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Clay Shaw-Welfare Reform Proposal

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

FEB 13 1995

The Honorable E. Clay Shaw
Chairman, Subcommittee on Human Resources
Committee on Ways and Means
U.S. House of Representatives
Washington D.C. 20515

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the House Ways and Means Subcommittee on Human Resources.

The Administration shares the commitment of the Congress and the American people to real welfare reform that emphasizes work, parental responsibility, state flexibility, and the protection of children. Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994, which embodied these values. It imposed tough work requirements while providing opportunities for education, training, child care and supports to working people. It included a stringent set of child support enforcement provisions. It required each teen mother to live at home, stay in school and identify her baby's father. It increased state flexibility without sacrificing accountability. And it maintained a basic structure of protections for children.

The Administration looks forward to working cooperatively with the Congress in a bipartisan way to pass bold welfare reform legislation this year. The Administration has, however, serious concerns about a number of features of the Chairman's mark that appear to undermine the values to which we are all committed. The Administration seeks to end welfare as we know it by promoting work, family and responsibility, not by punishing poor children for their parents' mistakes. Welfare reform will succeed only if it successfully moves people from welfare to work.

Work

For years, Republicans and Democrats alike have agreed that the central goal of welfare reform must be work. That is still our goal: People who can work ought to go to work and earn a paycheck not a welfare check. The Administration believes that no adult who is able to work should receive welfare for an unlimited time without working. The Administration believes that from the first day someone comes onto welfare, he or she should be required to participate in job search, job placement, education, or training needed to move off welfare and into a job quickly. It is government's responsibility to help ensure that the critical job placement, training, and child care services are provided. Individuals who are willing to work should have the opportunity to work and not be arbitrarily cut off assistance.

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The Administration therefore has serious concerns about the Chairman's mark before you:

- o It eliminates requirements that recipients participate in job search, education, work or training as a condition of receiving welfare, and ends any responsibility of state welfare systems to provide education, training and placement services to move recipients from welfare to work. The proposed legislation effectively repeals the bipartisan Family Support Act signed by President Ronald Reagan in 1988.
- o The proposed legislation includes only minimal and unenforceable requirements that recipients work. The bill requires only that persons on the rolls for more than 2 years engage in "work activities" loosely defined by the state welfare bureaucracy, rather than a real work requirement. The proposed participation standards are very low. In many ways, the work requirements are even weaker than those in current law.
- o The proposed legislation provides no assurance of child care to recipients who work or are preparing to work--even if a state requires them to participate. It offers no promise of child care for those who leave welfare for work or for those who could avoid falling onto welfare if they had some help with child care. While it repeals provisions of existing law that provide funding for child care, this bill is silent on whether any additional funds will be available for subsidized child care for low income working families.
- o The proposed legislation repeals the current rule that anyone who leaves welfare for work can receive Medicaid for an additional year to ease the transition. This would further reduce health care coverage and make it harder for people to move from welfare to work.
- o The proposed legislation would deny all cash assistance to families that have received assistance for more than five years, even if the adult in the family is unable to find a job or prevented from holding a job because of illness or the need to care for a disabled family member. Children would be seriously jeopardized even if their parents cannot find any work.

The Administration supports an alternative approach that would genuinely transform the welfare system into a transitional system focused on work. It would have strict requirements for recipients to participate in and clear responsibilities for states to provide education, training and placement assistance; it would have serious time limits after which work would be required; it would ensure that children would not be left alone when parents were working by providing assistance for child care; it would put parents to work, not just cut them off; and it would ensure that children can expect support from two parents.

Parental Responsibility

The Administration believes that welfare reform should recognize the responsibility and encourage the involvement of both parents in their children's lives. The Administration considers child support enforcement to be an integral part of welfare reform, particularly because it sends a strong message to young people about the responsibility of both parents to support their children. The Administration was pleased that you had agreed to add child support enforcement to your welfare reform bill, and sorry that your proposals are not yet part of the bill now under consideration. The Administration looks forward to working closely with you on this issue in the coming weeks.

