NLWJC - Kagan
DPC - Box 058 - Folder-018

Welfare - All or None Issue

WR - All or none

Diana Fortuna 02/25/97 05:01:10 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Christopher C. Jennings/OPD/EOP

cc:
Subject: Re: an old issue: all or none

So we have to fight this out with OMB.
---------- Forwarded by Diana Fortuna/OPD/EOP on 02/25/97 05:00 PM ----------

From: Kenneth S. Apfel on 02/25/97 04:58:09 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc: Elena Kagan/OPD/EOP, Christopher C. Jennings/OPD/EOP
Subject: Re: an old issue: all or none

Kevin told me last week that the HHS position (uniformly) is in support of all or nothing. He also told me that hhs believes that more immigrants will be served by all or nothing than by optional policies. My recommendation is to go with all or nothing.

NR- All or none

Diana Fortuna 02/25/97 04:50:27 PM

Record Type: Record

To: Kenneth S. Apfel/OMB/EOP

cc: Elena Kagan/OPD/EOP, Christopher C. Jennings/OPD/EOP
Subject: an old issue: all or none

Where do you think we are on this issue? A long while back,you were arguing that HHS didn't have a unified position on this, but Monahan says they do. He also says we have all the analysis that exists on this issue, and that Kevin talked to you about this. Where do we go from here?

WR - all or none

Diana Fortuna 02/25/97 07:56:41 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:
Subject: Re: an old issue: all or none

HHS's unified position is that we should tell states that their choice is all or none when choosing among legal immigrants; that they can't pick and choose among immigrants, covering some and not others.

WR-All or none

FORTUNA_D @ A1
01/21/97 10:22:00 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: Unresolved welfare issues

Although resolving the bifurcation issue should probably be our top priority this week (see the letter from NGA/NCSL/APWA), here are 2 unresolved welfare issues we are letting languish:

1. All or none: HHS prefers the "all or none" position to the "pick and choose" position, and is waiting to hear from us. I believe everyone here except Ken prefers "pick and choose." We need to resolve this, since states are making these choices. Ken and Chris were supposed to have a conversation to compare approaches here...has that happened?

2. Cost neutrality for child support pass-through waivers: we are waiting to hear from OMB on this one. HHS's position is that states that pass along the benefits to families should be allowed to continue their waivers, while those that don't should not.

Other issues:

- On bifurcation, HHS will give us paper very soon; we need to know our position. NGA is pressing hard to resolve this before its meeting.

- We need to sort out what we've done on the bucket budget-wise -- I think the budget essentially decided this.

- We need a decision on a day for children's SSI -- Ken and I think it has to be the end of this week or the beginning of next because of Chater's departure on 1/31.

- FYI, we are planning to meet w/NGA/NCSL/APWA tomorrow at 1 after a long hiatus. Should be a pleasant discussion of bifurcation.

Message Sent To:

Bruce N. Reed
Kenneth S. Apfel
Elena Kagan
Emily Bromberg
JENNINGS_C @ A1@CD@LNGTWY

Ask DF -
where are we?

FORTUNA_D @ A1
01/06/97 12:56:00 PM

All think - allow states flexib to pick + choose among diff grps + also diff benefit levels

Record Type: Record

To: RASCO_C @ A1@CD@LNGTWY, REED_B @ A1@CD@LNGTWY, JENNINGS_C @ A1@CD@LNGTWY

cc: Elena Kagan, Emily Bromberg, Kenneth S. Apfel, WARNATH_S @ A1@CD@LNGTWY

Subject: "All or none" issue

Bruce - flexibility
Apfel - All-or-none
Chris - flexibility.
Chris should call Ken A - ck whether that's happened.

I have left HHS hanging on the so-called "all or none" issue. They want us to give them a final position so that they can decide whether the Secretary should push the issue with us.

You will recall the issue: As states decide whether to continue to cover legal immigrants under TANF, Medicaid, and SSBG, are they permitted to pick and choose among them? Or, if they choose to cover one type of legal immigrant (e.g., elderly, children), must they serve all of them under the same rules they use for citizens? Legally, either interpretation is fine.

Carol and Chris, you had expressed the opinion that states should be given the freedom to do what they wanted, even if it created one set of standards for citizens and another for legal immigrants.

HHS wants to tell states that they must choose either all or none.

States' assumptions on this issue are unclear, but apparently a mixed bag. Many states seem to be assuming they must choose "all or none", while others are indicating they assume they have a choice. (HHS has been understandably reluctant to conduct a survey on this question.) For example, for TANF, HHS has heard that 7 states plan to cover something less than all legal immigrants:

Alabama: none
Georgia: wants to give legal immigrants 12 months of benefits, whereas citizens get 4 years
Indiana: wants to have 1 year time limit for legal immigrants, vs. 2 years for citizens
Kentucky: none
Louisiana: unclear
S Carolina: none
Wyoming: none

(It is interesting that Georgia and Indiana are offering lower benefit levels to all legal immigrants, rather than choosing among immigrants.)

However, this list of 7 does not mean that the other 43 are

covering all legal immigrants -- we just don't know. (I have asked HHS to compile a similar list for Medicaid.)

Anyway, please let me know your view as to whether I should communicate to HHS that our position is that states should have freedom to do what they want here.

JENNINGS_C @ A1
01/06/97 04:35:00 PM

Record Type: Record

To: RASCO_C @ A1@CD@LNGTWY

cc: See the distribution list at the bottom of this message
Subject: RE: "All or none" issue

I thought I wrote a long note about this a long time ago. My suggestion to John Monahan was that he suggest to the Department that we avoid having any clarification on current policy and we assume current law (i.e., all or nothing) is in place, but we don't slap the states in the face with a clarification statement. Diana, can you ask John to tell us what happened to this suggestion...???

Thanks.

cj

Message Copied To:

Elena Kagan
Emily Bromberg
Kenneth S. Apfel
FORTUNA_D @ A1@CD@LNGTWY
REED_B @ A1@CD@LNGTWY
WARNATH_S @ A1@CD@LNGTWY

FORTUNA_D @ A1
01/06/97 06:10:00 PM

Record Type: Record

To: JENNINGS_C @ A1@CD@LNGTWY

cc: See the distribution list at the bottom of this message
Subject: RE: "All or none" issue

Chris: Sorry to have neglected to include this part of the saga: HCFA shot down your suggestion because they don't feel they could enforce a policy of all or none if they didn't tell anyone about it. Since states are already beginning to make these choices, it's hard to stay silent and have it be a meaningful policy.

Message Copied To:

Elena Kagan
Emily Bromberg
Kenneth S. Apfel
RASCO_C @ A1@CD@LNGTWY
REED_B @ A1@CD@LNGTWY
WARNATH_S @ A1@CD@LNGTWY