tell you how to appeal our decision and how to have your benefits continued during your appeal.

Information About Medicaid

If you are getting Medicaid based on your SSI, your Medicaid should continue as long as you are eligible for SSI. If we find that you are not eligible for SSI under the new law, the letter we send you about that decision will tell you more about your Medicaid.

You Can File A New Claim

If your SSI benefits stop because you are not an eligible noncitizen, you can apply again. Contact us right away if you become a U.S. citizen, your immigration status changes and you become an eligible noncitizen, or you have gained

40 qualifying work credits (because of your work and/or that of a spouse or parent). You will need to provide your naturalization certificate or other documents that show your immigration status.

If You Have A Sponsor

When you entered the U.S., you may have had someone sign an agreement to provide support for you. This agreement is called an affidavit of support and the person who signed it is called your sponsor.

If you have a sponsor, we generally will count his or her income and resources (and his/her spouse's) as your income and resources for a certain period of years from the time you arrive in the U.S.

Your local Social Security office can give you more information about these rules and how they apply in your case.

Becoming A Citizen

You can get more information about becoming a citizen by writing or visiting a local Immigration and Naturalization Service (INS) office or call 1-800-870-3676 to get an application for naturalization (N-400 Form).

For More Information About SSI

You can get more information 24 hours a day by calling Social Security's toll-free telephone number 1-800-772-1213. If you want to speak to a representative, you should call between the hours of 7 a.m. and 7 p.m. on Monday through Friday. Our lines are busiest early in the week and early in the month, so it's best to call at other times. Please have your Social Security number handy when you call. Our representatives can give you the address and telephone number of your local Social Security office if you would like to visit the office.

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DOMESTIC VIOLENCE ISSUES

Contacts:

Implementation Guidance Website
http://www.acf.dhhs.gov/news/welfare/wrpack.htm

Progress Report
on
Guidelines to States
for Implementing the Family Violence Provisions
in the New Welfare Law

U.S. Department of Health and Human Services
U. S. Department of Justice

January 3, 1997

Progress Report on
Guidelines to States
for Implementing the Family Violence Provisions
in the New Welfare Law

INTRODUCTION

The Clinton Administration has been a leader in combating the violence that continues to plague our homes and communities. The President, Vice President and members of the Cabinet have consistently and successfully used various forums to highlight the issue and to challenge states, communities and individuals to join together in putting an end to domestic violence.

This Administration has launched a number of new initiatives to improve protections for battered women and to increase the availability of desperately needed resources and services (see ATTACHMENT 1 for list of administration accomplishments). Additional activity generated by the family violence provisions in the new welfare law will build substantially on these efforts.

THE FAMILY VIOLENCE PROVISIONS IN THE NEW WELFARE LAW AND THE PRESIDENT'S DIRECTIVE OF OCTOBER 3, 1996

Signed by the President on August 22, 1996, the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PRWORA) recognizes that welfare-to-work programs must have the tools, training and flexibility to help battered women move to self-sufficiency successfully. Welfare reform presents us with an important opportunity to build on the progress we have made: to establish services, supports and work opportunities for battered women; to further our knowledge about the links between domestic violence and welfare; to disseminate new information as it emerges; and to encourage replication of best practices across the country.

The Wellstone/Murray provision (section 402(a)(7) of the Social Security Act as amended by the PRWORA, also known as the Family Violence Amendment (or FVA) was enacted to help ensure that battered women are given the comprehensive assistance they need to move from welfare to work, and that their unique needs are considered as states develop their plans to help families achieve self-sufficiency. The FVA invites states to develop a three-pronged strategy to: 1) identify a battered woman as she enters the public benefits system; 2) waive certain program requirements if compliance would put her at risk of further violence, make it more difficult for her to escape violence, or otherwise unfairly penalize her; and 3) provide referrals for supportive

services.

Following passage of the new welfare law, states began to focus intently on the broader implementation issues before them. As a first step in addressing the interplay between welfare reform and domestic violence, HHS' guidance to states on Temporary Assistance to Needy Families (TANF) state plans explicitly asked that states consider how they would identify victims of domestic violence and provide them with additional, targeted support (see TANF Guidance at ATTACHMENT 3). Of the 39 states that have submitted their TANF plans, 11 have certified that they will implement the Family Violence Amendment; an additional 17 states have included a discussion about addressing the needs of battered women seeking to gain independence from welfare; and 11 states do not mention the issue (see chart at ATTACHMENT 4). As state legislatures convene, amendments to TANF plans -- some of which may explicitly address domestic violence issues -- may begin to emerge.

On October 3, President Clinton launched National Domestic Violence Awareness month by strongly encouraging states to implement the Wellstone/Murray and other family violence provisions of the new welfare law. He made a commitment to offer states assistance in their efforts to implement the family violence provisions. The President issued a directive to the Secretary of Health and Human Services and the Attorney General to:

1. Develop guidance for states to assist and facilitate the implementation of the family violence provisions.

2. Work with states, domestic violence experts, victims' services programs, law enforcement, medical professionals and others involved in fighting domestic violence in crafting guidance.

3. Recommend standards and procedures that will help make transitional assistance programs fully responsive to the needs of battered women.

4. Provide states with technical assistance as they work to implement the family violence provisions.

5. Make it a priority to understand the incidence of statutory rape, domestic violence and sexual assault in the lives of poor families, and to recommend the best assessment, referral and delivery models to improve safety and self-sufficiency for poor families who are victims of domestic violence. (See additional discussion at ATTACHMENT 2)

On October 30, Secretary Shalala sent a letter to all 50 Governors transmitting the President's directive, and stating that the Administration believes it is critical for states to consider issues about domestic violence as they develop their new transitional assistance programs for families (at ATTACHMENT 5). The Secretary's correspondence also reminded states that even if they do not initially opt to implement the family violence provisions, their plans can be modified to

include the certification at any point during the two-year period for which it is in effect.

PROGRESS TOWARD THE PRESIDENT'S GOALS AND PLANS FOR THE FUTURE

Our efforts to fulfill the President's directive and facilitate state and local efforts on behalf of battered women in the welfare and child support systems build on the work already undertaken by this Administration. Specific actions undertaken in the five areas outlined by the President and plans for future activity are detailed below.

1. Develop guidance for states to assist and facilitate the implementation of the family violence provisions.

To date:

- **Family Violence Amendment.** HHS is reviewing the implications of a range of policy interpretations on the interaction between the Family Violence Amendment and other requirements specified in the law. Because few decisions regarding the welfare law stand alone, decisions about individual aspects of the law must be made in a broader context, and the issuance of policy guidance must be coordinated with other related sections of the law.

- **Immigrant provisions.** DOJ, HHS and other Federal agencies are reviewing the implications of the provisions in the welfare law, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, relating to the treatment of certain categories of battered immigrants as "qualified aliens." Among other things, they are developing interim guidance for (1) defining "battery" and "extreme cruelty"; (2) determining when there is a substantial connection between the battery or cruelty inflicted on an alien and the alien's need for services; and (3) establishing procedures for verifying a battered immigrant is a qualified alien. Finally, DOJ and HHS also met with immigration advocates to discuss the structure and content of the interim guidance. DOJ, HHS and other agencies have proposed a technical amendment to the welfare law to clarify the scope of that section and the agencies' responsibility for implementing that section.

- **Guidance on standards and procedures related to domestic violence.** (See #3 below).

Future plans:

DOJ, with HHS and other Federal agencies, is preparing interim guidance on how certain categories of battered aliens can demonstrate eligibility for certain types of federal public means-tested benefits. This guidance is expected to be issued in early 1997.

2. In crafting the guidance, work with states, domestic violence experts, victims' services programs, law enforcement, medical professionals and others involved in fighting domestic violence.

To date:

- **State and local welfare officials.** HHS has also consulted with state and local welfare officials across the country, sharing information about domestic violence and welfare reform and exploring issues of interest and concern. Examples of issues raised thus far by state welfare officials include:

  - how to maintain confidentiality and also maintain complete case records;
  - how to place responsibility on the batterer for interference in a woman's efforts to enter the workforce;
  - how to enhance services for this population given a lack of resources;
  - how to address issues of cultural diversity;
  - how, within the capacity constraints of the welfare office, to establish a workable referral process and ensure follow-up; and
  - how to corroborate victimization.

- **Experts.** HHS and DOJ have met with domestic violence experts, victims' services programs, and others involved in preventing domestic violence to explore their views on the kinds of guidance that would be most useful to states and to develop processes for working through difficult issues such as:

  - how various state agencies can work together while maintaining the confidentiality of battered women;
  - how notification and screening can be institutionalized without putting women at risk; and
  - how casework plans can be crafted so that they meet new federal and state requirements but are also sensitive to and consistent with the particular circumstances a battered woman faces.

Information gathered in these discussions is forming the basis for the technical assistance efforts detailed in numbers 3 and 4 below. The consultations to date have provided an opportunity to identify what is needed in the area of technical assistance, as well as an opportunity to educate

participants about the dynamics of domestic violence and about the intersections of domestic violence and welfare reform.

Future plans:

In order to meet the changing needs of states as they implement new welfare systems, consultations with experts, providers, and state partners will be an ongoing endeavor. Additional consultations pursuant to the President's directive will further shape the development and provision of ongoing technical assistance:

- **Intergovernmental.** A consultation with intergovernmental groups, including the National Governors' Association, the National Conference of State Legislatures, the American Public Welfare Association, the American Public Health Association, the Association of State and Territorial Health Officials, the National Association of Counties, the U. S. Conference of Mayors, and the National League of Cities is being planned for January. These groups are clearly playing a significant role in implementation of new welfare reform and child support enforcement systems on the state and local level, and their input, as well as the opportunity to provide them with information on this issue will be critical.

