

IV. GUARANTEEING SOME LEVEL OF CHILD SUPPORT – CHILD SUPPORT ENFORCEMENT AND ASSURANCE DEMONSTRATIONS

Improving child support enforcement is absolutely essential if we are going to make it possible for people to move from welfare to work. Single parents cannot be expected to bear the entire financial burden of supporting their children alone. We have to do everything possible to ensure that the non-custodial parent also contributes to the support of his or her child. Still, there will be cases where the support from the non-custodial parent will not be available; for instance, in cases where the non-custodial parent has been laid off from a job or presently has very low income.

Child Support Enforcement and Assurance (CSEA) is a program that will provide a minimum insured child support payment to the custodial parent even when the noncustodial parent was unable to pay. With such a program, a combination of work and child support could support a family out of welfare and provide some real financial security. Unlike traditional welfare, Child Support Enforcement and Assurance will encourage work because it allows single parents to combine earnings with the child support payment without penalty. Also, according to some experts, Child Support Enforcement and Assurance will change the incentives for a mother to get an award in place and it will focus attention on the noncustodial parent as a source of support.

No state currently has a Child Support Enforcement and Assurance program, although the Child Assistance Program (CAP) in New York State has some similar features. Many States have expressed an interest in trying a Child Support Enforcement and Assurance program, provided that some federal assistance and direction could be provided. Major questions surround such programs – costs, implementation strategies, anti-poverty effectiveness, the effect on AFDC participation, etc. And unless the state really does a good job in enforcement, there is as question about whether such a program lets the noncustodial parent off the hook for payment.

State demonstrations will be used to try out Child Support Enforcement and Assurance with States being allowed some state flexibility to try different approaches. Evaluations of the demonstrations will be conducted and used to make recommendations for future policy directions.

- (1) *Congress will authorize and appropriate funds for three CSEA demonstration programs:*
 - (a) *Each demonstration will last seven to ten years. An interim report will be due four years after approval of the demonstration grant.*
 - (b) *The Secretary shall determine from the interim reports whether the programs should be extended beyond seven to ten years and whether additional State programs should be recommended, based on various factors that include the economic impact of CSEA on both the noncustodial and custodial parents, the rate of noncustodial parents' child support compliance in cases where CSEA has been received by the custodial parent, the impact of CSEA on work-force participation and AFDC participation, the anti-poverty effectiveness of CSEA,*

the effect on paternity establishment rates, and any other factors the Secretary may cite.

- (c) *As part of the demonstrations, some States will have the option of creating work programs so that noncustodial parents could work off the support if they have no income.*
 - (d) *The demonstration projects are based on a 90%/10% Federal/State match rate (the higher federal match applies only to administrative costs attributable to the program and that portion of the benefits that does not represent the reduction in AFDC due to receipt of the CSEA benefit.)*
 - (e) *The Secretary may terminate the demonstrations if the Secretary determines that the State conducting the demonstrations is not in substantial compliance with the terms of the approved application.*
 - (f) *The Secretary may approve both state-wide demonstrations and demonstrations that are less than state-wide.*
 - (g) *The Secretary shall develop standards for evaluation including appropriate random assignment requirements.*
- (2) *The child support assurance criteria for the State demonstration programs will require that:*
- (a) *the CSEA program be administered by the state IV-D agency, or at state option, its department of revenue; in order to be eligible to participate in the CSEA program, States must ensure that their automated systems that include child support cases are fully able to meet the CSEA program's processing demands, timely distribute the CSEA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSEA cases.*
 - (b) *States are provided flexibility in designing the benefit scales within the following parameters: benefit levels between \$1,500 per year for one child and \$3,000 per year for four or more children and benefit levels between \$3,000 per year for one child and \$4,500 per year for four or more children.*
 - (c) *CSEA basic benefit amounts are indexed to the adjusted Consumer Price Index.*
 - (d) *CSEA benefits are counted as private child support for the purpose of eligibility for other government programs;*
 - (e) *CSEA benefits are deducted dollar for dollar from an AFDC grant, except that in low benefit States, the Secretary shall have discretion to approve applications for programs with less than a dollar for dollar deduction. (Also, where CSEA removes someone from the AFDC grant, States may, at their*

option, continue eligibility for other related benefits that would have been provided under the AFDC grant.) If a State chooses it may supplement the CSEA basic benefit amount by paying the FMAP contribution of any supplement up to \$25, and all of any supplement over \$25.

- (f) CSEA eligibility is limited to children who have paternity and support established. Waivers from this requirement may be granted only in cases of rape, incest, and danger of physical abuse.*
- (g) CSEA benefits are treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the state will send each CSEA recipient a statement of the amount of CSEA provided and private child support paid during the calendar year. If the CSEA benefits exceed the support collected, the difference is taxable as ordinary income.*
- (h) money collected from the noncustodial parent be distributed first to pay current support, then CSEA arrearages, then family support arrearages (see distribution section of enforcement), then AFDC debts.*
- (i) in cases of joint and/or split custody, a person is eligible for CSEA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award will be below the minimum CSEA benefit if the guidelines for sole custody were applied to either parent.*

V. ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTS

Access and Visitation Grants to States

Children need emotional and social support of both parents, as well as financial support. While it is necessary to clearly distinguish between obligations for financial support and other parent-child interactions, positive parent-child interactions may have an effect on support payment compliance as well as other aspects of child well-being. There is also evidence that many parents need help in understanding how to implement cooperative parenting after a divorce or separation occurs and that children are harmed by the continuation of hostile relationships between their parents. The Family Support Act of 1988 authorized Access demonstration to determine if such projects reduced the amount of time required to resolve access disputes, reduced litigation relating to access disputes, and improved compliance in the payment of support. These demonstrations are coming to a close and there is no provision for the on-going funding of additional projects.

This proposal will supplement state efforts to provide increased support for access and visitation projects which reinforce the need for children to have continued access to and visitation by both parents.

- (1) *Grants will be made to States for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement including monitoring, supervision and neutral drop off and pick up and development of guidelines for visitation and alternative custody arrangements.*
 - (a) *The Administration for Children and Families, Department of Health and Human Services will administer the program.*
 - (a) *States will be required to monitor and evaluate their programs; evaluation and reporting requirements will be determined by the Secretary;*
 - (c) *States may sub-grant or contract with courts, local public agencies or to private non-profit agencies to carry out the approved grant work;*
 - (d) *Program(s) operating under the grant will not have to be state-wide;*
 - (e) *Funding will be authorized as a capped entitlement under section IV-D of the Social Security Act. State grantees will receive funding at the regular FFP program rate. Projects will be required to supplement rather than supplant State funds.*

Training and Employment for Noncustodial Parents

[See JOBS/TIME-LIMITS AND WORK Specifications]

Demonstration Grants for Paternity and Parenting Programs

[See TECHNICAL ASSISTANCE, EVALUATION AND DEMONSTRATIONS Specifications]

APPENDIX A

EFFECTIVE DATES FOR IMPLEMENTING REFORMS

The following schedule assumes passage of Federal legislation before October 1, 1994. Legislation amending existing Federal statutes outside of Title IV-D of the Social Security Act is effective upon enactment unless stated otherwise. Legislation amending Federal responsibilities under Title IV-D is effective October 1, 1994.

Any state requirement that requires legislation to be effective within two years of the date of enactment of the Federal legislation should have an additional caveat: "...or, if the state legislature meets biennially, within three months after the close of its first regular session that begins after enactment of this bill."

Proposed Requirement	Effective Date
Paternity	
New paternity measurement	Oct. 1, 1995
FFP - paternity (see FFP phase in below)	Oct. 1, 1997
Performance-based incentives	Oct. 1, 1996
Federally approved state incentives/demos	Oct. 1, 1996
State/health care provider information	Oct. 1, 1996
Simplified paternity procedures	Oct. 1, 1995
State outreach requirements	Oct. 1, 1996
Enhanced FFP (90%) for paternity outreach	Oct. 1, 1995
Cooperation and good cause requirements	10 months after enactment
Accreditation of genetic testing labs	
fed regulations	Oct. 1, 1995
effective for 1st new state contract	Oct. 1, 1995
Administrative authority for establishment	Oct. 1, 1997
National Commission on Child Support Guidelines	
Authorized	Oct. 1, 1994
Named by	March 1, 1995
Report due	July 1, 1997
Review and Adjustment for Cases	Oct. 1, 2000

Distribution Changes		
New priority/multiple orders		Oct. 1, 1997
Treatment of child support in AFDC cases		Oct. 1, 1995
Tax offset-returns filed	after Jan. 1, 1996	
Central State Registry		
Automated requirements tied to current FSA/OCSE requirements		Oct. 1, 1995
Other requirements		Oct. 1, 1997
Central Payment Center		
Centralized collection/distribution start up		Oct. 1, 1997
Statewide distribution		Oct. 1, 1998
Administrative Action to Change Payee		Oct. 1, 1995
National Child Support Registry		
Funding		Oct. 1, 1994
On-line/fully operational		Oct. 1, 1997
National Directory of New Hires		
Funding		Oct. 1, 1995
On-line for all States		Jan. 1, 1997
Universal ER reporting requirements		Jan. 1, 1997
Feasibility Study (STAWRS, SSA, AHSA)		
Funded		Oct. 1, 1994
Let		Dec. 1, 1994
Due		June 1, 1995
HHS/IRS decision		Aug. 1, 1995
Expanded FPLS		
Funding		Oct. 1, 1994
On-line/fully operational		Oct. 1, 1997
Union Hall Cooperation - State Laws		Oct. 1, 1995
Studies: Locate and Credit Reporting Agencies		
Funded		Oct. 1, 1995
Let		Dec. 1, 1995
Due		Dec. 1, 1996
IRS Data (IRS and state changes)		
IRS Tax Offset- Effective for returns	after Jan. 1, 1996	Oct. 1, 1995

IRS Full Collection	
Nonautomated changes	Oct. 1, 1995
Automated funding	Oct. 1, 1994
Automated IRS implementation	Oct. 1, 1995
Interstate Enforcement	
UIFSA (legis. flexible until 1/1/96)	Oct. 1, 1995
Federal request for information	
OCSE distributes form	Oct. 1, 1995
nationwide force effective	Oct. 1, 1995
Other state laws	Oct. 1, 1995
Other Enforcement Measures	
State enforcement law changes	Oct. 1, 1995
Exception: liens and immediate wage withholding in all non-IV-D cases	Oct. 1, 1997
Privacy Protections	
Federal regulations	Oct. 1, 1995
State implementation	Oct. 1, 1996
Federal Financial Participation	
66% to 69%	Oct. 1, 1995
70% to 72%	Oct. 1, 1996
73% to 75%	Oct. 1, 1997
Incentives	
Federal reg promulgation	Oct. 1, 1995
Paternity standard	Oct. 1, 1997
Overall performance	Oct. 1, 1997
Enhanced (80%) ADP System Enhancement	
Start up	Oct. 1, 1994
Sunsets	Oct. 1, 1999
State/Federal Maintenance of Effort	Oct. 1, 1997
Revolving Loan Fund	Oct. 1, 1995
Training/Technical Assistance	
OCSE begins its efforts	Oct. 1, 1994
Audit and Technical Assistance	
Technical assistance funding	Oct. 1, 1994
Federal audit regulations	Oct. 1, 1995
State-based audit requirements	Oct. 1, 1996

Staffing Studies Funded	Oct. 1, 1994
Studies completed	Oct. 1, 1996
Outreach	
States begin to meet goals	Oct. 1, 1995
OCSE requirements/funding	Oct. 1, 1995
Customer Accountability	
Fair hearings	
Federal regulations	Oct. 1, 1995
State implementation	Oct. 1, 1996
Child Support Enforcement and Assurance (CSEA)	
Demonstrations	
Fed/state funding for CSEA	Oct. 1, 1995
State interim reports	Jan. 1, 1999
State final reports	Oct. 1, 2002-5
Federal reports to Congress	Apr. 1, 2005
Federal administrative funding	Oct. 1, 1994
Federal regulations	Oct. 1, 1995

WORK AND RESPONSIBILITY ACT
OF 1994

LEGISLATIVE SPECIFICATIONS - PART B

-- June 14, 1994 --

WORK AND RESPONSIBILITY ACT

OF 1994

TABLE OF CONTENTS

PART A

Child Support Enforcement [Title VII]	1
---	---

PART B

JOBS/Time Limits/WORK [Titles I and II]	1
Waivers [Title II]	53
Make Work Pay [Title III, Title VII]	55
<i>Child Care</i>	56
<i>EITC</i>	59
<i>Income Disregards</i>	62
Performance Standards [Title IV]	64
Information Systems [Title IV]	74
Technical Assistance and Demonstrations [Title IV]	81
Prevention and Parental Responsibility [Title V]	88
Improving Government Assistance [Title VII, Title VIII]	101
Non-Citizen Provisions [Title VII]	120
Financing [Title IX]	125

JOBS, TIME LIMITS AND WORK [Title I, Title II]

JOBS AND TIME LIMITS

1. EFFECTIVE DATE AND DEFINITION OF PHASED-IN GROUP

Specifications

- (a) The effective date for the legislation would be October 1, 1995. States could petition to delay implementation for up to one year after the effective date (i.e., until, at the latest, October 1, 1996) for circumstances beyond the control of the State IV-A agency (e.g., no meeting of State legislature that year). States would be required to have the program implemented statewide (in each political subdivision of the State where it is feasible to do so) within two years of initial implementation.
- (b) The phased-in group would be defined as custodial parents, including minor custodial parents, who were born after 1971 (in 1972 or later).
- (c) States would have the option to define the phased-in group more broadly (e.g., custodial parents born after 1969; born after 1971 and all first-time applicants), provided the phased-in group included at least the population described in (b).
- (d) States would be required to apply the new rules, including the time limit, to all applicants in the phased-in group as of the effective date of the legislation. Recipients (parents) in the phased-in group who were on AFDC prior to the effective date would be subject to the new rules, including the time limit, as of their first redetermination following the effective date.

