Second, current review and modification procedures are extremely labor intensive, time-consuming, and cumbersome to implement. This problem is particularly pronounced in, although not limited to, States with court-based systems. Improvements in automated systems will help diminish some of the time delays and tracking problems currently associated with review and modification efforts. However, a simplified administrative process for updating awards is also needed for States to handle the volume of cases involved in a more efficient and speedier manner.

(1) *States shall have and use laws that require the review of all child support orders included in the State Central Registry once every three years. The review may consist of an exchange of financial information through the State Central Registry. The State shall provide that a change in the support amount resulting from the application of guidelines since the entry of the last order is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstances. (States may, at their option, establish a threshold amount not to exceed 10 percent since entry of the last order.) States shall adjust each order in accordance with the guidelines unless both parents decline the adjustment in a writing filed with the State Central Registry.*

(2) *States may set a minimum time-frame that runs from the date of the last adjustment that bars a subsequent review before a certain period of time elapses, absent other changed circumstances. Individuals may request modifications more often than once every three years if either parent's income changes by more than 20 percent.*

(3) *States are not precluded from conducting the process at the local or county level. Telephonic hearings and video conferencing are encouraged.*

(4) *To ensure that all reviews can be conducted within the specified time-frame, States must have and use laws which:*

(a) *provide the child support agency through the State Central Registry administrative power to modify all child support orders and medical support orders, including those orders entered by a court (unless the State is exempted under section 466(d) of the Social Security Act);*

(b) *provide full faith and credit for all valid orders of support modified through an administrative process;*

(c) *require the child support agency to automate the review and modification process to the extent possible;*

(d) *ensure that interstate modification cases follow UIFSA and any amending Federal jurisdictional legislation for determining which State has jurisdiction to modify an order;*

(e) *ensure that downward modifications as well as upward modifications must be made in all cases if a review indicates a modification is warranted;*

(f) *simplify notice and due process procedures for modifications in order to expedite the processing of modifications (Federal statutory changes also);*

(g) *provide administrative subpoena power for all relevant income information; and*

(h) provide default standards for non-responding parents.

(5) The Secretary of Health and Human Services and the Secretary of the Treasury shall conduct a study to determine if IRS income data can be used to facilitate the modification process.

Distribution of Child Support Payments

Priority of Child Support Distribution

Families are often not given first priority under current child support distribution policies. The proposal will make such policies more responsive to the needs of families by reordering child support distribution priorities, giving States the option to pay current child support directly to families who are recipients and reordering Federal income tax offset priorities.

When a family applies for AFDC, an assignment of support rights is made to the State by the custodial parent. Child support paid (above the first $50 of current support) is retained by the State to reimburse itself and the Federal government for AFDC benefits expended on behalf of that family. When someone goes off public assistance, payments for support obligations above payment of current support (i.e., arrearages) may be made to satisfy amounts owed the State and the family. States currently have discretion to either pay these child support arrearages first to the former AFDC family or to use such arrearage payments to recover for past unreimbursed AFDC assistance. Only about 19 States have chosen to pay the family arrearages first for missed payments after the family stops receiving AFDC benefits.

The proposed change will require all States to pay arrearages due to the family before reimbursing any unreimbursed public assistance owed to the State. Such a change will strengthen a families post-AFDC self-sufficiency. Families often remain economically vulnerable for a substantial amount of time after leaving AFDC; about 40 percent of those who leave return within a year and another 60 percent return within two years. Ensuring that all support due to the family during this critical transition period is paid to the family can mean the difference between self-sufficiency or a return to welfare.

States that have already voluntarily implemented this policy believe that such a policy is more fair to the custodial family who now depends on payment of support to help meet its living expenses. States have also found it difficult to explain to custodial and non-custodial parents why support paid when a family has left welfare should go to reimburse the State arrearages first before arrearages owed the family are paid. If child support is about ensuring the well-being of children, then the children's economic needs should be taken care of before State debt repayment.

Public policy also ought to promote the establishment of two-parent families. Having two parents living together within marriage provides children with more emotional and financial support than having two parents living apart. Under current law, child support arrears are not dischargeable even if the parents marry or reconcile. In these circumstances, the family must pay back itself, or the State, if the family was on AFDC. For families with no AFDC arrearages, such payments are illogical and inefficient; a check must be written by the family, sent to the IV-D agency, credited against the arrearage amount, and re-issued by the State back to the family. For families with AFDC arrearages, such payments are not re-issued to the family, but are be used to reduce the State and Federal debt. This can make low income families even poorer. Under the proposal, families who unite or reunite in marriage can have their arrearages suspended or forgiven if the family income is less than twice the Federal poverty guideline. Protections will be included to ensure that marriage (or remarriage) is not undertaken for the sole purpose of eliminating child support arrearages.

(1) *States shall distribute payments of all child support collected in cases in which the obligee is not receiving AFDC, including moneys collected through a tax refund offset, in the following priority:*

  (a) *to a current month's child support obligation;*

  (b) *to debts owed the family (non-AFDC obligations); if any rights to child support were assigned to the State, then all arrearages that accrued after or before the child received AFDC shall be distributed to the family;*

  (c) *subject to (2), to the State making the collection for any AFDC debts incurred under the assignment of rights provision of Title IV-A of the Social Security Act;*

  (d) *subject to (2), to other States for AFDC debts (in the order in which they accrued); the collecting State must continue to enforce the order until all such debts are satisfied and to transmit the collections and identifying information to the other State;*

(2) *If the noncustodial and custodial parents unite or reunite in a legitimate marriage (not a sham marriage), the State must suspend or forgive collection of arrearages owed to the State if the reunited family's joint income is less than twice the Federal poverty guideline.*

(3) *The Secretary shall promulgate regulations that provide for a uniform method of allocation/proration of child support when the obligor owes support to more than one family. All States must use the standard allocation formula.*

(4) *Assignment of support provisions shall be consistent with (1) above.*

Treatment of Child Support for AFDC Families - State Option

With the exception of the $50 pass-through, States may not pay current child support directly to families who are AFDC recipients. Instead child support payments are paid to the State and are used to reimburse the State for AFDC benefit payments. Many States have found that both AFDC recipients and noncustodial parents misunderstand and resent child support being used for State debt collection. Under waiver authority, Georgia has undertaken a demonstration to pay child support directly to the AFDC family and a number of other States have expressed interest in this approach. The proposal will allow States the option to pay child support directly to the AFDC family, thereby allowing States to choose the distribution policy that will work best in their state. The AFDC benefit amount is reduced in accordance with State policy to account for the additional family income. This policy change makes child support part of a family's primary income and places AFDC income as a secondary source of support.

(1) *At State option, States may provide that all current child support payments made on behalf of any family receiving AFDC must be paid directly to the family (counting the child support payments as income).*

(2) *The Secretary shall promulgate regulations to ensure that States choosing this option have available an AFDC budgeting system that minimizes irregular monthly payments to recipients.*

III. COLLECT AWARDS THAT ARE OWED

Overview

Currently, enforcement of support cases is too often handled on a complaint-driven basis with the IV-D agency only taking enforcement action when the custodial parent pressures the agency to take action. Many enforcement steps require court intervention, even when the case is a routine one, and even routine enforcement measures often require individual case processing rather than relying upon automation and mass case processing.

Under the proposal, all States will maintain a central State registry and centralized collection and disbursement capability through a central payment center. State staff will monitor support payments to ensure that the support is being paid and will be able to impose certain administrative enforcement remedies at the State level. Thus, routine enforcement actions that can be handled on a mass or group basis will be imposed through the central State office using computers and automation. States may, at their option, use local offices for cases that require local enforcement actions. State staff thus will supplement, but not necessarily replace, local staff.

The Federal role will be expanded to ensure efficient location and enforcement, particularly in interstate cases. In order to coordinate activity at the Federal level, a National Child Support Enforcement Clearinghouse (NC) will be established to help track parents across State lines. The National Clearinghouse includes a national child support registry, the expanded FPLS and a national directory of new hires. The National Clearinghouse will serve as the hub for transmitting information between States, employers, and Federal and State data bases. Interstate processing of cases will be made easier through the adoption of uniform laws for handling these types of cases.

The proposal includes a number of child support enforcement tools--tools that have been proven effective in the best performing States. Finally, changes in the funding and incentive structure of the IV-D program and changes designed to improve program management and accountability are proposed.

STATE ROLE

Central State Registry

Currently, child support orders and records are often scattered through various branches and levels of government. This fragmentation makes it impossible to enforce orders on an efficient and organized basis. Also, the ability to maintain accurate records that can be centrally accessed is critical. Under the proposal, States will be required to establish a Central State Registry for all child support orders established or registered in that State. The registry will maintain current records of all the support orders and work in coordination with the Central Payment Center for the collection and distribution of child support payments. This will vastly simplify withholding for employers. The creation of central State registries was one of the major recommendations of the U.S. Commission on Interstate Child Support and is a concept supported by virtually all child support professionals and advocacy groups.

(1) *As a condition of receipt of Federal funding for the child support enforcement program, each State must establish an automated central State registry of child support orders.*

(2) *The registry must maintain a current record of the following:*

(a) *all present IV-D orders established, modified or enforced in the State;*

(b) *all new and modified orders of child support (IV-D and non-IV-D) established by or under the jurisdiction of the State, after the effective date of this provision; and*

(c) *at either parent's request, existing child support cases not included in the IV-D system on the effective date of the registry.*

(3) *The State, in operating the child support registry, must:*

(a) *maintain and update the registry at all times;*

(b) *meet specified time-frames for submission of local court or administrative orders to the registry, as determined by the Secretary;*

(c) *receive out-of-State orders to be registered for enforcement and/or modification;*

(d) *record the amount of support ordered and the record of payment for each case that is collected and disbursed through the central payment center;*

(e) *conform to a standardized support abstract format, as determined by the Secretary, for the extraction of case information to the National Registry and for matches against other data bases on a regular basis;*

(f) *program the statewide automated system to extract updates automatically of all case records included in the registry;*

(g) *provide a central point of access to the Federal new-hire reporting directory and other Federal data bases, statewide data bases, and interstate case activity;*

(h) *routinely match against other State data bases to which the child support agency has access;*

(i) *use a uniform identification number, preferably the Social Security Number, for all individuals or cases as determined by the Secretary;*

(j) *maintain procedures to ensure that new arrearages do not accrue after the child for whom support is ordered is no longer eligible for support or the order becomes invalid (e.g., triggering notices to parents if order does not terminate by its own terms or by operation of law);*

(k) *use technology and automated procedures in operating the registry wherever feasible and cost-effective;*

(l) *ensure that the interest or late payment fees charged can be automatically calculated;*

(m) *ensure that the registry has access to vital statistics or other information necessary to determine the new paternity performance measure. (If automated elsewhere, access to these other data bases should be automated as well); and*

(n) *ensure that the system is capable of producing a payment history as determined by the Secretary.*

Option for Integrated State Registry

(4) States may, at their option, maintain a unified, integrated registry by connecting local registries through computer linkage. (Local registries must be able to be integrated at a cost which does not exceed the cost of a new single central registry.) Under this option, however, the State and State staff must still perform all of the activities described herein for central registries and must maintain a State Central Payment Center for collection and disbursement of payments.

Automated Mass Case Processing and Administrative Enforcement Remedies

In most States, routine enforcement actions, which are necessary in thousands or tens of thousands of cases, are still handled on an individual case basis. Often these actions require court involvement in each individual case or, at the very least, initiation of the routine action at the local level. Such a process by its nature is slow and cumbersome, causing many cases to simply never receive the attention they deserve. A few States, such as Massachusetts, are handling routine enforcement actions by using mass case processing techniques and imposing administrative enforcement remedies through centralized case handling. Computer systems routinely match child support files of delinquent obligors against other data bases, such as wage reporting data and bank account data, and when a match is found can take enforcement action automatically without human intervention. The system automatically notifies the obligors of the actions being taken and offers an appeal process. The vast majority of obligors do not appeal, so the case proceeds routinely and the support is obtained and sent to the families due support.