- o The only child support provision included in the Chairman's mark is one that allows states to reduce payments to children for the first 6 months if paternity has not been legally established. This provision seems ineffectual and unfair. Even if a mother fully cooperates by giving detailed information identifying the father and his possible location, and even if the state is diligent in pursuing the father, it can easily take 6 months to get paternity legally established. There is no reason why the child should be punished during this period.

The Administration believes that it makes far more sense to deny benefits entirely to any parent who refuses to identify the father or to cooperate in locating him. However, once the mother has done all she can, the family should qualify for aid, and then the state should establish paternity within one year.

The Administration believes that the welfare system should encourage the formation and support of two-parent families. The Administration is therefore concerned about an important omission in the proposed legislation:

- o The proposed legislation would encourage the break-up of families by repealing the requirement that states provide cash assistance to two-parent families in which a parent is unemployed or unable to work. It allows states to discriminate against married, two-parent families by treating single-parent families better than two-parent families.

The Administration supports an approach that both encourages the formation of two-parent families and makes sure that both parents take responsibility for children in all cases.

Teen Pregnancy

The Administration and the American people agree that the best reform of welfare would be to ensure that people do not need it in the first place. Welfare reform must send a very strong message to young people that they should not get pregnant or father a child until they are ready and able to care for that child, and that if they do have children, they will not be

able to escape the obligations and responsibilities of parenthood. We must be especially concerned about the well-being of the children who are born to young mothers, since they are very likely to grow up poor.

The Administration therefore has serious concerns about the bill before you:

- o The proposed legislation would deny all federal cash benefits for eighteen years to any child born to an unmarried mother under 18, as well as to the parent. This provision appears to punish children for their entire childhood--18 years--for the mistakes of their parents.
- o The proposed legislation does not require that teen mothers live at home, stay in school, and identify the child's father. It weakens requirements in current law, and may make the prospects for mother and child even worse.
- o The proposed legislation establishes only minimal expectations for states to provide services to unmarried parents, and provides no additional funds to support them.

The Administration supports an alternative approach that would require minor mothers to live at home, stay in school, make progress toward self-sufficiency, and identify the father of the child. The Administration also supports a national campaign to prevent teen pregnancy. It is time to enlist parents and civic, religious, and business leaders in a community based strategy to send a clear message about abstinence and responsible parenting. The Administration also supports a state option not to increase benefits for children born to mothers on welfare. This decision should be made by the state, not the federal government.

State Flexibility with Accountability

The Administration embraces the creativity and responsiveness of states, and the opportunities for real reform when states have the flexibility to design and administer welfare programs tailored to their unique circumstances and needs. Already this Administration has granted waivers to nearly half the states for welfare reform demonstrations. National welfare reform should embody the values of work and responsibility in a way that assures taxpayers that federal money is being spent prudently and appropriately. For reform to succeed, the funding mechanisms for welfare should not put children or states at risk in times of recession, population increase or unpredictable growth in demand.

In this context, the Administration has serious concerns about the proposed legislation:

- o The spending cap in the proposed legislation makes no allowances for potential growth in the need for cash assistance because of economic downturn, population growth, or unpredictable emergencies. It could result in states

running out of money before the end of the year, and thus having to turn away working families who hit a "bump in the road" and apply for short-term assistance. It could preclude states from investing in job placement, in work programs, in education and training, and in supports for working families.

- o The proposed legislation removes the requirement that states match federal funds with their own state funds. With none of their own money at risk, states will have many fewer incentives to spend the funds efficiently and effectively to improve performance and increase self-sufficiency.
- o The proposed legislation provides virtually no accountability. There are no incentives for good performance and virtually no penalties for failure. There is no provision for the recovery of monies paid out fraudulently or in error. There are no mechanisms for ensuring that states are actually spending the money on needy children rather than on state bureaucracies, or for monitoring whether federal money is being used to help parents gain self-sufficiency, require work, and enforce parental responsibility. Indeed, the federal government is forbidden from taking any meaningful steps to ensure program performance and accountability.