2. PROGRAM INTAKE

Current Law

The Family Support Act requires a State agency to make an initial assessment of JOBS participants with respect to employability, skills, prior work experience and educational, child care and supportive service needs.

Vision

At the point of intake, applicants will learn of their specific responsibilities and expectations regarding the JOBS program, the two-year time limit and its relationship to JOBS participation and AFDC benefits not conditioned upon work. Each applicant will now be required to enter into a personal responsibility agreement with the State agency broadly outlining the obligations of each party. While the personal responsibility agreement will serve as a general accord, the employability plan will be focused on the specific employment-related needs of each applicant.

Rationale

States must change the culture of the welfare system by changing the expectations of both the recipient and the State agency. This calls for modifying the mission of the welfare system beginning at the point of intake to stress employment and access to needed services rather than eligibility and benefit determination. The mutual obligations of the State agency and the participant must be spelled out and enforced. JOBS programs must continue to link clients to services in the community.

Specifications

- (a) All parents and other caretaker relatives would be required as part of the application/redetermination process to sign a Personal Responsibility Agreement with the State IV-A agency. The Agreement would state the overall goal of achieving maximum self-sufficiency and would describe the general responsibilities of both the applicant and the State agency (for the applicant, following the employability plan; for the State, making available the services in the plan). Current recipients (parents), if they had not previously signed the Agreement, would be required to sign the Agreement as part of the redetermination process. The Personal Responsibility Agreement for persons in the not-phased-in group would make no reference to the time limit.
- (b) The Personal Responsibility Agreement would not be a legal contract.
- (c) The State IV-A agency would be required to orient each applicant to the AFDC program by providing information about the AFDC program, which would include (among other items) the nature and applicability of the two-year time limit, the JOBS participation requirement, the services provided under JOBS and the availability of such services to persons not in the phased-in group. Each applicant in the phased-in group would be informed of the number of months of cash assistance/JOBS participation for which he or she was eligible (e.g., 24 for first-time applicants). The orientation information could be provided as part of the eligibility determination process or in a subsequent one-on-one or group orientation session. States would be required to provide the orientation information prior to or as part of the development of the employability plan. The information would be imparted in the recipient's primary language pursuant to Federal law and regulation. Child care would be available as needed to enable an individual to receive the orientation information (as under 45 CFR 255.2).
- (d) The State would have to obtain confirmation in writing from each applicant in the phased-in group that he or she had received and understood the requisite orientation information.
- (e) Recipients who were already on assistance as of the effective date of the legislation would be provided with the requisite orientation information at the earliest possible date but in no event later than at the development or revision of the employability plan (see below) or as part of the redetermination process, whichever came first.

3. EMPLOYABILITY PLAN

Current Law

On the basis of the assessment described above, the State agency must develop an employability plan for the participant. The State agency may require participants to enter into a formal agreement which

specifies the participant's obligations under the program and the activities and services to be provided by the State agency. The employability plan is not considered a contract.

Vision

The employability plan will be designed so as to help individuals secure lasting employment as soon as possible. Employability plans may be for less than 24 months and may include assignment, through JOBS, to work programs such as On-the-Job Training, Work Supplementation and CWEP.

Specifications

- (a) The State agency would be required to complete the assessment and employability plan (for new recipients) within 90 days from the date assistance began. For recipients on assistance as of the effective date, the employability plan would have to be developed (or revised, if such a plan were already in place) within 90 days of the date the recipient became subject to the time limit (i.e., within 90 days of the redetermination; see above).
- (b) The employability plan will be developed jointly by the State agency and the recipient. In designing the employability plan, the agency and the recipient would consider, among other elements, the months of eligibility (for JOBS participation/AFDC benefits not contingent upon work; see DEFINITION OF THE TIME LIMIT below) remaining for that recipient (if that recipient were subject to the time limit).
- (c) An employability plan would be required for all JOBS participant, including those not in the phased-in group (e.g., volunteers). Employability plans would also be developed, when appropriate, for persons who were deferred from JOBS participation.
- (d) The employability plan for persons required to participate in JOBS would include an expected time frame for achieving self-sufficiency and the activities intended to assist the participant in obtaining employment within that time period. The time frame would, in the case of many JOBS participants, be shorter than 24 months. For persons who were deferred, an employability plan could detail the activities needed to remove the obstacles to JOBS participation (see below).
- (e) Amend section 482(b)(1)(A) by adding "literacy" after the word "skills."
- (f) The State agency would provide that if the recipient and the State agency staff member or members responsible for developing the employability plan cannot reach agreement on the plan, a supervisory level staff member or other State agency employee trained to mediate these disputes will intervene to provide further advocacy, counseling or negotiation support.
- (g) To resolve disputes (regarding the employability plan) not settled by the intervention in (f), a State may elect one or more of the following processes:
 - i. Permit the agency to establish an internal review board to arbitrate disputes. This board would have the final say. The Secretary would establish regulations for such boards.
 - ii. Permit agencies to employ mediation using trained personnel, rather than arbitration, to resolve the dispute. HHS would be responsible for providing technical assistance to States that wish to use mediation.

- iii. Allow the recipient a fair hearing contesting whether the State agency had followed the established process for developing the employability plan. A fair hearing could be the exclusive remedy or could be allowed in addition to the procedure in (i) or (ii).

- (h) Persons who refused to sign or otherwise agree to the employability plan after the completion of the process described above would be subject to sanction, curable by agreeing to the plan. In the event of an adverse ruling at a fair hearing concerning the employability plan, the individual would not have the right to a second fair hearing prior to imposition of the sanction for continued refusal to agree to such plan.

4. DEFERRALS

Current Law

States must require non-exempt AFDC recipients to participate in the JOBS program to the extent that resources are available. Exemptions under the current JOBS program are for those recipients who are ill, incapacitated, or of advanced age; needed in the home because of the illness or incapacity of another family member; the caretaker of a child under age 3 (or, at State option, under age 1); employed 30 or more hours per week; a dependent child under age 16 or attending an educational program full time; women in the second and third trimester of pregnancy; and residing in an area where the program is not available. The parent of a child under age 6 (but older than the age for an exemption) who is personally providing care for the child may be required to participate only if participation does not exceed 20 hours per week and necessary child care is guaranteed. For AFDC-UP families, the exemption due to the age of a child may be applied to only one parent, or to neither parent if child care is guaranteed.

Vision

Under new provisions, a much greater percentage of AFDC recipients will be required to participate in JOBS. Single-parent and two-parent families will be treated similarly under the new JOBS system. Persons not yet ready for participation in JOBS will be deferred, temporarily in many cases, from such participation. Some of the criteria for deferral are based on current regulations concerning exemptions, but in a number of instances the definition is tightened significantly.

Rationale

In order to change the culture of welfare, it is necessary to maximize participation in the JOBS program. It is also critical to ensure that all welfare recipients who are able to participate in JOBS have such services made available to them by the States. The deferral policy does, however, give States the flexibility to consider differences in the ability to work and to participate in education and training activities in determining whether to require an individual to enter the JOBS program.

Specifications

- (a) Adult recipients (see Teen Parents below for treatment of minor custodial parents) who were not able to work or participate in education or training activities (e.g., due to care of a disabled child) could be deferred either prior to or after entry into the JOBS program (or after entry into the WORK program; see WORK specifications below). For example, if an individual became seriously ill after entering the JOBS program, he or she would then be deferred.

- (b) The State agency would be required to make an initial determination with respect to deferral prior to or as part of the development of the employability plan, since the determination would in turn affect the content of the employability plan. A recipient who is required to participate in JOBS rather than deferred could request a fair hearing focusing on whether the individual meets one of the deferral criteria (see below). The time frame for completion of the employability plan (see above) would be waived in instances of a dispute concerning deferral from JOBS.
- (c) Persons who were deferred from JOBS would be expected when possible to engage in activities intended to prepare them for employment and/or the JOBS program. An employability plan for a deferred recipient could detail the steps, such as referral to State vocational rehabilitation services or arranging for an appropriate day care or school setting for a child with a disability, needed to enable the adult to enter the JOBS program and/or find employment.

Recipients not likely to ever participate in the JOBS program (e.g., those of advanced age) would not be expected to engage in activities to prepare for JOBS participation. An employability plan for such a person might include steps intended to, for example, improve the family's health status or housing situation. For individuals who were expected to enter the JOBS program shortly (e.g., mothers of young children), services could be provided to address any outstanding barriers to successful participation in JOBS (e.g., arranging for child care).

- (d) States could provide program services to deferred individuals, using JOBS funds, but would not be required to do so. Likewise, States could provide child care or other supportive services to persons who were deferred, but would not be required to do so—there would be no child care guarantee for individuals in the deferred status. Persons who were deferred would not be subject to sanction for failure to participate in activities. In other words, in order to actually require an individual to participate in an activity, a State would have to classify the individual as JOBS-mandatory (except with respect to participation in substance abuse treatment; see SUBSTANCE ABUSE AND DEFERRAL FROM JOBS OR WORK below).
- (e) Persons who were deferred would not be subject to the time limit, i.e., months in which a recipient was in deferred status would not count against the two-year limit.
- (f) The criteria for deferral from JOBS would be the following:

- (1) Is a parent of a child under age one, provided the child was not conceived while the parent was on assistance. A parent of a child conceived while on assistance would be deferred for a twelve-week period following the birth of the child (consistent with the Family and Medical Leave Act).

(Under current law, a parent of a child under age three, under age one at State option, is exempted from JOBS participation, and no distinction is made according to whether or not the parent was on assistance when the child was conceived)

- (2) Is ill or incapacitated, when it is certified by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State) that the illness or incapacitating condition is serious enough to prevent, at least temporarily, entry into employment or training;

- (3) Is 60 years of age or older;

- (4) Is needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State), and no other appropriate member of the household is available to provide the needed care;
 - (5) Is in the third trimester of pregnancy; or
(Under current law and regulations, pregnant women are exempted from JOBS participation for both the second and third trimesters)
 - (6) Lives in a remote area. An individual would be considered remote if a round trip of more than two hours by reasonably available public or private transportation would be required for a normal work or training day. If the normal round-trip commuting time in the area is more than 2 hours, the round-trip commuting time could not exceed generally accepted standards for the area.
(Same as current regulations, CFR 250.30))
- (g) Only one parent in an AFDC-UP family could be deferred under f(1).
- (h) Each State would be permitted to defer from JOBS for good cause, as determined by the State, a number of persons up to a fixed percentage of the total number of persons in the phased-in group, which would include adult recipients (parents), minor custodial parents and persons in the WORK program. These good cause deferrals would be in addition to those meeting the deferral criteria defined in (f). Good cause could include substantial barriers to employment—for example, a severe learning disability or serious emotional instability. The percentage cap on such deferrals would be set, in statute, at 5% through FY 99 and 10% thereafter. A State would be able, in the event of extraordinary circumstances, to apply to the Secretary to increase the percentage cap on good cause placements. The Secretary would be required to respond to such requests in a timely manner (time frame to be established by regulation).
- (i) The Secretary would develop and transmit to Congress, by a specified date, recommendations regarding the level of the cap on good cause deferrals; the Secretary could recommend that the cap be raised, lowered or maintained at ten percent.
- (j) The State agency would be required to reevaluate the status of persons in deferred status at such time as the condition is expected to terminate (if the condition is expected to be temporary) but no less frequently than at each semiannual assessment (see SEMIANNUAL ASSESSMENT below) to determine if the individual should remain in deferred status or should enter (or re-enter) the JOBS or WORK programs.
- (k) Recipients who met one (or more) of the deferral criteria would be permitted to volunteer for the JOBS program, subject to available Federal resources (see JOBS PARTICIPATION below). Such a volunteer JOBS participant would in general be treated as other JOBS participants except that he or she would not be subject to sanction or to the time limit. These volunteers would be distinct from volunteers from the not-phased-in group (see JOBS PARTICIPATION below), who could at State option be subjected to the time limit.

- (l) A State agency would be required to promptly inform a recipient of any change in his or her status with respect to JOBS participation and/or the time limit (e.g., movement from the deferred status into the JOBS program).
- (m) The criteria for deferring persons from WORK participation (see WORK below) would be identical to the deferral criteria for persons who had not yet reached the two-year time limit. Persons who were deferred from the WORK program after reaching the time limit would be eligible for AFDC benefits. Such individuals would be treated exactly the same as persons deferred from the JOBS program before reaching the time limit, except that if the condition necessitating deferral ended, they would enter or re-enter the WORK program, rather than the JOBS program. Adult recipients deferred from the WORK program for good cause would count against the cap on the number of deferrals for good cause.

5. SUBSTANCE ABUSE AND DEFERRAL FROM JOBS OR WORK

Current Law

Current law does not specifically mention substance abuse. Under JOBS regulations, a recipient whose only activity is alcohol or drug treatment would not be counted toward a State's participation rate. Alcohol or drug treatment may, however, be provided as a supportive service using JOBS funds should a State choose to do so. Oregon currently has a waiver that permits the JOBS program to require participation in substance abuse diagnostic, counseling, and treatment programs if they are determined to be necessary for self-sufficiency.

Vision

States will be given flexibility to require recipients they determine to be unable to engage in employment or training because of a substance abuse problem to participate in substance abuse treatment while in the deferred status. Sanctions may be imposed for non-participation in substance abuse treatment provided that both treatment and supportive services, including child care, are made available.