The use of such mass case processing techniques and administrative remedies has significantly reduced the number of cases where the IV-D agency has to resort to contempt or other judicial measures. This also frees up staff to work paternity cases or other more labor intensive enforcement measures. The proposal requires all States to develop the capacity to handle cases using mass case processing and the administrative enforcement remedies.

(1) As a condition of State plan approval, the State must have sufficient State staff, State authority and automated procedures to monitor cases and impose those enforcement measures that can be handled on a mass or group basis using computer automation technology. "State staff" are staff that are employed by and directly accountable to the State IV-D agency (private contractors are allowed). (Where States have local staff, this supplements, but does not necessarily replace, local staff. Therefore, local staff are still provided where necessary.)

Specifically the State shall:

(2) monitor all cases within the registry on a regular basis, determining on at least a monthly basis whether the child support payment has been made;

(3) maintain automation capability whereby a disruption in payments triggers automatic enforcement mechanisms;

(4) administratively impose the following enforcement measures without need for a separate court order:

(a) order wages to be withheld automatically for the purposes of satisfying child support obligations, and direct wage withholding orders to employers immediately upon notification by the national directory of new hires;

(b) attach financial institution accounts (post-judgment seizures) without the need for a separate court order for the attachment; (States can, at their option, freeze accounts and if no challenge to the freeze of funds is made, turn over the part of the account subject to the freeze up to the amount of the child support debt to the person or State seeking the execution);

(c) intercept certain lump-sum monies such as lottery winnings and settlements to be turned over to the State to satisfy pending arrearages;

(d) attach public and private retirement funds in appropriate cases, as determined by the Secretary;

(e) attach unemployment compensation, workman's compensation and other State benefits;

(f) increase payments to cover arrearages;

(g) intercept State tax refunds; and

(h) submit cases for Federal tax offset.

(5) In all cases, appropriate notice and due process as determined by the State must be followed but State laws and procedures must recognize that child support arrears are currently treated as judgments by operation of law and reducing amounts to money judgments is not a prerequisite to any enforcement.

Centralized Collection and Disbursement Through a State Central Payment Center

Under current law, payments of support by noncustodial parents or by employers on behalf of noncustodial parents are made to a wide variety of different agencies, institutions and individuals. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial population, the need for one, central location to collect and disburse payments in a timely manner has grown. States vary regarding how the child support payments are routed. In some States, locally distributed child support payments stay at the local level, with the remainder going to the State for distribution. In other States, all the money is transmitted to the State and is then distributed to either the family or to the governmental entity receiving AFDC reimbursement. A few States are beginning to collect and distribute child support payments at the State level.

Collection and distribution practices vary in non-IV-D cases as well. Some States route the money through local clerks or courts. In other States the non-IV-D child support payments flow entirely outside of government, from the obligor or his or her employer directly to the custodial parent.

Under the proposal, payments made in all cases entered in the central registry are processed through a Central Payment Center, run by the State government as part of the Central Registry or contracted to a private vendor. (Parents may opt out of payment through the State Central Payment Center under certain conditions; see p. 29 for further detail.) This eases the burden on employers by allowing them to send withholdings to one location within the State instead of to several county clerks or agencies. In addition, distribution and disbursement is accomplished based on economies of scale, allowing for the purchase of more sophisticated processing equipment than many counties could individually purchase, ensuring speedy disbursement and central accountability in intercounty cases. State governments will be able to credit their AFDC reimbursement accounts quickly and parents who opt for direct deposit could have their share of the support almost immediately deposited.

(1) *Through a fully automated process, the State Central Payment Center must:*

(a) *serve as the State payment center for all employers remitting child support withheld from wages; and*

(b) *serve as the State payment center for all non-wage withholding payments through the use of payment coupons or stubs or electronic means, unless the parties meet specified opt-out requirements. States, at their option, may allow cash payments at local offices or financial institutions only if the payments are remitted to the State Central Payment Center for payment processing by electronic funds transfer within 24 hours of receipt.*

(2) *In fulfilling these obligations, the State Central Payment Center must:*

(a) *accept all payments through any means of transfer determined acceptable by the State including the use of credit card payments and Electronic Funds Transfer (EFT) systems;*

(b) *generate bills which provide for accurate payment identification, such as return stubs or coupons, for cases not covered under wage withholding;*

(c) *identify all payments made to the State Central Payment Center and match the payment to the correct child support case record;*

(d) *disburse all collections in accordance with priorities as set forth under the proposal;*

(e) *disburse the child support payments to the custodial parents through a transmission process acceptable to the State, including direct deposit if the custodial parent requests;*

(f) *provide that each child support payment made by the noncustodial parent is processed and sent to the custodial parent promptly at the time it is received (exceptions by regulation for unidentified payments);*

(g) *maintain records of transactions and the status of all accounts including arrears, and monitor all payments of support;*

(h) *develop automatic monitoring procedures for all cases where a disruption in payments triggers automatic enforcement mechanisms;*

(i) *accept and transmit interstate collections to other States using electronic funds transfer (EFT) technology; and*

(3) *In order to facilitate the quick processing and disbursement of payments to custodial parents, States are encouraged to use Electronic Funds Transfer (EFT) systems wherever possible.*

(4) *States must also be able to provide parents up-to-date information on current payment records, arrearages, and general information on child support services available. Use of automated Voice Response Units (VRU) to respond to client needs and questions, the use of high-speed check-processing equipment, the use of high-performance, fully-automated mail and postal procedures and fully automated billing and statement processing are encouraged; the Federal Office of Child Support Enforcement (OCSE) will facilitate private businesses in providing such technical assistance to the States.*

(5) *States may form regional cooperative agreements to provide the collection and disbursement function for two or more States through one "drop box" location with computer linkage to the individual State registries.*

(6) *States must enact procedures providing that in child support cases, a change in payee may not require a court hearing or order to take effect and may be done administratively, with notice to both parties.*

Eligibility for IV-D Enforcement Services

Under the existing system, child support services are provided automatically to recipients of AFDC, Medicaid and, in some cases, Foster Care Assistance. Other single parent families, however, must seek services on their own by making a written application to the IV-D agency. Further, they must pay an application fee unless the State elects to pay the fee for them. Women may be intimidated from initiating a request for services and many States view the written application requirement as an unnecessary bureaucratic step.

To foster an environment where routine payment of child support is inescapable without placing the burden on the custodial parent to take action, all cases included in the central registry (that is, all families with new and modified orders for support, all families currently receiving IV-D services and any other family desiring inclusion in the registry) will receive child support enforcement services automatically, without the need for application. However, in situations where compliance with the order is not an issue, parents can opt to be excluded from payment through the central payment center. This essentially carries forward the flexibility provided under existing immediate wage withholding requirements.

(1) *All cases included in the State's central registry shall receive child support services without regard to whether the parent signs an application for services. Current child support cases not covered through the IV-D system at the time of enactment could also request services through the State child support agency.*

(2) *Under no circumstances may a State deny any person access to State child support services based solely on the person's nonresidency in that State or require the payment of any fees by a parent for inclusion in the central registry.*

(3) *No fees or costs may be imposed on any custodial or noncustodial parent or other individual for application for IV-D child support services; no fees or costs may be imposed on any custodial parent for any child support enforcement services, including collections, provided by the IV-D child support agency. (Non-custodial parents may be charged fees or costs except where prohibited herein.)*

Opportunity to Opt-Out

(4) *Parents with child support orders included in the central registry can choose to opt-out of payment through the central payment center if they are not otherwise subject to a wage withholding order (current provisions for exceptions to wage withholding are preserved).*

(5) *Parents who opt-out must file a separate written form with the agency signed by both parties, indicating that both individuals agree with the arrangement.*

(6) *If the parents choose to opt-out of wage withholding and payment through the central payment center, the noncustodial parent fails to pay support, and the custodial parent notifies the agency for enforcement action, compliance will be monitored by the State thereafter.*

FEDERAL ROLE

National Clearinghouse (NC)

The National Clearinghouse will consist of four components, three of which have direct bearing on improving child support enforcement: the National Child Support Registry, the expanded FPLS, and the National Directory of New Hires. (The National Transitional Assistance Registry is not discussed in this section.) The National Clearinghouse shall operate under the direction of the Secretary of Health and Human Services.

National Child Support Registry

The Family Support Act of 1988 mandated the implementation and operation of a comprehensive, statewide, automated child support enforcement system in every State by October 1, 1995. Statewide automation will help correct some of the deficiencies associated with organizational fragmentation as well as alleviate another problem - ineffective case management. For interstate case processing, the Child Support Enforcement Network (CSENet), currently being implemented, is designed to link together statewide, automated systems for the purpose of exchanging interstate case data among States. While all States will eventually be linked through CSENet, no national directory or registry of all child support cases currently exists. A national registry in combination with statewide automated systems has the potential to greatly improve enforcement nationally, through improved locate and wage withholding, and to also improve interstate case processing.

Under the proposal, a National Child Support Registry will be operated by the Federal government to maintain an up-to-date record of all child support cases and to match these cases against other databases for location and enforcement purposes. The primary function of the Registry is to expedite matches with other major databases.

(1) *The Federal government will establish a National Child Support Registry that maintains a current record of all child support cases based on an extract of information from each State's Central Registry. The National Registry will:*

(a) *contain minimal information on every child support case from each State: the name and Social Security Number of the noncustodial parent (or putative father) and the case identification number;*

(b) *interface with State Central Registries for the automatic transmission of case updates;*

(c) *match the data against other Federal data bases;*

(d) *point all matches back to the relevant State in a timely manner; and*

(e) *interface and match with National Directory of New Hires.*

(2) *The Secretary shall determine the networking system, after considering the feasibility and cost, which may be any of the following:*

(a) *building upon the existing CSENet interstate network system;*

(b) *replacing the existing CSENet;*

(c) *integrating with the current SSA system; or*

(d) *integrating with the proposed Health Security Administration's network and data base.*

(3) *An amount equal to two (2) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund the National Clearinghouse.*

National Directory of New Hires

A National Directory of New Hires, operated by the Federal government, will be created to maintain an up-to-date data base of all new employees for purposes of determining child support responsibility. Information will come from transmission of the W-4 form, which is already routinely completed or through some other mechanism as the employer chooses. Information from the data base will be matched regularly against the National Registry to identify obligors for automatic income withholding and the appropriate State will be notified of the match. This national directory will provide a standardized process for all employers and interstate cases will be processed as quickly as intraState cases.

Currently, information about employees and their income is reported to State Employment Security Agencies on a quarterly basis. This data is an excellent source of information for implementing wage withholding as well as for locating the noncustodial parent to establish an order. A major drawback, however, is that this data is approximately three- to six-months old before the child support agency has access to it. A significant number of obligors delinquent in their child support change jobs frequently or work in seasonal or cyclical industries. Therefore, it is difficult to enforce child support through wage withholding for these individuals. At least ten States have passed legislation and implemented a process requiring employers to report information on new employees soon after hiring. Several others have introduced legislation for employer reporting.

The problem with continuing on the current path is that each State is taking a slightly different approach concerning who must report, what must be reported, and the frequency of reporting, etc. Also, while improving intraState wage withholding, this approach does little to improve interstate enforcement. The time has come for more standardization as well as expansion through a national system for reporting new hire information. Many employers and the associations which represent them, such as the American Society for Payroll Management, are calling for a centralized, standardized single reporting system for new hire reporting to minimize the burden on the employer community. A National Directory of New Hires will significantly reduce the burden on employers, especially multi-State employers, as well as increase the effectiveness for interstate wage withholding.

(1) The Secretary of Health and Human Services shall operate a new National Directory of New Hires which maintains a current data base of all new employees in the United States as they are hired.

(2) All employers are required to report information based on every new employee's W-4 form (which is already routinely completed) within 10 days of hire to the National Directory:

(a) employers may mail or fax a copy of the W-4 or use a variety of other filing methods to accommodate their needs and limitations, including the use of POS devices, touch tone telephones, electronic transmissions via personal computer, tape transfers, or mainframe to mainframe transmissions;

(b) information submitted must include: the employee's name, Social Security Number, date of birth, and the employer's identification number (EIN);

(3) employers will face fines or civil penalties if they intentionally fail to: comply with the reporting requirements; withhold child support as required; or disburse it to the payee of record within five calendar days of the date of the payroll.

