State AFDC Rules Regarding the Treatment of Cohabitors: 1993

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This article reports the results of a survey of State Aid to Families with Dependent Children (AFDC) rules regarding the treatment of unrelated cohabitors in households containing AFDC units. We examine State treatment of cash and in-kind contributions by cohabitors and find that the AFDC grant is usually not affected if the cohabitor makes in-kind contributions toward food and shelter expenses of the household. However, the grant generally is reduced if the cohabitor contributes cash to the AFDC unit unless the cash is for shared household expenses. In addition, a few States have specific policies toward cohabitors that are not based on initial evidence of cohabitor contributions.

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The Aid to Families with Dependent Children (AFDC) program was created to provide cash income support to needy children who are deprived of the support of at least one of their parents. Most AFDC families include a caretaker adult, usually the mother of the children, as well as the children. However, although such families were relatively easy to identify when the Social Security Act (which included legislation for the AFDC program) was passed in 1935, they have become more difficult to define over time as the types of families and households within which needy children reside have become more complex. AFDC units living with parents, with other family members, and AFDC mothers married to men who are not the natural parents of the children have become more common. In addition, cohabitation rates have risen in the U.S. population generally, coinciding with the decline of marriage rates. The presence of cohabitors in AFDC households, which is the focus of this article, also raises issues of eligibility and treatment of income and resources that were not present in 1935.

There have been a number of important judicial, executive, and legislative decisions in the past 20 years that have addressed either the treatment of cohabitors, the treatment of stepparents, or, more generally, the presence of individuals in the AFDC household other than the children and the caretaker adult. However, these decisions, and the Federal regulations that are based on them, still permit a wide variety of alternative treatments at the State level. Unfortunately, detailed State rules regarding the treatment of cohabitors are not collected by the Federal Government or by any other organization.[1]

In this article we present the results of a telephone survey of the States that was aimed to provide the first available information on these rules. In the summer and fall of 1993, we contacted all 50 States and the District of Columbia to collect information in a number of areas. First, we confirmed and clarified eligibility rules for cohabitors and stepparents under the AFDC program. We also clarified the relationship of eligibility for the AFDC-Unemployed Parent (AFDC-UP) program, which provides benefits to two-parent families, to eligibility for the AFDC-Basic

program, which generally provides benefits to one-parent families. Second, we obtained information on the treatment of contributions from cohabitors to an AFDC assistance unit—both contributions in the form of in-kind payments for shelter and other items of need—as well as payments of cash. Third, we obtained information on whether States treat AFDC units with cohabitors differently than other units in any way independent of actual contributions by cohabitors.

In what follows, we first summarize the recent history of Federal policy affecting cohabitors. We then present the findings from our survey.

Major Judicial, Legislative, and Administrative Developments

Two well-known Supreme Court decisions, one in 1968 and one in 1970, shaped modern AFDC policy with regard to cohabitors—defined as men living in an unmarried "partner" relationship with a woman and her children.[2] In King *v.* Smith (1968),[3] the Court struck down an Alabama "man-in-the-house" eligibility rule. In the Alabama rule, cohabitation of a woman with a man not legally obligated to support her children was considered evidence of parental support and thereby constituted just cause to disqualify the children for AFDC. The Court argued that this defined "parent" and "parental support" in a manner contrary to the intent of the Social Security Act. The decision affected 19 other States in addition to Alabama.[4] Following King *v.* Smith, many States continued to have man-in-the-house budgeting rules that required the inclusion of cohabitor income in the resource base of the unit under consideration. In Lewis *v.* Martin (1970),[5] a California man-in-the-house budgeting rule was struck down on the grounds that without evidence of actual contributions, a cohabitor could not be assumed to be supporting the children.

Current Federal regulations implement these decisions, stipulating that the AFDC program is to provide income support to "needy children...under the age of 18...deprived of parental support or care by rea-son of the death, continued absence from the home, or physical or mental incapacity of a parent, or unemployment of a principal earner."[6] A parent is defined to be a natural or adoptive parent. Consequently, a cohabiting male who is unrelated to the woman or her children, and who has not adopted them, cannot be regarded as a parent.[7] Thus, a woman and her children can be eligible for AFDC even if such a cohabitor is present in the household.