Rationale

States report (on an anecdotal basis) substance abuse as a problem they encounter in their JOBS populations. It is a barrier to self-sufficiency for a number of AFDC recipients who will require treatment if they are to successfully participate in employment or training activities. It is estimated that approximately 4.5% of AFDC recipients have substance abuse problems sufficiently debilitating to preclude immediate participation in employment or training activities. Nearly one-third of these have participated in some form of alcohol or drug treatment in the past year.

Specifications

- (a) States may require persons found unable to engage in employment or training due to substance abuse to participate in appropriate substance abuse treatment while in deferred status.
- (b) Sanctions, equivalent to JOBS sanctions, may be levied for non-participation in treatment, provided such treatment is available at no cost to the recipient.

- (c) Child care and/or other supportive services must be made available to an individual required to participate in substance abuse treatment.
- (d) Provisions concerning the semiannual reassessment apply to deferred persons participating in substance abuse treatment as described in this section.
- (e) States may also require individuals in JOBS to participate in substance abuse treatment (in conjunction with another JOBS activity or activities) as part of the employability plan.

6. DEFINITION OF THE TIME LIMIT

Current Law

Some States (those which did not have an AFDC-UP program in place as of September 26, 1988) are permitted to place a type of time limit on participation in the AFDC-UP program, restricting eligibility for AFDC-UP to 6 months in any 12-month period (Section 407(b)). Thirteen states presently impose time limits on AFDC-UP eligibility. Under current law, however, no other type of time limits may be placed on participation in the AFDC program.

Vision

Most of the people who enter the welfare system do not stay on AFDC for many consecutive years. It is much more common for recipients to move in and out of the welfare system, staying a relatively brief period each time. Two out of every three persons who enter the welfare system leave within two years and fewer than one in ten spends five consecutive years on AFDC. Half of those who leave welfare return within two years, and three of every four return at some point in the future. Most recipients use the AFDC program not as a permanent alternative to work, but as temporary assistance during times of economic difficulty.

While persons who remain on AFDC for long periods at a time represent only a modest percentage of all people who ever enter the system, however, they represent a high proportion of those on welfare at any given time. Although many face very serious barriers to employment, including physical disabilities, others are able to work but are not moving in the direction of self-sufficiency. Most long-term recipients are not on a track toward obtaining employment that will enable them to leave AFDC.

The proposal would establish, for adult recipients who were not deferred, a cumulative time limit of two years on the receipt of AFDC benefits not contingent upon work, with extensions to the time limit to be granted under certain circumstances. Months in which an individual was deferred would not count against the time limit. Individuals who have left welfare for extended periods of time would be eligible for a cushion of a few months of AFDC benefits.

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency through work. This time limit gives both the recipient and the welfare agency a structure that necessitates steady progress in the direction of employment and economic independence. As discussed in the WORK specifications below, recipients who reach the two-year time limit without finding an unsubsidized job will be offered publicly subsidized jobs to enable them to support their families.

Specifications

- (a) The time limit would be a limit of 24 on the cumulative number of months of AFDC benefits an adult (parent) could receive before being required to participate in the WORK program (see Teen Parents for treatment of young custodial parents). In other words, the 24 months would begin with the initial AFDC payment (or with the first payment following redetermination, in the case of persons on AFDC prior to the effective date of the legislation). Months in which an individual was receiving assistance but was deferred rather than in JOBS would not count against the 24-month time limit (see DEFERRAL above).
- (b) The 24-month time clock would not begin to run until a custodial parent's 18th birthday. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (c) A record of the number of months of eligibility remaining would be kept for each individual subject to the time limit. Non-parent caretaker relatives would not be subject to the time limit.
- (d) The State agency would be required to advise each recipient subject to the time limit as to the number of months of eligibility remaining for him or her no less frequently than once every six months (see SEMIANNUAL ASSESSMENT below). In addition, the State agency would be required to contact and schedule a meeting with any recipient who was approaching the 24-month time limit at least 90 days prior to the end of the 24 months (see TRANSITION TO WORK/WORK below).

7. AFDC-UP FAMILIES AND THE TIME LIMIT

Specifications

- (a) In an AFDC-UP family, both parents would be subject to the time limit if either parent were in the phased-in group (see below). A separate record of months of eligibility remaining would be kept for each parent. If one parent in an AFDC-UP family were deferred, that parent would not be subject to the time limit--months in deferred status would not count against that individual's 24-month limit. The other parent, however, would still be subject to the time limit. A deferral of one parent in an AFDC-UP family would not count against the cap on deferral for good cause.
- (b) If one parent had reached the time limit and the other had not, the parent who had reached the time limit would be required to enter the WORK program. If the parent who had reached the limit declined to participate in the WORK program, that parent's needs would no longer be considered in calculating the family's grant. His or her income and resources would still be taken into account. The family would still be eligible for the remainder of the benefit (essentially, the other parent and the children's portion) until the other parent reached the two-year limit.
- (c) If a parent in an AFDC-UP family reached the time limit but declined to enter the WORK program, the needs of that individual would (as above) not be taken into account in calculating the AFDC benefit. If such a parent subsequently reversed course and entered the WORK program, he or she would be considered part of the assistance unit for the purpose of determining any supplemental AFDC benefit and would also be eligible for a WORK assignment. As discussed in the WORK specifications below, a State would not be required to provide WORK assignments to both parents in an AFDC-UP family.

- (d) Months in which a parent in an AFDC-UP family met the minimum work standard would not count against that parent's time limit. If the combined hours of work for both parents were equal to an average of 30 or more per week, neither parent would be subject to the time limit (see MINIMUM WORK STANDARD).
- (e) If one of the two parents in an AFDC-UP family were sanctioned under the WORK program or under JOBS for refusing to accept an unsubsidized job, the sanctions described below (see SANCTIONS/PENALTIES) apply, regardless of the status of the second parent.
- (f) With respect to the phase-in, both parents in an AFDC-UP family would be considered subject to the new rules if either parent were in the phased-in group. If the parents in an AFDC-UP family subject to the new rules subsequently separated, both would still be subject to the new rules.
- (g) States which already limited AFDC-UP eligibility to 6 months in any 13-month period would not be permitted to apply the two-year time limit or any related provisions to AFDC-UP families. In these States, all AFDC-UP families would be treated as part of the not-phased-in group.

8. TEEN PARENTS

Vision

Persons under 18 are not ready to be independent and should generally be in school. Under the proposed law, minor parents would not be allowed to set up independent households. They would receive case management and be expected to remain in school. A teen parent's time clock would not begin to run until he or she turned 18 (and could establish an independent household).

Specifications

- (a) States would be required to provide case management services to all custodial parents under 20.
- (b) All custodial parents under 20 who had not completed high school or the equivalent would be required to participate in the JOBS program, with education as the presumed activity. The 24-month time clock, however, would not begin to run until a custodial parent turned 18. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (c) Custodial parents under 20 who had not completed high school or the equivalent and who had a child under one would be required to participate in JOBS as soon as the child reached twelve weeks of age. States would be permitted to defer custodial parents under 20 in the event of a serious illness or other condition which precluded school attendance.
- (d) Custodial parents who were eligible for and receiving services under the Individuals with Disabilities Education Act would receive an automatic extension up to age 22 if needed to complete high school. These extensions would not be counted against the cap on extensions.

9. JOBS SERVICES

Current Law

A range of services and activities must be offered by States under the current JOBS program, but States are not required to implement JOBS uniformly in all parts of the State and JOBS programs vary widely among States. The services which must be provided as part of a State's JOBS program are the following: educational activities, including high school and equivalent education, basic and remedial education, and education for persons with limited English proficiency; job skills training; job readiness activities; job development and job placement; and supportive services to the extent that these services are necessary for participation in JOBS. Supportive services include child care, transportation and other work-related supportive services. States must also offer, in addition to the aforementioned services, at least 2 of the following services: group and individual job search, on-the-job training (OJT), work supplementation programs and community work experience programs.

Vision

The definition of satisfactory participation in the JOBS program will be broadened to include additional activities that are necessary for individuals to achieve self-sufficiency. States will continue to have broad latitude in determining which services are provided under JOBS. Greater emphasis, however, would be placed on job search activities, to promote work and employment.

Specifications

Up-Front Job Search

- (a) All adult new recipients in the phased-in group (and minor parents who had completed high school) who were judged job-ready would be required to perform job search from the date assistance began. Job ready would be in general defined as having either non-negligible work experience or a high school diploma. States would include a more detailed definition of job-ready in the State plan. The definition would have to exclude persons who met or appeared likely to meet one of the deferral criteria. A formal determination as to deferral, however, would not be required at this point.
- (b) States would have the option of requiring all job-ready new recipients, including those in the not-phased-in group, to perform up-front job search. States would also be permitted to require job search from the date of application (as under current law, this requirement could not be used as a reason for a delay in making the eligibility determination or issuing the payment).
- (c) The permissible period of initial job search would be extended from 8 weeks to 12.

Other Provisions Concerning JOBS Services

- (d) States would be required to include job search among the JOBS services offered.
- (e) Clarify the rules so as to limit job search (as the exclusive activity, i.e., not in conjunction with other services) to 4 months in any 12-month period. The up-front job search (described above) and the 45-90 days of job search required immediately before the end of the two-year time limit (see TRANSITION TO WORK/WORK below) would both be counted against the 4-month limit.

- (f) Amend section 482(d)(1)(A)(i)(I) by replacing "basic and remedial education to achieve a basic literacy level" with "employment-oriented education to achieve literacy levels needed for economic self-sufficiency."
- (g) Self-employment programs, including microenterprise training and activities, would be added to the list of optional JOBS activities.
- (h) Increase the limit on Federal reimbursement for work supplementation program expenditures from the current ceiling, which is essentially based on a maximum length of participation in a work supplementation program of 9 months, to a level based on a maximum length of participation of 12 months.
- (i) Change the nondisplacement language to permit work supplementation participants to be assigned to unfilled vacancies in the private sector, provided such placements did not violate the other nondisplacement provisions in current law.
- (j) Alternative Work Experience would be limited to 90 days within any 12-month period.
- (k) The State plan would be required to include a description of efforts to be undertaken to encourage the training and placement of women and girls in nontraditional employment, including steps to increase the awareness of such training and placement opportunities.
- (l) States would be required to indicate in the State plan whether and how they will make training as child care providers available to participants.
- (m) The State plan would include procedures to ensure that, to the extent possible, (external) service providers promptly notify the State agency in the event of noncompliance by a JOBS participant, e.g., failure to attend a JOBS activity.
- (n) Amend the language in Social Security Act section 483(a)(1) which requires that there be coordination between JTPA, JOBS and education programs available in the State to specifically require coordination with the Adult Education Act and Carl D. Perkins Vocational Educational Act.
- (o) Where no appropriate review were made (e.g., by an interagency board), the State council on vocational education and the State advisory council on adult education would review the State JOBS plan and submit comments to the Governor.
- (p) The agency administering the JOBS and WORK program would be prohibited by regulation from referring participants to, contracting with or otherwise making IV-F or IV-G funds available to a provider of education and training services if such institution were disqualified from participation in a program under Title IV of the Higher Education Act or under the Reemployment Act. A State would be provided, by regulation, the option of applying the alternative eligibility procedure established under the Reemployment Act to potential providers of JOBS or WORK services.

10. MINIMUM WORK STANDARD

Specifications

- (a) The minimum work standard would be an average of 20 hours of (unsubsidized) work per week during the month, with a State option to increase to up to an average of 30 hours per week. States would also have the option to set different minimum work standards for different subgroups (e.g., mothers of children under 6), provided that the standard for each subgroup was at least 20 and no more than 30 hours per week.
- (b) Months in which an individual met the minimum work standard would not count against the time limit. In an AFDC-UP family, if one parent met the minimum work standard, he or she would not be subject to the time limit. Months in which the combined hours of both parents equaled or exceeded 30 (up to 40 at State option) would not count against the time limit for either parent.
- (c) An individual who had not reached the time limit and was meeting the minimum work standard would be counted as a JOBS participant (see JOBS PARTICIPATION below).
- (d) A person who had reached the time limit but was meeting the minimum work standard would be eligible for supplemental AFDC benefits, if otherwise eligible for AFDC (see EARNINGS SUPPLEMENTATION below).
- (e) A State would be required to offer a WORK assignment to an individual working in an unsubsidized job for a number of hours not equal than the minimum work standard (provided the person were otherwise eligible for the WORK program; e.g., met income and resource tests). The WORK assignment would be structured, to the extent possible, not to interfere with the unsubsidized employment.

11. JOBS PARTICIPATION

Current Law

Under the Family Support Act of 1988, which created the JOBS program, minimum JOBS participation standards (the percentage of the non-exempt AFDC caseload participating in JOBS at a point in time) were established for fiscal years 1990 through 1995. States face a reduced Federal match rate if those standards are not met. In FY 1993 States were required to ensure that at least 11% of the non-exempt caseload in the State was participating in JOBS (in an average month). The standard increased to 15% for FY 1994 and will rise to 20% for FY 1995. There are no standards specified for the fiscal years after FY 1995. Individuals who are scheduled for an average of 20 hours of JOBS activities per week and attend for at least 75% of the scheduled hours are countable for participation rate purposes. States are required to meet separate, higher participation standards for principal earners in AFDC-UP families. For FY 1994, a number of AFDC-UP parents equal to 40 percent of all AFDC-UP principal earners are required to participate in work activities for at least 16 hours per week. The standard rises to 50 percent for FY 1995, 60 percent for FY 1996 and 75 percent for each of the Fiscal Years 1997 and 1998.

Vision

To transform the welfare system from an income support system into a work support system, the JOBS program must be expanded significantly. This substantial increase in the number of JOBS participants will be phased in over time.