(4) The National Directory of New Hires shall:

(a) match the data base against several national data bases on a periodic basis including:

(i) the Social Security Administration's Employer Verification System (EVS) to verify that the social security number given by the employee is correct and to correct any transpositions;

(ii) the National Child Support Registry (matching to occur at least every 48 hours); and

(iii) the Federal Parent Locate Service (FPLS);

(all cases submitted to the National Child Support Registry and other locate requests submitted by the States shall be periodically cross-matched against the National Directory of New Hires);

(b) *notify the State Registry of any new matches within 48 hours including the individual's place of employment so that States can initiate wage withholding for cases where wages are not being withheld currently or take appropriate enforcement action; and*

(c) *retain data for a designated time period, to be determined by the Secretary.*

(5) *The State Employment Security Agencies (SESAs) shall submit extracts of their quarterly wage reporting data to the National Directory of New Hires. The SESAs shall utilize a variety of automated means to transmit the data electronically to the National Directory of New Hires. The National Directory shall take appropriate measures to safeguard the privacy and unauthorized disclosure of the wage reporting data submitted by SESAs.*

(6) *States shall match the hits against their central registry records at least every 48 hours and must send notice to employers (if a withholding order/notice is not already in place) within 48 hours of receipt from the National Directory of New Hires.*

(7) *A feasibility study shall be undertaken to determine if the New Hire Directory should ultimately be part of the Simplified Tax and Wage Reporting System, or the Social Security Administration's or the Health Security Act-created data bases.*

Expanded FPLS

States currently operate State Parent Locator Services (SPLS) to locate noncustodial parents, their income, assets and employers. The SPLS conducts matches against other State databases and in some instances has on-line access to other State databases. In addition, the SPLS may seek information from credit bureaus, the postal service, unions, and other sources. Location sources may vary from State to State depending on the individual State's law. One location source used by the SPLS is the Federal Parent Locator Service (FPLS). The FPLS is a computerized national location network operated by OCSE which obtains information from six Federal agencies and the State Employment Security agencies (SESAs).
In order to improve efforts to locate noncustodial parents, under the proposal, OCSE will significantly expand the Federal Parent Locate Services and make improvements in parent locator services offered at the Federal and State levels. The FPLS shall operate under the National Clearinghouse.

(1) *The OCSE shall expand the scope of State and Federal locate efforts by:*

(a) *allowing States (through access to the FPLS and the National Child Support Registry) to locate persons who owe a child support obligation, persons for whom an obligation is being established, or persons who are owed child support obligations by accessing:*

(i) *the records of other State IV-D agencies and locate sources;*

(ii) *Federal sources of locate information in the same fashion; and*

(iii) *other appropriate data bases.*

(b) requiring the child support agency to provide both ad-hoc and batch processing of locate requests, with ad-hoc access restricted to cases in which the information is needed immediately (such as with court appearances) and batch processing used to troll data bases to locate persons or update information periodically;

(c) for information retained in a State IV-D system, providing for a maximum 48 hours turnaround from the time the request is received by the State to the time information/response is returned; for information not maintained by the State IV-D system, the system must generate a request to other State locate data bases within 24 hours of receipt, and respond to the requesting State within 24 hours after receipt of that information from the State locate sources;

(d) broadening the definition of parent location to include the parents' income and assets;

(e) developing with the States an automated interface between their Statewide automated child support enforcement systems and the Child Support Enforcement Network (CSENet), permitting locate and status requests from one State to be integrated with intraState requests, thereby automatically accessing all locate sources of data available to the State IV-D agency; and

(2) States shall have and use laws that require unions and their hiring halls to cooperate with IV-D agencies by providing information on the residential address, employer, employer's address, wages, and medical insurance benefits of members;

(3) The Secretary shall authorize:

(a) a study to address the issue of whether access to the National Locate Registry should be extended to noncustodial parents seeking the location of their children and whether, if it were, custodial parents fearful of domestic violence could be adequately protected and shall make recommendations to Congress; and

(b) a study to address the feasibility and costs of contracting with the largest credit reporting agencies to have an electronic data interchange with FPLS, accessible by States, for credit information useful for the enforcement of orders, and if the Fair Credit Reporting Act is amended, for establishment and adjustment of orders.

(c) demonstration grants to States to improve the interface with State data bases that show potential as automated locate sources for child support enforcement.

Expanded Role of Internal Revenue Service

The Internal Revenue Service (IRS) is currently involved in the child support enforcement program both as a source of valuable information to assist in locating noncustodial parents, their assets and their place of employment, and as a collection authority to enforce payment of delinquent support obligations. In FY 1992, well over one-half of a billion dollars was collected by the IRS on behalf of over 800,000 child support cases. This proposal focuses on strengthening the IRS role in child support enforcement in three areas: enhancing data exchange; expanding the tax refund offset program; and, improving the full collection process.

Enhancing Data Exchange Between IV-D Child Support and the IRS Data

The Internal Revenue Code currently provides access to certain tax information used by child support enforcement agencies, including 1099 data. Access to this information greatly enhances State enforcement efforts and the utility of the locate network. Under the proposal, the Secretary of the Treasury will explore the feasibility of simplifying access to this IRS data.

(1) *The Secretary of the Treasury shall explore the feasibility of and, as appropriate, institute procedures whereby States can more easily obtain access to IRS data (including 1099 data), if allowed by law, for the purposes of identifying obligors' income and assets. Safeguards must be in place to protect the confidentiality of the information.*

IRS Tax Refund Offset

Current statutory requirements for Federal tax refund interception set different criteria for AFDC and non-AFDC cases. One especially inequitable difference is that the tax refund offset is not available to collect past-due child support for non-AFDC children who have reached the age of majority, even if the arrearage accrued during the child's minority. The proposal will eliminate all disparities between AFDC and non-AFDC income tax refund offsets for child support collection purposes.

(1) *The disparities between AFDC and non-AFDC cases regarding the availability of the Federal income tax refund offset shall be eliminated, the arrearage requirement shall be reduced to an amount determined by the Secretary, and offsets shall be provided regardless of the age of the child for whom an offset is sought. Time-frames, notice and hearing requirements shall be reviewed for simplification.*

IRS Full Collections

Currently, the IRS full collection process (which may include seizure by the IRS of property, freezing of accounts, and other procedures) is available to States as an enforcement tool in collecting delinquent child support payments. While use of the IRS full collection process could be an effective enforcement remedy, especially in interstate cases, it is currently used only rarely, in part, because the current process is cumbersome and prohibitively expensive from the States' perspective. The IRS and HHS have recently undertaken a study to explore how to improve the IRS full collection process and to make recommendations regarding its expansion. As part of this study, 700 cases were certified to IRS for collection in September, 1993. These cases are being closely monitored and the data obtained will be used to make recommendations for improvement to the IRS Full Collection project, including the establishment of a new fee structure. The proposal will require the Secretary of Treasury to improve the full collection process by establishing a simplified and streamlined process, including the use of an automated collection process for child support debts.

(1) *To improve the IRS Full Collection process, the Secretary of the Treasury shall:*

(a) *simplify the IRS full collection process;*

(b) *establish procedures to ensure that the process is expeditious and implemented effectively;*

(c) *explore the feasibility of the IRS using its automated tax collection techniques in child support full collection cases; and*

(d) *the IRS will not charge an extra submission fee if a State updates the arrears on an open case.*

INTERSTATE ENFORCEMENT

Currently, many child support efforts are hampered by States' inability to locate noncustodial parents and secure orders of support across State lines. New provisions will be enacted to improve State efforts to work interstate child support cases and make interstate procedures more uniform throughout the country.

Under current law, most States handle their interstate cases through the use of versions of the Uniform Reciprocal Enforcement of Support Act (URESA), promulgated in 1950 and changed in 1952, 1958 and 1968. Using URESA may result in the creation of several child support orders in different States (or even counties within the same state) for different amounts, all of which are valid and enforceable. Interstate income withholding, an administrative alternative to URESA, is not widely used and limits the enforcement remedy of withholding.

Under the proposal, States will be required to adopt verbatim URESA's replacement, the Uniform Interstate Family Support Act (UIFSA). UIFSA ensures that only one State controls the terms of the order at any one time. UIFSA, unlike URESA, includes a comprehensive long-arm jurisdiction section to ensure that as many cases stay in one State as is possible. Direct withholding will allow a State to use income withholding in interstate cases by serving the employer directly without having to go through the second State's IV-D agency. Additionally, States could quickly obtain wage information from out-of-State employers. Interstate locate through the National Clearinghouse should improve locate capability dramatically, by linking State agencies, Federal locate sources and the new hire data base.

We will also ask Congress to express its sense that it is constitutional to use "child-state" jurisdiction, which if upheld by the Supreme Court, will allow agencies to bring the child support case where the child resides instead of where the noncustodial parent lives if he or she has no ties to the child's state. This extends long arm jurisdiction's reach to all cases instead of just most cases. It would also eliminate arguments and court proceedings regarding jurisdiction.

While all States have implemented immediate wage withholding programs for child support payment, there are significant variances in individual State laws, procedures and forms. Those differences are significant enough to bog down the interstate withholding system. Even within States, forms and procedures may vary, resulting in slow or inaccurate case processing. The proposal will require the Secretary to promulgate regulations defining income and other terms so that income withholding terms, procedures and definitions are uniform. This will improve interstate wage withholding effectiveness and fairness and facilitate a more employer-friendly withholding environment. The net effect of UIFSA, direct and uniform withholding, national subpoenas, interstate lien recognition, interstate communication, and child-State jurisdiction is to almost eradicate any barriers that exist to case processing simply because the parents do not reside in the same state.

To facilitate interstate enforcement efforts, each State must have and use laws, rules and procedures that:

(1) provide for long-arm jurisdiction over a nonresident individual in a child support or parentage case under certain conditions;

(2) require Social Security Numbers of all persons applying for a marriage license or divorce to be listed on the supporting license or decree;

(3) require Social Security Numbers of both parents to be listed on all child support orders and birth certificates;

(4) adopt verbatim the Uniform Reciprocal Enforcement of Support Act (URESA) drafting committee's final version of the Uniform InterState Family Support Act (UIFSA), to become effective in all States no later than October 1, 1995 or within 12 months of passage, but in no event later than January 1, 1996;

(5) give full faith and credit to all terms of any child support order (whether for past-due, currently owed, or prospectively owed support) issued by a court or through an administrative process which has jurisdiction under the terms of UIFSA;

(6) provide that out-of-State service of process in parentage and child support actions must be accepted in the same manner as are in-State service of process methods and proof of service so if service of process is valid in either State it is valid in the hearing State;

(7) require the filing of the noncustodial parent's and the custodial parent's residential address, mailing address, home telephone number, driver's license number, Social Security Number, name of employer, address of place of employment and work telephone number with the appropriate court or administrative agency on or before the date the final order is issued; in addition:

(a) presume for the purpose of providing sufficient notice in any support related action, other than the initial notice in an action to adjudicate parentage or establish or modify a support order that the last residential address of the party given to the appropriate agency or court is the current address of the party, in the absence of the obligor or obligee providing a new address;

(b) prohibit the release of information concerning the whereabouts of a parent or child to the other parent if there is a court order for the physical protection of one parent or child entered against the other parent;

(8) provide for intraState transfers of cases to the city, county, or district where the child resides for purposes of enforcement and modification, without the need for refiling by the plaintiff or re-serving the defendant; require the State child support agency or State courts that hear child support claims to exert statewide jurisdiction over the parties and allow the child support orders and liens to have statewide effect for enforcement purposes;

(9) make clear that visitation denial is not a defense to child support enforcement and that nonsupport is not available as a defense when visitation is at issue;

(10) require States to require employers, as a condition of doing business in the State, to respond to requests by out-of-State IV-D agencies for individual income information pertaining to all private, State and local government employees for purposes of establishing and collecting child support.