A significant legislative development in 1981 affected the treatment of stepparents. Although stepparents are distinct from cohabitors (stepparents are married), AFDC policy toward stepparents is of interest because stepparents are treated differently from cohabitors. In the Omnibus Budget Reconciliation Act of 1981,[8] Congress required States to automatically include a portion of stepparent income in the countable income of the AFDC unit. Such income must be "deemed" to the unit and any amounts in excess of certain disregarded levels must be included in determining grant levels and eligibility.[9]

Finally, an important administrative ruling in 1989 affected the treatment of AFDC units who coreside with other individuals and who receive cash from those individuals to help defray shelter costs and other household expenses. In Department of Health and Human Services AFDC Action Transmittal No. FSA-AT-89-2 (January 9, 1989), States were allowed to disregard cash payments from other individuals to the AFDC unit if those payments were designated for "shared household expenses."

Survey Results

This survey was designed to explore in detail State differences in eligibility rules, specifically the treatment of cohabitors. The results are explained in the sections that follow.

Eligibility Rules in the AFDC-Basic and AFDC-UP Programs

Our survey first confirmed and clarified eligibility rules for the AFDC-Basic program.[10] The key issue in all States is whether the cohabiting male is or is not the natural father to the children. If he is the natural father (that is, a paternity relationship has been established), the unit is categorically ineligible for AFDC-Basic; if he is not, however, the mother and her children are potentially eligible.[11] Regarding the treatment of the income of an unrelated cohabitor, no State can automatically include such income in the resource base of the unit. An exception to the general rule of the exclusion of cohabitor income occurs in States that allow for "essential persons."[12] In addition, States can treat households with cohabitors differently than households without cohabitors in other ways. We will describe the details of this treatment, which occurs in only a few States, in the section on other State policies, presented later in this article.

The treatment of stepparent income also varies across States. Although most States permit the presence of stepfathers in AFDC-Basic households, and deem their income as required by Federal law, seven States have a "support law of general applicability" that requires stepfathers to be treated as legally responsible for the children. In those seven States, households with stepfathers are categorically ineligible for AFDC-Basic.[13]

The categorical exclusion of some types of households is counterbalanced by their inclusion in the categorical groups eligible for the AFDC-UP program, which pays benefits to unmarried couples with children, provided the male is the natural father of the children. Thus marriage per se is not an AFDC-UP requirement.[14] Likewise, families in the seven States in which families with stepfathers are considered legally responsible for the children are considered potentially eligible for AFDC-UP. In three more States, stepparents may be included as "optional persons" under the AFDC-UP program as well.[15] It should be noted that eligibility for the AFDC-UP program also requires the principal earner to satisfy a definition of unemployment and to meet certain requirements for work history.[16] These requirements do not have to be satisfied in stepparent families or in cohabiting families eligible for AFDC-Basic.

Treatment of In-Kind Contributions

The main focus of our survey was on State variation in the treatment of

unrelated cohabitors living in households with a woman and her children, who, as we have just noted, are potentially eligible for AFDC-Basic. We were particularly interested in the treatment of contributions, either in-kind or in cash, by such cohabitors, and in other State policies regarding cohabitors. Below we discuss the case of in-kind contributions, such as for food, clothing, or shelter. In later sections, we discuss cash contributions and other State cohabitor policies.

Regarding contributions of food and clothing, our survey revealed that in only five States would the grant amount for an AFDC unit be affected if the cohabitor provided food and clothing directly to that unit through purchases (Colorado, Iowa, Massachusetts, Maine, and Virginia). In addition, even in these States no grant reduction would be made if the woman paid any amount herself toward these items, for in that case the expenses would be considered to be "shared." In the other 45 States plus the District of Columbia, no grant reduction is made regardless.

The rules regarding direct shelter contributions—for example, cases in which the cohabitor directly pays the rent—are more complex. For our survey we focused on three related questions concerning shelter contributions. We inquired about the case of an AFDC assistance unit consisting of a mother and her two children. First, we asked the maximum grant amount for such a family if the family had no other income and were living alone (that is, independently). Second, we asked how the grant amount would be affected if a male cohabitor resided in the household and paid the shelter amount in full, with the woman making no contribution. Third, we asked how the grant amount would be affected if the woman were to make a contribution herself of some dollar amount toward shelter (that is, if the expenses were shared).