Specifications

- (a) The JOBS program targeting requirements would be eliminated. Similarly, the separate AFDC-UP participation standards would be abolished, except in those States which elected to limit AFDC-UP eligibility to 6 months in any 13-month period.
- (b) Individuals in self-initiated education and training activities (including, but not limited to, post-secondary education) would receive child care benefits if and only if such activities were approved through the JOBS program. Costs of such education and training would not be reimbursable under JOBS. Child care and supportive services expenditures, however, would be matchable through IV-A and JOBS, respectively.
- (c) The definition of participation would be altered by regulation such that an individual enrolled half-time in a degree-granting post-secondary educational institution who was making satisfactory academic progress (as defined by the Higher Education Act) and whose enrollment was consistent with an approved employability plan would be considered to be participating satisfactorily in JOBS, even if such a person were scheduled for fewer than 20 hours of class per week.
- (d) The definition of JOBS participation would be broadened to include working in jobs that meet the minimum work standard (see above).
- (e) The broadened definition of participation would include participation in a structured microenterprise program. As above, satisfactory participation in such a microenterprise program would meet the JOBS participation requirement, even if the scheduled hours per week were fewer than 20.

JOBS Participation for the Not-Phased-In GroupSpecifications

- (f) States would be required to continue providing services to a person already participating in JOBS as of the effective date, consistent with the employability plan in place as of that date.
- (g) States would be given substantial flexibility regarding JOBS services for persons not in the Federally-defined phased-in group (custodial parents born after 1971), as discussed below:
 - i. A State would be required to serve volunteers from the not-phased-in group to the extent that Federal JOBS funding was available (i.e., the State had not drawn down its full JOBS allotment). States would have the option of subjecting such JOBS volunteers to the time limit. A State would be required to describe in the State plan its policy with respect to volunteers.
 - ii. States could define the phased-in group more broadly, e.g., parents born after 1971 and all new applicants (see EFFECTIVE DATE AND DEFINITION OF THE PHASED-IN

GROUP above). In addition, a State could *require* recipients who were not in its phased-in group to participate in JOBS, but could not apply the time limit to such JOBS-mandatory persons (as opposed to volunteers above). In other words, a State that defined the phased-in group as parents born after 1969 could require a person born in 1968 to participate in JOBS, and sanction such an individual for failure to comply, but that person would not be subject to the time limit. An individual in either the phased-in or the not-phased-in groups who met one of the deferral criteria could not be required to participate in JOBS.

12. JOBS FUNDING

Current Law

Under current law, the capped entitlement for JOBS is distributed according to the number of adult recipients in a State, relative to the number in all States. State expenditures on JOBS are currently matched at three different rates. States receive Federal matching funds, up to the State's 1987 WIN allocation, at a 90 percent Federal match rate. Expenditures above the amount reimbursable at 90 percent are reimbursed at 50 percent, in the case of spending on administrative and work-related supportive service costs, and at the higher of 60 percent or FMAP in the case of the cost of full-time JOBS program staff and other program expenditures (apart from spending on child care, which does not count against the JOBS capped allotment and is matched at the FMAP). The JOBS entitlement (Federal funding) is capped at \$1.1 billion for FY 94, \$1.3 billion for FY 95, and \$1 billion for FY 96 and each subsequent fiscal year.

Specifications

- (a) The capped entitlement for JOBS would be allocated according to the average monthly number of adult recipients (which would include WORK participants) in the State relative to the number in all States (similar to current law).
- (b) The JOBS capped entitlement (Federal) would be set at \$1.75 billion for FY 1996, \$1.7 billion for FY 1997, \$1.8 billion for FY 1998 and \$1.9 billion for fiscal years 1999 through 2004. For Fiscal Year 2005 and each fiscal year thereafter, the level of the cap would be set at \$1.9 billion adjusted for inflation using the Consumer Price Index.
- (c) The Federal match rate (for each State) for all JOBS expenditures under the proposed law would be set at the following levels: FMAP plus five percentage points, with a floor of 65 percent, for fiscal years 1996 and 1997; at FMAP plus seven percentage points, with a floor of 67 percent, for FY 1998; at FMAP plus nine percentage points, with a floor of 69 percent for FY 1999; and at FMAP plus ten percentage points, with a floor of 70 percent, for FY 2000 and each fiscal year thereafter. Spending for direct program costs, for administrative costs and for the costs of transportation and other work-related supportive services (apart from child care) would all be matched at this single rate. The current law hold harmless provision, under which expenditures up to a certain level are matched at 90 percent, would be eliminated. The enhanced match rate would become effective upon statewide implementation of the new legislation. Statewide for this purpose would be defined as a number of persons subject to the time limit that equaled or exceeded 90% of the Federally-defined phased-in group. The numerator for this calculation would be individuals in the State's phased-in group and subject to the time limit; the denominator would be custodial parents born after 1971. A State would be eligible for the enhanced match rate prior to reaching the 90 percent level if it

had in place an approved plan for achieving, within two years of initial implementation, that target.

- (d) To qualify for the enhanced match rate, a State's total spending (State share) for JOBS, WORK (matchable from the WORK capped entitlement) and for IV-A, Transitional and At-Risk Child Care for a fiscal year would have to equal or exceed the State's total spending for JOBS and for IV-A, Transitional and At-Risk Child Care for Fiscal Year 1994 but could in no event be less than the total of such spending for Fiscal Year 1993.
- (e) If a State did not qualify for the enhanced match rate by meeting the requirements in (c) and (d) above, its Federal match rate for JOBS and WORK (WORK operational costs) for the fiscal year in question would be reduced to a rate equal to the higher of FMAP and 60 percent (for all JOBS spending) and its Federal match rate for spending on the child care programs for that fiscal year would be reduced to FMAP.
- (f) A State would be permitted, beginning in FY 97, to reallocate an amount up to 10% of its combined JOBS and WORK allotments (WORK allotment from the capped entitlement) from its JOBS program to its WORK program and vice versa. The amount transferred could not exceed the allotment for the program from which the transfer was made.

EXAMPLE:

A State with a \$5 million JOBS allotment and a \$6 million allotment from the WORK capped entitlement (see WORK FUNDING below) can allocate \$1.1 million from JOBS to WORK or vice versa. The State finds that spending on the JOBS program is running higher than expected and so it opts to reallocate \$600,000 from WORK to JOBS. The State can now draw down up to \$5.6 million, rather than \$5 million, in Federal funding for JOBS expenditures. On the other hand, the State can now receive only \$5.4 million in Federal matching funds, at the higher rate, for spending on WORK costs.

- (g) If the States did not claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State could draw down Federal funds for JOBS and/or WORK in excess of its allotments. The additional Federal funding would be drawn from the unobligated balance (JOBS and WORK money not spent by other States). A State would have to draw down its full allocations for both JOBS and WORK to be able to draw down unspent funds beyond these allotments (for spending on either program). This would require legislative authority to distribute unobligated funds from one fiscal year during the subsequent fiscal year and to distribute unliquidated obligations from a fiscal year during, not the succeeding fiscal year, but the one after that (two years afterward).

EXAMPLE:

During FY 99, seven States spend on JOBS and WORK at a level that would draw down Federal funding in excess of their allotments. The FY 99 JOBS and WORK allotments for the seven States total \$100 million, but the level of State match contributed for the two programs would enable the seven to draw down \$110 million in Federal funds, absent the limitations on State allocations, for a difference of \$10 million. The total amount of unobligated JOBS and WORK funding for FY 99 (based on States' drawing down JOBS and WORK funding only up to the level of their allotments) is \$7 million. Each of the seven States would receive 70 cents for each dollar of Federal funding it could potentially have drawn down beyond the level of its JOBS and WORK allotments. State A, which would have drawn down an additional \$1 million in Federal funding above its allocations, in the absence of any limitations, would receive \$700,000 in additional Federal funding. If the amount of unobligated JOBS and WORK funding exceeded \$10 million, the seven States would receive the full \$10 million in additional Federal funding.

- (h) If the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for extended unemployment compensation (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for

JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent (not by ten percentage points; e.g., from 30 percent to 27 percent, not from 30 percent to 20 percent). The adjustment to the match rate would become effective only if the State obligated sufficient funding to draw down its full allotments for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rate. The State could then, as described above, draw down unspent JOBS and WORK funds at the higher match rate.

EXAMPLE:

State A obligates sufficient funding to draw down its full allocations for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rates. The State match rate for JOBS and WORK is 25%, the total State contribution to both programs is \$1 million and its total Federal allotment for both programs is \$3 million. If the unemployment rate in State A for the fiscal year exceeded the trigger level (described above), the State match rate would be reduced from 25 to 22.5 percent. State A could then potentially draw down an additional \$450,000 (\$3.45 million minus \$3 million) in Federal funds. Referring to the example above, the \$450,000 would be placed in the pool with the \$10 million the seven aforementioned States could potentially draw down beyond the level of their allotments. If the unobligated balance for the fiscal year were sufficient, State A would receive the full \$450,000 and the seven other States would receive the full \$10 million. If not, each of the eight States would receive a pro-rated amount (e.g., 65 cents on the dollar).

- (i) The capped entitlement for JOBS for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the cap would be increased by an additional .25 percent. For example, if the unemployment rate for the last two quarters of the preceding fiscal year were 8.1 percent, the JOBS cap for the fiscal year would be increased by a total of 5.25 percent (2.5 percent for reaching 7 percent plus an additional 2.75 percent for the 1.1 percentage points over 7). Each State's allotment would increase accordingly.

In other words, a determination would be made at the beginning and in the middle of the Federal fiscal year as to whether the JOBS cap should be increased (i.e., whether the unemployment trigger level had been reached). If the cap were increased at the beginning of the year, an adjustment would not also be made at the middle of the year.

The same provision would apply to the capped entitlement for WORK (as described below) and to At-Risk Child Care.

- (j) Funding for teen case management (see TEEN PARENTS above) would be provided not as a set-aside, but as additional dollars within the JOBS capped entitlement.

13. SEMIANNUAL ASSESSMENT

Specifications

- (a) The State agency would be required, on at least a semiannual basis, to conduct a review of the employability plan for both JOBS participants and for deferred persons who had an employability plan in place, to evaluate progress toward achieving the goals in the plan. This assessment, which would be done in person, could be integrated with the annual AFDC eligibility redetermination. Persons in deferred status found to be ready for participation in employment and training could be assigned to the JOBS program following the assessment. Conversely, persons in the JOBS program discovered to be facing very serious obstacles to participation could be deferred. Other revisions to the employability plan would be made as needed.

- (b) The assessment would entail an evaluation of the extent to which the State was providing the services called for in the employability plan. In instances in which the State was found not to be delivering the specified education, training and/or supportive services, the agency would be required to take steps to ensure that the services would be delivered from that point forward.

14. TRANSITION TO WORK/WORK

Specifications

- (a) Persons would be required to engage in job search during a period of not less than 45 days (up to 90 days, at State option) before taking a WORK assignment. The employability plan would be modified accordingly. In most cases, the job search would be performed during the 45-90 days immediately preceding the end of the time limit.
- (b) The State agency would be required to schedule a meeting with any recipient approaching the end of the 24-month time limit at least 90 days in advance of that individual's reaching the limit. The State agency would, as part of the 90-day assessment, evaluate the recipient's progress and employability to determine if an extension were appropriate to, for example, complete a training program in which the recipient was currently enrolled (see EXTENSIONS below). The State agency would be required to inform the recipient, both in writing and at the face-to-face meeting, of the consequences of reaching the time limit--the need to register for the WORK program in order to be eligible for further support, in the form of a WORK assignment. Recipients would also be apprised of the requirement to engage in job search for the final 45-90 days and of the State's extension policy.
- (c) States would have the option of providing an additional month of AFDC benefits to individuals who found employment just as their eligibility for AFDC benefits/JOBS participation ended, if necessary to tide them over until the first paycheck.
- (d) The State agency would notify the recipient, either by phone or in writing, of the purpose and need for the 90-day meeting, and the State agency would be required to make additional attempts at notification if the recipient failed to appear.
- (e) For persons re-entering the JOBS program (including those previously assigned deferred) with fewer than six months of eligibility remaining, the development/revision of the employability plan could be considered the 90-day meeting, if the requisite information were provided at that point. In the case of an individual re-entering with fewer than 90 days of eligibility, the meeting would be held at the earliest possible date.
- (f) The semiannual assessment could be treated as the 90-day meeting, provided it fell within the final six months of eligibility. Conversely, the 90-day assessment would meet the requirement for an semiannual assessment.

Worker Support

- (g) States would be encouraged to use JOBS or WORK funds (from the capped WORK allocation; see below), to provide services designed to help persons who had left the JOBS or WORK programs for employment keep those jobs.

Services could include case management, work-related supportive services, and job search and job placement assistance for former recipients who had lost their jobs. Case management could entail assistance with money management, mediation between employer and employee and aid in applying for advance payments of the EITC. Work-related supportive services could include payments for licensing or certification fees, clothing or uniforms, auto repair or other transportation expenses and emergency child care expenses.