In addition, the Federal government shall:

(1) make a Congressional finding that child-State jurisdiction is consistent with the Due Process clauses of the Fifth and Fourteenth Amendments, Section 5, the Commerce Clause, the General Welfare Clause, and the Full Faith and Credit Clause of the United States Constitution, so that due process is satisfied when the State where a child is domiciled asserts jurisdiction over a nonresident party, provided that party is the parent or presumed parent of the child in a parentage or child support action;

(a) test the constitutionality of this assertion of child-State jurisdiction by providing for an expedited appeal to the U.S. Supreme Court directly from a Federal court;

(2) provide that a State that has asserted jurisdiction properly retains continuing, exclusive jurisdiction over the parties as long as the child or either party resides in that State or if all the parties consent to the State retaining jurisdiction;

(a) when no State has continuing exclusive jurisdiction when actions are pending in different States, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing and exclusive jurisdiction, if the action in the home State was filed before the time expired in the other State for filing a responsive pleading and a responsive pleading contesting jurisdiction is filed in that other State;

(3) provide that a State loses its continuing, exclusive jurisdiction to modify its order regarding child support if all the parties no longer reside in that State or if all the parties consent to another State asserting jurisdiction;

(a) if a State loses its continuing, exclusive jurisdiction to modify, that State retains jurisdiction to enforce the terms of its original order and to enforce the new order upon request under the direction of the State that has subsequently acquired continuing, exclusive jurisdiction;

(b) if a State no longer has continuing jurisdiction, then any other State that can claim jurisdiction may assert it;

(c) when actions to modify are pending in different States, and the State that last had continuing, exclusive jurisdiction no longer has jurisdiction, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing, exclusive jurisdiction, if:

(i) a responsive pleading contesting jurisdictional control is filed in a timely basis in the non-home State, and

(ii) an action in the home State is filed before the time has expired in the non-home State for filing a responsive pleading;

(4) *provide that the law of the forum State applies in child support cases, unless the forum State must interpret an order rendered in another State, so that the rendering State's law governs interpretation of the order; in cases in which a statute of limitations may preclude collection of any outstanding child support arrearages, the longer of the forum or rendering State's statute of limitations shall apply; and*

(5) *provide that all employers can be served directly with a withholding order by any State, regardless of the State issuing the order; The Secretary shall develop a universal withholding form that must be used by all States.*

In addition:

(1) *Section 466 of the Social Security Act will be amended to require regulations so that income withholding terms, procedures, forms and definitions of income for withholding purposes are uniform to ensure interstate withholding efficiency and fairness, based on regulations promulgated by the Secretary;*

OTHER ENFORCEMENT MEASURES

Currently, State and Federal enforcement efforts are often hampered by cumbersome enforcement procedures that make even routine enforcement actions difficult and time consuming. In order to enable States to take more efficient and effective action when child support is not paid, the proposal requires States to adopt several additional proven enforcement tools and streamline enforcement procedures.

Routinized Lien-Placing Process on Motor Vehicles

Liens have two faces. They are either passive encumbrances on property that entitle the lienholder to money when the property changes owners, or they are proactive collection tools that force the obligor to relinquish the property to satisfy the child support debt. Under current law, States must have and use procedures to impose liens on personal and real property. However, the time consuming and cumbersome nature associated with the case-by-case judicial activity now required to impose liens is a major reason for their limited use in practice. Under the proposal, the process by which liens on motor vehicles are imposed will be made more routinized and efficient, resulting in an increase in child support collected. States will be required to set up a routine lien-placing process on motor vehicle titles, without the necessity of first acquiring writs from courts, on non-custodial parents who are delinquent in paying child support.

Universal Wage Withholding

Withholding child support directly from wages has proven to be one of the most effective means of ensuring that child support payments are made. Currently, all IV-D orders should generally be in withholding status if the parties have not opted out or a decision maker has not found good cause. IV-D orders entered prior to 1991 in which no one has requested withholding or the obligor has not fallen behind by one month's worth of support are the only orders that do not have to be in withholding status. Arrearage-triggered IV-D withholding requires prior notice in all but a handful of States. Non-IV-D orders entered after January 1, 1994 are subject to immediate withholding if the two opt-outs are not invoked. Other non-IV-D orders may be in withholding status, depending on if there are arrearages and whether the parties took the appropriate action to impose if the withholding State does not impose it automatically in non-IV-D cases.

While the patchwork of orders subject to withholding is gradually being filled in, one way to speed up the universality of withholding is to require withholding in all cases unless the parties opt out or a court finds good cause. As under current law, if an arrearage of one month of support accrues whether or not there is an opt out, withholding must be implemented; however, it should be implemented automatically without need of further court action in non-IV-D cases as well, and without need for notice prior to withholding in the arrearage-triggered cases. Universalizing withholding (except for opt outs) makes the system equal for the non-IV-D and the IV-D parent. It allows for the immediate implementation of withholding when an obligor begins a new job. Imposing withholding without prior notice gives the States the jump on collection, instead of waiting up to 45 days for resolution. In the very few cases in which withholding might be incorrectly imposed, a hearing will be immediately available to the aggrieved obligor to satisfy due process concerns and to ensure accurate withholding (if a phone call to the agency does not quickly resolve the dispute).

Access to Records

Access to current income and asset information is critical to tracking down delinquent noncustodial parents who are trying to escape their responsibilities. The need to petition the courts for information on the address, employer, and income of parents on a case-by-case basis impedes the ability of States to effectively carry out child support enforcement actions. Recognizing the value of timely and systematic access to information, the proposal will require States to make the records of various agencies available to the child support agency on a routine basis, through automated and nonautomated means. In addition, the proposal will require that child support agencies be granted access to specific case-related financial institution records for location or enforcement action.

Reducing Fraudulent Transfer of Assets

A major problem in some child support cases occurs when an obligor transfers his or her assets to someone else to avoid paying support. To protect the rights of creditors, States have enacted laws under the Uniform Fraudulent Conveyance Act and the Uniform Fraudulent Transfer Act to allow creditors to undo fraudulent transfers. Applying such laws to child support will provide equal protection to the support rights of custodial parents as applied to any other creditor and may deter obligors who are considering fraudulent transfer. The proposal will make it easier to take legal steps against parents who intentionally transfer property to avoid child support payment.

License Revocations

An effective enforcement tool recently implemented by a number of States is withholding or suspending professional/occupational licenses and, in some states, also standard driver's licenses of noncustodial parents owing past-due child support. States that have added this procedure to their arsenal of enforcement remedies have favorable perceptions about its effectiveness, noting that it has both increased the amount of arrearages collected and served as an incentive for noncustodial fathers to keep current in their monthly child support obligation. Often the mere threat of suspending a license is enough to get many recalcitrant obligors to pay. The proposal requires all States to adopt such laws while allowing State flexibility to tailor due process protections.

Statute of Limitations for Child Support Arrearages

Under current law, each State may decide when it no longer has the power to collect old debts. Usually invoking a State statute of limitations is done by the debtor, and is not automatic. Some State statute of limitations for child support debts are as short as seven years. Under the proposal, a uniform and extended statute of limitations for collecting child support debts of 30 years after the child's birth will be required. This ensures that a non-payor is less likely to forever escape payment simply because they have avoided payment in the short-term.

Interest on Arrearages

Child support debts are currently at a competitive disadvantage compared to commercial debts. While many States have the authority to apply interest to delinquent support, few routinely do so and thus there is no financial incentive for a noncustodial parent to pay support before paying an interest accruing debt. To raise the priority of child support debts to at least that afforded to other creditors, the proposal will require States to calculate and collect interest or late penalties on arrearages.

Expanded Use of Credit Reporting

Credit Bureaus can be an effective mechanism for collecting information needed to locate parents and establish awards at the appropriate level and for ensuring that child support payments are kept current. Under current law, credit report information may be used for locate and enforcement purposes. Agencies may not use credit reports for establishment or modification purposes, however. States are also not required to report arrearages upon a request from a credit bureau unless the arrearages are in excess of $1000. (States may report, at State option, when a lesser amount is owed.) This proposal will give IV-D agencies access to all credit bureau information for consideration in establishing, modifying, and enforcing child support orders. Since credit reports are likely to fully disclose income generating activities, such reports can be extremely important in identifying assets and income needed to establish awards. Additionally, requirements for States to report child support arrears of more than one month would encourage non-custodial parents to stay current in their payment of support, because non-payment could jeopardize their credit rating. Many States have improved their credit reporting activities regarding child support arrearages. This proposal will ensure uniformity among the States and prevent any one State from becoming a safe-haven for non-paying parents.

Bankruptcy

Although a noncustodial parent obligated to pay support may not escape the obligation by filing bankruptcy, the ability to collect amounts due is hampered by current bankruptcy practices. One of the difficulties faced is that the filing of a bankruptcy action automatically "stays" or forbids various actions to collect past-due support. In order to continue child support collections, permission from the Bankruptcy Court must be granted to lift the automatic stay. Another obstacle is a requirement that the attorney handing the child support creditor's claim must either be a member of the Federal bar in the jurisdiction where the bankruptcy action is filed, appear by permission, or find alternative representation. In addition, child support obligations are often treated less favorably than other financial obligations such as consumer debts and, under a Chapter 13 bankruptcy proceeding, an individual debtor is allowed to pay off debts over an extended period of time--usually three to five years. Even though the current child support continues and arrearages cannot be forgiven through bankruptcy, the ability to collect these arrearages quickly can be thwarted when, as under current practice, a bankruptcy payment plan could require a different payment arrangement on support arrearages than that imposed by a court or administrative support process.

The proposal will eliminate these types of bankruptcy related obstacles to collecting child support. It will remove the effects of an automatic stay with respect to child support establishment, modification, and enforcement proceedings, require the establishment of a simple procedure under which a support creditor can file their claim with the bankruptcy court, treat unsecured support obligations as a second priority claim status, and require that the bankruptcy trustee recognize and honor an arrearage payment schedule established by a court or administrative decision maker. These changes will facilitate the uninterrupted flow of support to children in the event the obligor files for or enters into bankruptcy.

Federal Garnishment

Garnishment of Federal employees salaries and wages for child support was authorized prior to the requirement that all States have and use wage withholding procedures which do not require specific court or administrative authorization. The Federal garnishment statute was not changed to make its procedures consistent with the requirements for all other child support wage withholding. The proposal will simplify the implementation of child support wage withholding by requiring that the same procedures be used for Federal and non-Federal employees. The proposal also allows garnishment of military pay more consistent with other types of garnishable money.

Passports

Collecting child support from persons who have left the country is extremely difficult, even if the United States has a reciprocal agreement with the country in which the noncustodial parent currently resides. If there is no reciprocal agreement with that country, it is often virtually impossible to collect child support from the noncustodial parent. Under the proposal, passports and visas will not be issued for foreign travel for the most egregious cases in which support is owed--those owing over $5,000 in past due support.

In order to enforce orders of support more effectively, States must have and use laws that:

(1) systematically impose liens on vehicle titles for child support arrearages using a method for updating the value of the lien on a regular basis or allowing for an expedited inquiry to and response for proof of the amount of arrears; provide an expedited method for the titleholder or the individual owing the arrearage to contest the arrearage or request a release upon fulfilling the support obligation; the liens shall cover all current and future support arrearages and shall have priority over all other creditors' liens imposed on a vehicle title other than a purchase money security interest; in appropriate cases the agency shall have the power to execute on, seize, sell and distribute encumbered or attached property in accordance with State law;

(2) require the State agency to initiate immediate wage withholding action for all cases for which a noncustodial parent has been located and wage withholding is not currently in effect, without the need for advance notice to the obligor prior to the implementation of the withholding order;

(3) empower child support agencies to issue administrative subpoenas requiring defendants in paternity and child support actions to produce and deliver documents to or to appear at a court or administrative agency on a certain date; sanction individuals who fail to obey a subpoena's command;

(4) provide, at a minimum, that the following records are available to the State child support agency through automated or nonautomated means:

(a) recreational licenses of residents, or of nonresidents who apply for such licenses, if the State maintains records in a readily accessible form;

(b) real and personal property including transfers of property;

(c) State and local tax departments including information on the residence address, employer, income and assets of residents;

(d) publicly regulated utility companies and cable television operators; and

(e) marriages, births, and divorces of residents;

(5) provide, at a minimum, the following records of State agencies are available to the State child support agency: the tax/revenue department, motor vehicle department, employment security department, bureau of corrections, occupational/professional licensing department, secretary of state's office, bureau of vital statistics, and agencies administering public assistance. If any of these State data bases are automated, the child support agency must be granted either on-line or batch access to the data.

