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COMMENTS: Per email re: HR 2376

CENTER ON BUDGET AND POLICY PRIORITIES

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Section 4 of the Substitute Version to H.R. 2376 Will Make It Harder To Ensure that Billions of Federal and State Funds Are Properly Spent to Meet the Needs of Low-Income Families

The substitute amendment to H.R. 2376 includes a new proposed provision, Section 4, which will make it far more difficult to ensure that federal and state funds are being properly spent to meet the needs of low-income families and children. Under Section 4, a state would be permitted to "certify compliance with any financial statutory requirements applicable to the State under a capped grant program (including, but not limited to, requirements related to maintenance of effort by a State, matching funds, and funding set-asides, earmarks, and caps)." Rather than providing financial reports on a quarterly or annual basis for specific programs, states would be required to "maintain" financial records regarding their compliance and to "make such records available to the agency upon request."

The language of Section 4 is very broad, covering "any financial statutory requirements" in all "capped grant programs"[1] and all federal and state funds used in those programs. Under the definition included in Section 5, it appears that this language is intended to apply to at least the following programs: the Temporary Assistance to Needy Families (TANF) program, the capped entitlement portion of the Child Care and Development Fund (CCDF); the capped child welfare grant programs included in Title IV-B of the Social Security Act; and the State Child Health Insurance Program (CHIP).

As described below, financial reporting requirements — which Section 4 would appear to replace — serve two critical purposes. First, they allow administering federal agencies to enforce proper use of funds. There have been occasions in the 1990s in which such oversight of state financial activity proved to be especially important, such as in the Medicaid program. Second, financial reporting also provides important information on programmatic choices being made by states, which helps Congress, researchers, and the general public assess the policy decisions states are making. Such information is particularly important in the case of programs that give states broad flexibility over the use of federal funds, such as the TANF block grant.

[1] Section 5(1) of the amendment in the nature of a substitute to H.R. 2376 provides that, "The term 'capped grant program' means a grant program for which an appropriation act fully determines the budget authority."

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The remainder of this memo examines the consequences of this language for the TANF program, the block grant that replaced the AFDC program in 1996. Similar types of problems, unrelated to TANF, could be anticipated in the other programs listed as well.

Consequences If Section 4 is applied to the TANF Block Grant

Under the TANF block grant enacted in 1996, states are entitled to receive approximately $16.5 billion in *federal* funds each year to provide a range of income assistance, services, and supports for very low-income parents and children. In return, they must spend at least $10.4 billion of *state* funds each year under a maintenance of effort requirement.

If Section 4 were to become law, the limited information now available across the states about how states are spending their TANF and MOE funds (and how much they are spending) would be lost. Some of the consequences of this loss of information are spelled out below.

Because TANF is a block grant to the states and provides the states with great flexibility in the programs they design and fund, state financial reporting serves at least two key purposes. First, it helps to ensure that states are spending state and federal funds as Congress intended. Second, it provides essential information related to program accountability. For example, under current rules, states are required to supply HHS with a list of the programs in which the MOE funds were spent. This allows HHS to assess whether the state has met its MOE obligation. There are no other reports state prepare that include this information. The financial reports also provides basic information about the policy choices states are making as they spends the funds. Neither of these purposes would be served under Section 4.

Administrative Oversight

- The TANF law encourages states to be creative in designing their programs as well as in the use of various funding sources. The more creative a state becomes, the more important it is that it keep up-to-date financial records on how funds from different sources are spent. In addition, the state will need to make conscious choices about which state funds are being used in which programs in order to meet MOE and matching obligations. To meet its oversight responsibilities, HHS will need this same information on a regular basis.
- Unfortunately, it appears that some states may be removing existing state funds

from programs serving children and families and replacing them with federal TANF funds. When this occurs, the state funds that are removed often are used for purposes unrelated to assisting families to move out of poverty. These state practices, arguably abuses of Congressional intent, have the potential to be widespread during the next state legislative sessions. Actions taken by Wisconsin policymakers this year to supplant state funds using federal TANF funds was widely publicized, including a September 1999 *New York Times* article that highlighted supplantation occurring in others states as well.[2] Anecdotal evidence suggests that states increasingly are aware of the potential to use TANF funds to free up state funds for non-welfare uses. This is not the time to weaken the federal financial reporting requirements in the program.

- For a state to "certify" in good faith that it has met a maintenance of effort requirement, it will need the type of financial information it now is required to supply to HHS. (The financial information currently required by HHS is the minimum needed to ensure that a state has met its MOE requirement.) If Section 4 is justified as lessening the work of the states, this suggests that states would not be collecting for themselves the financial data they would need to properly make the certification.

Program Accountability

- Public access to information helps to ensure that public funds are properly spent. HHS now posts financial information it receives from the states on the HHS web site. This information is therefore available, uniformly for all states, to the public and Congress, as well as researchers and analysts who are assessing the effectiveness of TANF. If HHS could not require that states supply this information, and instead could only spot-check states by requesting the data each time a certification was made for an individual state, access to uniform financial reporting information from all 50 states would be lost.

- Welfare reform is a work in progress. In 2002, as Congress considers reauthorization, it will need the financial information states are now required to provide. Without this information, it will be extremely difficult for Congress to assess the level of funding the states will need in future years to assist low-income families. It also will be difficult to assess how states have been spending the over $27 billion in federal and state funds now provided each year for welfare reform purposes.

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[2] "Leftover Money for Welfare Baffles, or Inspires, States," *New York Times*, August 28, 1999, page 1.