15. EXTENSIONS

Specifications

- (a) States would be required to grant extensions to persons who reached the time limit without having had adequate access to the services specified in the employability plan. In instances in which a State failed to substantially provide the services, including child care, called for in the employability plan, the State would be required to grant an extension equal to the number of months needed to complete the activities in the employability plan (up to a limit of 24 months). States would be mandated to take the results of the semiannual assessment(s) into account in determining if services were delivered satisfactorily. If an extension were granted on the grounds of inadequate service delivery, the employability plan could be revised, as appropriate, at that point. Disagreements about revisions to the plan would be subject to the same dispute resolution and sanctioning procedures as was the initial development of the plan.
- (b) If the State agency and the recipient disagreed with respect to whether services were substantially provided and hence as to whether the recipient was entitled to an extension, the State agency would be mandated to inform the recipient of her or his right to a fair hearing on the issue. All hearings would be held prior to the end of the individual's 24 months of eligibility.
- (c) In a fair hearing regarding a recipient's claim that he or she was entitled to an extension due to State failure to make available the services in the employability plan, the State would have to show what services were provided. A recipient would be entitled to an extension if the hearing officer found that the recipient was unable to complete the elements of the employability plan because services, including necessary supportive services, were not available for a significant period of time. If it was determined that adequate services were not provided, an extension would be granted and the recipient and State agency would revise the employability plan, as appropriate (see above).
- (d) Persons enrolled in a structured learning program (including, but not limited to, those created under the School-to-Work Opportunities Act) would be granted an extension up to age 22 for completion of such a program. A structured learning program would be defined as a program that begins at the secondary school level and continues into a post-secondary program and is designed to lead to a degree and/or recognized skills certificate. Such extensions would not count against the cap on extensions (see below).
- (e) States would also be permitted, but not required, to grant extensions of the time limit under the circumstances listed below, up to 10% of all adults and minor parents required to participate in JOBS and subject to the time limit. Extensions due to State failure to deliver services, as discussed above, would be counted against the cap. A State would, however, be required to grant an extension if services were not provided, regardless of whether the State was above or below the 10% cap.

- (1) For completion of a GED program (extension limited to 12 months).
- (2) For completion of a certificate-granting training program or educational activity, including post-secondary education or a structured microenterprise program expected to enhance employability or income. Extensions to complete a two or four-year college degree would be conditioned on simultaneous participation in a work-study program, or other part-time work (for at least an average of 15 hours per week).

The extension is contingent on the individual's making satisfactory academic progress, as defined by the Higher Education Act (extension limited to 24 months).

- (3) In cases of persons who are learning disabled, illiterate or who face language barriers or other substantial obstacles to employment. This would include a person with a serious learning disability whose employability plan to date has been designed to address that impediment and who consequently has not yet obtained the job skills training needed to secure employment (extension not limited in duration).

The State agency would be required to set a duration for each extension granted, sufficient to, for example, finish a training program already underway or, in the event of a State failure to provide services, to complete the activities in the employability plan.

- (f) States would be required to continue providing supportive services as needed to persons who had received extensions of the time limit.
- (g) A State would be permitted, in the event of extraordinary circumstances, to apply to the Secretary to have its cap on extensions raised. The Secretary would be required to make a timely response to such requests (see DEFERRAL above).
- (h) The Secretary would develop and transmit to Congress (see DEFERRAL above), by a specified date, recommendations regarding the level of the cap on extensions; the Secretary could, as mentioned above, recommend that the cap be raised, lowered or maintained at ten percent.

16. QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY

Specifications

- (a) Persons who had left AFDC with fewer than six months of eligibility for AFDC benefits/JOBS participation remaining would qualify for a limited number of additional months of eligibility, to serve as a cushion. An individual in this category (fewer than 6 months of eligibility remaining) would qualify for one additional month of eligibility for every four months during which the individual did not receive AFDC and was not in the WORK program, up to a limit of six months of eligibility at any time.
- (b) Persons who left the WORK program would also be able to qualify for up to 6 months of eligibility for AFDC benefits/JOBS participation, just as described in (a).
- (c) Individuals re-entering the AFDC program would be subject to the up-front job search requirement, as described above under JOBS SERVICES.

ADMINISTRATION OF JOBS/WORK

Current law

By statute JOBS must be administered by the IV-A agency. State IV-A agencies may delegate to or contract (either through financial or non-financial agreements) with other entities such as JTPA to provide a broad range of JOBS services. The IV-A agency must retain overall responsibility for the program (including program design, policy-making, establishing program participation requirements) and any actions that involve individuals (including determination of exemption status, determination of good cause, application of sanctions, and fair hearings).

HHS/ACF makes grants to the IV-A agency based on the allocation formula outlined in the statute and holds the IV-A agency accountable for meeting participation and target group expenditure requirements as well as submitting all necessary program and financial reports.

Vision

JOBS and WORK would be administered by the IV-A agency unless the Governor designates another entity to administer the programs. If the Governor designates an agency other than the IV-A agency to administer JOBS/WORK, then any plan or other document submitted to HHS to operate the programs would be jointly submitted by the administering entity and the IV-A agency.

Based on the Governor's designation, HHS/ACF would make grants to the administering entity and hold that entity responsible for submitting program and financial reports and meeting appropriate performance standards.

In a State that elects to operate one-stop career centers, JOBS/WORK would be required components of the one-stop career centers.

17. OVERALL ADMINISTRATION

Specifications

- (a) JOBS and WORK must be administered by the same State entity.
- (b) The Governor may designate the agency to administer JOBS/WORK. In the absence of the designation of another agency, the IV-A agency would administer JOBS/WORK.
- (c) The Governor would determine whether the State had a State-wide one-stop career center system. That determination would be made at least every two years. If the Governor determined that the State had such a system, the JOBS/WORK program would participate in the operation of the one-stop career centers. The Governor would make one-stop career center services available to the participants in the JOBS/WORK components.
- (d) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would have to enter into a written agreement outlining their respective roles in carrying out JOBS/WORK.

- (e) If the IV-A agency retained administration of JOBS, it would have the option of contracting with another entity or entities to carry out any and all functions related to JOBS/WORK. All contracts and agreements with such entities would be written.
- (f) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would be required to jointly submit any plan required to operate JOBS/WORK to the Secretary of HHS.
- (g) Upon notification by the Governor of the designation of an entity other than the IV-A agency to administer JOBS/WORK, the Department of Health and Human Services would make all grant awards and hold accountable for all financial and reporting requirements the designated entity.

18. SPECIFIC RESPONSIBILITIES OF THE IV-A AGENCY

Specifications

- (a) No matter which entity has responsibility for JOBS/WORK, the IV-A agency must retain responsibility for:
 - (1) Determining eligibility for AFDC;
 - (2) Tracking and notifying families subject to the time limit of months left of eligibility;
 - (3) Applying sanctions;
 - (4) Making supplemental payments to eligible WORK participants and determining continuing eligibility for WORK and for AFDC payments;
 - (5) Notifying the JOBS/WORK agency at least 120 days before an individual's two-year time limit was up so that appropriate steps (e.g., job search) could be taken; and
 - (6) Holding fair hearings regarding time limits and cash benefits.

19. OTHER AREAS OF RESPONSIBILITY

Specifications

- (a) In States where an entity other than the IV-A agency is responsible for JOBS/WORK, we propose to give States the flexibility to determine how the following functions are carried out. The State plan would have to contain specific information detailing how the State intended to carry out the following functions:
 - (1) Determining deferral status;
 - (2) Granting extensions to the time limits; and
 - (3) Providing secondary reviews and hearings on issues specifically related to JOBS or WORK participation.

WORK

Current Law

There is at present under Title IV no work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (Section 482(e) and 482(f), Social Security Act, 45 CFR 250.61, 250.62, 250.63). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (45 CFR 250.47).

Vision

The focus of the transitional assistance program will be helping people move from welfare to unsubsidized employment. The two-year time limit for cash assistance not contingent on work is part of this effort. Some recipients will, however, reach the two-year time limit without having found a job, despite having participated satisfactorily in the JOBS program. We are committed to providing them with the opportunity to work to help support their families. The design of the WORK program will be guided by a principle central to the reform effort, that persons who work should be no worse off than those who are not working.

The WORK program would make work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and not-for-profits to place persons in subsidized or unsubsidized private sector jobs.

The WORK program would take the form of a work-for-wages structure. Participants in WORK assignments would be paid for hours worked; individuals who missed work would not be paid for those hours.

Definition: The terms "WORK assignments" and "WORK positions" are defined as temporary, publicly-subsidized jobs in the public, private or not-for-profit sectors.

20. ESTABLISHMENT OF A WORK PROGRAM

Specifications

- (a) Each State would be required to operate a WORK program making WORK assignments available to persons who had reached the 24-month time limit for AFDC benefits not conditioned upon work.

21. WORK FUNDING

Specifications

(a) There would be two WORK program funding streams:

- 1) A capped entitlement which would be distributed to States according to the sum of the average monthly number of persons required to participate in JOBS (and subject to the time limit) and the average monthly number of persons in the WORK program in a State relative to the number in all States.
- 2) An uncapped entitlement to reimburse States for wages paid to WORK program participants, which would include wage subsidies to private, for-profit employers.

The capped entitlement would be for WORK operational costs, which would include expenditures to develop WORK assignments, placement bonuses to contractors and spending on other WORK program services such as supervised job search.

(b) A State would receive matching funds, up to the amount of the capped allocation, for expenditures for WORK operational costs at the WORK match rate, which would be set at the same level as the JOBS match rate (as described in JOBS FUNDING above). For expenditures on wages to WORK participants, including wage subsidies to private employers, a State would be reimbursed at its FMAP.

EXAMPLE: State A's allocation (annual) from the capped WORK entitlement for FY 99 is \$1.5 million. The State's WORK (and JOBS) match rate is 75 percent and its FMAP is 50 percent. The State spends a total of \$5.2 million on the WORK program—\$1.6 million to develop the WORK assignments, make performance-based payments to placement contractors, and provide job search services and \$3.6 million on wage subsidies to private employers and wages for WORK participants in the public and not-for-profit sectors. State A would be reimbursed for the \$1.6 million in spending on operational costs at the 75 percent capped allocation match rate, for a total of \$1.2 million in reimbursement at that rate. For the \$3.6 million in expenditures on WORK wages, the State would be reimbursed at the FMAP, for \$1.8 million in Federal dollars from the uncapped stream and a total of \$3 million in Federal matching funds.

As discussed in JOBS FUNDING above, the enhanced match rate would become effective upon statewide implementation of the new legislation, provided the State met the maintenance of effort requirement concerning its total spending for JOBS, WORK and for IV-A, Transitional and At-Risk Child Care. Prior to statewide implementation, the WORK match rate would be set at the higher of FMAP and 60 percent.

(c) The WORK capped entitlement would be set at \$200 million for FY 1998, \$700 million for FY 1999, \$1.1 billion for FY 2000, \$1.3 billion for FY 2001, \$1.4 billion for FY 2002, \$1.6 billion for 2003 and \$1.7 billion for 2004. For fiscal year 2005 and each fiscal year thereafter, the level of the WORK capped entitlement would be set at \$1.7 billion adjusted for inflation by the CPI and for the increase over time in the relative size of the phased-in group.

- (d) As discussed above (see JOBS FUNDING), a State would be permitted to reallocate up to 10% of the combined total of its JOBS and WORK allotments from its JOBS program to its WORK program, and vice versa. A State would be permitted to reallocate up to 10% of its JOBS funding for FY 97 (the year prior to implementation of the WORK program) to cover WORK program start-up costs.
- (e) If, as described in JOBS FUNDING, the States were not able to claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State would be able to draw down Federal funds, for WORK spending on operational costs, in excess of its allotment from the capped entitlement.
- (f) As discussed in JOBS FUNDING above, if the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for an extended benefit period (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent.
- (g) The capped entitlement for WORK for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the WORK cap would be increased by an additional .25 percent. (identical to the provision concerning lifting the cap on JOBS funding; see JOBS FUNDING)

22. FLEXIBILITY

Specifications

- (a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit, including:
 - Offer wage subsidies and other incentives to for-profit, not-for-profit and public employers;
 - Execute performance-based contracts with private firms, not-for-profit or public organizations to place WORK participants in unsubsidized jobs;
 - Make payments to not-for-profit employers to defray the cost of supervising WORK participants;
 - Support microenterprise and self-employment efforts; or
 - Make payments to not-for-profit employers and public agencies to employ participants in temporary projects designed to address community needs, such as projects to enhance neighborhood infrastructure and provide other community services, or to employ participants as, for example, mentors to teen parents on assistance.
 - Employ WORK participants as child care workers or home health aides.

The approaches above would be listed in statute as examples, but States would not be restricted to these strategies.

23. LIMITS ON SUBSIDIES TO EMPLOYERS

Specifications

- (a) An individual could hold a particular WORK assignment (i.e., the WORK subsidy could be paid) for no more than 12 months. Ideally, after the subsidy ended, the employer would retain the WORK participant in unsubsidized employment.
- (b) The Secretary may adopt, as necessary, regulations to assure the appropriate use of the wage subsidy (e.g., to prevent fraud and abuse).

24. COORDINATION

Specifications

- (a) The agency administering the WORK program would be required to coordinate delivery of WORK services with the public, private and not-for-profit sectors, including local government, large and small businesses, United Ways, voluntary agencies and community-based organizations (CBOs). Particular attention should be paid to involving the breadth of the community in the development of the WORK program in that locality.
- (b) The State would be required to designate in the State plan, or describe a process for designating, bodies to serve as WORK advisory/planning boards for each JTPA Service Delivery Area in the State (or for such larger or smaller area as the State deems appropriate). The WORK planning board, which could be either an existing or a new body, would assist the administering entity in operating the WORK program in that area. The State would be mandated to involve local elected officials in the designation or establishment of such boards.

The planning board would work in conjunction with the WORK program agency to identify potential WORK assignments and opportunities for movement into unsubsidized employment, and to develop methods to ensure compliance with the requirements relating to nondisplacement, working conditions and coordination (as described in this section). WORK planning boards would have to include union and private, public (including units of general purpose local government) and not-for-profit (including CBOs) sector representation.

- (c) States would have to establish a process by which WORK planning boards could submit comments regarding the development of the State plan.
- (d) The WORK agency would be required to include in the State plan provisions for coordination with the State comprehensive reemployment system (including the Employment Service) and other relevant employment and public service programs in the public, private and not-for-profit sectors, including efforts supported by the Job Training Partnership Act or the National and Community Service Trust Act of 1993.

25. RETENTION RECORDS**Specifications**

- (a) States would be required to keep a record of the rate at which employers (public, private and not-for-profit) retained WORK program participants (after the subsidies ended). Similarly, States would be mandated to monitor the performance of placement firms.