(6) provide for access to financial institution records based on a specific case's location or enforcement need through tape match or other automated or nonautomated means, with appropriate safeguards to ensure that the information is used for its intended purpose only and is kept confidential; a bank or other financial institution will not be liable for any consequences arising from providing the access, unless the harm arising from institution's conduct was intentional;

(7) provide indicia or badges of fraud that create a prima facie case that an obligor transferred income or property to avoid a child support creditor; once a prima facia case is made, the State must take steps to avoid the fraudulent transfer unless settlement is reached;

(8) require the withholding or suspension of professional or occupational licenses from noncustodial parents who owe past-due child support or are the subject of outstanding failure to appear warrants, capiases, and bench warrants related to a parentage or child support proceeding;

(a) the State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.

(b) the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.

(9) suspend the driver's licenses, including any commercial licenses, of noncustodial parents who owe past-due child support:

(a) the suspension shall be determined by the IV-D agency, which shall administratively suspend licenses. The State shall determine the due process rights to be accorded the obligor, including, but not limited to, the right to a hearing, stay of the order under appropriate circumstances, and the circumstances under which the suspension may be lifted;

(b) the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.

(10) extend the statute of limitations for collection of child support arrearages until the child for whom the support is ordered is at least 30 years of age.

(11) calculate and collect interest or late penalties on arrearages (accrued after the date of enactment) for non-payment. (Late penalties may be imposed on a monthly, quarterly, or annual basis.) All such charges must be distributed to the benefit of the child (unless child support rights have been assigned to the State). The Secretary shall establish by regulation a rule to resolve choice of law conflicts.

In addition, Congress shall:

(12) amend the Fair Credit Reporting Act to allow State agency access to and use of credit reports for the location of noncustodial parents and their assets and for establishing and modifying orders to the same extent that the State agency may currently use credit reports for enforcing orders;

(13) require reports to credit bureaus of all child support obligations when the arrearages reach an amount equal to one month's payment of child support;

(14) amend the Bankruptcy Code to:

(a) allow parentage and child support establishment, modification and enforcement proceedings to continue without interruption after the filing of a bankruptcy petition; preclude the bankruptcy stay from barring or affecting any part of any action pertaining to support as defined in section 523 of Title 11;

(b) allow child support creditors to file a claim without charge or having to meet special local court rule requirements for attorney appearances in a bankruptcy case or district court anywhere in the United States by filing a simplified form that includes information detailing the child support creditor's representation, and the child support debt, its status, and other characteristics;

(c) require the establishment of a simple procedure under which support creditors can file claims with the bankruptcy court;

(d) give child support creditors priority over certain other unsecured creditors; and

(e) require that the bankruptcy trustee make payments to a child support creditor from the bankruptcy State in accordance with a payment schedule established in a family court or other administrative or judicial proceeding.

(15) amend and streamline Sections 459, 461, 462 and 465 of the Social Security Act and companion laws to make the garnishment of Federal employees and retirees (including military) salaries, wages and other benefits and income consistent with the terms and procedures of the IV-D withholding statute (466(b) of the Social Security Act);

(16) amend laws and procedures to ensure that passports, and visas for persons attempting to leave the country, are not issued if they owe more than $5,000 in child support arrearages. The State Department may match its list of applicants against tax offset files of noncustodial parents with orders who owe more than $5,000;

The Social Security Administration shall be authorized to:

(17) provide the State IV-D or Department of Motor Vehicle agency access to electronic verification of Social Security Numbers.

Privacy Protection

Historically, child support enforcement agencies have had access to information unavailable to other Federal and or State agencies because of the special nature of their mission--ensuring that children receive appropriate financial support from their parents. Parents cannot be located and orders cannot be established and enforced unless the State has access to a wide array of information sources which identify places of employment and other information about assets and income. Under current Federal and State regulations and rules, information obtained for child support purposes is protected from unwarranted disclosure. The proposal ensures that privacy safeguards continue to cover all sensitive and personal information by extending such protections to any new sources of information. States are required to ensure that safeguards are in place to prevent breaches of privacy protection for individuals not liable or potentially liable for support and to prevent the misuse of information by those employees and agencies with legitimate access for child support purposes only.

(1) States shall:

(a) extend their data safeguarding State plan requirements to all newly accessible information under the proposal. States shall also institute routine training for State and local employees (and contractors shall be required to do the same for their staff) who handle sensitive and confidential data.

(b) regularly self-audit for unauthorized access or data misuse, and investigate individual complaints as necessary.

(c) have penalties for persons who obtain unauthorized access to safeguarded information or who misuse information that they are authorized to obtain. Supervisors who knew or should have known of unauthorized access or misuse shall also be subject to penalties.

(2) Procedures for protection of tax records should include such protections as:

(a) data matching performed by staff having access only to related data fields necessary to perform child support functions;

(b) *controlling access to individual child support computer records by the use of individual passwords; and*

(c) *monitoring access on a regular basis by use of computerized audit trail reports and feedback procedures.*

In addition:

(3) *All child support enforcement staff shall be kept informed of Federal and State laws and regulations pertaining to disclosure of confidential tax and child support information.*

(4) *Access to State vital statistics shall be restricted to authorized IV-D personnel.*

(5) *The Federal government shall ensure that New Hire information is limited to IV-D agency use by authorized persons (as defined under current law).*

(6) *The Secretary shall issue regulations setting minimum privacy safeguards that States must follow to ensure that only authorized users of personal information have access to it solely for official purposes.*

Funding

Federal Financial Participation and Incentives

The current funding structure of the Child Support Enforcement program is comprised of three major components: direct Federal matching, incentive payments to States, and the States' share of child support collections made on behalf of AFDC recipients.

Direct Federal matching, known as Federal financial participation or FFP, provides for 66 percent of most State/local IV-D program costs. A higher rate, 90 percent, is paid for genetic testing to establish paternity and, until October 1, 1995, for comprehensive State wide automated data processing (ADP) systems. The Federal government also pays States an annual incentive based on collections and cost effectiveness equalling 6-10 percent of collections from the Federal share of AFDC-related collections. States must pass on part of the incentive to any local jurisdiction that collected the child support if the State required the jurisdiction to participate in the program's costs.

Currently, States may profit from the IV-D program's funding structure irrespective of their performance. The proposed child support financing reforms are primarily directed at the Federal financial participation and the payment of incentives. Basic FFP will be increased from 66 percent to 75 percent to ensure that all States had a sufficient resource base to operate an efficient and effective program. Incentives will be based on State performance in the areas of paternity establishment, order establishment, collections and cost-effectiveness. Such incentives will ensure that States focus on the results that are expected from the program activities. States and the Federal Government will still share in the reduction in costs resulting from support collections made on behalf of AFDC recipients.

(1) *The Federal government will pay 75 percent of State administrative costs. All cases included in the State's Central Registry will be eligible for federal funding.*

(2) *States are eligible for incentive payments in the following areas:*

(a) paternity establishment -- earning an increase of up to 5 percentage points in FFP for high paternity establishment rates, as determined by the Secretary; and

(b) overall performance -- earning an increase of up to 10 percentage points in FFP for strong overall performance which factors in:

(i) the percentage of cases with support orders established (number of orders compared to the number of paternities established and other cases which need a child support order);

(ii) the percentage of overall cases with orders in paying status;

(iii) the percentage of overall collections compared to amount due;

(iv) cost-effectiveness.

(3) All incentives will be based on a formula to be determined by the Secretary.

(4) All incentive payments made to the States must be reinvested back into the State child support program.

Registry and Clearinghouse Start-up Enhanced FFP

Enhanced funding for the automated central registries and centralized collection distribution systems is critical to enable States to implement these new requirements.

(1) States will receive enhanced FFP at a 80%/20% Federal/State match rate, or at the base 75% FFP plus incentives, whichever is higher, for the planning, design, procurement, conversion, testing and start-up of their full-service, technology-enabled State registries and centralized payment centers. (This includes necessary enhancements to the automated child support system to accommodate the proposal.)

(2) For the next 5 years, total Federal payments to States for ADP are capped at $260,000,000, to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable ADP requirements.

State/Federal Maintenance of Effort

(1) Using a maintenance of effort plan, the Federal government will require States to maintain at least their current level of contribution to the program, representing the State FFP match and any other State funds or receipts allocated to the child support program.

Revolving Loan Fund

In order to encourage ongoing innovation in the IV-D program, it is proposed that a revolving loan fund be created. The revolving loan fund will allow the Federal government more flexibility in helping States develop and implement innovative practices which have significant effects on increasing collections and ongoing innovation.

(1) *The Federal government through OCSE shall provide an authorization of funds of up to $100 million to be made available to States and their subdivisions to be used solely for short-term, high-payoff operational improvements to the State child support program. Projects demonstrating a potential for increases in child support collections will be submitted to the Secretary on a competitive basis. Criteria for determining which projects to fund shall be specified by the Secretary based on whether adequate alternative funding already exists, and whether collections can be increased as a result. Within these guidelines, States shall have maximum flexibility in deciding which projects to fund.*

(2) *Funding will be limited to no more than $5 million per State or $1 million per project, except for limited circumstances under which a large State undertakes a statewide project, in which case the maximum for that State shall be $5 million for the project. States may supplement Federal funds to increase the amount of funds available for the project and may require local jurisdictions to put up a local match.*

(3) *Funding will be available for a maximum of three years based on a plan established with the Secretary. OCSE must expeditiously review and, as appropriate, fund the approved plan. At the end of the project period, recipients must pay funds back to the Revolving Fund out of increased performance incentives.*

(4) *Beginning with the next Federal fiscal year after the project ends, the Federal government shall offset half of the increase in the State's performance incentives every year until the funds are fully repaid. If the State fails to raise collections that result in a performance incentive increase at the projected attributable level, the funds will be recouped by offsetting the FFP due to a State by a sum equal to one-twelfth of the project's Federal funding, plus interest, over the first twelve quarters beginning with the next fiscal year following the project's completion.*

Program Management

Dramatically improving child support enforcement requires improved program management at both the State and Federal levels. The proposal includes several provisions designed to lead to better program performance and better services.

Training

From 1979 through the late 1980s OCSE contracted with outside organizations to provide on-site training to States across a broad range of topics. In early 1991, OCSE established the National Training Center within the Division of Program Operations to take over many training functions formerly performed by contractors. The purpose of the Center is to bolster States' training initiatives through curriculum design/development, dissemination of information and materials and, to the extent resources permit, the provision of direct training. While a few States have developed training standards for staff, there is currently no mandate that States have minimum standards for persons involved in the child support program.

Under the proposal, the Federal share of funding for training, technical assistance and research will significantly increase and will be earmarked each year for such things as training, technical assistance, research, demonstrations and staffing studies. Furthermore, States will be required to have minimum standards for training in their State plans. Under the proposal, OCSE will also develop a training program for State IV-D Directors. The IV-D program's complexity and importance to children and family self-sufficiency require that States have experienced and well-trained managers. Experts often point to the leadership experience of IV-D managers as a major factor in a state's performance.

(1) an amount equal to one (1) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund technical assistance, training, research, demonstrations and staffing studies.

(2) OCSE shall provide a Federally developed core curriculum to all States to be used in the development of State-specific training guides. OCSE shall also develop a national training program for all State IV-D directors.

(3) States must also have minimum standards in their State plans for training, based on the newly developed state-specific training guide, that include initial and ongoing training for all persons involved in the IV-D child support program. The program shall include annual training for all line workers and special training for all staff when laws, policies or procedures change.