The Administration supports proposals that significantly increase state flexibility but also ensure accountability for achieving national goals. The Administration supports a funding mechanism that will not put children and states at risk down the road, and that enables states to succeed in moving people from welfare to work and in supporting working families. The Administration has significant doubts about the ability of a pure block grant funding mechanism to adequately protect both children and states.

Protection of Children

The Administration recognizes that the protection of children is the primary goal both of cash assistance programs and of child welfare and child protective services. Cash assistance programs assist families to care for children in their own homes. Child protection services help those children who are abused or neglected or at risk of abuse by their parents and who need special in-home services or out of home placements to assure their safety. Strengthening families, and where appropriate, preventing removal of children from their homes also are, key goals of child protection services. There are problems in a number of areas.

Denial of Benefits to Children on AFDC

The legislative proposals that would reform cash assistance have a number of provisions that would put vulnerable children at greater risk.

- o As noted above, the legislation would deny cash assistance to children of unmarried minor mothers for their entire childhood, to children born while the parent was on welfare, and to children whose parent had received welfare for more than five years, whether or not a job was available or the parent was unable to work. The funding caps could have the effect of denying cash assistance to children when states used up their allocated funds, for whatever reasons. Children in low income working families, who may be forced onto cash assistance in times of economic downturn, could be most affected.

Child Protection Services

Some of these children could well come into a system of child protection services that is already seriously overburdened and that is failing to provide the most essential services. Reported child maltreatment and out-of-home placements have both been increasing sharply. Many state systems are in such distress that they have been placed under judicial oversight. The proposed legislation responds to these increasingly serious problems by consolidating existing programs that protect children into a block grant with nominal federal oversight. The Administration has serious concerns about this approach.

- o The proposed legislation caps spending for child protection programs at a level considerably lower than baseline projections. This could lead to uninvestigated maltreatment reports, and to children being left in unsafe homes with minimal services. It could also seriously hamper states' efforts to improve their child abuse prevention and child protection systems.
- o The proposed legislation eliminates the adoption assistance programs, and leaves it up to states whether they will significantly sustain the subsidies that enable many special needs children to find permanent homes, and whether they will honor commitments to those adoptive families that now receive subsidies.
- o The proposed legislation virtually eliminates federal monitoring and accountability mechanisms. It makes it impossible for the federal government to ensure the protection of children.
- o The proposed legislation is silent on the formula for allocating funds to the states. Because of serious imbalances among the states in spending on child protection, it is hard to imagine a formula that would not disadvantage either states that have been heavy spenders, or states that are only beginning to improve their systems.

Substantial improvements need to be made in the child protection system and in the federal role in overseeing that system. The Administration supports a careful and thoughtful review of the programs before actions are taken that might seriously harm millions of vulnerable children.

Denial of Benefits to Disabled Children on SSI

The Administration is deeply troubled by the changes proposed in the program designed to help disabled children--SSI.

- o The proposed legislation essentially eliminates SSI benefits for children, with the exception of a small group of children currently receiving benefits. Within 6 months, over one hundred thousand disabled children would lose eligibility for SSI benefits--some would lose medical protection as well. And in the future, no child, no matter how disabled, will be eligible for any cash benefits for SSI, except if cash benefits prevent them from having to be institutionalized. These proposals appear to penalize parents who are determined to care for their child no matter what the economic consequences for the family. SSI recipients are among the neediest and most vulnerable children, in the poorest families.
- o Some of the money saved is put into a new block grant for services to disabled children, which would require the creation of a new state bureaucracy to decide on appropriate services. This idea is untested, and no one knows what impact it will have on the most vulnerable of children and the parents who care for them. The 5-year cut off in AFDC for all persons along with the elimination of SSI cash for disabled children may leave these children extremely vulnerable.

The Administration sees the need for careful reform in this area, with its potential for serious harm to extremely vulnerable children. Last year the Congress established a Commission on Childhood Disability to look into these issues in consultation with experts from the National Academy of Sciences. The Commission will provide its report to the Congress later this year. The Administration believes prudence dictates waiting for this short time until this bipartisan commission, following a thorough review of all aspects of this important program, has an opportunity to make recommendations.