26. NONDISPLACEMENT**Specifications**

- (a) The assignment of a participant to a subsidized job under the WORK program would not --
- (1) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits;
 - (2) impair existing contracts for services or collective bargaining agreements;
 - (3) infringe upon the promotional opportunities of any currently employed worker;
 - (4) result in the employment of the participant or filling of a position when --
 - (a) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the same employer; or
 - (b) the employer has terminated any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with such participant; or
 - (5) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted and are available, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 60 days.
- (b) A participant would not be assigned to a position with a private, not-for-profit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements described in this section of the specifications.

27. GRIEVANCE, ARBITRATION AND REMEDIES**Specifications**

- (a) Each State would establish and maintain grievance procedures for resolving complaints by regular employees or their representatives, alleging violations of the nondisplacement provisions (described above).
- (b) Hearings on any grievance filed pursuant to the provision above would be conducted within 30 days of the filing of such grievance and a decision would have to be made within 60 days of the filing. Except for complaints alleging fraud or criminal activity, a grievance would be made not later than 45 days after the date of the alleged occurrence.
- (c) Upon receiving a decision, or if 60 days has elapsed without a decision being made, a grievant may do either of the following:
 - (1) file an appeal as provided for in the State's procedures or in regulations promulgated by the Secretary, or
 - (2) submit such grievance to binding arbitration in accordance with the provisions of this section.

Arbitration

- (d) In accordance with the appeal/arbitration provision above, on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance would be permitted to submit such grievance to binding arbitration before a qualified arbitrator who was jointly selected and independent of the interested parties.
- (e) If the parties could not agree on an arbitrator, the Governor would appoint an arbitrator from a list of qualified arbitrators within 15 days of receiving a request for such appointment from one of the parties to the grievance.
- (f) An arbitration proceeding conducted as described here would be held not later than 45 days after the request for such arbitration, or if the arbitrator were appointed by the Governor (as described above) not later than 30 days after such appointment, and a decision concerning such grievance would be made not later than 30 days after the date of such arbitration proceeding.
- (g) The cost of the arbitration proceeding conducted as described here would in general be divided evenly between the parties to the arbitration. If a grievant prevails in such an arbitration proceeding, the party found in violation would pay the total cost of such proceeding and the attorney's fees of the grievant.
- (h) Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversies and without regard to the citizenship of the parties.

Remedies**(i) Remedies for a grievance filed under this section include --**

- (1) suspension of payments for assistance under this title;**
- (2) the termination of such payments;**
- (3) the prohibition of the placement of a participant;**
- (4) reinstatement of a displaced employee to the position held by such employee prior to displacement;**
- (5) payment of lost wages and benefits of the displaced employee;**
- (6) reestablishment of other relevant terms, conditions and privileges of the displaced employee; and**
- (7) such equitable relief as is necessary to correct a violation or to make a displaced employee whole.**

28. CONSULTATION WITH LABOR ORGANIZATIONS**Specifications**

- (a) No assignment of a participant to a position with an employer shall be made unless any local labor organizations representing employees of such employer who are engaged in the same or substantially similar work as that proposed to be carried out by such participant are consulted regarding such an assignment.**

29. WORK ELIGIBILITY CRITERIA AND REGISTRATION PROCESS**Specifications**

- (a) Recipients who had reached the two-year time limit for AFDC benefits not contingent upon work and who otherwise met the AFDC eligibility criteria (e.g., income and asset limits) would be eligible to enter the WORK program.**
- (b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all recipients at least 90 days before they were slated to reach the 24-month time limit (see TRANSITION TO WORK/WORK above). Recipients who had reached the 24-month time limit would be required to register for the WORK program in order to be eligible for either a WORK assignment or for AFDC benefits while awaiting a WORK position (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES below).**
- (c) States would be required to establish a registration process for the WORK program. The registration process would in general include an assessment for the purpose of matching the participant with a WORK assignment which the individual has the ability to perform and which will assist him or her in securing unsubsidized employment. The agency would be expected to draw upon an individual's JOBS case record in making such an assessment.**

States would be prohibited from denying an eligible individual (as described above) entry into the WORK program, provided he or she followed the registration procedure.

- (d) Only one parent in an AFDC-UP family would be required to participate in the WORK program. States would, however, have the option of requiring both parents to participate.
- (e) An individual who had exited the system after having reached the time limit or after having entered the WORK program, but had not qualified for any additional months of AFDC benefits/JOBS participation (see QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY above) would be permitted to enroll, or re-enroll, in the WORK program.

EXAMPLE:

A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after just one month, before qualifying for any months of AFDC benefits/JOBS participation (see above). This person would be eligible for the WORK program.

- (f) States would be required, for persons in WORK assignments, to conduct a WORK eligibility determination (similar to an AFDC eligibility determination in all respects, except that WORK wages would not be included in countable income; see below) on a semiannual basis. If the circumstances of an individual in a WORK assignment changed (e.g., increase in earned income, marriage) such that the family were no longer eligible for AFDC, the participant would be permitted to remain in the WORK assignment until the semiannual redetermination. An individual found to be ineligible for the WORK program as of the redetermination, however, would not be permitted to continue in that WORK assignment. Persons found to be ineligible for the WORK program would not have access to a WORK assignment, other WORK program services or to the AFDC benefits provided to persons in the WORK program who were not in WORK assignments.
- (g) WORK wages would not be included in countable income for purposes of determining WORK *eligibility*. WORK wages would be included in countable income for purposes of calculating any supplemental AFDC benefit (see below).

30. ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES

Specifications

- (a) The entity administering the WORK program in a locality would be required to keep an updated tally of all WORK registrants awaiting WORK assignments (as opposed to, for example, WORK participants who had been referred to a placement contractor). WORK positions would not be allocated strictly on a first-come, first-served basis. An individual whose sanction period had just ended would be placed in a new WORK assignment as rapidly as possible. Among other WORK participants, persons new to the WORK program would have priority for WORK assignments over persons who had previously held a WORK position.
- (b) States would have the option of requiring persons who were awaiting WORK assignments to participate in other WORK program activities (e.g., individual or group job search, arranging for child care, self-initiated activities), and to establish mechanisms for monitoring participation in such activities. Persons in this waiting status could include WORK participants who had completed an initial WORK assignment without finding unsubsidized employment, participants whose assignments ended prematurely for reasons other than the participant's misconduct, and individuals awaiting a hearing concerning misconduct.

Individuals who failed to comply with such participation requirements would be subject to sanction as described below (see SANCTIONS).

- (c) States would be required to provide child care and other supportive services as needed to participate in the interim WORK program activities (described above).
- (d) The family of a person who was in the WORK program but not in a WORK assignment (e.g., awaiting an assignment or in an alternate WORK activity) would receive AFDC benefits, provided that the individual were complying with any applicable requirements (as described above).
- (e) Participants who left a WORK assignment for good cause (see SANCTIONS below) would be placed in another WORK assignment or enrolled in an interim or alternate WORK program activity (e.g., job search until a WORK assignment became available). Such persons and their families would be eligible for AFDC benefits (as outlined above).
- (f) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(d). States would not be permitted to distinguish between such families and other AFDC recipients with respect to the determination of eligibility and calculation of benefits—States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

31. HOURS OF WORK

Specifications

- (a) States would have the flexibility to determine the number of hours for each WORK assignment. The number of hours for a WORK assignment could vary depending on the nature of the position. WORK assignments would have to be for at least an average of 15 hours per week during a month and for no more than an average of 35 hours per week during a month.

Each State would be required, to the extent possible, to set the hours and wage rates for WORK assignments such that the wages from a WORK assignment represented at least 75 percent of the total of the wages and AFDC benefits received by a WORK participant. This would be a State plan requirement.

32. EARNINGS SUPPLEMENTATION

Specifications

- (a) In instances in which the family income of an individual who had reached the time limit and was working in either a WORK assignment or an unsubsidized job of at least 20 hours per week were not equal to the AFDC benefit for a family of that size, the individual and his/her family would receive an AFDC benefit sufficient to leave the family no worse off than a family of the same size that was on AFDC and had no earned income.

- (b) With respect to eligibility and benefit determination, AFDC benefits for families described in (a) above would be identical to AFDC benefits for persons who had not reached the two-year time limit, except that the supplemental AFDC benefit would not be adjusted up due to failure to work the set number of hours for a WORK assignment.
- (c) The work expense disregard for the purpose of calculating any supplemental AFDC benefit would be set at the same level as the standard \$120 work expense disregard. States which opted for more generous earnings disregard policies would be permitted but not required to apply these policies to WORK wages.

33. TREATMENT OF WORK WAGES WITH RESPECT TO BENEFITS AND TAXES

Specifications

- (a) Except as otherwise provided in these specifications, wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, SSI, Medicaid, public and Section 8 housing).
- (b) WORK registrants and their families would be treated as AFDC recipients with respect to Medicaid eligibility, i.e., they would be categorically eligible for Medicaid (pending implementation of the Health Security Act). Persons who left the WORK program for unsubsidized employment would, as with former AFDC recipients, be eligible for transitional Medicaid.
- (c) Persons in WORK assignments would be subject to FICA taxes. States would be required to ensure that the corresponding employer contribution for OASDI and HI was made, either by the employer or by the entity administering the WORK program (or through another method).
- (d) Earnings from WORK positions would not be included in Adjusted Gross Income (AGI) and would not be treated as earned income for the purpose of calculating the Earned Income Tax Credit.
- (e) The employment of participants under the WORK program would not be subject to the provisions of any Federal or State unemployment compensation law.
- (f) To the extent that a State workers' compensation law were applicable, workers' compensation in accordance with such law would be available with respect to WORK participants. To the extent that such law were not applicable, WORK participants would be provided with medical and accident protection for on-site injury at the same level and to the same extent as that required under the relevant State workers' compensation statute.
- (g) WORK program funds would not be available for contributions to a retirement plan on behalf of any participant.
- (h) With respect to the distribution of child support, WORK program participants would be treated exactly as individuals who had reached the time limit and were working in unsubsidized jobs meeting the minimum work standard. In instances in which the WORK program participant were receiving AFDC benefits in addition to WORK program wages, child support would be treated just as it would for a family receiving AFDC benefits (generally, a \$50 pass-through, with the IV-A agency retaining the remainder to offset the cost of the supplemental AFDC benefits).

34. SUPPORTIVE SERVICES/WORKER SUPPORT**Specifications**

- (a) States would be required to guarantee child care for any person in a WORK assignment, as with JOBS program participants under current law (Section 402(g)(1), Social Security Act). Similarly, States would be mandated to provide other work-related supportive services as needed for participation in the WORK program (as with JOBS participants, Section 402(g)(2), Social Security Act).
- (b) States would be permitted to make supportive services available to WORK participants who were engaged in approved education and training activities *in addition to* a WORK assignment or other WORK program activity. In other words, a State could, but would not be required to, provide child care or other supportive services to enable a WORK participant to, for example, also take a vocational education course at a community college.

35. WAGES AND WORKING CONDITIONS**Specifications**

- (a) Participants employed under the WORK program would be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of--
 - (1) the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;
 - (2) the rate specified by the appropriate State or local minimum wage law;
 - (3) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer.
- (b) Except as otherwise provided in these specifications, participants employed under the WORK program would be provided benefits, working conditions and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with such employer.
- (c) Employers would be expected to provide WORK participants health insurance coverage comparable to that provided other employees of that same employer performing the same type of work (with Medicaid serving as the secondary payer). WORK program funds would be available to subsidize the employer share of the cost of health insurance coverage. Exceptions to this requirement could be made in cases in which the provision of such coverage would be inordinately expensive or otherwise onerous.

NOTE: Under current law, a Medicaid recipient is required (if cost effective) to enroll in a health plan offered by an employer, and the State is required to use Medicaid funds to cover the full employee share (e.g., premiums, deductibles, copayments) of the cost of such health care coverage. Cost effective is defined as resulting in a net reduction in Medicaid expenditures.

- (d) Employers would not be required to make contributions to retirement systems or plans on behalf of WORK participants.

- (e) All participants would be entitled to a minimum number of sick and personal leave days, to be established by the Secretary. These would be provided by the employer, if they were provided to other comparable employees (employers may offer more days). The agency administering the WORK program would be required to design a method of providing the minimum number of sick and personal days to WORK participants whose employers did not provide such a minimum number. A person in a WORK assignment who became ill and exhausted her or his sick leave, or whose child required extended care, would be deferred from the WORK program if he or she met the deferral criteria.
- (f) A parent of a child conceived while the parent was in the WORK program (and/or on AFDC) would be deferred for a twelve-week period following the birth of the child (or such longer period as is consistent with the Family and Medical Leave Act of 1993).
- (g) Health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees would be equally applicable to the working conditions of WORK participants.

36. SANCTIONS/PENALTIES (JOBS AND WORK)

Current Law (JOBS)

The sanction for the first instance of failure to participate in JOBS as required (or failure to accept a private sector job or other occurrence of noncompliance) is the loss of the non-compliant individual's share of the grant until the failure to comply ceases. The same sanction is imposed, but for a minimum of 3 months, for the second failure to comply and for a minimum of 6 months for all subsequent instances of non-compliance. The State, however, cannot sanction an individual for refusing to accept an offer of employment, if that employment would result in a net loss of income for the family.

For sanctioned AFDC-UP families, both parents' shares are deducted from the family's grant, unless the second parent is participating in the JOBS program.