- **Health.** HHS has begun to share information on domestic violence and welfare linkages with health organizations and other groups that interact with health providers, and is working with the Family Violence Prevention Fund -- the National Health Resource Center on Domestic Violence funded by HHS -- to establish a consultation process with this community.

- **Law enforcement.** Building on relationships already established by the Violence Against Women Office and the Office of Community Oriented Policing Services through their Community Policing to Combat Domestic Violence grants, DOJ will confer with all major law enforcement organizations as well as the National District Attorneys Association and the National Association of Attorneys General for input on the implementation of the Family Violence Amendment. These groups will help in forging the necessary collaboration between law enforcement, emergency services and welfare providers and identifying the immediate and long term needs of victims of domestic violence from law enforcement's standpoint. This dialogue also builds on relationships already established with the U.S. Attorneys Offices.

3. Recommend standards and procedures that will help make transitional assistance programs fully responsive to the needs of battered women.

To date:

Through the consultation process described above, our departments have identified the need for

recommended standards and procedures in several areas. HHS's National Resource Center on Domestic Violence is working in consultation with a range of partners in the domestic violence community to begin developing a series of recommended standards and procedures in the areas of notification, screening and identification, corroboration, and referral.

Future plans:

As recommended standards and procedures are completed, they will be forwarded to states, tribes and local domestic violence coalitions for inclusion in a growing technical assistance resource "notebook" (see number 4 below for more detail on the "notebook").

As implementation of welfare and child support enforcement reform proceeds, technical assistance and consultation efforts will enable federal agencies to obtain feedback about the need for standards and procedures in other areas.

4. Provide states and tribes with technical assistance as they work to implement the family violence provisions.

To date:

Consultations, conferences and technical assistance packages have been and will continue to be vehicles for promoting awareness about the Family Violence Amendment, and for providing states and local communities with information about the dynamics of domestic violence, about what is known of the interaction between domestic violence and welfare, about best practices, and about federal, state and local referral resources. Activities to date include:

- On August 19, the Office of Family Assistance/HHS sponsored a "Tribal Roundtable" for the Native American population in Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin) to discuss welfare reform and other issues. A session addressing domestic violence was included, in which participants received information on identifying and recognizing victims of abuse, and on referral mechanisms and supportive services available to victims.

- Following the issuance of the President's directive, the Offices of Child Support Enforcement and Family Assistance in HHS sent "Dear Colleague" letters about the directive and the Family Violence Amendment to all State Welfare Administrators, every state and territory's child support director, and all federal regional office child support program managers. The transmittals included background information on domestic violence and welfare as well as referral resources (at ATTACHMENT 6).

- On September 3, the Office of Family Assistance/HHS provided technical assistance to its "Welfare Culture Change" grantees -- the States of Alaska, Oregon, Nevada, Pennsylvania and South Carolina, and Napa County, California, Denver County,

Colorado, and Anne Arundel County, Maryland --concerning issues of domestic violence. The Welfare Culture Change initiative was launched in 1995 to work intensively with states to reorient welfare offices toward work. The Anne Arundel County grantee has been provided additional funds to develop training for front-line workers to help them identify victims of domestic abuse and make referrals to appropriate services.

- On October 24, the Office of Family Assistance/HHS held a conference call with state welfare officials and regional office staff from 40 states. Domestic violence experts provided information about domestic violence and welfare dependence, discussed barriers to employment, and provided referral resources. Participants also engaged in a dialogue about the challenges involved in serving battered women more effectively through the welfare system.

- On October 29 -31, HHS convened a conference of over 300 Tribal administrators and others to discuss welfare reform implementation and develop partnerships to improve service delivery and outcomes for Indian families and children. Breakout sessions on the links between domestic violence and welfare were held, and a range of implementation issues raised and discussed. Critical to the discussions of domestic violence and welfare reform were the issues of coordination and services integration.

- In October and November, the Office of Child Support Enforcement/HHS held workshops and discussions on domestic violence at each of 3 national welfare reform conferences in Portland, Dallas, and Washington, DC. Attendees included representatives from federal and state child support, TANF, Head Start, and child care offices, as well as academics, and advocacy groups. Material on domestic violence and welfare reform was included in conference notebooks that were disseminated to approximately 1000 individuals.

- On December 18, the Office of Family Assistance/HHS held a follow-up conference call with state and local welfare officials to continue the dialogue about these issues.

- An article on the domestic violence provisions of the new law and the President's proclamation were published in the Office of Child Support Enforcement/HHS's December newsletter, disseminated to some 2000 child support practitioners, State, local, and advocacy groups (at ATTACHMENT 7).

- To date, HHS's National Resource Center on Domestic Violence has provided ongoing telephone technical assistance to over 10 states on issues related to the implementation of the Family Violence Option or other provisions developed to recognize the safety concerns of battered women and their children.

Future plans:

Based on initial consultations held with experts and advocates, it is clear that the provision of technical assistance on these issues must be an ongoing process. The field is new and information, best practices and policy options are still emerging.

- **Resource Notebook.** HHS and DOJ envision an approach whereby key contacts -- including Governors, welfare directors, child support directors, tribal leaders, victims assistance coordinators, state directors of family violence programs, law enforcement, domestic violence coalitions -- receive an expandable resource "notebook." New and updated information would be sent regularly for inclusion in this notebook. The preliminary set of materials for the notebook would likely include the following:

  - Background (Statute, President's directive, Secretary's letter to Governors).
  - A summary of what is known from research about the incidence, prevalence and dynamics of domestic violence.
  - A summary of what is known from research and experience about the dynamics of battered women on welfare, as they relate to work and child support enforcement.
  - A paper on possible standards and procedures for screening, notification, case assessment and corroboration.
  - Listings of local, state and federal resources, including information on the Domestic Violence Hotline funded by HHS.
  - A paper on domestic violence and child support enforcement: issues, practices, policy options, linkages with TANF implementation.
  - A paper on battered aliens: the law and state responsibilities.
  - A discussion of planning issues for welfare administrators, such as: who should be involved; staffing needs; procedural needs; training needs; and policy issues.
  - A paper on confidentiality issues.
  - Lessons learned and information from HHS's welfare culture change demonstrations.
  - Information on local, state and federal law enforcement.

  It is anticipated that the notebook -- with some of the above listed material -- will be sent

to key contacts in 1997.

- **Child Support Forum.** The Office of Child Support Enforcement/HHS has plans to hold a forum early in 1997 on the issues of cooperation and good cause exemptions -- i.e. how states will determine whether someone may be exempted from cooperating with paternity establishment and child support enforcement requirements because of domestic violence or other reasons. Federal, State, and local representatives from child support agencies, TANF, Food and Nutrition Services, DOJ, and Medicaid programs, and fathers' and mothers' advocacy groups will be invited. Technical assistance and training needs, desired policy, and "best practices" will be discussed.

- **National Resource Center.** The National Resource Center on Domestic Violence will continue to respond to requests for assistance in preparing teleconferences and regional training on TANF and domestic violence issues, as well as from TANF State administrators seeking information and guidance.

- **Health provider training.** The Centers for Disease Control and Prevention (CDC)/HHS is preparing an annotated bibliography and summary of health care provider training materials and programs for identifying and treating victims of intimate partner violence and sexual assault. The programs' descriptions, contact persons, list and description of available materials, and target audiences will be available for organizations looking to implement appropriate provider training programs.

- **Substance abuse treatment protocols.** The Substance Abuse and Mental Health Services Administration/HHS is developing a Treatment Improvement Protocol -- a series of technical assistance publications for substance abuse treatment programs -- on how to address domestic violence within substance abuse treatment programs.

- **TANF worker training.** The Office for Victims of Crime/DOJ has offered to begin including TANF workers in the training that it provides Victims of Crime Act grantees on identifying referral services for victims of domestic violence.

5. To make it a priority to understand the incidence of statutory rape, domestic violence and sexual assault in the lives of poor families, and to recommend the best assessment, referral and delivery models to improve safety and self-sufficiency for poor families who are victims of domestic violence.

To date, there is a limited body of research on the incidence of domestic violence and ways this problem affects women's ability to participate in work programs. In addition, we are only beginning to understand the intersection of domestic violence and child support enforcement requirements.

Recent studies, while limited, can be helpful in two areas but additional research is needed. On

the incidence of domestic violence in the AFDC caseload, a study conducted by the Commonwealth of Massachusetts of all women receiving AFDC at the time of recertification indicates that about 20 percent of women report having experienced behavior by intimate partners in the last year that might be described as "seriously abusive." While many more may have experienced such behavior during their lives, it is likely that welfare systems will need to attend most closely to those who faced domestic violence in the recent past. Since for some battered women work can provide a route to independence from an abusive relationship, it is not likely that all of the 20% would need special attention, and probably only a smaller number would need to be relieved of work requirements at any one time. However, until there is experience in practice we will not know with precision how many woman may need exemptions.

We are also beginning to see useful research about the ways that domestic violence serves as a barrier to work. A study by the Manpower Development Research Corporation of the New Chance welfare to work program, indicates that 16 percent of the young mothers participating in the program had been abused by a partner. For many, the abuse served as a barrier to working. Also, an HHS-funded Urban Institute study on barriers to employment identified domestic violence as a problem increasingly recognized by welfare caseworkers. Moreover, studies by the Taylor Institute in Chicago provide evidence of how battering can limit work: batterers have been found to sabotage work by causing physical injuries, destroying clothes, stalking women at work and preventing them from sleeping, among other things.