We found States to follow one of three general policies: (1) Policy A: The AFDC grant is not affected if the woman receives free shelter; (2) Policy B: The AFDC grant is reduced by the amount of the shelter allowance if the woman receives free shelter, however, the AFDC grant is not reduced if she makes any dollar contribution; or (3) Policy C: The AFDC grant is reduced by the amount of the shelter allowance if the woman receives free shelter, however, if she makes a contribution, the reduction in the AFDC guarantee is tailored to the amount of her actual contribution, up to the shelter maximum.

The policies followed by each State, together with corresponding grant amounts, are shown in table 1. Policy A is the most lenient and Policy C is the least lenient. In Policy C, for example, the grant is reduced by the full shelter allowance less $1 if the woman contributes $1.[17] Policy B States, on the other hand, are effectively the same as Policy A States since the woman is generally required only to contribute $1 toward shelter costs to avoid any grant reduction. As table 1 shows, 34 States and the District of Columbia follow Policy A, 13 States follow Policy B, and only 3 States follow Policy C.

There are a number of other State rule differences that are worthy of note. For example, two States reduce the grant if the recipient lives with any coresident (male or female cohabitor) regardless of the coresident's contributions—because these States prorate the needs standard according to the number of individuals in the entire household.[18] This policy is discussed in detail below.

In addition, three States require contributions on the part of the male cohabitor, and two of these States require those contributions to be for the cohabitor's share of household expenses. Since these requirements are initiated by the State prior to evidence of voluntary contributions, we discuss them in a different section.

We also found that the treatment of in-kind contributions is identical regardless of whether the male cohabitor or the woman is the tenant of record in all States except three. In those three States, the effect of shelter contributions on the grant depends upon which person is the tenant of record. However, the three States differ in which situation is treated less favorably.[19]

The treatment of in-kind contributions is also identical whether it is a male cohabitor who pays the rent or it is the parent(s) of the AFDC woman who pays the rent, although four States make exceptions to this rule as well. The policies in the four States differ according to whether the AFDC woman is a minor and whether she is contributing to the rent.[20]

Treatment of Cash Contributions

Whether or not a cash contribution affects the AFDC payment depends on its intended purpose and on its regularity or predictability. The treatment of a cash contribution sometimes also depends on whether it is designated for "shared household expenses" (including rent) or to "meet the needs of the woman and her children" (that is, for discretionary purposes).[21]

Predictable cash contributions.— In all 50 States and the District of Columbia, our survey revealed that a predictable cash payment of $100 provided for the express purpose of "meeting the needs of the woman and her children"—which is interpreted as meaning that the cash is available to the assistance unit for its unrestricted use—is treated as discretionary income and reduces the AFDC grant. However, as shown in table 2, 26 States and the District of Columbia permit cash contributions to be designated for the purpose of meeting shared household expenses and therefore the contributions are disregarded. The remaining 24 States reduce the AFDC grant regardless of its intended purpose.[22]

The policy followed by many States in disregarding cash contributions made for shared household expenses was not permitted before January 1989, because prior to that date Federal rules stipulated that all cash contributions be treated as unearned income to the AFDC unit. However, Federal and State officials became concerned with this rule in the 1980's, as they perceived rising housing costs to be forcing many AFDC units to double-up and share household expenditures to make ends meet. In response, the Federal Government altered the rule and allowed the shared-household disregard in the January 1989 Action Transmittal referred to earlier.

States that permit cash contributions to be designated for shared household

expenses base their policy on the presumption that such contributions are unavailable for the unrestricted use of the AFDC unit.[23] The in-kind contributions discussed previously, for example, are almost always treated as unavailable for the unrestricted use of the AFDC unit because the cohabitor pays for them directly; hence they are generally disregarded. However, State policies differ if the cohabitor pays the AFDC unit cash and the AFDC unit makes the vendor payment: 26 States and the District of Columbia treat such payments as unavailable for the unrestricted use of the AFDC unit (and hence disregard it), while 24 States do not.