Specifications

JOBS Sanctions

- (a) A State's conciliation policy (to resolve disputes concerning JOBS participation only) could take one of the following two forms:
 - (i) A conciliation process that meets standards established by the Secretary; or
 - (ii) A process whereby recipients are notified, prior to the issuing of a sanction notice, that they are in apparent violation of a program requirement and that they have 10 days to contact the State agency to explain why they were not out of compliance or to indicate their intent to comply. Upon contact from the recipient, the State agency would attempt to resolve the issue and would have option of not imposing the sanction.
- (b) Individuals sanctioned within the JOBS program would still have access to other available services, including JOBS activities, child care and Medicaid. Sanctioned months would be counted against the 24-month time limit.

- (c) The sanction for refusing, without good cause, an offer of an unsubsidized job meeting the minimum work standard would be changed from the current penalty (removal of the adult from the grant) to loss of the family's entire AFDC benefit for 6 months or until the adult accepts a job offer, whichever is shorter. The Secretary would promulgate regulations concerning good cause for refusing a private sector job offer (see SANCTIONS below).
- (d) Current law would be changed such that for sanctioned AFDC-UP families, the second parent's share of the benefit would not also be deducted from the grant, unless the second parent were also required to participate in JOBS and were similarly non-compliant.
- (e) States would be required to conduct an evaluation of any individual who failed to cure a first sanction within 3 months or received a second sanction, in order to determine why the parent is not complying with the program requirements. Following such an evaluation, the State would, if necessary, provide counseling or other appropriate support services to help the recipient address the causes of the non-compliance.

Ineligibility for a WORK Assignment

- (f) Persons may be declared ineligible for a WORK assignment due to misconduct related to the program. Misconduct would include any of the following, provided good cause does not exist:
 - i. Failure to accept an offer of unsubsidized employment;
 - ii. Failure to accept a WORK assignment;
 - iii. Quitting a WORK assignment;
 - iv. Dismissal from a WORK assignment;
 - v. Failure to engage in job search or other required WORK activity (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES above).
- (g) The Secretary would establish regulations defining good cause for each of the following:
 - i. Refusal to Accept an Offer of Unsubsidized Employment or a WORK Assignment or to Participate in Other WORK Program Activity.
 - ii. Quitting a WORK Assignment or Unsubsidized Job. These regulations would include the provision that an employee must notify the WORK agency upon quitting a WORK assignment.
 - iii. Dismissal from a WORK Assignment. The regulations would allow a State, subject to the approval of the Secretary, to apply in such instances the definition of misconduct utilized in its unemployment insurance program. (A IV-A agency might be allowed to contract with the State UI hearing system to adjudicate these cases.)
- (h) A WORK participant would be notified of the agency's intent to impose a penalty and would have a right to request a hearing prior to the imposition of the penalty. The Secretary would establish regulations for the conduct of such hearings, which would include setting time frames for reaching decisions (e.g., 30 days from date of request for hearing). A State would be permitted to follow the same procedures it utilizes in hearings regarding claims for unemployment compensation.

(i) Recipients awaiting a hearing for alleged misconduct may be required to participate in interim WORK program activities. Refusal, pending the hearing, to participate in such WORK program activities on the same grounds (e.g., bedridden due to illness) claimed as cause for the original alleged misconduct would not constitute a second occurrence of potential misconduct.

(j) Penalties imposed would be as follows:

i. **Refusal to Accept an Offer of Unsubsidized Employment.** A WORK participant who turned down an offer of an unsubsidized job without good cause would be ineligible for a WORK assignment, and the family ineligible for AFDC benefits, for a period of 6 months (consistent with the JOBS sanction for refusing a job offer). Such an individual would be eligible for services, such as job search assistance, during this period.

ii. **Quitting, Dismissal from or Refusal to Accept a WORK Assignment without Good Cause.** A person who quit a WORK assignment without good cause, who was fired from a WORK assignment for misconduct related to the job, or who refused to take an assignment without good cause would be subject to the penalties described below.

For a first occurrence: The family would receive 50% of the AFDC grant that would otherwise be provided (i.e., if the individual were not sanctioned and were awaiting a WORK assignment) for one month or until the individual accepts a WORK assignment, whichever is sooner.

For a second occurrence: Fifty percent (50%) reduction in the family's grant for 3 months. The individual would not be eligible for a WORK assignment during this period--this penalty would not be curable upon acceptance of a WORK assignment.

For a third occurrence: Elimination of the family's grant for a period of 3 months. As with a second occurrence, the individual would not be eligible for a WORK assignment during this period.

For a fourth and subsequent occurrence: Same as the penalty for a third occurrence, except that the duration would be 6 months.

The State would be required to make job search assistance available to such penalized persons (any occurrence, first or subsequent) if requested.

iii. **Refusal to Participate in Job Search or Other Required WORK Program Activity.** An individual who refused to participate in job search (e.g., following a WORK assignment) or other required WORK program activity would be subject to the same penalty as persons who quit or were fired from WORK assignments, with each refusal to be considered one occurrence. If such a refusal constituted the first occurrence, the penalty, as above, would be curable upon engaging in the required activity.

iv. **Quitting an Unsubsidized Job without Good Cause.** Individuals who without good cause voluntarily quit an unsubsidized job that met the minimum work standard would

not be eligible to register for the WORK program for a period of 3 months following the quit.

- (k) All penalties (any occurrence, first or subsequent) would be curable upon acceptance of an unsubsidized job meeting the minimum work standard. In other words, a sanctioned individual who took an unsubsidized job meeting the minimum work standard would be treated exactly the same as an unsanctioned individual with respect to calculating any supplemental AFDC grant. If the family's income, net of work expenses, were lower than the AFDC grant for a family of that size, the family would receive a supplemental AFDC benefit sufficient to make up the difference (see EARNINGS SUPPLEMENTATION above). Such an individual would still not, however, be eligible for a WORK assignment during the penalty period (e.g., six months for refusal to take an unsubsidized job, three months for a second occurrence of another type of misconduct).
- (l) Food stamp and housing law and regulations would be amended as necessary to ensure that neither food stamps nor housing assistance would rise in response to a JOBS or WORK penalty.
- (m) A person ineligible for the WORK program, and the family, provided they were otherwise qualified, would still be eligible for other assistance programs, including food stamps, Medicaid and housing assistance.
- (n) As described under AFDC-UP FAMILIES AND THE TIME LIMIT above, if one of the two parents in AFDC-UP family is sanctioned under the WORK program or under JOBS for failure to accept an unsubsidized job, the sanctions described in this section apply, regardless of the status of the other parent.
- (o) The State would be required, upon imposition of a second WORK sanction, to conduct a thorough evaluation of the participant and the family to ascertain why the individual is not in compliance and to determine the appropriate services, if any, to address the presenting issues. The evaluation would include, when appropriate, a Child Protective Services abuse and neglect investigation. The WORK administering agency could, as a result of the evaluation, decide, for example, that the parent should be deferred from WORK participation or that he or she should receive intensive counseling.

37. JOB SEARCH

Specifications

- (a) WORK program participants would generally be required to engage in job search at the conclusion of a WORK assignment or while otherwise awaiting a WORK assignment or enrollment to a WORK program activity serving as an alternative to a WORK assignment (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES). The number of hours per week (up to a maximum of 35) and the duration of periods of required job search would be set by the State, consistent with regulations to be promulgated by the Secretary.
- (b) The State could also require WORK participants to engage in job search while in a WORK assignment, provided that the combined hours of work and job search did not exceed an average of 35 per week and the requirement was consistent with regulations to be promulgated by the Secretary. The number of hours for job search would be the expected time to fulfill the particular job search requirement, i.e., if a WORK participant were expected to make 5

contacts per week, the number of hours of job search would be the estimated number of hours needed to make the contacts.

38. ASSESSING PARTICIPATION IN WORK BEYOND 2 YEARS

Specifications

- (a) At the end of the two consecutive WORK assignments, participants who have not found unsubsidized work would be assessed on an individual basis, with three possible results:
 - 1) Participants determined to be unable to work or to need additional training would be deferred from WORK or re-assigned to the JOBS program.
 - 2) Those determined to be unable to find work in the private sector either because there were no jobs available to match their skills or because they were incapable of working outside a sheltered environment would be allowed to remain in the WORK program for another assignment. Similar assessments would be conducted following each subsequent assignment.
 - 3) At State option, those who were employable and who lived in an area where there were jobs available to match their skills could be required to engage in intensive job search supervised by a job developer, who would be able to require participants to apply for appropriate job openings to determine if they were not making good faith efforts to find jobs. Failure to apply for appropriate job openings, noncooperation with the job developer or employer, or refusal to accept a private sector job opening without good cause would result in ineligibility for either WORK or AFDC benefits for 6 months. After 6 months of ineligibility, the person would immediately be given another individual work assessment and could again be denied eligibility for noncooperation or refusal to accept a job.
- (b) The Departments of HHS and Labor will undertake a comprehensive national study at the end of the second year following implementation of the WORK program to measure the program's success in moving people into unsubsidized jobs and to evaluate the skill levels and barriers to work of the persons who have spent two years in the WORK program.

39. SECRETARY'S FUND FOR STATES THAT SPEND BEYOND THEIR JOBS/WORK CAPS

Vision

Establish a fund that the Secretary will use to provide additional funding for States that spend beyond their JOBS/WORK allotments and re-allotments. A sum of \$300 million will be put into the fund initially. Thereafter, any unspent JOBS/WORK and At-Risk child care monies will contribute to the Fund.

Rationale

The Secretary's Fund gives the Department the ability to allocate overall JOBS/WORK program funds prudently and, at the same time, provide additional support to States that are aggressively implementing their programs and require more than what they receive under their standard allotment and re-allotments. Furthermore, under this program, States are given some lead time so they can anticipate the additional funding in their planning processes.

Specifications

- (a) A fund of \$300 million would be established for FY 96 for use by the Secretary to provide funding to States that needed additional funding for JOBS (and subsequently JOBS or WORK) beyond what they were provided under the JOBS and WORK funding allocation formulas and subsequent reallocation procedures (see JOBS FUNDING and WORK FUNDING above).
- (b) Twice each year (March 1 and September 1), States that obligated 95% of their JOBS and WORK allotments for the previous year and were expected to obligate their full JOBS and WORK allotments for the current year would qualify for additional funding from the Secretary's Fund for the next fiscal year.
- (c) Thirty days later, States would be notified about final decisions on funding from the Secretary's Fund.

[Regulations would specify how the monies would be allocated among qualified States. If the total amount requested from the Fund were greater than what was available in the fund, monies would be allocated based on a procedure to be developed by the Secretary.]

- (d) Monies from the fund would be treated just like the basic JOBS/WORK allotment and subject to the same Federal matching rates each year as is in effect for standard JOBS/WORK funding. The same between-program reallocation rules as those for the base JOBS/WORK funding also are in effect. That is, States can move an amount up to 10% of the combined JOBS and WORK monies from the Fund from one program to the other.
- (e) The monies available in the Fund in FY 97 would come from two sources:
 - i. The original authorization level of \$300 million, and
 - ii. Unspent State JOBS/WORK and At Risk child care monies -- that hadn't been reallocated to the States that have drawn down their full allocations.
- (f) Beginning in fiscal 98, the Secretary's Fund will be capped at a net level of \$400 million after all requests have been satisfied. Excess monies will revert to the Treasury.
- (g) Beginning in FY 98, States can request monies for both JOBS and WORK. The monies from the Secretary's Fund that States add to their standard WORK program allocation will be included for purposes of determining the minimum number of WORK slots States must create.

ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTS

Vision

We need to make sure that all parents live up to their responsibilities. When people don't pay child support, their children suffer. Just as we expect more of mothers, we cannot let fathers just walk away. A number of programs show considerable promise in helping non-custodial parents to reconnect with their children and fulfill their responsibility to support them. Some programs help non-custodial parents do more by seeing that they get the skills they need to hold down a job. Other programs give non-custodial parents the opportunity to meet their child support obligations through work.

As there is not a long track record of research and evaluation on programs for non-custodial parents, it is envisioned that new programs should be modest and flexible, growing only as evaluation findings begin to identify the most effective strategies.

1. TRAINING AND EMPLOYMENT FOR NON-CUSTODIAL PARENTS

Current Law

Section 482 of the Social Security Act (Title IV-F) permits the Secretary to fund demonstrations to provide services to non-custodial parents. The Secretary is limited as to the number of projects that can be funded under this provision. Evaluations are required. This provision, along with section 1115 of the Social Security Act, provide the authority for the Parents Fair Share Demonstrations currently underway.

Vision

States would be provided with the option of developing JOBS and/or work programs for the non-custodial parents of children who were receiving AFDC or have child support arrearages owed to the State from prior periods of AFDC receipt. States would be given the flexibility to develop different models of non-custodial parent programs which could best address the needs of children and parents in their state. These non-custodial parent programs would coordinate with other relevant efforts such as the public housing authorities' Resident Initiatives Programs, which make job and services available to non-custodial parents of children living in public housing. Evaluations would be required as appropriate for the options developed by the States.

Rationale

There is evidence that one of the primary reasons for non-support by some non-custodial parents is unemployment and underemployment. In a recent GAO report evidence was presented that about 29 percent of non-custodial fathers under age 30, many of whom were non-marital fathers, had income below the poverty level for one or no income at all. It will be difficult for these fathers to contribute much to the financial support of their children without additional basic education, work-readiness and job training which would enhance their earning capacity and job security.

Specifications

- (a) A State would be able to spend up to 10 percent of its JOBS and WORK funding (allotment from the WORK capped entitlement) for training, work readiness and work opportunities for

non-custodial parents. The State would have complete flexibility as to which of these funding streams would be tapped.