To date:

There are also a number of federally-funded research efforts currently underway which should yield new information about the links between domestic violence and welfare:

- The National Institutes of Health/HHS, in collaboration with CDC/HHS, the Administration for Children and Families/HHS and DOJ recently committed over $5 million over several years to fund research on family violence. Awards for 10 studies were made this year, including:

  - Children of Battered Women: Reducing the Risk

  - Protection of Women: Health and Justice Outcomes

  - Understanding Partner Violence in Native American Women

  - Domestic Violence Among Latinos: Description and Intervention

- CDC/HHS and the National Institute of Justice/DOJ are collaborating on a national survey on violence against women. The survey will estimate levels of intimate partner violence and assess health outcomes (e.g., injury) regarding family and intimate violence in the general population.

- CDC/HHS is also supporting extramural research projects for identifying modifiable risk factors associated with family and intimate violence and evaluating the effectiveness of a broad range of intervention activities.

- CDC/HHS is evaluating two existing programs for training health care providers in the identification, referral, and treatment of victims of family and intimate violence. A medical school training program at UCLA and a hospital-based training program called 'WomanKind' are being evaluated for their effectiveness in preparing health care providers and for desirability as model programs.

In addition to current research initiatives, HHS has several demonstration projects underway which are exploring the links between domestic violence, welfare reform and child support enforcement.

- The Office of Family Assistance/HHS's Welfare Culture Change Initiative described above has three continuing grantees in FY 1996.

- The Office of Child Support Enforcement has funded an expansion of the Colorado model office project -- one of a series of demonstrations aimed at improving efficiency in child support enforcement -- which will look at the incidence of domestic violence as a factor in noncooperation with child support enforcement. Results are anticipated in late 1997.

Future plans:

HHS and DOJ will share with key contacts ongoing results from these demonstrations as they become available. In addition HHS and DOJ are considering various research options for the future. Of immediate priority is obtaining and disseminating research findings from recent studies on the role of domestic violence as a barrier to working, the incidence of domestic violence in the AFDC caseload, and how child support enforcement cooperation requirements impact on battered women. In addition:

- The Office of the Assistant Secretary for Planning and Evaluation/HHS, with other HHS and DOJ offices, is planning a study of state practices and policies that address domestic violence in the TANF and child support enforcement programs. Models will be identified and described and then disseminated.

- The Office of Child Support Enforcement/HHS's FY 1997 research budget includes a commitment to examine the intersection of domestic violence and the requirements of cooperation and good cause exception.

- As a result of the recommendations contained in "Understanding Violence Against Women," a report mandated by congress in the Crime Act of 1994 and conducted and

published by the National Research Council, CDC/HHS and NIJ/DOJ are proposing a coordinated collaborative research initiative to understand the extent of violence against women, its causes and consequences and to assess the best means for preventing violence against women. This program of basic research is directly relevant to implementation of the Family Violence Amendment as it includes examination of the dynamics of domestic violence in impoverished and minority communities and an analysis of domestic violence and work.

- As part of the DOJ implementation of Section 906 of the PRWORA, NIJ/DOJ and OVC/DOJ are developing a strategy for studying the relationship between statutory rape and teen pregnancy and exploring the incidence of battering in relationships between older men and young girls. Related implementation activities are discussed at ATTACHMENT 2.

- Finally, federal and non-federal researchers in the area of domestic violence/welfare linkages convened at the University of Michigan in November, 1996, to present their work and findings to date. As a result of this conference, several compilations of findings are being prepared and will be disseminated to state welfare officials and others as they become available. Experts at this session agreed that the research to date in this area is inconclusive and leaves many urgent questions unanswered. NIJ/DOJ has agreed to host a strategic planning session this spring to plan a research agenda to answer these questions.

CONCLUSION

The family violence provisions in the new welfare reform law and the President's Directive of October 3, 1996, have created an important opportunity to build on the steps taken by the Clinton Administration to raise public awareness about domestic violence and create new avenues for stopping the violence. Through close collaboration with state and local partners, we can build temporary assistance systems that require work, promote responsibility and protect children while recognizing the unique needs and circumstances of battered women, and successfully providing the supports they need to move from welfare to work and independence.

ATTACHMENT 1 - Administration accomplishments: "Preventing Violence Against Women"
ATTACHMENT 2 - Department of Justice Activities under Section 906 of the PRWORA
ATTACHMENT 3 - Excerpt from: "State Guidance for the Temporary Assistance for Needy Families Program"
ATTACHMENT 4 - Charts depicting state TANF plan certifications
ATTACHMENT 5 - Secretary's October 30 letter to Governors
ATTACHMENT 6 - "Dear Colleague" letters and supporting materials
ATTACHMENT 7 - Article in the Office of Child Support Enforcement/HHS's December newsletter

TANF STATE PLANS:
DOMESTIC VIOLENCE

STATE	OPTIONAL CERTIFICATION	OTHER DISCUSSION	NO DISCUSSION
Alabama		✓	
Arizona			✓
California		✓	
Connecticut			✓
District of Columbia		✓	
Florida	✓		
Georgia	✓		
Indiana		✓	
Iowa	✓		
Kansas			✓
Kentucky		✓	
Louisiana		✓	
Maine			✓
Maryland	✓		
Massachusetts		✓	
Michigan	✓		
Mississippi		✓	
Missouri		✓	
Montana	✓		
Nebraska	✓		
Nevada		✓	
New Hampshire		✓	
New Jersey			✓

January 2, 1997.

STATE	OPTIONAL CERTIFICATION	OTHER DISCUSSION	NO DISCUSSION
New York			✓
North Carolina		✓	
Ohio			✓
Oklahoma		✓	
Oregon		✓	
South Carolina		✓	
South Dakota		✓	
Tennessee	✓		
Texas			✓
Utah	✓		
Vermont			✓
Virginia			✓
Washington	✓		
West Virginia	✓		
Wisconsin		✓	
Wyoming			✓
TOTAL	11	17	11

January 2, 1997.

FOOD STAMPS

Contacts:

Website - United States Department of Agriculture
hhtp://www.usda.gov/fcs/welfare.htm

Food Stamp Program - Office of Consumer Affairs
Grady Forrer (703) 305-2281

Regional Food and Consumer Service Leadership - Food Stamps

Mid-Atlantic	Midwest	Northeast
Chris Martin	Tom Pate	Fran Zorn
(609)259-5025	(312)353-6664	(617)565-6370
Southeast	Montain Region	Western
Virgil Conrad	Staff	Allen Ng
(404)730-2565	(303)844-0300	(415)705-1310

December 3, 1996

GUIDANCE FOR STATES SEEKING WAIVERS FOR FOOD STAMP LIMITS

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 limits receipt of food stamp benefits to three months in a 3-year period for able-bodied adults who are not working, participating in a work program for 20 hours or more each week, or in workfare. Individuals are exempt from this provision if they are:

- under 18 or over 50 years of age,
- responsible for the care of a child or incapacitated household member,
- medically certified as physically or mentally unfit for employment,
- pregnant, or
- already exempt from the work requirements of the Food Stamp Act.

States may request a waiver of this provision in areas with an unemployment rate above 10 percent, or for those residing in an area that does not have "...a sufficient number of jobs to provide employment for the individuals." The Department of Agriculture (USDA) will allow States broad discretion to decide if a waiver request is appropriate for a particular locale or situation.

USDA believes that the law provided authority to waive these provisions in recognition of the challenges that low-skilled workers may face in finding and keeping permanent employment. In some areas, including parts of rural America, the number of unemployed persons and the number of job seekers may be far larger than the number of vacant jobs. This may be especially so for persons with limited skills and minimal work history. The purpose of this guidance is to address some of the issues that States may consider in identifying areas for which to seek a waiver of the time limits on food stamp participation. *USDA may reevaluate the guidance offered here and its policies for approving waiver requests in the event of a national economic recession.*

General Issues

Defining an Area: USDA will give States broad discretion in defining areas that best reflect the labor market prospects of program participants and State administrative needs. In general, USDA encourages States to consider requesting waivers for areas smaller than the entire State. There is enough variety in local employment conditions that statewide averages may mask slack job markets in some counties, cities, or towns. Accordingly, states should consider areas within, or combinations of, counties, cities, and towns for the same reason. USDA also urges States to consider the particular needs of rural areas and Indian reservations.

Duration of Waivers: In general, it is USDA's intent to grant waivers for a maximum of one year. Waivers may be renewed if conditions warrant. In some circumstances described below, or if States request, waivers may be granted for less than one year.

Waivers for Unemployment Rates Above 10 Percent

Established Federal policy requires Federal executive branch agencies to use the most recent National, State or local labor force and unemployment data from the Bureau of Labor Statistics (BLS) for all program purposes, including the determination of eligibility for and the allocation of Federal resources unless otherwise directed by statute.[1] This policy ensures the standardization of collection methods and the accuracy of data used to administer Federal programs. In accordance with this policy, States seeking waivers for areas with unemployment rates higher than 10 percent will be expected to rely on standard BLS data or methods.

Availability of Local Area Unemployment Rates: Unemployment figures for many local areas based on standard BLS data or methods are readily available. In the Local Area Unemployment Statistics (LAUS) program, BLS works in concert with State employment security agencies to estimate unemployment rates for:

- all States,
- all counties in the United States,
- all cities with a population of 25,000 or more,
- all cities and towns in New England, and
- all metropolitan and small labor market areas in the United States.