Benefits to Legal Immigrants

The Administration strongly believes that illegal aliens should not be eligible for government welfare support. But the blanket prohibition of all benefits to legal immigrants who are not yet citizens is too broad, and would shift substantial burdens to state and local taxpayers. These legal immigrants are required to pay taxes. Many serve in the armed forces, and contribute to their communities. The Administration strongly favors a more focused approach of holding sponsors accountable for those they bring into this country and making the sponsors' commitment of support a legally binding contract.

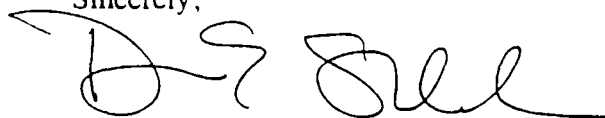
In summary, the Chairman's mark espouses goals for the reform of welfare--work, parental responsibility, prevention of teen pregnancy and state flexibility--that the Administration and the American people share. But the translation of general goals into specific legislation misses the mark in fundamental ways. The proposed legislation does not represent serious work-based reform. It does nothing to move people from welfare to work, and it does not require everyone who can work go to work. It neither holds state bureaucracies accountable nor cushions state taxpayers against recession. It puts millions of children at risk of serious harm. There are alternative approaches to reform that achieve our mutual goals in far more constructive and accountable ways.

The Administration reiterates its commitment to real welfare reform and its desire to work cooperatively with Congress to achieve it.

The Office of Management and Budget advises that there is no objection to the transmittal of this report to Congress.

A similar letter was sent to Representative Harold E. Ford.

Sincerely,

A handwritten signature in black ink, appearing to read "DS Shalala", with a large, stylized initial "D" and "S" followed by the name "Shalala".

Donna E. Shalala

cc: Members of the Subcommittee on Human Resources

DRAFT

Summary of the Shaw Welfare Proposal (February 10)

TITLE I: BLOCK GRANT TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

- **Block Granting of AFDC:** Eliminates all existing statutory language on the purposes, administration and requirements of the AFDC, JOBS and EA programs and replaces them with a block grant to states. Eliminated, for example, are provisions on individual entitlements, fair hearings, state financial participation, consistent standards of need, who in the family is eligible, and statewide program availability. Separately, states would be required to operate, child support, child protection, and foster care and adoption programs.
- **Funding:** The block grant would be \$15.355 billion for each year from 1996 through 2000. Administration estimates show that this would save approximately \$13 billion over 5 years.
- **State Allotment:** The block grant money would be a capped entitlement to states. Each state would be allotted an amount equal to their average proportion of AFDC spending for 1991 through 1993.
- **Rainy Day Funds:** States may put unspent amounts of block grant funds into a rainy day account for years when more money is needed. Amounts above 120% of their annual allocation may be transferred into the state's general revenue fund. There would also be a national rainy day account of \$1 billion that states may borrow from and must pay back within 3 years.
- **Work requirements:** All recipients on the rolls for 24 months (including recipients currently on AFDC) would be required to be in a work activity, unless under age 20 and enrolled in school. For most states, this implies a participation rate of 40% or more. By statute a state's total work participation rate would be set at 2% in 1996 and would rise to 20% by 2003. Educational and training services would be allowed but not required. No definitions for standards for work activity are provided. Child care would not be guaranteed.
- **State Flexibility:** States would determine all rules relating to benefit levels and eligibility criteria. States may pay benefits to interstate immigrants at the level of their original state for up to 12 months. States would be allowed to transfer up to 20% -- or 30% -- of the funds to other block grants.
- **State Requirements:** Benefits must be used to serve families with a minor child. States are required to submit annual data on several measures and must submit to a bi-annual audit. Additionally, under provisions from title III of this act, state social service agencies would be required to provide the name and address of illegal aliens with children to the INS.
- **Prohibitions on States:** States cannot use federal block grant funds to provide benefits to:
 - (1) families who have been on the rolls for 5 cumulative years;
 - (2) Individuals that are receiving SSI or OAA (current law);
 - (3) non-citizens (except refugees and/or aged non-citizens who have resided in the U.S. more than 5 years);
 - (4) minor mothers with children born out-of-wedlock;
 - (5) children born while on AFDC (*i.e.*, *family cap*); and
 - (6) families not cooperating with the state child enforcement agency or who have not assigned to the state the child's claim rights against non-custodial parents (current law).
 - (7) Additionally, beginning 1 year following the enactment of the bill, states must pay a

