

**NLWJC - Kagan**

**DPC - Box 067 - Folder-008**

**Child Welfare-Ohio Waiver**

section 6057 of the Internal Revenue Code of 1954<sup>163</sup>, or

(B) in the case of the death of the individual referred to in subparagraph (A), by the individual who would be entitled to payment under section 204(d) of this Act,

the Commissioner of Social Security<sup>164</sup> shall transmit to the individual referred to in paragraph (1) or (2)<sup>165</sup> or the individual making the request under paragraph (3)<sup>166</sup> any information, as reported by the employer, regarding any deferred vested benefit transmitted to the Commissioner of Social Security<sup>167</sup> pursuant to such section 6057 with respect to the individual referred to in paragraph (1), (2), or (3)(A)<sup>168</sup> or the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

(b)(1) For purposes of section 201(g)(1), expenses incurred in the administration of subsection (a) shall be deemed to be expenses incurred for the administration of title II.

(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Commissioner of Social Security<sup>169</sup> deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a).

#### PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

SEC. 1132. [42 U.S.C. 1320b-2] (a) Notwithstanding any other provision of this Act (but subject to subsection (b)), any claim by a State for payment with respect to an expenditure made during any calendar quarter by the State—

(1) in carrying out a State plan approved under title I, IV, X, XIV, XVI, XIX, or XX of this Act, or

(2) under any other provision of this Act which provides (on an entitlement basis) for Federal financial participation in expenditures made under State plans or programs,

shall be filed (in such form and manner as the Secretary shall by regulations prescribe) within the two-year period which begins on the first day of the calendar quarter immediately following such calendar quarter; and payment shall not be made under this Act on account of any such expenditure if claim therefor is not made within such two-year period; except that this subsection shall not be applied so as to deny payment with respect to any expenditure involving court-ordered retroactive payments or audit exceptions, or adjustments to prior year costs.

(b) The Secretary shall waive the requirement imposed under subsection (a) with respect to the filing of any claim if he determines (in accordance with regulations) that there was good cause for the

<sup>163</sup>See Vol. II, P.L. 83-591.

<sup>164</sup>P.L. 103-296, §108(b)(11)(G), struck out "he" and substituted "the Commissioner of Social Security", effective March 31, 1995.

<sup>165</sup>P.L. 103-296, §108(b)(11)(G), struck out "paragraph (1)" and substituted "paragraph (1) or (2)", effective March 31, 1995.

<sup>166</sup>P.L. 103-296, §108(b)(11)(G), struck out "paragraph (2)" and substituted "paragraph (3)", effective March 31, 1995.

<sup>167</sup>P.L. 103-296, §108(b)(11)(A), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

<sup>168</sup>P.L. 103-296, §108(b)(11)(G), struck out "paragraph (1) or (2)(A)" and substituted "paragraph (1), (2), or (3)(A)", effective March 31, 1995.

<sup>169</sup>P.L. 103-296, §108(b)(11)(A), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty and assessment if any such penalty were to be imposed or to seek other appropriate relief.

(i)(1) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Commissioner of Social Security<sup>146</sup> may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General for purposes of any investigation under this section.

(2) The Commissioner of Social Security<sup>147</sup> may delegate authority granted under this section to the Inspector General.

(j) For purposes of this section, the term "State agency", shall have the same meaning as in section 1128A(i)(1).

(k) A principal is liable for penalties and assessments under subsection(a), and for an exclusion under section 1128 based on a recommendation under subsection (a)<sup>148</sup>, for the actions of the principal's agent acting within the scope of the agency.

(l) As soon as the Inspector General, Social Security Administration<sup>149</sup>, has reason to believe that fraud was involved in the application of an individual for monthly insurance benefits under title II or for benefits under title XVI, the Inspector General shall make available to the Commissioner of Social Security<sup>150</sup> information identifying the individual, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that making the information so available in a particular investigation or redetermining the eligibility of the individual for such benefits would jeopardize the criminal prosecution of any person who is a subject of the investigation from which the information is derived.<sup>151</sup>

#### DEMONSTRATION PROJECTS<sup>152</sup>

SEC. 1130. [42 U.S.C. 1320a-9] (a) IN GENERAL.—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

(b) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

<sup>146</sup>P.L. 103-296, §108(b)(10)(A)(i), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

<sup>147</sup>P.L. 103-296, §108(b)(10)(A)(i), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

<sup>148</sup>P.L. 103-296, §108(b)(10)(A)(iv), inserted "based on a recommendation under subsection (a)", effective March 31, 1995.

<sup>149</sup>P.L. 103-296, §108(b)(10)(A)(v), struck out "Department of Health and Human Services" and substituted "Social Security Administration", effective March 31, 1995.

<sup>150</sup>P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

<sup>151</sup>P.L. 103-296, §206(e)(1), added subsection (l), effective October 1, 1994.

<sup>152</sup>P.L. 103-432, §208, added section 1130, effective October 31, 1994.

(1) any provision of section 427 (as in effect before April 1, 1996), section 422(b)(9) (as in effect after such date), or section 479; or

(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

(c) TREATMENT AS PROGRAM EXPENDITURES.—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

(d) DURATION OF DEMONSTRATION.—A demonstration project under this section may be conducted for not more than 5 years.

(e) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes

(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

(2) a statement of the period during which the proposed project would be conducted;

(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

(4) an estimate of the costs or savings of the proposed project;

(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

(6) a description of the proposed evaluation design; and

(7) such additional information as the Secretary may require.

(f) EVALUATIONS; REPORT.—Each State authorized to conduct a demonstration project under this section shall—

(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

(C) any other information that the Secretary may require; and

(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

(g) COST NEUTRALITY.—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secre-

tary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.