These estimates are produced monthly. In addition, State employment security agencies can use standard BLS methods to generate unemployment rates for smaller geographic areas and special geographic areas such as Indian reservations (as long as the boundaries of those areas coincide with the boundaries of a group of census tracts).[2]

There are two key issues related to the availability of data to document areas with unemployment rates above 10 percent. First, it is essential to identify areas with unemployment rates above 10 percent using standard BLS data or methods. Second, while these standard methods can be used to estimate unemployment rates for areas smaller than those routinely covered by current BLS publications, the reliability of these estimates will necessarily be less for smaller areas.

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[1] This policy is contained in Statistical Policy Directive No. 11, issued by the Office of Federal Statistical Policy Standards, Office of Management and Budget.

[2] A list of each cooperating State employment security agency is included as Appendix A. A list of State employment security administration contacts can be accessed through the BLS LAUS Home Page [found at http://stats.bls.gov:80/lauhome.htm]. Monthly State and local area unemployment rates are also readily available from a variety of published sources. These include the Bureau of Labor Statistics *State and Metropolitan Area Employment and Unemployment* news release, the monthly Employment and Earnings, and Unemployment in State and Local Areas (available on microfiche). States wishing to subscribe to these documents may contact the U.S. Government Printing Office at the number shown in Appendix A. A complete set of up-to-date data can be obtained via the LAUS home page, the LAUS program, BLS regional offices, or the State employment security agency.

Duration of High Unemployment: Unemployment rates can and will fluctuate from month to month. The size of these fluctuations is likely to be larger for estimates based on smaller areas. One fairly standard approach to smooth such fluctuations is by using an average over a number of months, calculated by first averaging unemployment and the labor force.[3]

If requested, USDA will automatically grant a waiver for any area in which the average unemployment rate in the preceding 12 months is greater than 10 percent. BLS routinely publishes monthly data so that 12-month moving average unemployment rates can be produced for all counties, all cities of 25,000 or more, and all cities and towns in New England.[4] A list of counties with unemployment rates above 10 percent for the period from July 1995 to June 1996 is included as Appendix D.

There are two shortcomings associated with using a 12-month average to waive the time limits on food stamp participation. First, a 12-month average will mask portions of the year when the unemployment rate rises above or falls below 10 percent. Second, a 12-month average will also require a sustained period of high unemployment before an area becomes eligible for a waiver.

To avoid these situations and ensure that waivers are granted as quickly as possible where needed, States have several options. First, a State might opt to use a shorter moving average. A moving average of at least three months is preferred. In periods of rising unemployment, a three-month average provides a reliable and relatively early signal of a labor market with high unemployment. A State might also consider using historical unemployment trends to show that such an increase is not part of a predictable seasonal pattern to support a waiver for an extended period (up to one year).

Second, in areas with predictable seasonal variations in unemployment, States may use historical trends to anticipate the need for waivers for certain periods. For example, if the pattern of seasonal unemployment is such that an area's unemployment rate typically increases by two percentage points in January, February, and March, and the area's unemployment rate is currently 9 percent, a State may request a waiver for this area based on its current rate and historical trends. The period covered by the waiver will then coincide with the period of high unemployment. (If a State did not anticipate the rise in unemployment, the increase in unemployment rates would not show up until after the fact.)

USDA will generally expect that the duration of the waiver requested will have some relationship to the period of high unemployment on which the request is based, although the time period for the waiver need not be identical to the period of unemployment data. There may be circumstances in which States may want to consider requesting waivers for as long as one year based on a shorter period of high unemployment. USDA will entertain such requests if a

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[3] A 12 month average of monthly total unemployment and monthly labor force should be computed, with the average unemployment rate estimated by dividing average unemployment into average labor force.

[4] A 12-month moving average is computed each month based on data for the month and the 11 months prior to that month.

reasonable case is made that the high unemployment is not a seasonal or short term aberration. States may renew waivers as necessary, as long as area unemployment rates exceed 10 percent.

Waivers for Areas Without Sufficient Jobs

The statute recognizes that the unemployment rate alone is an imperfect measure of the employment prospects of individuals with little work history and diminished opportunities. It provides States with the option to seek waivers for areas in which there are not enough jobs for groups of individuals who may be affected by the new time limits in the Food Stamp Program.

To some extent, the decision to approve waivers based on an insufficient number of jobs must be made on an area-by-area basis. Examples of such situations include areas where an important employer has either relocated or gone out of business. In other areas there may be a shortage of jobs that can be filled by persons with limited skills and work experience relative to the number of persons seeking such jobs.

The guidance that follows offers some examples of the types and sources of data available to States as they consider waiver requests for areas with insufficient jobs. Because there are no standard data or methods to make the determination of the sufficiency of jobs, the list that follows is not exhaustive. States may use these data sources as appropriate, or other data as available, to provide evidence that the necessary conditions exist in the area for which they intend the waiver to apply. The absence of a particular data source or approach (for example, data or statistics compiled by a university) is not meant to imply that it would not be considered by USDA if requested by a State.

Lack of Jobs in Designated Labor Surplus Areas: The U.S. Department of Labor (DOL) Employment and Training Administration compiles an annual list of labor surplus areas. As the name implies, these are areas in which it has been determined that the number of workers is relatively larger than the number of available jobs. Employers located in labor surplus areas can be given preference in bidding on Federal procurement contracts. The purpose in providing such preference is to help direct the government's procurement dollars into areas where people are in the most severe economic need.

Labor surplus areas are classified on the basis of civil jurisdictions rather than on a metropolitan area or labor market area basis. By classifying labor surplus areas in this way, specific localities with high unemployment rather than all civil jurisdictions within a metropolitan area, (not all of which may suffer from the same degree of unemployment) can be identified. This feature also makes the classification potentially useful to identify areas for which to seek waivers.

The labor surplus listing is issued for each Federal fiscal year. During the course of the fiscal year, the annual listing is updated on the basis of exceptional circumstance petitions submitted by State employment security agencies and approved by the Employment and Training Administration. Monthly updates of the list are available in Area Trends in Employment and Unemployment.

Lack of Jobs in States with Extended UI Benefits: The Department of Labor's Unemployment Insurance Service determines whether a State can qualify for extended unemployment benefits. Unemployed persons in these areas are eligible to receive extended unemployment insurance (UI) benefits. Extended UI benefits are an indication that jobs are relatively hard to find. The designation of a State as meeting the criterion for extended UI benefits, therefore, may be a useful indicator that insufficient jobs are available. DOL issues a list of States that meet the criteria for extended benefits each week. States may request a copy from the DOL Unemployment Insurance Service.

Lack of Jobs Due to Lagging Job Growth: Job seekers may have a harder time finding work in an area where job growth lags behind population growth. A falling ratio of employment to population may be an indicator of an adverse job growth rate. When the number of jobs in an area grows more slowly than the working age population, the local economy is not generating enough jobs.

The employment-to-population ratio complements measures of unemployment by taking into account working age persons who may have dropped out of the labor force altogether. The ratio can be computed by dividing the number of employed persons in an area by the area's total population. A decline in this ratio over a period of months could indicate an adverse job growth rate for the area.

State social service agencies can obtain employment data from State employment security agencies or BLS. Population estimates for the corresponding areas are also available through the Bureau of the Census, or State employment security agencies.[5] Census population data at the county level are updated annually as of July 1 of each year. There is a lag of at least one year in this population data (the most recent county data are for 1995, the most recent city data are for 1994).

Lack of Jobs in Declining Occupations or Industries: Employment markets dominated by declining industries could lead to the presence of large numbers of people whose current job skills are no longer in demand. This can be especially true in smaller, rural areas where the loss of a single employer can immediately have a major effect on local job prospects and unemployment rates. In more occupationally diverse areas however, displaced workers might have more work options available to them, including jobs other than those for which they may have been previously trained

States might consider several options to capture the effect of a declining industry or occupation. BLS provides monthly data on State and local employment figures by major industry (including mining, construction, manufacturing, transportation and public utilities, wholesale and retail

[5] The Bureau of Labor Statistics provides population estimates each year to cooperating State employment security agencies. The Census Bureau does not routinely publish small area population estimates, but they will provide it upon request.

trade; finance, insurance and real estate; services, and government). This information, published in Employment and Earnings, compares the current month to the month before and to the same month from the previous year. A declining trend within a particular industry or sector may be taken as evidence of declining employment prospects for persons with experience in or skills appropriate to that sector.

State welfare agencies can also work with State employment security agencies to identify declining industries and occupations in their areas. Databases on occupation and employment changes are used by the UI divisions of State employment security departments to determine how quickly displaced workers can find new jobs (a process known as "profiling"). These databases may also be helpful in identifying groups of individuals that may have an unusually difficult time finding work.

Finally, evidence of increased filing of unemployment insurance claims, available from State employment security agencies, may also offer signs of diminished employment prospects in some areas.

The description of options above is not intended to preclude a State from submitting a request for a waiver that covers specific categories of individuals for whom there are insufficient jobs in an area. Any such requests will be evaluated on a case by case basis.

Applying for Waivers

To ensure that waivers are granted quickly where they are needed, USDA will keep the application and approval process as simple as possible. USDA will offer States the option to self-certify areas where the unemployment rate exceeds 10 percent. States will have to seek prior approval from USDA for waiver requests for areas that lack available jobs.

Areas with Unemployment Rate Above 10 Percent: States may self-certify areas that have an unemployment rate higher than 10 percent based upon standard BLS data or methods. State welfare agencies should work with State employment security agencies to make this determination. States must inform their USDA Food and Consumer Service Regional Office and Headquarters (at the address shown in Appendix A) of each area that meets this criterion and certify that the determination was based on standard BLS data or methods. States may update these certifications as frequently as necessary. The waiver period will begin as soon as a State certifies that an area's unemployment rate is above 10 percent. USDA will contact States if additional clarification on the waiver is needed.