(4) In addition, funds under Title IV-D of the Social Security Act shall be made available to States for the development and conduct of training of IV-A and IV-E caseworkers, private attorneys, judges and clerks who need a knowledge of child support to perform their duties but for whom a cooperative agreement does not exist for ongoing child support activities.

Technical Assistance

Currently, States complain that they receive very little technical assistance from the Federal government. Indeed, the level of technical assistance provided to State child support enforcement agencies has declined significantly over the past several years because of staff and resource limitations. Aside from the provision of training and publication dissemination, most of the assistance provided is in the nature of problem identification through program reviews.

Under the proposal, OCSE will provide comprehensive direct technical assistance in a variety of forms to States. In particular, OCSE will take an active role in developing model laws and identifying best practices that States may adopt, reviewing State laws, procedures, policies, and organizational structure, and providing enhanced technical assistance to meet the program's goals. Such provision of technical assistance will be designed to prevent program deficiencies before they occur.

The OCSE shall provide technical assistance to States by:

(1) developing model laws and identifying model legislation and "best" State practices that States may follow when changing State laws to meet new Federal requirements;

(2) reviewing State laws, policies, procedures, and organizational structure, including cooperative agreements, as part of the State plan approval process;

(3) *providing a State with a written assessment of its program and, when appropriate, identifying areas in which the State is deficient;*

(4) *providing enhanced technical assistance to States to meet the program's goals; and*

Audit and Reporting

The Federal statute mandates periodic comprehensive Federal audits of State programs to ensure substantial compliance with all federal requirements. If deficiencies identified in an audit are not corrected, States face a mandatory fiscal penalty of between 1 and 5 percent of the Federal share of the State's AFDC program funding. Once an audit determines compliance with identified deficiencies, the penalty is lifted.

The detail-oriented audit is time-consuming and labor intensive for both Federal auditors and the States. One result is that audit findings do not measure current State performance or current program requirements. States contend that the audit system focuses too much on administrative procedures and processes rather than performance outcomes and results. However, it is widely agreed that efforts to pass the audit have been a significant driving force behind States' improved performance. While two-thirds of the States fail the initial audit, three-fourths of these same States come into compliance after a corrective-action period and avoid the financial penalty.

The proposal will simplify the Federal audit requirements to focus primarily on performance outcomes and require States to conduct self-reviews to assess whether or not all required services are being provided. Federal auditors will assess States' data used to determine performance outcomes to determine if it is valid and reliable and conduct periodic financial and other audits as the Secretary deems necessary. If State self-reviews or the level of grievances/complaints indicates that services are not being provided, OCSE will evaluate the State's program and ascertain the causes for the problems to help States correct the problems. Audit penalties assessed on the basis of deficiencies found with respect to a fiscal year will be waived if the State passes the audit at the end of the next fiscal year.

(1) *Audit procedures by the Secretary shall include:*

  (a) *simplifying the Federal audit requirements to focus primarily on performance outcomes;*

  (b) *requiring States to develop their own control systems to ensure that performance outcomes are achieved, while making the results subject to verification and audit;*

(2) *States shall:*

  (a) *develop internal automated management control reporting systems that provide information to enable States to assess their own performance and employees' workload analysis, on a routine, ongoing basis so that exceptions can be called to the program management's attention;*

  (b) *develop computer systems controls that provide reasonable assurances that computer-based data are complete, valid, and reliable;*

  (c) *in accordance with Federal regulations, annually conduct a self-review to assess whether or not the State meets the program's specified goals, performance objectives* *and any recently completed staffing studies, as well as ensure that all required services are being provided.*

(3) Federal auditors shall:

(a) at a minimum, based upon the U.S. Comptroller General's Government Auditing Standards, every 3 years, assess the reliability of the computer-processed data (or results provided as a result of the self-review). These audits will: (a) examine the computer system's general and application controls; (b) test whether those controls are being complied with; and (c) test data produced by the system on computer magnetic tape or other appropriate auditing medium to ensure that it is valid and reliable;

(b) if a State has failed a previous audit, continue to evaluate on an annual basis, whether the State has corrected the deficiencies identified under (1) above;

(c) if the State self-reviews determine that the Federal requirements are not being met, ascertain the causes for the deficiency/weakness so that States will be able to take better corrective actions; and

(d) if the State's report on the status of grievances/complaints indicates substantial and material noncompliance with the program requirements, then evaluate the State's program.

(e) each State will also be subject to periodic financial audits to ensure that their funds are being allocated and expended appropriately and adequate internal controls are in place which will help ensure that all monies are being safeguarded. The Secretary may conduct such other audits as deemed necessary to ensure compliance.

(4) The Secretary shall promulgate regulations to revise the penalty process for failures to meet the program's performance goals and objectives and/or failure to generate reliable and valid data. Penalties will be imposed immediately after a one year corrective action period.

Director of Office of Child Support Enforcement

(1) The individual with responsibility for the day to day operation of the Federal Office of Child Support Enforcement shall have the title of Director instead of Deputy Director.

Staffing Study

Insufficient staff levels have been cited as the greatest barrier to effectively processing child support cases. Despite significant State savings from the program, staffing levels have not kept pace with caseloads ever increasing in size and complexity. Comprehensive data on staffing is almost nonexistent. To address this information vacuum, staffing studies will be conducted for each State child support enforcement program, including an assessment of the effects of automation on human resource needs. States can use this information for informed personnel and budgetary decision-making.

(1) *The Secretary of Health and Human Services or a disinterested contractor shall conduct staffing studies of each State's child support enforcement program. Such studies shall include a review of the automated case processing system and central registry/central payment center requirements and include adjustments to future staffing if these changes reduce staffing needs. Such staffing studies may be periodically repeated at the Secretary's discretion. The Secretary shall report the results of such staffing studies to the Congress and the States.*

Expanded Outreach

No manner of child support reform will be truly successful unless parents are aware of and have reasonable access to services. Despite the fact that State child support agencies are currently required to advertise the availability of services, many families remain unaware of the program and still others find that services are not easily accessible.

In addition to the paternity establishment outreach provisions described earlier, the proposal will require each State to develop an outreach plan to inform families of the availability of IV-D services and to provide broader access to services, including initiatives which target the needs of working families and non-English speaking families. The Federal government will aid this effort by developing outreach prototypes and a multi-media campaign which focuses on the positive effects a noncustodial parent's involvement can have on a child's life as well as the detrimental effects of a parent's failure to participate.

(1) *In order to broaden access to child support services, each State plan must:*

- (a) *respond to the need for office hours or other flexibility that provide parents opportunity to attend appointments without taking time off of work; and*

- (b) *develop and appropriately disseminate materials in languages other than English where the State has a significant non-English-speaking population; staff or contractors who can translate should be reasonably accessible for the non-English-speaking person provided services.*

(2) *To aid State outreach efforts, OCSE must:*

- (a) *develop prototype brochures that explain the services available to parents with specific information on the types of services available, the mandated time frames for action to be taken, and all relevant information about the procedures used to apply for services;*

- (b) *develop model public service announcements for use by States in publicizing on local television and radio the availability of child support services;*

- (c) *develop model news releases that States could use to announce major developments in the program that provide ongoing information of the availability of services and details of new programs; and*

- (d) *focus more resources on reaching putative fathers and noncustodial parents through a multimedia campaign that acknowledges positively those who comply and spotlights the detrimental effects on a child of a parent's failure to financially and emotionally participate in the child's life.*

Customer Accountability

Under current law, OCSE has few requirements regarding how IV-D offices are to interact with the "customer," i.e., the affected family members, and how State agencies should respond to child support customers' complaints. Under the proposal, States will be required to notify custodial parents on a timely basis before all scheduled establishment and modification hearings or conferences. The State agency has 14 days to provide a copy of any subsequent order to the custodial parent. If someone receiving IV-D services feels the services provided were inadequate, he or she may request a fair hearing or a formal review process. Complaint and disposition reports shall be forwarded to the Department of Health and Human Services. These reforms give the "customers," the children's parents acting on behalf of the children, the redress that seems lacking in many States when the system fails to perform adequately. A mandatory grievance system should take care of most complaints, with a back-up right to sue in case the State grievance system inadequately resolves serious deficiencies of the program.

(1) State agencies shall notify custodial parents in a timely manner of all hearings or conferences in which child support obligations might be established or modified;

(2) State agencies shall provide custodial parents with a copy of any order that establishes or modifies a child support obligation within 14 days of the issuance of such order;

(3) An individual receiving IV-D services shall have timely access to a State fair hearing or a formal, internal complaint-review process, according to regulations established by the Secretary, provided that there is no stay of enforcement as a result of the pending request (reports of complaints and dispositions shall also be reported to the Secretary);

(4) It is the intent of Congress that the express purpose of Title IV-D is to assist children and their families in collecting child support owed to them. Individuals who are injured by a State's failure to comply with the requirements of Federal law, including State plan requirements of various titles of the Social Security Act, should be able to seek redress in Federal court. (No specific private cause of action to enforce child support provisions of the law are contained herein because there is already a private cause of action under 42 U.S.C. 1983 to redress State and local officials' violations of Federal child support statutes.)

Effective Date

Unless otherwise stated in the Appendix, the amendments made by this Act shall take effect on October 1, 1994.

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]

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)	Oct. 1, 1995
IRS Tax Offset- Effective for returns	after Jan. 1, 1996
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

IMPROVING GOVERNMENT ASSISTANCE [Title VII, Title VII]

A. RATIONALIZATION AND SIMPLIFICATION ACROSS ASSISTANCE PROGRAMS

The rationalization and simplification of assistance programs is something of the holy grail of welfare reform--always sought, never realized. The reasons are many: different goals of different programs, varied constituencies, Departmental differences, divergent Congressional committee jurisdictions, and the inevitable creation of winners and losers from changing the status quo. Yet everyone agrees that recipients, administrators, and taxpayers are all losers from the current complexity. Below are several proposals for reform. The proposals do not make substantial changes in program structures. Rather, the proposals achieve simplification by streamlining administrative processes and by conforming program rules between the AFDC and Food Stamp programs. The proposals modify existing rules that create unnecessary complexity and confusion for program administrators and recipients. The proposal also supports the expansion of Electronic Benefits Transfer (EBT) programs for delivering Federal and State government benefits. Nationwide expansion was recommended by the Vice President's National Performance Review as a means of reducing fraud, streamlining benefit delivery, and saving taxpayers money. No legislative or regulatory provisions are included in the welfare reform proposal specific to the EBT expansion, although the two initiatives are complementary in their commitment to improve government assistance.

1. RESOURCES

(A) General

Current Law

The Social Security Act and implementing regulations set a $1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC. Excluded from consideration as countable resources are the home owned and occupied by the family; an automobile with a maximum equity value of $1,500 (or a lower limit at State option); bona fide funeral agreements with a maximum equity value of $1,500 for each family member (or lower limit set by the State); one burial plot for each family member; and real property for a period of 6 consecutive months (or 9 consecutive months at State option) which the family is making a good faith effort to sell. Under certain conditions, States may establish rules regarding transfer of resources in order to obtain or retain eligibility.

The Food Stamp Act and implementing regulations set a $2,000 limit (or $3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the program. The Act does not specify how the value of resources is to be determined, but provides for uniform national eligibility standards for income and resources. State agencies are prohibited from imposing any other standards of eligibility. Households in which each *member receives AFDC, SSI, or general assistance from certain programs do not have to pass the food stamp resource eligibility test. Regulations exclude from resources the value of one burial plot per family member and the cash value of life insurance policies. Also excluded is real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. There is no specific exclusion for burial plans (funeral agreements). Any amount that can be withdrawn from a funeral contract without an obligation to repay is counted as a resource.*

Food Stamp law prohibits the transfer of resources within the 3-month period prior to application. A household that knowingly transfers resources for the purposes of qualifying or attempting to qualify *for food stamps shall be ineligible to participate in the program for a period of up to one year from the date of discovery of the transfer.*

Vision

Both the AFDC and Food Stamps programs serve similar needy populations. Yet, because the rules for treatment of both the amounts and categories of resources are different in each program, resources that meet one program's requirement can result in ineligibility under the other.
Both programs have substantially different rules for evaluating the resources of that needy group, forcing welfare administrators to apply different program rules to the same resources in the same family. The following legislative proposal would reduce the current administrative complexity and confusion for welfare administrators and recipients by providing uniform treatment of assets where appropriate.