A comparison of table 1 and table 2 shows that different States provide a mix of differing treatments of in-kind and cash contributions. A number of States (for example, Alaska) disregard both in-kind and cash contributions designated for shelter. But in other States (for example, Alabama), the AFDC grant is unaffected if the cohabitor pays the landlord directly but is reduced if he provides the mother with cash so she can make the rent payment.

The respondents to our survey also provided some comments on when household expenses are said to be shared. Among States that disregard shared household expenses, many States interpret the rule as liberally as possible: As one respondent put it, "sharing does not mean 50–50 or even 80–20." Moreover, the recipient often does not need to be responsible for household bills, but rather only be part of an "informal arrangement" in which there is a "co-mingling of funds." Other respondents stated that the amounts involved must be "reasonable" or "equitable." The Oregon respondent also noted that if the cash payment made each month is fixed and does not vary with the costs of rent or utilities, then it is not considered cash for shared household expenses.

Unpredictable cash contributions.—State treatment of unpredictable cash contributions—for example, cash gifts on special occasions such as birthdays, cash to meet the needs of a woman and her child, and/or cash to meet shared household expenses—depends largely on its intended purpose. Contributions made for shared household expenses, for example, are treated the same whether they are predictable or only occasional in most States. Thus, the same 26 States and the District of Columbia, shown in table 2, disregard unpredictable cash contributions if they are for this purpose. Treatment of unpredictable cash contributions for the needs of the woman and her children (that is, for a discretionary purpose) are often treated as discretionary income, like predictable contributions—but not always. Exceptions occur in two cases.

The first case concerns the treatment of "gift" income. Table 2 illustrates the variation in how States treat such income. Federal regulations permit States to disregard nonrecurring gifts of less than $30 per quarter per member of the household. Several States choose to interpret the provision as liberally as possible, while others insist that the gift be on particular special occasions such as birthdays and anniversaries. In addition, some States count as income the entire amount of any gift greater than $30, while others disregard only the first $30, and count any amount above $30 as income.

The second case occurs in 12 States that effectively ignore one-time contributions (see table 2). One common attribute of these 12 States is that they all use prospective budgeting (although not all States using prospective budgeting ignore such contributions). In States with retrospective budgeting, the treatment of cash payments is not affected by whether they are made on a regular or unpredictable basis. This is because recipients file monthly reports on income received in the previous month, and those reports are then used to set the grant amount in a later month. Since some States judge monthly reporting to be expensive to administer, they use prospective budgeting instead.[24] Under this budgeting method, the grant amount is based on an estimate of income in a future month. By necessity, any unanticipated income received later implies that the grant amount must be altered. Some States attempt to collect the overpayment from the household, but this, too, can become very expensive. As a result, these 12 States have adopted plans that allow them to ignore one-time cash contributions.[25]

Other State Policies

In our survey, we also asked the respondents whether their State had any policies toward AFDC units with cohabitors that were not based directly on evidence of voluntary in-kind or cash contributions. Five States have such policies. Two States have a policy of prorating the grant amount when the assistance unit coresides with other individuals, whether they be cohabitors, parents, or others. Three other States impose a legal responsibility on cohabitors or other unrelated coresidents to make a contribution to the unit.

Prorating States.—Kansas and South Dakota make use of an optional Federal regulation that permits the need standard to be prorated when the assistance unit resides with nonrecipients. For a woman with two children receiving AFDC in Kansas, the presence of a cohabitor reduces her grant by $54 (see table 1). South Dakota prorates the need standard whenever the AFDC recipient is not the tenant of record. For instance, if a woman with her two children move in with her boyfriend, the grant is reduced by $126. Furthermore, if the woman were not to contribute toward the rent, the grant would be reduced by an additional $92 (see table 1). In both States, prorating applies to all non-AFDC coresidents in the household except tenants, landlords, and individuals receiving Supplemental Security Income (SSI).

Legal responsibility States.—California, Oregon, and Virginia impose a legal responsibility on unrelated cohabitors to make contributions. The three policies differ from each other, so we list each one in turn in the following three sections.