Areas with Insufficient Jobs: Waivers granted under this category may not be implemented until they are approved by USDA. As indicated above, waiver request for areas with insufficient jobs may be based on a number of criteria, some of which are straightforward (such as areas designated as labor surplus areas or meeting the criteria for extended UI benefit) while others are more subjective. States are encouraged to request waivers for any area based on the circumstances in those areas. USDA's decision will be based on the current unemployment rate

for the area (based on standard BLS data or methods), the type of waiver requested, and sufficient documentary evidence to determine whether to grant a waiver. USDA may contact States for additional information on a case by case basis.

Waiver requests of either type may be renewed on request if the condition which formed the basis of the initial approval persists.

United States Department of Agriculture
Food and Consumer Service
3101 Park Center Drive
Alexandria, VA
22302-1500

AUG 26 1996

Commissioners
All States

This letter describes the new statutory requirements for State agency implementation of the Food Stamp Program (FSP) provisions of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, signed by the President on August 22, 1996. We are also providing information regarding proposed and interim rules Food and Consumer Service (FCS) will publish and guidance relating to the Simplified Program option, FCS waiver authority, and quality control. Additional information regarding implementation of the provisions affecting noncitizens will be provided separately.

Provisions and implementation dates

The enclosed charts indicate the method by which FCS is implementing each provision of the legislation and the timeframe for State agency implementation. Within each chart, provisions are grouped by program area, such as certification, disqualification, claims, work requirements, and State flexibility. As indicated in the FCS implementation column, we plan to publish an interim regulation to implement the provisions of the law concerning changes in allotments, deductions, household composition, and the fair market value of vehicles. These provisions require no interpretation or discretion. The rule will, however, have a brief comment period. Proposed rules will be published addressing the other provisions.

- Part A of the enclosure lists the provisions that are effective on the date of enactment. We understand the burden that immediate implementation places on State agencies; however, in the absence of specific implementation language in the legislation for these provisions, State agencies are required by Federal law to implement these provisions as of the date of enactment. Specific implementation procedures are provided on the enclosure.

Part B lists provisions for which Congress provided specific implementation requirements. These provisions have a variety of required implementation dates. Changes in allotments and deductions must be implemented as mass changes.

Part C lists options available to State agencies. State agencies need to submit amendments to the State Plan indicating the options that have been selected. One of the

options addresses the homeless shelter allowance. Prior to the PRWORA, section 11(e)(3) of the Food Stamp Act required State agencies to establish standard estimates of the shelter expenses of homeless households. This estimate was used determining the household's excess shelter expense unless the household verified higher expenses. Section 809 of the PRWORA changed the required standard estimate to an optional homeless shelter allowance and added it to section 5(e)(5) of the Food Stamp Act as a separate deduction between the child support and medical deductions. Although the legislative history indicates that the allowance was to be used in calculating an excess shelter expense deduction, the statutory language does not reflect that intent. Therefore, State agencies must discontinue use of the homeless expense estimate and may opt to use a homeless expense deduction as provided by the PRWORA.

Part D lists provisions which remove current requirements and have no mandatory implementation action. State agencies will be able to modify current procedures in accordance with their own schedules.

Simplified Program

The legislation provides States agencies the option of operating a Simplified Food Stamp Program (SFSP) in a political subdivision of a State or Statewide. The SFSP is restricted to public assistance households who receive cash assistance under the Temporary Assistance to Needy Families (TANF) programs operated under Title IV-A of the Social Security Act. However, States may request inclusion of mixed nonpublic assistance (NPA) and TANF households. The Simplified Program allows a State to substitute many TANF rules for food stamp rules in an effort to streamline administration. NPA households cannot be included in the SFSP.

The operation of any SFSP must be approved by USDA. Additionally, SFSP cannot increase Federal costs for any fiscal year and must comply with certain statutory FSP requirements. If USDA withdraws approval of a State's SFSP due to noncompliance, the State is ineligible to operate a SFSP in the future. Optional provisions are also available to the State under SFSP. The specifics of the requirements and options will be included in subsequent guidance.

FCS Waiver Authority

The legislation amends Section 17(b) of the Food Stamp Act to significantly expand USDA's waiver authority to conduct pilot or experimental projects that improve program administration, increase self-sufficiency, allow greater conformity with the rules of other programs, and that are consistent with the goal of providing food assistance to raise levels of nutrition among low-income individuals.

Projects have restrictions relative to the percentage of benefit reduction and affected households and duration. In addition, USDA is prohibited from approving projects that include certain components. As with the SFSP, the specifics of the statutory parameters will be provided in subsequent guidance.

Quality Control

Provisions effective upon enactment:

Changes affecting currently participating households are to be implemented upon recertification, at the household's request, or when it is necessary to implement other changes affecting the household. The following procedures will be used for all cases with review dates after enactment of the law.

Beginning 30 days after enactment, there will be a 120-day variance exclusion period for any States that have implemented the provisions of the PRWORA. During this period, reviewers will exclude all variances that resulted from any misapplication of the new provisions. If a State has not implemented the required changes within 30 days after enactment for the required households, reviews will be conducted against the new provisions and errors will be cited as appropriate. If a State implements later than 30 days following enactment, but before the 120 days expire, the subject variances will be excluded for the number of days remaining in the 120-day period.

Reviews will be conducted against States' preimplementation policies (1) during the 30 days following enactment for all cases that have not yet been converted to the new provisions and (2) after the 30 days for all cases that were not required to have been converted to the new provisions. The 120-day variance exclusion period will be administered in accordance with 7 CFR 275.12(d)(2)(vii) as modified by the Mickey Leland Childhood Hunger Relief Act (Public Law 103-66).

Provisions effective October 1, 1996 and January 1, 1997:

Mass change provisions - Quality control reviews will be conducted based upon the new provisions for all cases with review dates on or after the effective date of the provisions. The 120-day variance exclusion period will not apply to these mass changes.

Fair Market Value provision - Quality control reviews will be conducted based upon the new provisions for all cases certified, recertified or otherwise requiring conversion after October 1, 1996. The 120-day variance exclusion period will begin October 1, 1996 for this provision for all States that have implemented.

Work requirement provision of Section 824:

States must implement this provision by notifying applicants and recipients of the application of the work requirement no later than November 22, 1996. This provision is not effective until the earlier of: (1) the date the State notifies the applicable households or

(2) three months following enactment. Three months following the effective date, individuals that do not meet the requirements of this provision will become ineligible. Therefore, for this provision, the 120-day variance exclusion period will begin three months following the State's effective date.

We hope the enclosed information will be helpful to you in implementing the provisions of the law. Please contact your regional office if you have any questions.

Sincerely,

Yvette S. Jackson
Deputy Administrator
Food Stamp Program

Enclosures

PART A - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
REQUIRED TO BE IMPLEMENTED UPON ENACTMENT

Section	Description *Certification Provisions*	Implementation Method	
		FCS	State agency
404	Requires notification to the public and to recipients of the alien eligibility requirements of the legislation.	Impl. Memo	Notification to recipients and general public
421	The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. Beginning January 1, 1997, a quarter in which the alien received certain Federal means-tested assistance is not counted as a qualifying quarter. The deemed income and resources must be reviewed each time an alien reapplies.	Impl. Memo Proposed Rule	On date of enactment for new applicants; at next recertification for recipients.
801	Limits certification periods to 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. States must have at least one contact with each certified household every 12 months.		On date of enactment for new applicants; at next recertification or when case is next reviewed for recipients.
803	Deletes a current exemption so that children under 22 years old who live with their parents and their own children or spouses must be included in the same household with their parents.	Impl. Memo Interim Rule	
805	A person whose nighttime residence is a temporary accommodation in the residence of another person may be considered homeless for no more than 90 days.	Impl. Memo Interim Rule	On date of enactment for new applicants; at next recertification or when case is next reviewed for recipients.
807	Limits exclusion to the earnings of elementary and secondary school students who are 17 or younger.	Impl. Memo Proposed Rule	On date of enactment for new applicants; at next recertification or when case is next reviewed for recipients.

PART A - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
REQUIRED TO BE IMPLEMENTED UPON ENACTMENT

Section	Description *Certification Provisions*	Implementation Method	
		FCS	State agency
808	Limits energy assistance exclusion to (1) Federal energy assistance, except that provided under Title IV-A of the Social Security Act (welfare block grant), and (2) Federal or State one-time assistance for weatherization or emergency repair or replacement of heating or cooling devices. Retains the provision in the Low-Income Home Energy Assistance Act (LIHEAA) that requires that all expenses met with LIHEAA payments be regarded as out-of-pocket expenses qualifying for SUAs. Excludes from income State or local general assistance which (under State law) cannot be provided in cash directly to households. An expense paid on behalf of a household under State law to provide energy assistance is considered an out-of-pocket expense incurred and paid by the household.	Impl. Memo Proposed Rule	On date of enactment for new applicants; at next recertification or when case is next reviewed for recipients.
809	The earned income deduction is not allowed when determining an overissuance due to the failure of a household to report earned income in a timely manner.		
809	The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.		
809	In States without mandatory standard utility allowances (SUA), households are allowed to switch between actual expenses and the SUA only at recertification.	Impl. Memo Proposed Rule	On date of enactment.
811	Removes the income exclusion for vendor payments for transitional housing for the homeless.	Impl. Memo Proposed Rule	On date of enactment for new applicants; at next recertification or when case is next reviewed for recipients.
827	Requires proration of benefits after any break in certification, except for migrant and seasonal farmworker households.		On date of enactment for applicants at initial application and recertification.