Specifications

Require the Secretaries in both Departments to develop uniform resource exclusion policies in the following areas, by October 1, 1996:

(a) Resource Limits: Increase the AFDC resource limit to $2,000 (or $3,000 for a household with a member age 60 or over) to conform to the Food Stamp resource limit.

(b) The Secretary of HHS shall specify in regulations the valuation of an automobile.

(c) Resource Exclusions:

(i) Real Property: Propose legislation to amend the Social Security Act to exclude real property which the AFDC family is making a good faith effort to sell at a reasonable price and which has not been sold, to conform to the Food Stamp policy.

(ii) Cash Surrender Value of Life Insurance Policies: Propose legislation to amend the Social Security Act to totally exclude the cash surrender value of life insurance policies under the AFDC program to conform to the Food Stamp policy.

(iii) Transfer of Resources: Propose legislation to provide that a household that knowingly transfers resources for the purposes of qualifying or attempting to qualify for AFDC shall be ineligible for benefits for a period of up to one year from the date of discovery of the transfer. This proposal conforms to the Food Stamp policy.

Rationale

The administrative complexity that exists in applying certain resource requirements in the AFDC and Food Stamp programs will be greatly reduced under the proposed changes. Welfare administrators will be able to apply the same rules to the same resources for the same family. These conforming changes achieve simplification by streamlining the administrative processes in both programs.

(B) Asset Accumulation - Individual Development Accounts

Current Law

The Social Security Act and implementing regulations set a $1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC, with only limited exclusions.

The Food Stamp Act and implementing regulations set a $2,000 limit (or $3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the Program. Section 13925 of Pub. L. 103-66 of the Omnibus Budget Reconciliation Act provides that the Secretary of Agriculture shall conduct, for a period not to exceed 4 years, projects to test allowing not more than 11,000 households nationwide to accumulate up to $10,000 each in excluded resources. These assets are for later expenditures for a purpose directly related to improving the education, training or employability (including self-employment) of household members, for the purchase of a home for the household, for a change in the household's residence, or for making major repairs to the household's home.

Vision

Welfare reform should include strategies to test the notion that one way out of welfare for some people is through empowering them to start their own businesses and encouraging them to save their earnings to build for the future. During the campaign, the President endorsed the idea of helping welfare recipients help themselves by proposing to increase the number of microenterprises and establish Individual Development Accounts (IDAs). These legislative proposals would promote self-sufficiency by encouraging recipients to accumulate savings, assets and start their own businesses.

An IDA is an optional earnings-bearing, tax-benefitted trust account in the name of one person. An IDA would be held in a licensed, federally-insured financial institution. Withdrawals can be made from the account only for qualified purposes, which include: first home purchase, post-secondary education (college/long-term training), or business development (microenterprises). There would be penalties for non-designated use of the account. Participant eligibility would be determined by the State agency using Federal guidelines. Monies placed into an IDA account by an AFDC and Food Stamp recipient would be disregarded for purposes of determining resource limits, up to $10,000. All income placed into an IDA would be tax deferred. An individual would retain the IDA after leaving welfare, but would still be required to use the resources for specified purposes or would face penalties.

The tax laws will be amended to allow for the establishment of IDAs; DHHS and USDA regulations will set the limit at $10,000; subsidized IDAs will be established on a demonstration basis; unsubsidized IDAs will also be permitted for qualified individuals not involved in a demonstration. Current recipients (and applicants with established IDAs) for both the AFDC and Food Stamp programs can establish IDAs and have their savings and interest excluded. States, at their option, could pursue this approach to promoting self-sufficiency.

Specifications

1. National Unsubsidized IDA Program

(a) At State option, allow IDAs to be established by Federally insured financial institutions to be used exclusively to pay for post-secondary education or training expenses, first-home purchases, or business capitalization where there is a qualified plan. Effective October 1, 1996.

(b) Recipients of Food Stamps and AFDC are eligible for participation in the IDA program. Individuals otherwise eligible for the Earned Income Tax Credit shall be permitted to establish IDAs, but some restrictions apply (*specifically see provision (iv) below*).

(i) Annual contributions shall not exceed the lesser of $1,000 or 100% of all income, excluding public assistance, with a total account limit of $10,000 per family.

(ii) The total amount in an IDA shall not exceed $10,000.

(iii) If the accounts are established while a family is on AFDC or Food Stamps, the IDA account balance will not count against a family's resource limits, Families who leave the rolls after opening an account can continue the account. If the family re-applies for AFDC or Food Stamps at a later date, their IDA savings and interest, up to $10,000, are excluded.

(iv) If an IDA-eligible individual establishes an IDA while not receiving AFDC or Food Stamps (for example, upon receiving an EITC payment under the subsidized IDA demonstration) and subsequently applies for assistance to either program, the amount in the IDA shall be applied against the resource limits for purposes of determining eligibility.

(c) The penalty for a withdrawal from an unsubsidized IDA for purposes other than those specified will be 10 percent of the amount withdrawn that is includable in income.

2. <u>Subsidized Individual Development Account (IDA) Demonstration</u>

(a) Amend the tax laws to allow States, localities, and community development financial institutions to apply to receive grants to operate 6-year IDA demonstration projects. Project grants will be awarded by the Community Development Bank and Financial Institutions Fund on a competitive basis and must be renewed annually. Authorized levels are $10 million in fiscal year 1997 and 2002 and $20 million for fiscal years 1998 - 2001. Effective October 1, 1996.

(i) $500 in initial financial assistance will be placed into accounts established for project participants who establish IDAs so banks are willing to set up the accounts. In addition, participant contributions may be subsidized in amounts ranging from $.50 to $4 for each $1 deposited, not to exceed $2,500. Total individual IDA amounts may not exceed $10,000.

(ii) Eligible participants are households with: at least one member eligible for EITC, an adjusted gross income not in excess of $18,000, and a net worth not in excess of $20,000.

(iii) Grantees will maintain a reserve fund to be spent on assisting participants in achieving self-sufficiency, administering the project, and to collect evaluation information.

(iv) Grantees must submit annual reports on the progress of their project.

(v) The Fund will contract for an independent evaluation of individual demonstration projects describing project features, assessing levels of self-sufficiency and benefit reduction achieved, levels of assets accumulated, and their effects.

(vi) The penalty for a non-designated withdrawal from a subsidized IDA will be the total amount of the subsidy and 10 percent of the individual's contribution of the amount withdrawn.

3. Self-Employment/Microenterprise Demonstration

(a) Through a memorandum of understanding, HHS and SBA will jointly develop and administer a minimum 5-year, self-employment/microenterprise demonstration program. Consultation with Agriculture, HUD and Labor is also required. Participants must be persons with incomes below 130 percent of poverty or persons participating in JOBS, WORK or AFDC-only, with the percentage of welfare recipients to be established by the agencies. Local intermediaries (organizations or consortium of organizations) will apply to enter into agreements to demonstrate the program. Authorized amounts shall be $4 million for fiscal years 97 and 02 and $8 million for fiscal years 1998 - 2001. Effective October 1, 1996.

(i) HHS and SBA, in consultation with public and private organizations, will identify promising program models currently used to provide self-employment and related services to low-income individuals and design a demonstration to evaluate, using a randomized experimental design, at least two types of models with contrasting levels of technical assistance. The agencies may fund up to five other projects with designs that do not lend themselves to a randomized experiment.

(ii) HHS and SBA may provide technical assistance, grants, loan guarantees and loans to intermediaries.

(iii) In selecting intermediaries, SBA and HHS will take into consideration the applicant's record of success, program design, capacity and other criteria.

(iv) Intermediaries must have contracts with the local JOBS agency such that JOBS and WORK program funds will be used to provide supportive services including training and technical assistance for participants who are welfare recipients.

(v) Preliminary and final effectiveness evaluation reports together with recommendations must be submitted to the President and Congress. A report on barriers is also required. The evaluation study shall take into consideration increase in self-sufficiency, reduced costs of public support, number of businesses and jobs created, cost-effectiveness, and program effectiveness. Early and regular feedback to the participating intermediaries is also specified.

4. Other Legislative Changes

(a) The Social Security Act and the Food Stamp Act will be amended, as appropriate, to comport with the changes in the tax laws. In addition, amendments will be drafted to include the following provisions:

(i) Lump sum income: Non-recurring lump sum income will not be counted for resource purposes in the month of receipt or the following month if put in an IDA.

(ii) The total exclusion for an AFDC assistance unit or Food Stamp household is $10,000.

Rationale

IDAs and other set-asides provide welfare recipients the opportunity to be entrepreneurs in the private sector and accumulate savings for specific purposes. This approach promotes self-sufficiency by empowering them to start their own businesses and encouraging them to save money they earn to build for their future. Additionally, the money saved in IDAs might be used by participants for educational and training purposes, thus saving local program resources.

(C) Microenterprise (Self-Employment)

Current Law

Resource Exclusions

Under Federal AFDC policy, except for real property, States may disregard for AFDC purposes income-producing property (as defined by the State) of self-employed individuals. States may also disregard income-producing property owned by a recipient who is not currently employed, but who the State reasonably expects to return to work. Federal regulations at 45 CFR 233.30(a)(3)(xxi) require that States disregard, for AFDC purposes, bona fide loans from any source for any purpose that meet the criteria set out in the State Plan.

Section 5(g)(2) of the Food Stamp Act and implementing regulations at 7 CFR 273.8(e)(4), (5), (6), (9), (15) and (16) exclude "property which annually produces income consistent with its fair market value; property which is essential to the self-employment of a household member; installment contracts for the sale of lands and buildings, if the contract ... is producing income consistent with fait market value; resources.. of.. self-employed persons, which has been prorated as income;" non-liquid assets with liens resulting from business loans; and real or personal property that is needed for maintenance of certain vehicles.

Specifications

(a) Amend the Social Security and Food Stamp Acts to give the respective Secretaries the authority to specify in regulations exclusions necessary for self-employment. Require that these regulations be prepared jointly and demonstrate consistency between the two programs.

(b) Amend the Food Stamp Act to exclude business loans from resources.

Rationale

Current AFDC policy does not permit funds necessary for the operation of a microenterprise to be excluded separately from the general $1,000 resource limit. This restriction discourages recipients from establishing small businesses. By expanding the microenterprise resource exclusions, microenterprise owners will be able to set aside sufficient liquid resources to operate the business.

2. INCOME ISSUES

Vision

Federal laws or rules frequently disregard a part or the total income of applicants and recipients in determining eligibility and benefits for assistance programs. Often, the same income is treated differently in the AFDC and Food Stamp programs. Such differences are incomprehensible to recipients and difficult to administer.

Our goal is to adopt uniform equitable income disregard policies for the AFDC and Food Stamp programs which are easy to understand, simple to administer and promote work and education.

1. Treatment of Lump Sum Income

Current Law

Under Section 402(a)(17) of the Social Security Act, non-recurring lump sum income is considered to be available to meet an AFDC family's current and future needs. If the assistance unit's countable income, because of receipt of lump sum income, exceeds the applicable State need standard, the unit is ineligible for a period determined by dividing the total countable income (including the lump sum) by the need standard.

The Food Stamp Act, at 5(d)(8), excludes from income non-recurring lump sum payments. Such amounts, if not spent in the month received, are treated as resources.

Specifications

For applicants and recipients:

(a) Amend section 402(a)(17) of the Social Security Act (SSA) to exclude non-recurring lump sum payments from income.

(b) Amend both the SSA and FSA to disregard as resources, for one year from the date of receipt, non-recurring lump sum payments that are reimbursements or advanced payments.