California requires an unrelated male cohabitor to make an in-kind or cash contribution toward shared household expenses equal to the cost of his own independent living arrangement. Such a payment is not required if he is a roommate, boarder, or bona fide lodger paying rent. The cohabitor and the recipient are required to sign an agreement that

stipulates the amount that he must contribute, with a minimum of $280 (the minimum is independent of the size of the household or his income). Most importantly, the amount agreed upon is regarded as exempt income to the AFDC unit and hence does not affect the grant.[26] However, any contribution in excess of this amount is treated as unearned income to the unit and reduces the grant.

Oregon requires unrelated coresidents of an AFDC unit to pay for the cost of their subsistence and for the value of any lodging received. Unlike California, Oregon does not restrict the policy to unmarried partners but applies it to any coresident other than a stepchild, spouse, or relative, including roomers and boarders. The amount of the required contribution, which may be paid in cash or in-kind, depends on the number of individuals living in the household. For example, the required contribution for a man residing with an AFDC mother and

Table 1.—Treatment of in-kind shelter contributions in State AFDC programs and family grant amounts, by State, 1993

State	Policy[1]	Grant amounts for a woman and 2 children[2]		
			Cohabitor present who pays shelter directly[3]	
		No cohabitor present	AFDC unit contributes nothing	AFDC unit contributes $10
Alabama	A	$164	$164	$164
Alaska	A	923	923	923
Arizona	B	327	198	327
Arkansas	A	204	204	204
California[4]	A	607	607	607
Colorado	B	356	260	356
Connecticut	A	581	581	581
Delaware	A	338	338	338
District of Columbia	A	420	420	420
Florida	B	303	198	303
Georgia	A	280	280	280
Hawaii	A	712	712	712
Idaho	A	317	317	317
Illinois	A	367	367	367
Indiana	A	288	288	288
Iowa	B	426	(5)	426
Kansas[6]	A	429	375	375
Kentucky	A	228	228	228
Louisiana	A	190	190	190
Maine[7]	B	418	370	418
Maryland	A	366	366	366
Massachusetts[8]	B	579	413	579
Michigan	A	459	459	459
Minnesota	A	532	532	532
Mississippi	A	120	120	120
Missouri	A	$292	$292	$292
Montana	B	401	252	401
Nebraska[9,10]	B	364	229	364
Nevada	A	348	348	348
New Hampshire	C	550	273	283
New Jersey	A	424	424	424
New Mexico[11]	B	357	269	357
New York	C	577	291	301
North Carolina	A	272	272	272
North Dakota	A	409	409	409
Ohio	A	341	341	341
Oklahoma	B	343	324	[12] 324
Oregon	A	460	460	460
Pennsylvania	A	403	403	403
Rhode Island[10]	A	554	554	554
South Carolina	A	200	200	200
South Dakota[6,10]	B	417	199	291
Tennessee	A	185	185	185
Texas	A	184	184	184
Utah	A	415	415	415
Vermont	C	642	413	[13] 419
Virginia	A	291	291	291
Washington	B	546	332	546
West Virginia	A	249	249	249
Wisconsin	A	517	517	517
Wyoming	B	360	265	360

[1] Policies:

[A] AFDC grant is not affected if free shelter is received.

[B] AFDC grant is reduced by the amount of the shelter allowance if AFDC unit receives free shelter, but grant is not reduced if unit makes any dollar contribution.

[C] AFDC grant is reduced by amount of the shelter allowance if AFDC unit receives free shelter, but if the unit makes a contribution, the grant reduction is tailored to the amount of the unit's actual contribution.

[2] Monthly grant for a family with no other income in the largest city in the State, as of fall 1993.

[3] The cohabitor is assumed to be the tenant of record unless otherwise noted.

[4] Policy A applies only if the shelter arrangement is part of the cost of an independent living arrangement for the cohabitor.

[5] Not available; respondent could not answer.

[6] Grant is prorated by presence of coresidents regardless of whether coresidents make a contribution.

[7] The State has a special needs' housing allowance of $75 if the recipient pays more than 75 percent of countable income toward shelter (the figures in the table assume this condition not to be met).