PART A - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
REQUIRED TO BE IMPLEMENTED UPON ENACTMENT

Section	Description *Certification Provisions*	Implementation Method	
		FCS	State agency
838	Changes expedited service timeframe to a maximum of 7 calendar days and eliminates the homeless category from those entitled to expedited service.	Impl. Memo Interim Rule	On date of enactment for new applicants.
847	The Federal Government will reimburse a State agency 50 percent of State agency costs for program informational activities, but not including recruitment activities.	Impl. Memo Proposed Rule	On date of enactment.

PART A - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
REQUIRED TO BE IMPLEMENTED UPON ENACTMENT

Section	Description *Program Violation Disqualifications and Claims*	Implementation Method	
		FCS	State agency
813	Increases the disqualification penalty for a first intentional violation to one year. Increase the penalty for a second intentional violation (and the first involving a controlled substance) to two years.	Impl. Memo Proposed Rule	Upon enactment, following notification to applicants and recipients of the new or increased penalties on or with the application form, by mass mailings, or similar methods.
814	An individual shall be permanently disqualified if he/she is convicted of trafficking food stamp benefits of $500 or more.		
820	An individual shall be ineligible to participate for 10 years if he/she is found to have made a fraudulent statement or representation with respect to identity and residence in order to receive multiple benefits simultaneously.		
821	Makes fleeing felons and probation/parole violators ineligible for the program.		
829, 911	Prohibits an increase in food stamp benefits when a household's income is reduced because of a penalty imposed under a Federal, State, or local means-tested public assistance program for failure to perform a required action. Provides a State option to reduce allotments 25% or less. If the allotment is reduced for failure to perform an action required under a Title IV-A program, the State may use the rules of that program to reduce the food stamp allotment.		
837	Requires State agencies to make available, upon request, to any Federal, State, or local law enforcement officer the address, social security number, and (if available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation.		Date of enactment.

PART A - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
REQUIRED TO BE IMPLEMENTED UPON ENACTMENT

Section	Description *Program Violation Disqualifications and Claims*	Implementation Method	
		FCS	State agency
844	(1) Replaces existing overissuance collection rules with provisions requiring States to collect any overissuance by reducing future benefits, withholding unemployment compensation, recovering from Federal pay or income tax refunds, or any other means -- unless the State demonstrates that all of the means are not cost effective. (2) Limits benefit reductions (absent intentional program violation) to the greater of 10 percent of the monthly allotment or $10 a month. (3) Provides that States must collect overissued benefits in accordance with State-established requirements for notice, electing a means of payment, and setting a schedule for payment. (4) Permits States to retain 35 percent of intentional Program violation collections and 20 percent of inadvertent household error collections. The actual retention procedures will be forwarded under separate cover.	Impl. Memo Proposed Rule	Date of enactment.

PART A - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
REQUIRED TO BE IMPLEMENTED UPON ENACTMENT

Section	Description *Work Requirements*	Implementation Method	
		FCS	State agency
815	Revises current requirements to make ineligible individuals who are physically and mentally fit and between the ages of 16 and 60 if they: (1) refuse without good cause to provide sufficient information to allow a determination of their employment status or job availability; (2) voluntarily and without good cause quit a job; or (3) voluntarily and without good cause reduce their work effort (and, after the reduction, are working less than 30 hours a week). Provides a State option to disqualify the household if the head of household is disqualified under a work rule for a period determined by the State that cannot exceed the lesser of the duration of the individual's ineligibility or 180 days. This option is also listed on Attachment C. Establishes mandatory minimum disqualification periods for individuals who fail to comply with work or workfare requirements: o First violation - The later of (1) the date they comply with work rules; (2) 1 month; or (3) a period determined by the State not to exceed 3 months. o Second violation - The later of (1) the date they comply with work rules; (2) 3 months; or (3) a period determined by the State not to exceed 6 months. o Third or subsequent violations - The later of (1) the date they comply with work rules; (2) 6 months; or (3) a date determined by the State; or (4) at State option, permanently. Requires USDA to determine the meaning of good cause, voluntarily quitting, and reducing work effort. Requires States to determine (1) meaning of other terms; (2) procedures for establishing compliance; and (3) whether individuals are complying. None of such determinations can be less restrictive than comparable determinations under a program funded by Title IV-A of the Social Security Act.	Impl. Memo Proposed Rule	Upon enactment, following notification to applicants and recipients of the new requirements or increased penalties on-or with the application form, by mass mailings, or similar methods.

PART B - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
SPECIAL IMPLEMENTATION DATES

Section	Description *Alien Eligibility*	Implementation Method	
		FCS	State agency
402	Only the following noncitizens are eligible: For 5 years after they obtain the designated alien status: Refugees admitted under section 207 of the Immigration and Nationality Act (INA), Asylees admitted under section 208 of the INA, and Aliens whose deportation has been withheld under section 243(h) of the INA. For an unlimited period: 1. An alien who is lawfully residing in any State and is: (a) a veteran who was honorably discharged for reasons other than alienage, (b) on active duty (other than active duty for training), and (c) the spouse or unmarried dependent child of a veteran or individual on active duty. 2. An alien who is lawfully admitted to the United State for permanent residence who has worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters. Under section 435 of the law, a qualifying quarter includes one worked by a parent of an alien while the alien was under 18 and a quarter worked by a spouse during their marriage if the alien remains married to the spouse or the spouse is deceased. Beginning January 1, 1997, any quarter in which the alien received any Federal means-tested public benefit (as defined in sections 401 and 403 of the law) is not counted as a qualifying quarter.	Implementing Memo Proposed Rule	On date of enactment for new applicants; at recertification, but no later than one year from date of enactment, for recipients.

PART B - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
SPECIAL IMPLEMENTATION DATES

Section	Description *Allotment, Shelter Limit, and Vehicle Adjustments*	Implementation Method	
		FCS	State agency
804	Annual adjustments to the maximum allotment are based on 100% of the Thrifty Food Plan. Allotments cannot fall below the FY 1996 level.	Implementing Memo Interim Rule	10/1/96 through mass change in accordance with 7 CFR 273.12(e)(1)
809	Sets the excess shelter caps for the 48 contiguous States and D.C., Alaska, Hawaii, Guam, and the Virgin Islands, respectively as follows: Enactment - 12/31/96: $247, $429, $353, $300, $182 01/01/97 - 09/30/98: $250, $434, $357, $304, $184 10/01/98 - 09/30/00: $275, $478, $393, $334, $203 10/10/00 - : $300, $521, $429, $364, $221		No change until 1/1/97; mass change on 1/1/97.
810	Raises fair market value of vehicles used in resource test to $4,650 and eliminates future adjustments.		10/1/96 for applicants and at recertification for recipients.

PART B - FOOD STAMP PROVISIONS

OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

SPECIAL IMPLEMENTATION DATES

Section	Description *Drug Disqualification*	Implementation Method	
		FCS	State agency
115	Makes ineligible individuals convicted of Federal or State felonies for possession, use, or distribution of illegal drugs after the date of enactment. Disqualified individuals are not considered household members but income and resources are attributed to their households. Requires applicants to state, in writing, whether any household member has been convicted of drug felonies. Permits States to opt out of the provision by enacting laws after the date of enactment exempting individuals or limiting the disqualification period.	Impl. Memo Proposed Rule	Required to be implemented July 1, 1997 (unless State opts out).

PART B - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
SPECIAL IMPLEMENTATION DATES

Section	Description *Work Requirement for Able-Bodied Adults Without Dependents (ABAWDS)*	Implementation Method	
		FCS	State agency
824	Unless exempt, individuals are ineligible to continue to receive food stamps if, during the preceding 36-month period they received food stamps for at least 3 months (consecutive or otherwise) while they did not either: work at least 20 hours per week (averaged monthly); for 20 hours or more per week, participate in and comply with a Job Training and Partnership Act program, Trade Adjustment Assistance Act program, or Employment and Training program (other than a job search or job search training program); or participate in and comply with a workfare program (under Section 20 of the Food Stamp Act or a comparable State or local program). ***During the time that an individual is exempt*** from this work requirement because of a personal exception (e.g., is pregnant), the waiver provision (e.g., is living in an area that, after concurrence by the Secretary, the State has determined to have an unemployment rate of over 10 percent or insufficient jobs), or because of the subsequent eligibility provision of subsection (5) of this section, any period of participation in the food stamp program does ***not count*** toward the individual's 3-month participation limit. An individual is ***exempt*** from this requirement if the individual is: (1) under 18 or over 50 years of age, (2) medically certified as physically or mentally unfit for employment, (3) a parent or other member of a household with responsibility for a dependent child, (4) pregnant, or (5) otherwise exempt from work requirements under subsection (d)(2) of the Food Stamp Act. On the request of a State agency, the Secretary may waive the work requirement for any group of individuals if the Secretary determines that the area in which the individuals reside (1) has an unemployment rate of over 10 percent, or (2) does not have a sufficient number of jobs to provide employment for the individuals. Individuals denied eligibility under the new work rule can regain eligibility if during a 30-day period the individual: works 80 hours or more; participates in and complies with a Job Training and Partnership Act program, Trade Adjustment Assistance Act program, or Employment and Training program (other than a job search or job search training program) for 80 hours or more; or participates in and complies with a workfare program (under Section 20 of the Food Stamp Act or a comparable State or local program) for 80 hours or more. If individuals subsequently lose this employment or cease participation in work or workfare programs, participation can continue for up to 3 consecutive months (beginning from the date the State is notified that work has ended), after which the only cure during the 36-month period will be to comply with the work requirement or to become exempt under other provisions of the requirement. Households adversely affected shall be notified in accordance with 7 CFR 273.13.	Impl. Memo Guidance on submitting waivers for groups of individuals to be sent out within 30 days. Proposed Rule	States must implement this provision by notifying applicants and recipients of the application of the work requirement no later than November 22, 1996. The 36-month period begins the ***earlier of:*** 3 months after enactment, or the date the State notifies recipients or applicants of the application of this provision. Case reviews will not be required; recipients will become ineligible at recertification or when the State becomes aware that the individual has participated 3 months without either complying with the work requirement or falling within one of the exceptions.