Welfare Reform Mark-up Summary — *continued*

- **Penalties:** If an audit determines that funds were spent inappropriate to the legislation, the misspent amounts can be withheld from future payments to the state. Failure to provide required performance data would be a 3% reduction state annual grant. Failure to participate in Income Eligibility Verification System results in a penalty of 1% of state annual grant.
- **Time Limits:** AFDC would no longer be an entitlement to individuals. States would be prohibited from using federal block grant dollars to provide benefits to a family that has been on the rolls 5 years. Since states determine all rules relating to benefit levels and eligibility, they could establish any time limit.
- **Medicaid:** Transitional Medicaid for recipients who leave due to employment would be eliminated. Recipients of assistance would be eligible for Medicaid. Current recipients that become ineligible for aid would retain Medicaid eligibility.

TITLE II: CHILD PROTECTION BLOCK GRANT

- **Block Grant for Child Protection Services:** The current open-ended entitlement program for IV-E Foster Care and Adoption Assistance Program and the IV-B Child Welfare Services program and Family Preservation and Support program, along with a number of discretionary programs related to child abuse and neglect, would be consolidated into a block grant to states.
- **Funding:** The funding would be \$4.145 billion in FY 1996, \$4.308 billion in FY 1997, \$4.471 billion in FY 1998, \$4.631 billion in FY 1999, and \$4.789 billion in FY 2000. Administration estimates show that resulting savings would be \$5.7 billion over 5 years.
- **State Allotment:** The block grant would be a five year capped entitlement to the states using (not yet specified in bill).
- **State Eligibility for Funds:** States must provide HHS with information on how they intend to use the funds and provide a series of certifications ensuring that procedures are in place on reporting of abuse and neglect and acting on those reports, removal of children and their placement in safe and nurturing settings, and for achieving permanent placement. A declaration of a state's quantifiable goals and their progress is also required.
- **Purpose and Use of Funds:** States may use funds in any manner they so choose to accomplish the purposes specified in the law. The purposes are identifying and assisting families at risk of abusing or neglecting their children; operating a system of receiving reports on abuse or neglect; investigating families reported; assisting troubled families in providing proper protection and nurturing their children; providing foster care; making timely decisions about permanent living arrangements; and continuing evaluation and improvement of child protection laws, regulations and services. Twenty percent of the funds can be transferred to the block grant under Title 1, the Social Services Block Grant, the food and nutrition block grant, and the Child Care and Development Block Grant.
- **Penalties:** If a required audit finds that states have used funds not consistent with the law, funds are to be withheld the following year. However, not more than 25 percent of a quarterly payment can be withheld. Also, the annual grant will be reduced by 3 percent if states fail to submit within 6 months the required data report.

- **Child Protection Goals:** States are required to protect children, investigate reports of abuse and neglect promptly, have permanency planning in place for children removed from their homes and dispositional hearings within 3 months of a fact-finding hearing, and out-of-home placements reviewed every 6 months unless the child is already in a long term placement.
- **Citizen Review Panels:** States are required to establish citizen review panels for each metropolitan region that is broadly representative of the community and meets at least quarterly. The panel is to review specific cases to determine state compliance and make a report available to the public.
- **Data Collection and Reporting:** Annual state data reports are required to be submitted to HHS that includes basic aggregate data on the numbers of children abused and neglected, in foster care, that received services, and other similar information. States must also provide data measuring their progress towards the goals in the law and a summary response to the citizen review panels findings and recommendations. The Secretary of HHS issues an annual report of this data and provides it to the public.
- **Limitation on Federal Authority:** Other than what's specified in the law, the Secretary cannot regulate the conduct of states or enforce any provision of the law.