[8] If shelter is provided in full, a lower "no rent" standard is applied (the figures in the table incorporate this). In addition, the grant is reduced if the housing unit is heated.

[9] Rent is assumed to exceed $135.

[10] Amounts differ if the woman is the tenant of record.

[11] Separate standards exist for shelter and utilities. The AFDC unit must contribute to both to receive both as part of the grant.

[12] The AFDC unit contribution must be at least $100, not $10, to avoid grant reduction. If the contribution is at least $100, the grant amount is $343.

[13] The AFDC unit contributions toward shelter reduce the grant by 0.586 times the contribution amount.

her two children is $146. As in California, the required contribution is exempt income to the AFDC unit and hence does not reduce the grant. Amounts given in excess of the required contribution reduce the grant unless designated for shared household expenses.[27]

Virginia requires cohabitors to make a contribution toward the needs of the children in the AFDC unit. As in California, the policy only applies to unmarried partners. The contribution depends on the income of the male cohabitor, any extraordinary expenses he has, and the number of his dependents in the home but not in the assistance unit. For example, a man earning $10,000 a year, with no dependents and no extraordinary expenses, who lives with an AFDC unit comprised of a woman and her two children, is expected to contribute $157 a month. If the cohabitor has no income, he is not required to contribute. The required obligation, if any, can be met with cash or by directly providing shelter, food, or clothing. The effect of the contribution on the grant depends on its form. Payments of cash are treated as unearned income and reduce the needs of the AFDC unit and hence the grant; contributions of food and clothing do the same unless the AFDC unit makes some contribution itself, in which case no grant reduction occurs; and in-kind shelter payments do not affect the grant.[28]

An important difference between Virginia, on the one hand, and California and Oregon, on the other hand, is that the required contributions may reduce the grant in Virginia but not in Oregon or California. However, Virginia does not implement any grant reductions unless there is actual evidence that the contribution was made.

Summary

Our survey revealed considerable variation across the States in the treatment of unrelated cohabitors in households containing AFDC assistance units. For example, we found that the majority of States do not alter the AFDC grant amount if the cohabitor pays the rent for the housing unit directly. In most of the remaining States, the grant amount is also not altered if the AFDC unit makes a small contribution toward the rent. We also found that almost all States leave the grant amount unchanged if the cohabitor purchases food and clothing for members of the AFDC unit. Regarding cash contributions from cohabitors to AFDC units, we found that about half the States treat such contributions as income to the AFDC unit, regardless of its intended purpose. However, half the States make a distinction based on the contribution's intended purpose, and disregard cash contributions that are intended to pay for shared household expenses. Finally, we found that five States have specific policies toward cohabitors and other coresidents that are not directly based on initial evidence of in-kind or cash contributions. In two States, the grant amount is prorated by the number of coresidents in the household not in the AFDC unit, while in three other States, a legal responsibility is imposed on the cohabitor to make contributions to the AFDC unit.[29]

Table 2. —Treatment of cash contributions in State AFDC programs, by State, 1993

State	Contributions for shared household expenses are disregarded	Unpredictable contributions are ignored	$30 per quarter in gift income is disregarded	State	Contributions for shared household expenses are disregarded	Unpredictable contributions are ignored	$30 per quarter in gift income is disregarded
Alabama			X	Missouri		X	X
Alaska	X		X	Montana		X	
Arizona		X		Nebraska	X	X	X
Arkansas			X	Nevada	X		X
California	X		X	New Hampshire	[3]X	X	X
Colorado[1]				New Jersey			X
Connecticut			X	New Mexico			X
Delaware			X	New York	[3]X		
District of Columbia	X		X	North Carolina	X		X
Florida	X	X	X	North Dakota			X
Georgia	X			Ohio	X	X	X
Hawaii	X		X	Oklahoma	X		X
Idaho			X	Oregon	X		X
Illinois	X		X	Pennsylvania	X		X
Indiana	X	X	X	Rhode Island			X
Iowa			X	South Carolina	X	X	X
Kansas			X	South Dakota	X		X
Kentucky			X	Tennessee			X
Louisiana			X	Texas	X		X
Maine		X	X	Utah	X	X	X
Maryland	X			Vermont			X
Massachusetts	X		X	Virginia		X	X
Michigan			X	Washington	X		X
Minnesota	[2]X		X	West Virginia	X		
Mississippi			X	Wisconsin	X		X
				Wyoming			X

[1] Colorado applies none of the three treatments for cash contributions.
[2] The exemption is limited to assistance units that rent and do not live in publicly subsidized housing.
[3] Cash transfers for rent are treated differently than cash transfers for other shared household expenses.