PART C - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
STATE AGENCY OPTIONS

Section	Description *Miscellaneous Certification Provisions*	Implementation Method	
		FCS	State agency
809	Permits States to make use of standard utility allowances mandatory for all households if (1) the State has developed separate standards for households with and without heating or cooling costs and (2) USDA finds that the standards will not result in increased Federal costs.	Impl. Memo Proposed Rule	State Plan amendment
809	Permits State agencies to develop a standard homeless shelter allowance not to exceed $143 per month for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. The State agency may make a household with extremely low shelter costs ineligible for the allowance. This allowance is to be deducted from net income after the child support deduction and before the medical deduction.		
812	Requires USDA to establish (within 1 year after enactment) a procedure which will not increase Federal costs whereby States can submit a method to be approved by USDA for determining reasonable estimates, instead of the actual costs, of producing self-employment income.		
818	The State agency may, at its option, count all of the income of an alien ineligible under the Food Stamp Act in determining the eligibility and benefits of the remaining members. The PRWORA does not address the treatment of income and resources of the newly ineligible aliens. This issue will be addressed in separate correspondence.		
828	Makes the issuing of combined allotments (prorated first month's allotment plus full second month's allotment) to expedited service applicants a State option.		
830	Permits States to divide a month's food stamp benefits between a drug or alcoholic treatment center and the individual, if the individual leaves the center. Permits States to require the resident to designate the treatment center as his or her authorized representative.		
839	The State agency may, at its option, permit households to withdraw fair hearing requests orally as well as in writing. If it is an oral request, the State agency must provide written notice confirming the request and provide the household with another opportunity to request a fair hearing.		
840	Makes use of the income and eligibility verification system (IEVS) and the alien status verification system (SAVE) optional.		

PART C - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
STATE AGENCY OPTIONS

Section	Description *Optional Disqualification Provisions*	Implementation Method	
		FCS	State agency
819	Allows States the option to extend disqualifications for failure to perform actions required by other means-tested programs to the Food Stamp Program.	Impl. Memo Proposed Rule	State Plan amendment
822	Permits States to require cooperation with the Child Support Enforcement (CSE) Program as a condition of eligibility for the FSP for applicants or participants who live with and exercise parental control over children under 18 years of age who have absent parents that are not providing appropriate support. Cooperation entails establishing paternity of the children and obtaining support for themselves or the child. Permits States to establish payment of legally-obligated child support as a condition of food stamp eligibility for non-custodial parents. Food stamp State agencies would have to develop safeguards to restrict the use of information obtained from Title IV-D agencies. Neither custodial nor non-custodial parents could be charged a fee or other cost for CSE services. The food stamp State agency would determine whether custodial parents have good cause for not cooperating and develop procedures for determining refusal to cooperate by non-custodial parents using guidelines developed by USDA in consultation with DHHS.		
823	Permits States to disqualify individuals who are in arrears in court-ordered child support unless a court is allowing delayed payments or payments are being made in accordance with a court- or CSE-approved payment plan.		

PART C - FOOD STAMP PROVISIONS
OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
STATE AGENCY OPTIONS

Section	Description *Optional Work Requirements*	Implementation Method	
		FCS	State agency
815	Provides a State option to disqualify the household if the head of household is disqualified under a work rule for a period determined by the State that cannot exceed the lesser of the duration of the individual's ineligibility or 180 days.	Impl. Memo Proposed Rule	State Plan amendment.
816	Permits States to lower the age at which a child exempts a parent/caretaker from food stamp work rules to between 1 and 6 years of age. This provision only applies to States (Wisconsin, Michigan, Montana and Kansas) that had waiver requests denied as of August 1, 1996, and may be implemented by these States for a period of no more than 3 years.		
849	New provision of the Food Stamp Act (section 16(b)) that provides States the option to use the cash value of a household's food stamp allotment to subsidize a job for a household member participating in a work supplementation or support program—under which public assistance is provided to an employer to be used for hiring and employing a public assistance recipient. States must describe in their State plans how recipients in the program will, within a specified period of time, be moved to employment that is not supplemented or supported.		
852	States are eligible to adopt an Employment Initiatives Program (EIP) if at least 50% of the food stamp caseload in the summer of 1993 also received AFDC. Under EIP, States may provide households the option to receive food stamp benefits in cash if an adult member (1) has worked in unsubsidized employment for at least the last 90 days, has earned at least $350 per month for at least the last 90 days, and is continuing to do so; and (2) is eligible for Title IV-A benefits or becomes ineligible because of earnings. Requires States to provide USDA a written evaluation (content to be determined by States with the concurrence of USDA) of the impact of cash assistance after operating 2 years under this provision. Requires States to increase cash benefits, with State funds, to compensate households for State or local sales taxes on food purchases.		

PART D - FOOD STAMP PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 REQUIRING NO IMMEDIATE ACTION BY STATE AGENCIES		
Section	**Description** *FCS Action*	**FCS Implementation Method**
109	Eliminates the option in Section 5(d)(13) of the act and 7 CFR 273.9(c)(12) for State agencies to exclude from unearned income up to $50 monthly of Title IV-D child support payments if they pay FCS for the cost of the additional benefits. (No State agency currently uses this option.)	Interim Rule
109	Changes references to "AFDC" and a "plan" to a program funded under Title IV-A. (States will have to change their manuals, but no action required by caseworkers).	Implementing Memo Interim Rule
809	Freezes the standard deduction amounts at their current level--no future adjustments.	
826	Eliminates the adjustment factor for the $10 minimum allotment for 1- and 2-person households.	
851	Adds section 17(b)(1)(D) to the Food Stamp Act. Within 60 days after receiving a waiver request, USDA must approve or deny the request, or seek further clarification from the submitting State. If USDA fails to act within 60 days, the waiver request will be considered approved, unless approval is specifically prohibited by the Food Stamp Act. If USDA denies a waiver request, it must provide a copy of the request and a description of the reasons for its denial to the House Agriculture Committee and to the Senate Agriculture, Nutrition, and Forestry Committee.	Implementing Memo Proposed Rule

PART D - FOOD STAMP PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 REQUIRING NO IMMEDIATE ACTION BY STATE AGENCIES		
Section	**Description** *State Flexibility* **(States may continue current practices or develop new procedures)**	**FCS Implementation Method**
817	Streamlines administrative requirements for States: • Requires E&T components to be delivered through a statewide workforce development system, if available. States can adopt provision which: • Expands the existing State option to apply all work requirements to applicants (currently limited to job search). • Removes specific rules governing job search components (i.e., tying them to those under title IV-A). • Removes provisions for E&T work experience and/or training components that require they serve a useful public purpose and use (to the extent possible) recipients' prior training and experience. • Removes specific Federal rules as to States' authority to exempt categories of individuals and individuals from E&T requirements. • Removes the requirement to serve volunteers in E&T programs. • Removes the requirement for conciliation procedures for resolution of disputes involving participation in an E&T program. • Removes the requirement that reimbursements for dependent care are at least as high as the dependent care deduction cap. • Removes requirements for E&T performance standards. Allocates to States to carry out E&T programs: FY 97 $79 million FY 98 $81 million FY 99 $84 million FY 00 $86 million FY 01 $88 million FY 02 $90 million Allocations will be based on a reasonable formula (as determined by USDA) that gives consideration to the population in each State subject to work requirements. Minimum State allocation: $50,000. State to promptly notify USDA if it determines it will not expend all of its allocated E&T funds.	Implementing Memo Proposed Rule

PART D - FOOD STAMP PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 REQUIRING NO IMMEDIATE ACTION BY STATE AGENCIES		
Section	**Description** *State Flexibility* **(States may continue current practices or develop new procedures)**	**FCS Implementation Method**
835	Replaces many current client service requirements with broad requirements that States establish procedures that best serve households in the State including households with special needs (elderly, disabled, rural poor, homeless, households on reservations, and people who do not speak or read English); provide timely, accurate, and fair customer service to all applicants and recipients; and develop applications containing necessary information. Permits States to establish operating procedures that vary for local food stamp offices. Makes clear that nothing in the Food Stamp Act prohibits electronic storage of application and other information, including signatures. Deletes requirements for a uniform national application, placing information about rights and responsibilities on the application, waiving office interviews for elderly or disabled applicants and households with transportation or other difficulties, and providing telephone or mail information to households that have transportation difficulties or similar hardships. Deletes requirements that States (1) inform applicants how to cooperate in completing the application process including obtaining verification, (2) assist applicants in obtaining verification and completing applications, (3) use current verified information already available, and (4) not deny applications for failure of non-household members to cooperate. Deletes requirements that States provide a description of reporting requirements at certification and recertification; and provide a toll-free, local, or collect telephone number that households may use to reach the State. Deletes requirements for displaying posters and providing materials in food stamp and PA offices about nutrition and eligibility for other USDA nutrition programs, using mail issuance in rural areas or other areas where low-income households face transportation problems, conducting a single interview when households apply for both food stamps and AFDC, combining food stamp applications with PA and Statewide general assistance (GA) applications, providing food stamp applications and information at local GA offices if the same agency administers GA and PA, and using verified information available in PA/GA files.	Implementing Memo Proposed Rule
836	Deletes all Federal requirements for State employee training.	