#### EFFECT OF FAILURE TO CARRY OUT STATE PLAN<sup>153</sup>

SEC. 1130A. [ 42 U.S.C. 1320a-10] In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided, however,* That this section is not intended to alter the holding in *Suter v. Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action.

#### NOTIFICATION OF SOCIAL SECURITY CLAIMANT WITH RESPECT TO DEFERRED VESTED BENEFITS<sup>154</sup>

SEC. 1131. [ 42 U.S.C. 1320b-1] (a) Whenever—

(1) the Commissioner of Social Security<sup>155</sup> makes a finding of fact and a decision as to—

(A) the entitlement of any individual to monthly benefits under section 202, 223, or 228, or<sup>156</sup>

(B) the entitlement of any individual to a lump-sum death payment payable under section 202(i) on account of the death of any person to whom such individual is related by blood, marriage, or adoption, or<sup>157</sup>

(2) the Commissioner of Social Security<sup>158</sup> makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or<sup>159</sup>

(3)<sup>160</sup> the Commissioner of Social Security<sup>161</sup> is requested to do

so—

(A) by any individual with respect to whom the Commissioner of Social Security<sup>162</sup> holds information obtained under

<sup>153</sup>P.L. 103-432, §211(a), added section 1130A, applicable to actions pending on October 31, 1994, and to actions brought on or after such date.

<sup>154</sup>See Vol. II, P.L. 83-591, §6103(d), relating to disclosure of returns and return information by the Secretary of the Treasury to the Social Security Administration, and §7213(a)(1) relating to the penalty for unauthorized disclosure of that tax return information.

<sup>155</sup>P.L. 103-296, §108(b)(11)(A), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

<sup>156</sup>P.L. 103-296, §108(b)(11)(B), added "or".

<sup>157</sup>P.L. 103-296, §108(b)(11)(C), struck out "or" and §108(b)(11)(D), struck out subparagraph (C), effective March 31, 1995. For subparagraph (C) as it formerly read, see Vol. III, P.L. 103-296.

<sup>158</sup>P.L. 103-296, §108(b)(11)(A), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

<sup>159</sup>P.L. 103-296, §108(b)(11)(F), added a new paragraph (2), effective March 31, 1995.

<sup>160</sup>P.L. 103-296, §108(a)(11)(E), redesignated paragraph (2) as paragraph (3).

<sup>161</sup>P.L. 103-296, §108(b)(11)(A), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

<sup>162</sup>P.L. 103-296, §108(b)(11)(A), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

Social Security Act 1130(c)

Ohio Child Welfare 1/9/96

Waiver

Issue - cost neutrality

If a state overpays, does it have to pay us back?

Under the demo auth.

Ohio - imp. substantively. Abs managed care in child welfare.

Abts "wants to be" | Ohio very invested. This is small issue!

elig. ratio

volume of kids

unit costs per day.

DPC - wants to do from policy perspective. Managed care!

KA - Issue is cost neutrality (which is a neg in the law)

just a bit of it - but this cuts both ways.

2 concerns

1) Projecting rates - "mix + match"

2) How to give back if goes over projected rates!

KA: Will cost more if we go this way.

|| Ohio/Virginia - Fed 1 (work)  
|| Get done by next wh.

→ Ash Keith

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DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ADMINISTRATION FOR CHILDREN AND FAMILIES  
ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES  
CHILDREN'S BUREAU

WAIVER AUTHORITY

STATE: OHIO

Waivers of the following provisions of the Social Security Act and Program Regulations are provided to the State of Ohio to operate a child welfare demonstration project:

Section 472(a) (c) and (e), and 471(a)(10): Expanded Eligibility: To allow the State to expend title IV-E funds for children and families who are not normally eligible under Part E of title IV of the Act as described in the Terms and Conditions, section 2.1.

Section 474(a)(3)(E) and 477(e)(3): Expanded Services: To allow the State to expend title IV-E funds to pay for services that will be provided to children and their families that would not normally be covered under Part E of title IV of the Act as described in the Terms and Conditions, section 2.1.

## SUMMARY

### The Ohio Child Welfare Waiver Demonstration Project

Under the agreement embodied in the following Terms and Conditions, Ohio will operate and test a "managed care" approach to the delivery of child welfare services, in which the State will be permitted to use title IV-E foster care funds flexibly, combining federal funds with county funds to provide a fixed amount of funding, for each of five years, for participating counties. As many as twenty counties will participate. Each county will negotiate an agreement with the State, under which counties will be responsible for providing all services needed by children and families in the child welfare system, but would have financial and regulatory flexibility intended to permit a new set of incentives to operate.

The State's hypotheses are that the quality of services will improve, fewer children will be removed from their homes, children who are removed will spend less time in out-of-home care, and families will be strengthened. Further, Ohio will test whether the "managed care" techniques employed by the counties actually result in greater efficiency, cost-effectiveness, and fiscal incentives which are more appropriate to the purposes of the child welfare system.

Interested counties will enter into agreements with the State which will establish the terms under which they will be provided with federal foster care funds. Some counties will be kept out of the demonstration project in order to serve as comparison counties, so that there can be a sound evaluation of both the programmatic effects and the fiscal effects. Counties which serve children and families well but do so at a lower unit cost will be allowed to re-invest the "savings" in other child welfare services, such as services designed to prevent child abuse or neglect.

Counties will devise county-specific plans; most are expected to rely on a combination of public and private service providers.

The project, to be conducted over a period of five years, will be cost neutral to the federal government, and will be evaluated by an independent organization.