TITLE III: RESTRICTING WELFARE FOR ALIENS

- **NonCitizens Ineligible for Assistance:** Under these provisions, except for the exceptions noted below, noncitizens would be ineligible for most federal assistance programs. However, adults and children would remain eligible for emergency medical services and immunizations, and several educational and training programs. States would be allowed to use state resources to provide other benefits to noncitizens at state option.
- **Exceptions:** Noncitizens over 75 (who have resided in the U.S. at least 5 years) are eligible for benefits. Refugees are eligible for benefits for up to five years after the date of their arrival. Other noncitizens currently living in the U.S. would become ineligible 1 year after the enactment of the provisions and would receive notification of their ineligibility.
- **Sponsorship:** Sponsorship documents would become legally binding until the noncitizen attained citizenship.

TITLE IV: SUPPLEMENTAL SECURITY INCOME REFORMS

- **Denial of Benefits to Addicts:** Individuals diagnosed with drug or alcohol addiction would no longer be eligible for SSI or Medicaid.
- **SSI Restrictions to Disabled Children and Medical Services Block Grant:** Cash benefits would be restricted. Children would only receive cash benefits or new medical services based only on the medical listing criteria, not the individual functional assessment. Current SSI children receiving cash benefits because of a disability under the medical listing would continue to be eligible for cash, but children not already under SSI will only receive cash payments if they are institutionalized or would be in an institution if the cash payment did not exist. Children considered disabled but not eligible for cash benefits will be eligible for additional medical services under a block grant. This block grant would be an entitlement to



Welfare Reform Mark-up Summary - *continued*

states for authorized medical and non-medical services to those children who qualify (those children eligible for SSI cash benefit or who are not eligible for cash but are disabled due to a condition in the medical listing).

**Welfare Reform Daily Talking Points
Monday, February 13, 1995**

**WELFARE REFORM MUST BE STRONG ON WORK,
NOT CRUEL TO CHILDREN**

Today, Clay Shaw's House Subcommittee on Human Resources begins marking up the Personal Responsibility Act, the welfare reform plan contained in the *Contract with America*. Over the past week, Democrats have united against the Republican proposal, which is tough on children and low-income families, but weak on requiring work. As House Democratic Leader Richard Gephardt said on Friday, "for the Republicans, welfare reform is just a way of passing the buck, kicking people off the welfare rolls, and leaving innocent children out in the street."

- o In fact, the work requirements in the Personal Responsibility Act would be weaker than those under current law. In 1996, under current law, 11.5 percent of welfare recipients (595,000 people) would be working -- either in part-time private sector jobs or in mandatory work programs. In contrast, under the Republican plan, only two percent of welfare recipients (105,000 people) would be required to participate in "work activities" in 1996.
- o President Clinton's principles for welfare reform will not change. As he said in his State of the Union address: "We have to help those on welfare move to work as quickly as possible, to provide child care and teach them skills if that's what they need for up to two years. And after that, there ought to be a simple hard rule: anyone who can work must go to work."

This Administration believes that:

- o Welfare reform must be about a paycheck, not a welfare check. We won't have ended welfare as we know it until the central focus of the program is to move people off welfare and into a private sector job so that they can support themselves and their families.
- o Our goal must be to lift people up from dependence to independence, not to punish them because they happen to be poor, young, or unmarried. We intend to work with Congress on a bipartisan basis, but we continue to oppose any plan to deny assistance to young mothers, break up families, punish children for their parents' past mistakes, or put children in orphanages.
- o Tough child support enforcement must be a centerpiece of welfare reform. We're pleased that House Republicans intend to adopt our proposals for child support enforcement, which was a key agreement reached at the Working Session on Welfare Reform. If we're going to end welfare as we know it, we must make sure that all parents -- fathers and mothers alike -- take responsibility for the children they bring into this world.