Notes

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[1] The Federal publication with the most detailed information on State AFDC rules is *Characteristics of State Plans for AFDC*, published periodically by the Administration on Children and Families in DHHS (the most recent edition covers the 1990–91 period). However, State treatment of cohabitors is not covered.

[2] Our discussion will concern itself throughout with the case of a male cohabitor living with a woman and her children who are potentially eligible for AFDC. However, the rules we discuss apply equally to the case of a female cohabitor living with a man and his children who are potentially eligible for AFDC.

[3] 392 US 309 (1968).

[4] 392 US 337 (1968). See I. Lurie, "Legislative, Administrative, and Judicial Changes in the AFDC Program, 1967–1971," in *Studies in Public Welfare*, Joint Economic Committee, 93d Cong., 1st sess. (Washington, DC: U.S. Government Printing Office, 1973) and "AFDC Income Attribution: The Man-in-the-House and Welfare Grant Reductions," *Harvard Law Review*, Vol. 83 (1976): 1370–1386, for discussions of these decisions and State rules at the time.

[5] 397 US 552 (1970).

[6] CFR 45.233.10(b)(2)(a), October 1, 1992.

[7] "The inclusion in the family, or the presence in the home, of a 'substitute parent' or 'man-in-the-house'...is not an acceptable basis for a finding of ineligibility or for assuming the availability of income by the State," CFR 45.233.90(a)(1), October 1, 1992, edition.

[8] P.L. No. 97-35, (95 Stat. 357).

[9] CFR 45.233.20(a)(3)(ix), October 1, 1992. Lewis *v.* Martin argued that the Social Secur-ity Act treats stepparents in a fashion similar to cohabitors: "Even where the man is ceremonially married to the mother but is not the real or adoptive father, his income may not be treated as available to the children unless he is legally obligated to support the children by State law" (397 US 554 (1970), p. 564). However, the 1981 OBRA amended the Social Security Act to include stepfather income.

[10] Our survey was conducted in two waves. In August and September of 1993, we contacted all 50 States and jurisdictions and located a knowledgeable individual in each public assistance agency familiar with State rules on the topics of our interest. After the completion of the initial survey, the responses were tabulated and mailed back to the State agencies for confirmation. We conducted a second wave of telephone interviews from October to December 1993 to confirm the rules again as well as to gain additional information on new topics. We sent our full report back to all respondents for checking one final time, in August 1994. For copies of the questionnaires as well as a detailed State-by-State summary of all information collected, see R. Moffitt, R. Reville, and A. Winkler's, "A Telephone Survey of State AFDC Rules Regarding Cohabitation and Marriage: Description and Findings," Brown University: Providence, RI, December 1994.

[11] An exception occurs if a natural parent is disabled; in this case, the unit is not ruled categorically ineligible.

[12] An essential person is an individual considered essential to the well-being of the caretaker adult and the children. Usually the person has very little income and performs some service for the household, such as child care while the caretaker adult looks for work or attends classes. Essential persons are included in the assistance unit, and therefore their income, resources, and needs are counted. There are nine jurisdictions that permit cohabitors to be counted as essential persons: the District of Columbia, Hawaii, Iowa, Louisiana, North Carolina, New York, Oregon, Vermont, and Virginia (see *Characteristics of State Plans for AFDC*).

[13] The States are Nebraska, New Hampshire, Oregon, South Dakota, Utah, Vermont, and Washington. Again, an exception occurs if a parent is disabled, in which case the unit is not ruled categorically ineligible.