PART D - FOOD STAMP PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 REQUIRING NO IMMEDIATE ACTION BY STATE AGENCIES		
Section	**Description** *State Flexibility* **(States may continue current practices or develop new procedures)**	**FCS Implementation Method**
848	The State agency is no longer required to establish standards for the effective and efficient operation of the program, including periodic review of hours that food stamp offices are open. The State agency is no longer required to submit reports specifying administrative actions to meet the standards.	Implementing Memo Proposed Rule

All State Commissioners

This letter provides guidance for implementing section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Section 402 generally limits the eligibility of legal immigrants for the Food Stamp Program, but section 402(a)(2)(B) provides an exception for legal immigrants who have worked or can be credited with 40 quarters of qualified work in a job covered by Social Security. The law provides that quarters worked by a parent or a spouse may also be credited to the individual in determining the number of qualifying quarters.

Implementing this requirement will be challenging for the individual immigrants, eligibility workers, and the Social Security Administration (SSA) which is the primary source of quarters of coverage information. While some immigrants will already have 40 quarters clearly established in their Social Security records, others may have been employed in jobs covered by Social Security, but earnings may not have been appropriately reported. Many immigrants, particularly migrant workers, may have difficulty obtaining verification of employment, and SSA will have to work with them to establish quarters.

This letter and the enclosed procedures provide guidance to State agencies in administering the 40 quarters determination. These procedures have been developed in cooperation with SSA, and we are drafting regulations on 40 quarter verification that will be based on the guidance outlined in this letter. Until regulations are published, FCS and SSA expect State agencies to follow these procedures. Quality control reviews will be based on these certification procedures as well.

At this time, SSA is developing an automated system to provide State agencies, on an overnight basis, with information on quarters of coverage. Verification of quarters of coverage for most applicants and current recipients will be accomplished primarily by means of this automated system which SSA expects to be operational in January. Pending the implementation of the automated system, FCS and SSA have developed interim procedures for processing households with immigrant members.

The enclosed procedures authorize certification pending verification (CPV) for certain immigrants. Provided an immigrant, alone or in combination with his parents and/or spouse, has spent sufficient time in this country to have acquired 40 quarters of coverage, the individual's attestation to 40 quarters is sufficient. The individual need only state that he or she, alone or in combination with his or her parents and/or spouse, has met the work requirement. No further documentation of earnings is required at application.

Within 3 months after the month in which the SSA system is operational, the State agency shall submit the required information for each CPV individual to SSA. SSA will report back a quarters of coverage history for each individual and applicable family member requested.

If SSA's existing records do not verify that an individual claiming 40 quarters in fact has them and the individual believes SSA's records are not correct, SSA will work with the individual to determine whether additional quarters can be established. Individuals in this situation should be advised of this option and that they will be allowed to participate for 6 more months provided SSA certifies that it is working to clarify their records. The individual will be required to provide a document from SSA indicating that the number of quarters is under review. SSA is developing a document to meet this requirement.

If SSA cannot establish additional earnings and the individual does not have 40 qualifying quarters, the State agency shall establish an inadvertent household error claim for the overissuance, unless the individual knowingly provides false information.

We hope that these procedures will go a long way toward easing implementation difficulties and ensuring that the law is implemented in a fair and effective manner. Please contact your FCS regional office if you have any questions.

Sincerely,

(Regional Administrator)

Enclosures

cc: Food Stamp Program Director

Certification Pending Verification Procedures for Legal Immigrants

The following procedures are for legal immigrants who believe that they have a work history that meets the 40 quarters exemption in the law. These procedures need not be followed for those legal immigrants who qualify for other exemptions in the law (refugees, asylees, deportees, or applicants with a claim to eligibility based on military service).

To determine eligibility based on social security coverage, the State agency should ascertain the applicant's understanding as to the following:

1. How many years has the applicant, the applicant's spouse, or the applicant's parents (before the applicant turned 18) lived in this country.

   (If the answer to question 1 is less than 10 years, the State agency does not need to ask question 2.)

2. In how many of the years reported in answer to question 1, did the applicant, the applicant's spouse, or the applicant's parent earn money through work.

   (To determine whether the applicant's earnings were sufficient to establish "quarters of coverage" in those years, the State agency may wish to refer to the attached chart.)

If the answer to question 2 is 10 years or more, the State agency shall verify, from INS documents, the date of entry into the country of the applicant, spouse and/or parent. If the dates are consistent with having 10 or more years of work, no further documentation is required at this time; the State agency shall include the immigrant in the household pending verification from SSA. The State agency shall inform these immigrants that a claim will be established for any benefits to which they were not entitled. The State agency shall keep a record of each individual certified pending verification from SSA.

If the dates of entry are inconsistent with having 10 or more years of work, the State agency shall determine the individual ineligible. The State agency shall then inform the applicant of his or her fair hearing rights.

The applicant shall also provide, for purposes of future verification, the full name, social security number, date of birth, and sex of each individual (self, parent or spouse) whose work history is relevant to the determination of eligibility. In addition, the applicant shall provide a release form signed by each such individual (copy attached) giving SSA permission to release information on that individual to the State agency and/or the applicant. This form shall be retained in the case file to document the individual's consent.

SSA is drafting an addendum to the current Computer Matching and Privacy Protection Act agreement between SSA and each State agency. In accordance with that revised agreement, and within 3 months after the month in which the SSA verification system becomes operational, the State agency will send the identifying information provided by the applicant to SSA for overnight processing. In its response, SSA will provide information about qualifying quarters of work. If the immigrant believes the information from SSA is inaccurate or incomplete, the State agency shall refer the applicant to SSA for review. SSA will give the individual a document indicating that the number of quarters is under review. An immigrant who provides the State agency with this document can continue to receive benefits for 6 months from the date of SSA's initial response or until SSA has completed its review, whichever is earlier.

ESTABLISHING QUARTERS

The term "quarter" means the 3 calendar month periods ending with March 31, June 30, September 30 and December 31 of any year.

Social Security credits (formerly called "quarters of coverage") are earned by working at a job or as a self employed individual. A maximum of 4 credits can be earned each year.

For 1978 and later, credits are based solely on the total yearly amount of earnings. All types of earnings follow this rule. The amount of earnings needed to earn a credit increases and is different for each year. For 1978 through 1996, the amount of earnings needed for each credit is:

1978	$250	1988	$470
1979	$260	1989	$500
1980	$290	1990	$520
1981	$310	1991	$540
1982	$340	1992	$570
1983	$370	1993	$590
1984	$390	1994	$620
1985	$410	1995	$630
1986	$440	1996	$640
1987	$460		

A current year quarter may be included in the 40 quarter computation. Use the current year amount as the divisor to determine the number of quarters available. DO NOT CREDIT CALENDAR QUARTERS THAT HAVE NOT ENDED.

If you need to use quarters before 18 years ago:

- A credit was earned for each calendar quarter in which an individual was paid $50 or more in wages (including agricultural wages for 1951-1955);
- Four credits were earned for each taxable year in which an individual's net earnings from self-employment were $400 or more; and/or
- A credit was earned for each $100 (limited to a total of 4) of agricultural wages paid during the year for years 1955 through 1977.

Social Security Administration

Consent for Release of Information

TO: Social Security Administration

Name	Date of Birth	Social Security Number
_____	_____	_____

I authorize the Social Security Administration to release information or records about me to:

NAME	ADDRESS
_____	_____
_____	_____
_____	_____
_____	_____

I want this information released because:

_____

_____

_____

_____

(There may be a charge for releasing information.)

Please release the following information:

____ Social Security Number
____ Identifying information (includes date and place of birth, parents' names)
____ Monthly Social Security benefit amount
____ Monthly Supplemental Security Income payment amount
____ Information about benefits/payments I received from _____ to _____
____ Information about my Medicare claim/coverage from _____ to _____
(specify) _____
____ Medical records
____ Record(s) from my file (specify)_____
_____
____ Other (specify)_____

I am the individual to whom the information/record applies or that person's parent (if a minor) or legal guardian. I know that if I make any representation which I know is false to obtain information from Social Security records, I could be punished by a fine or imprisonment or both.

Signature:_____

(Show signatures, names, and addresses of two people if signed by mark.)

Date:_____ Relationship:_____

SSA-3288

Social Security Administration

Consent for Release of Information

Please read these instructions carefully before completing this form.

When To Use This Form

Complete this form only if you want the Social Security Administration to give information or records about you to an individual or group (for example, a doctor, or an insurance company).

Natural or adoptive parents or a legal guardian, **acting on behalf of a minor**, who want us to release the minor's:

- o nonmedical records, should use this form.
- o medical records, should not use this form, but should contact us.

Note: Do not use this form to request information about your earnings or employment history. To do this, complete Form SSA-7050-F3. You can get this form at any Social Security office.

How To Complete This Form

This consent form must be completed and signed only by:

- o the person to whom the information or record applies, or
- o the parent or legal guardian of a minor to whom the **nonmedical** information applies, or
- o the legal guardian of a legally incompetent adult to whom the information applies.

To complete this form:

- o Fill in the name, date of birth, and social security number of the person to whom the information applies.
- o Fill in the name and address of the individual or group to which we will send the information.
- o Fill in the reason you are requesting the information.
- o Check the type(s) of information you want us to release.
- o Sign and date the form. If you are not the person whose record we will release, please state your relationship to that person.