- i. Parenting and peer support services offered in conjunction with other employment-related services would be eligible for FFP.
 - ii. A State could structure the service delivery in a variety of ways. For example, a State could provide services to non-custodial parents through the JOBS program and a non-custodial parent work program, or through a single combined program.
- (b) A non-custodial parent would be eligible to participate (1) if his or her child were receiving AFDC or the custodial parent were in the WORK program at the time of referral or (2) if he or she were unemployed and had outstanding AFDC child support arrears. Paternity, if not already established, would have to be voluntarily acknowledged or otherwise established prior to participation in the program and, if an award had not yet been established, the non-custodial parent would have to be cooperating in the establishment of a child support award. Arrears would not have to have accrued in order for non-custodial parents to be eligible to participate. For those parents with no identifiable income, participation could commence as part of the establishment or enforcement process.
- (c) The state would be required to allow a non-custodial parent to complete the program activity or activities in which he was currently enrolled even if the children became ineligible for AFDC. However, if the non-custodial parent voluntarily left the program, were placed in a job, or were terminated from the program, he would have to be redetermined as eligible under the criteria in (b) above.
- (d) States would not be required to provide all the same JOBS or WORK services to custodial and non-custodial parents, although they could choose to do so. Participation in the JOBS program would not be a prerequisite for participation in a non-custodial parent work program. The non-custodial parent's participation would not be linked to self-sufficiency requirements or to JOBS/WORK participation by the custodial parent.
- (e) Payment of stipends for work would be required. Payment of training stipends would be allowed. All stipends would be eligible for FFP.
- i. Stipends would have to be garnished for payment of current support.
 - ii. At State option, the (current) child support obligation could be suspended or reduced to the minimum while the non-custodial parent was participating in program activities which did not provide a stipend or wages sufficient to pay the amount of the current order.
 - iii. Participation in program activities could be credited against AFDC child support arrears owed the State.
 - iv. State-wideness requirements would not apply.

INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS:
JOBS, TIME LIMITS, WORK AND CHILD CARE

Provisions in this section apply specifically to Indian tribes and Alaska Native organizations.

JOBS AND TIME LIMITS

1. NEW TRIBAL JOBS FUNDING FORMULA

Current Law

Under current law, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Indians living on the same reservation are currently subject to either the Tribal JOBS program or the State JOBS program depending on Tribal affiliation. Indians living in Alaska who are not Alaska Natives are subject to the State's JOBS program.

Tribal JOBS grantees currently receive funding based on a count of just under 31,000 adult Tribal members who receive AFDC. It is estimated that the adult AFDC population for all reservations (including those where a Tribal JOBS program does not exist) is 58,000.

Vision

All Native Americans living within the designated service area of an Indian tribe or Alaska Native organization would be subject to the tribal JOBS program regardless of tribal affiliation, if the tribe elects to run a JOBS program.

Rationale

Programs operated by the Department of Labor and the Bureau of Indian Affairs for Indians do not use Tribal affiliation to establish program funding or eligibility.

Specifications

- (a) All Indians, living within the designated service area of an Indian tribe or within the boundaries of the region served by an Alaska Native organization which is a JOBS grantee, would be included in determining the amount of the grantee's JOBS funds.
- (b) An Indian is one who meets the definition of Indian as given in section 4(d) of the Indian Self-Determination and Education Assistance Act.

2. NEW JOBS APPLICATION PERIOD

Current Law

Under current law, Indian tribes and Alaska Native organizations had until April 13, 1989 to apply and until October 1, 1990 to begin operating a JOBS program. Indian tribes who did not meet these deadlines are prohibited from submitting applications to operate JOBS programs.

Vision

Indian tribes who did not meet the application deadline for JOBS would be given additional opportunity to do so.

Rationale

The window in which Indian tribes had to apply for JOBS was very limited. Other Federally funded formula grant programs available to Indian tribes do not have similar restrictions.

Specifications

- (a) All federally recognized Indian tribes not operating a JOBS program may submit applications and plans to do so.
- (b) There would be no new application deadline.
- (c) New applications/plans would have to be submitted by July 1 of each year, with the effective date of approved plans to be October 1.
- (d) An Indian tribe or Alaska Native organization who terminates or has its JOBS program terminated will be eligible to reapply for JOBS after a five year period. Such Indian tribe or Alaska Native organization can reapply by July 1 of the fifth year by submitting an application and plan, with the effective date of an approved plan to be October 1. (This is to prevent a Tribal grantee from frequently entering and leaving the program.)
- (e) The current restriction that an Indian tribe must have a reservation to be eligible to operate a JOBS program would be retained.

3. FUNDING SET-ASIDE FOR TRIBAL JOBS GRANTEES

Current Law

Currently, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Yearly, Tribal grantees (includes Alaska Native organizations) and the State in which they are located must reach an agreement on the number of Tribal members who receive AFDC who reside within the grantee's designated service area. Any amount due a grantee by this agreement is deducted from the JOBS funding allocated to the State.

Although in some cases it does not cause problems, States and Indian tribes/Alaska Native organizations have found it difficult to come to agreement on the number of adult Tribal members who receive AFDC.

Vision

A set-aside of 2% out of total JOBS funds would be established to distribute to Indian tribes and Alaska Native organizations to provide JOBS.

The proposed percentage set-aside for Tribal JOBS grantees was determined based on two assumptions. First, that Indian tribes who do not currently operate a JOBS program will be given the opportunity to do so. Second, that all Indians, not just Tribal members, will determine Tribal funding. Using these assumptions, it is estimated that almost 2% (58,000 individuals) of the eligible adult AFDC population are Indians living on or near reservations or in areas served by Alaska Native organizations.

Rationale

Additional funding for the tribal JOBS grantees would make up for the lack of matching funds. States spent approximately \$1,395 per JOBS participant from Federal and State matching funds in FY 93. Indian tribes spent approximately \$935 per JOBS participant, all from federal funds as tribes are not required to provide matching funds.

Establishing a set-aside in lieu of the current funding formula would benefit both the Indian tribes, Alaska Native organizations and the States. States would not have any vested interest in the number of adult AFDC recipients who are Indians residing within a Tribal grantee's designated service area as the numbers would not have an impact on the States' JOBS allocations.

Funding for Indian tribes in the Child Care and Development Block Grant (CCDBG) program is a set-aside of the total allocated CCDBG funds.

Specifications

- (a) Allocate a set aside of 2% of the total JOBS allocation to Indian tribes and Alaska Native organizations.
- (b) Each grantee's share of the set aside would be determined by its percentage share of the entire adult Indian AFDC population which is living on or near reservations or within the boundaries of the region represented by an Alaska Native organization.
- (c) Provide for a periodic review of the percentage set-aside to ensure that it is based on an accurate percentage of adult AFDC recipients who are Indians living in the designated service area of a grantee. Provide for an automatic adjustment of the set-aside based on the results of this review.
- (d) The remainder of the funding issued to an Indian tribe or Alaska Native organization who wishes to terminate or who have their programs terminated after the start of a fiscal year would revert to the State in which the Indian tribe or Alaska Native organization is located.

This is because the State would then be responsible for serving the AFDC recipients who had been subject to the Tribal program.

- (e) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vice versa.

4. CARRY-OVER OF FUNDS

Current Law

States, Indian tribes and Alaska Native organizations are currently prohibited from carrying over federal funds awarded in one fiscal year to the next fiscal year. All federal funds received in a fiscal year must be obligated by the end of the same fiscal year. Indian tribes and Alaska Native organizations have sometimes had to shut down their JOBS programs because new fiscal year funding is often not received until November. Unlike States which are in a position to use their own resources for operating JOBS pending the issuance of grant awards, Indian tribes and Alaska Native organizations do not have this luxury. States also have the advantage of the Cash Management Improvement Act (CMIA) which does not apply to Indian tribes and Alaska Native organizations. CMIA says that the Federal government must pay interest to States if States are forced to use State funds for something for which Federal funds are normally used. Thus, for example, States were issued a portion of their fiscal year 1994 JOBS funds a month before Indian tribes and Alaska Native organizations were issued any funds.

Without timely grant awards and without forward funding, Indian tribes and Alaska Native organizations either had to cease the program or use other limited tribal funds in the interim.

Vision

The JOBS programs operated by Indian tribes and Alaska Native organizations will not have to cease operation at the beginning of a fiscal year due to the non-timely issuance of new grant awards.

Rationale

The Job Training Partnership Act program under the Department of Labor has authority for forward funding. JTPA grantees are permitted to carry over a maximum of 20% of funds from one program year to the next.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate JOBS programs would be permitted to carry over no more than 20% of the funds awarded in one fiscal year into the next fiscal year.

5. JOBS FUNDS FOR ECONOMIC DEVELOPMENT

Current Law

Under current law, JOBS funds cannot be used to build/improve infrastructure which is so badly needed by Indian tribes and in areas served by Alaska Native organizations. JOBS funds cannot be combined with economic development funds to write proposals, make capital expenditures, etc. Indian tribes and Alaska Native organizations can apply for grants from ACF's Administration for Native Americans that if received can be used to support these activities. What Indian tribes and Alaska Native organizations can and what some do is to use JOBS funds to train individuals to work in economic development enterprises.

Vision

Allowing tribal JOBS grantees to denote a portion of their JOBS funds to economic development would give them additional opportunity to help their clients move towards self-sufficiency.

Rationale

Without the leveraging of Federal funds for economic development, there will be fewer employment opportunities for Native Americans.

Specifications

- (a) Upon approval by the Secretary, Indian tribes and Alaska Native organizations would be permitted to use no more than \$5,000 or 10%, whichever is less, of their JOBS funds on economic development related projects.
- (b) All economic development related projects that use JOBS funds must involve the training of JOBS participants for related jobs.

6. DEFERRALS

All provisions in the discussion on deferrals above apply except for the following.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate a JOBS program will be responsible for the determination as to whether an AFDC recipient is to be deferred.

7. EXTENSIONS

Vision

Tribal JOBS grantees will be responsible for granting extensions to time limited AFDC benefits and will not necessarily be held to the same limitation on the granting of extensions as will be the States.

Rationale

Many reservations and areas served by Alaska Native organizations suffer from lower literacy rates and higher unemployment than most areas of the country.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate a JOBS program will be responsible for the determination as to whether extensions to time limited AFDC benefits should be granted.

WORK

1. INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS TO OPERATE THEIR OWN WORK PROGRAMS

Current Law

Refer to this section under the general discussion of the WORK program.

Vision

Tribal AFDC recipients would be subject to the requirement to participate in JOBS just as they are now. They would also be subject to time limits.

Indian tribes and Alaska Native organizations would have the option to run JOBS. An Indian tribe or Alaska Native organization that operates JOBS would be required to operate a WORK program also. Indian tribes and Alaska Native organizations are responsible for determinations of JOBS-Prep status and extensions; however, there may be additional extensions because of unique tribal circumstances. tribal members subject to tribal JOBS/WORK programs are excluded from any State program measures.

The Tribal WORK program will have to look different from the State WORK program because of the proposed funding formula. The portion of the WORK funding based on a diversion of AFDC grants would be difficult and complicated to accomplish because of the State's continued responsibility for AFDC funds and the need for extremely close coordination between the State and the Indian tribe or Alaska Native organization. Therefore, it is envisioned that the tribal WORK program will more closely resemble a Community Work Experience Program (CWEP) than a work for wages model (i.e., a tribal member would continue to receive cash assistance, but would be required to participate in a WORK activity). Indian tribes and Alaska Native organizations would be able to use WORK allocation to create job opportunities.

Rationale

Since the Indian tribes and Alaska Native organizations would have to be involved in the development of WORK assignments on the reservation, it follows that the Indian tribes and Alaska Native organizations be given the administration of the WORK program. Keeping the WORK program at the tribal level will allow for a continuum of activity. It also advances tribal self-determination and provides for a more holistic framework for addressing the needs of Native Americans.

Specifications

- (a) Indian tribes and Alaska Native organizations which operate a JOBS program would apply to administer a WORK program. Any application will have to be approved by the Secretary.
- (b) Indian tribes and Alaska Native organizations who do not want to operate a WORK program could not continue to operate a JOBS program.

- (c) Funding for the tribal WORK program would be a percentage set-aside of the total WORK allocation.
- (d) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vice versa.
- (e) An Indian tribe or Alaska Native organization would not be required to match Federal funds.
- (f) The WORK program set forth in the application of a Indian tribe or Alaska Native organization under this part need not meet any requirement of the State WORK program that the Secretary determines is inappropriate with respect to a tribal WORK program.
- (g) The Secretary shall develop appropriate data collection requirements.
- (h) Appropriate performance measures will be developed.

CHILD CARE

1. ALLOCATE JOBS AND TRANSITIONAL CHILD CARE FUNDS
TO TRIBES AND ALASKA NATIVE ORGANIZATIONS

Current Law

Under current law, States are the only entities eligible to administer title IV-A child care funds. Participants in Tribal JOBS programs who need child care have to be referred to the State IV-A agencies in order to receive needed child care.

Although data is not collected on the extent that title IV-A child care is used by Tribal JOBS participants, anecdotal information from Tribal JOBS directors seems to indicate that Tribal JOBS participants do not always get their child care needs taken care of through the State. Potential child care providers on reservations are often intimidated or unable to provide necessary information to the State in order to meet State requirements. Indian tribes and Alaska Native organizations that receive Child Care and Development Block Grant (CCDBG) funds sometimes use these funds to pay the cost of the child care to avoid dealing with the State. By using CCDBG funds to pay for the child care needed by Tribal JOBS participants, the Indian tribe or Alaska Native organization cannot use the funds to serve the child care needs of others who qualify.

Vision

Indian tribes and Alaska Native organizations would not have to rely the State IV-A agencies to guarantee the child care needed by Tribal JOBS participants and transitional child care. Funding the Tribal JOBS grantees to guarantee child care makes it easier for these entities to ensure that Tribal child care needs are met. Tribes would be provided funding for child care up to an amount equal to their JOBS/WORK allotment from title IV-A funds to address JOBS and transitional child care needs.