[14] The AFDC-UP eligibility of unmarried natural fathers was also found in a prior telephone survey by A. Winkler, "Does AFDC-UP Encourage Two-Parent Families?" *Journal of Policy Analysis and Management* (forthcoming).

[15] An optional person is an individual who can, at the option of the assistance unit, be included in the unit. The three States are Connecticut, New Jersey, and Rhode Island.

[16] These requirements can be found in Characteristics of State Plans for AFDC. States have the option of relaxing these requirements for units not eligible for Federal financial participation.

[17] An exception is Vermont, which reduces the grant by 0.586 of the contribution amount.

[18] The States are South Dakota and Kansas.

[19] In Rhode Island, no grant reduction is made if the male cohabitor is the tenant of record (policy A), but the less generous policy B is applied if the mother is the tenant of record. In South Dakota, on the other hand, the more generous policy A is applied if the mother is the tenant of record, and the less generous policy B is applied if the male cohabitor is the tenant of record. In Nebraska, policy B is followed in both cases, but the grant penalties may differ according to which person is the tenant of record.

[20] In California (a policy-A State with regard to cohabitors, assuming the arrangement is part of the cost of an independent living arrangement for the cohabitor), policy B is followed if an AFDC mother lives with her parents and they pay the rent. In NewYork (a policy-C State with regard to cohabitors), parents are not allowed to charge a minor AFDC daughter for rent. In Delaware and Iowa, the minor daughter herself is not eligible to receive AFDC at all unless her parents are also receiving AFDC; and only the daughter's children can be included in the assistance unit. It should also be noted that the income of parents with AFDC minors in the household is automatically deemed. State rules on the treatment of AFDC women living with their parents in 1985 can be found in a prior study conducted by R. Hutchens, G. Jakubson, and S. Schwartz, "AFDC and the Formation of Subfamilies," *Journal of Human Resources*, Fall 1989, Vol. 24, pp. 599–628.

[21] In the previous section we were concerned only with cases where the male cohabitor paid for the rent directly. Here we consider cases where he contributes cash which is designated for rent, but the mother makes the actual payment.

[22] New Hampshire and New York have special rules for contributions designated for rent. Suppose that State needs include $100 for shelter. Furthermore, suppose the actual rent is $200. If the cohabitor pays $150, then rent owed by the mother is only $50—below the $100 allocated for her shelter needs. In this case, her needs are reduced by $50 and thus her grant is reduced. On the other hand, if the cohabitor pays only $90 toward rent, the rent owed by the mother is $110, slightly more than the rental amount assumed to be needed by the State. In this case her needs standard is unchanged and her AFDC grant is unaffected.

[23] Federal regulations permit State discretion in this respect. See DHHS, AFDC Action Transmittal No. FSA-AT-89-2, dated January 9, 1989.

[24] Montana has some cases that are retrospective and others that are prospective. Among the prospective budgeting cases, if an unpredictable contribution is reported promptly, it is "most likely" disregarded; however, if it is not reported but later discovered, then it will be considered an overpayment and collected later.

[25] Some prospective budgeting States have procedures to avoid the need to reconcile the estimate of income with income actually received. For instance, New Hampshire, which is a prospective budgeting State, makes AFDC payments twice a month, rather than once per month. Once a recipient reports a substantial change in income, the State is able to adjust the bimonthly check accordingly. This reduces the problem of overpayment.

[26] In tables 1 and 2, California can thus be seen to be a State which disregards both shelter payments (assuming the arrangement is part of the cost of an independent living arrangement for the cohabitor) and cash payments are designated for rent.

[27] This State has the same policies in tables 1 and 2 as does California.

[28] For example, as can be seen in tables 1 and 2, Virginia is a State that permits full disregards if shelter is paid directly by the male cohabitor, but not if he pays cash to the assistance unit for this purpose.

[29] We have conducted a separate study of the actual frequency of cohabitors in households with AFDC units (Robert A. Moffitt, Robert T. Reville, and Anne E. Winkler's, "Beyond AFDC Mothers: Cohabitation and the AFDC system," Brown University: Providence, RI, January 1995.). A copy is available upon request from Robert A. Moffitt, Department of Economics, Brown University: Providence, RI 02912.