(c) Amend both the SSA and the Food Stamp Act (FSA) to disregard the amount of any Federal or State EITC lump sum payments as resources for one year from receipt.

Rationale

Lump sum payments are treated completely differently in the two programs. Considerable simplification for both the clients and workers can be achieved if the policies are consistent. Also, current AFDC policy can result in hardship for families since they are supposed to conserve the payments to meet future living expenses rather than to cover debts and other costs.

2. Treatment of Educational Assistance

Current Law

Several laws address the treatment of educational assistance for AFDC. Any educational assistance provided under programs in title IV of the Higher Education Act or the Bureau of Indian Affairs must *be disregarded (P.L. 102-325, sec. 479B). A State must disregard payments made for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-392, sec. 507(a). Under AFDC rules, the State must disregard educational loans and grants that are obtained and used for direct educational expenses, such as tuition and books (233.20(a)(3)(iv)(B). (Any of the educational assistance covering items in the State's need standard is counted as income.) Also, States may disregard all educational assistance as complementary assistance that is for a different purpose than AFDC (233.20(a)(3)(vii)(a)).*

Portions of income received under the Job Training Partnership Act and the Higher Education Act are disregarded in the Food Stamp program. By regulation, such educational assistance provided on behalf of the household for living expenses, food, or clothing to the extent that the funds exceed the costs of tuition and mandatory fees are counted as income. (7 CFR 273.9(c)(1)(v); 273(c)(3); 273(c)(4); 273.9(c)(5)(i)(D); and 373.9((c)(10)(xi).

Specifications

(a) Amend the Social Security Act and Food Stamp Act to totally disregard all educational assistance received by applicants and recipients.

3. Earnings of Students

Current Law

For a dependent child receiving AFDC, the earned income of a full-time or part-time student (not employed full-time) attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment is disregarded (402(a)(8)(A) of the Social Security Act). At State option, the earned income of a dependent child applying for AFDC may also generally be disregarded. The earnings of minor parents attending school are not excluded.

Effective September, 1994, the Food Stamp program will exclude the earnings of elementary or high school students age 21 and under (FSA 5(d)(5); 7 CFR 273.9(c)(7).

Specifications

(a) Amend the Social Security and Food Stamp Acts to conform Food Stamps to AFDC policy and limit the disregards to elementary and secondary students up to age 19.

4. Irregular Income

Current Law

No statutory provisions address irregular income for AFDC. Rules permit States to disregard small, nonrecurring gifts not to exceed $30 per individual per quarter (233.20(a)(3)(iv)(F).

The Food Stamp Act (Sec. 5(d)(2)) requires the exclusion of income of $30 or less in a quarter per household received too infrequently or irregularly to be anticipated. The exclusion does not apply under retrospective budgeting.

Specifications

(a) Amend the Food Stamp Act to conform to AFDC rules to exclude inconsequential income not in excess $30 per individual per quarter.

5. Treatment of JTPA Income

Current Law

For AFDC, the income of a dependent child which is derived from participation in a JTPA program may be disregarded. Earned income may be disregard for a period up to six months per calendar year. Unearned income may be disregarded indefinitely (section 402(a)(8)(A)(v) of the SSA).

Under Food Stamps, training allowances from vocational and rehabilitation programs and JTPA earnings are excluded, except income from on-the-job training programs under section 204(5) of title II. All OJT income of individuals under age 19 and under parental control is excluded. (7 CFR 273.9(b)((1)(iii) and (v); 273.9(c)(10(v)

Specifications

(a) Amend the Social Security and the Food Stamp Acts to disregard as income all training stipends and allowances received by a child or adult from any program, including JTPA.

(b) Eliminate targeted earned income disregards so that the earned income from any on-the-job training programs or from a job will be counted after the general earned income disregards are deducted.

6. Supplemental Payments

Current Law

Section 402(a)(28) of the Social Security Act requires those States that deduct income from the need rather than the payment standard (fill-the-gap) now and in July of 1975 to provide a supplemental payment to families who have less disposable income because child support is paid to the child support agency instead of directly to the family.

Food Stamps - No such provision exists in the Food Stamp program.

Specifications

(a) Amend the Social Security Act to remove this provision.

7. Treatment of In-kind Income

Current Law

AFDC rules require earned in-kind income to be counted. As a matter of policy, States may disregard any unearned in-kind income. If the State elects to count unearned in-kind income, the amount counted is limited to the value of the item in the State's need standard.

Under Food Stamps, in-kind benefits such as food, clothing, housing, produce are excluded. (FSA 5(d)(1); 7 CFR 273.9(c)(1))

Specifications

(a) Amend the Social Security Act to require States to disregard both earned and unearned in-kind income.

8. Treatment of National and Community Service Act Benefits

Current Law

No statutory provision excludes, for purposes of the AFDC program, allowances, stipends and educational awards received by participants in a National Service program established under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993.

The Food Stamp program will exclude from income National Service program benefits. The National and Community Service Act, as amended, specifies that the exclusion in section 142(b) of the Job Training Partnership Act (JTPA) applies to National Service program benefits. Section 142(b) of the JTPA provides that payments will not be considered as income for purposes of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than Social Security Act programs.

Specifications

(a) Amend section 402(a)(8)(A) of the Social Security Act to disregard from the income of a family allowances, stipends and educational awards received by volunteers participating in a National Service Program under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993.

3. FILING UNIT

Under current law, the AFDC filing unit must consist of a needy deprived child, its natural or adoptive parent(s), and all natural and adoptive brothers and sisters (including half brothers and sisters) who are living together. The unit's income and resources are used to determine eligibility and the amount of payment. A stepparent is treated the same as a natural or adoptive parent for filing unit purposes in seven States (Nebraska, New Hampshire, Oregon, South Dakota, Utah, Vermont, and Washington). These States have laws of general applicability which hold the stepparent responsible for the children to the same extent as a natural or adoptive parent. In all other States, the stepparent's needs are not included in the unit and his/her income, after certain disregards, are considered available to the unit members.

If there is no parent in the home, then another non-legally responsible relative with whom the child is living may, at his/her option, join the unit and be assisted. Additionally, States may exercise the option of including other individual(s) living in the home as an essential person(s). The essential person's income and resources are used to determine eligibility and amount of payment.

Certain parents and siblings are excluded from the unit: illegal and sponsored aliens, recipients of SSI, foster children, and individuals ineligible due to lump sum income.

1. UP Provisions

Current Law

The Social Security Act at section 407(a) and 407(b) limits AFDC eligibility for two-parent families to those where the principal wage earner is unemployed, and has worked six of the last 13 quarters. "Unemployed" is defined in regulations as working less than 100 hours in a month.

Specifications

(a) Allow States, at their option, to modify, reduce, or eliminate any of the special eligibility requirements for two-parent families (e.g., the 100-hour rule, 30 day unemployment requirement, the work history test, etc) for both applicants and/or recipients. For States that elect to maintain a 100 hour rule (or a modified hour rule), WORK program participation would not count towards this rule.

(b) Remove the sunset provision that allows for the termination of AFDC-UP in 1998 and make it a permanent program.

(c) The effective date for the above provisions shall be October 1, 1996.

Rationale

Some of the arguments for removing the additional eligibility requirements are that eliminating them would:

- *remove the AFDC marriage penalty in which single-parent families have easier access to benefits than married couples;*
- *improve horizontal equity by treating disadvantaged children the same irrespective of whether they live with one or two parents;*
- *encourage work, as the current rule limiting labor market attachment would be incongruous in a new transitional welfare program that emphasizes work; and,*
- *also enhance the simplicity of the system.*
- *Finally, a number of States have sought waivers in this area.*

2. Essential Person Provision

Current Law

The Social Security Act at section 402(a)(7) and the implementing regulation at 45 CFR 233.20(a)(2)(vi) permit States, at their option, to include in the AFDC grant benefits for essential persons. Such individuals are not eligible for AFDC in their own right, but their needs are taken into account in determining the benefits payable to the AFDC family because they are considered essential to the well-being of an AFDC recipient in the family. Twenty-two States currently include the option as part of their respective State plans.

Specifications

(a) Limit the kinds of individuals that a State may identify as essential to individuals providing at least one of the following benefits or services to the AFDC family:
(1) child care which enables a caretaker relative to work full or part-time outside the home;
(2) care for an incapacitated AFDC family member in the home;
(3) child care that enables a caretaker relative to attend high school or GED classes on a full or part-time basis;
(4) child care that enables a caretaker relative to participate in JOBS; and
(5) child care that enables a caretaker relative to receive training on a full or part-time basis.

Rationale

The Social Security Amendments of 1967 provided a specific statutory base for an essential person policy. This policy has two aspects. First, States are permitted to specify those individuals who can be considered essential; second, States must permit the AFDC family to have the final decision as to whether such individuals are in fact essential. Under this policy, States are not required to identify the benefits or services that these essential persons must provide.

In 1989, this policy became contentious. Based in part on an OIG review of certain State practices the Family Support Administration, published final regulations which limited State authority to determine categories of individuals who could be considered as essential to the family. These regulations precluded States from covering individuals who did not provide an essential benefit or service to the family. (The permissible categories are the five shown in option 2 above.) However, in 1990 the district court for the Eastern District of Pennsylvania in Vance v. Sullivan and the district court for the District of Maine in McKenney v. Sullivan held that these regulatory limitations conflict with section 402(a)(7)(A) of the Social Security Act. The courts interpreted this section as providing States with the authority to identify in their State plans the categories of individuals who may be recognized as essential persons. These judicial decisions were not appealed. Consequently, the Department revoked the 1989 regulations and reinstated the prior policy. In order to rationalize the use of the essential person policy, a statutory amendment to section 402(a)(7)(A) is necessary.

3. Stepparent Deeming

Current Law

Section 402(a)(31) of the Social Security Act requires that the income of an AFDC dependent child's stepparent who lives in the same home as the child is counted in the monthly determination of eligibility and the amount of assistance. The statute also requires that the following disregards will be applied in determining the amount of the stepparent's countable income:

- *The first $90 of the stepparent's gross earned income;*
- *An additional amount for the support of the stepparent and other individuals who live in the home, who are not in the assistance unit, and who the stepparent claims as dependents for Federal income tax purposes. This disregard must equal the State's need standard amount for a family group of the same composition as the stepparent and the other individuals not in the assistance unit;*
- *Alimony and child support payments to individuals not living in the household; and*
- *Amounts actually paid by the stepparent to individuals not living in the home but who he or she claims as dependents for Federal income tax purposes.*

Specification

(a) Amend the Social Security Act to give States the flexibility to increase the amount of the stepparent disregards. This provision shall be effective October 1, 1995.

Rationale

Allowing the disregards to be increased provides incentives for AFDC recipients to marry to improve the stability of the family, and provides an incentive for stepparents to increase their earnings.

4. OPTIONAL RETROSPECTIVE BUDGETING

Current Law

For the AFDC program, the Social Security Act permits States to use retrospective budgeting only for the categories of families required to monthly report. The Food Stamp Act permits States to retrospectively budget cases that are not required to monthly report.

Specifications

(a) Amend the Social Security Act at section 402(a)(13) to delete the clause "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14),". This technical amendment will make retrospective budgeting optional for States without regard to whether families are required to monthly report.

Rationale

Allowing States to use retrospective budgeting without requiring cases to monthly report will foster consistency between the AFDC and Food Stamp programs, and will give States greater flexibility to administer their programs.

5. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

1. Underpayments

Current Law and Policy

Section 402(a)(22) of the Social Security Act requires State agencies to promptly take all necessary steps to correct any underpayment. Regulations at 45 CFR 233.20(a)(13) limit the issuance of underpayments (both agency and client caused) to current recipients and former recipients who would be currently eligible if the error causing the underpayment had not occurred. As a result of litigation, program policy also permits States to issue underpayments to former recipients who would no longer be currently eligible. The amount of the underpayment is not limited by the number of eligible months covered.

Section 11(e)(11) of the Food Stamp Act provides that benefits are to be restored to a household requesting them if the benefits have been "wrongfully denied or terminated." The period for which benefits are restored is limited to one year prior to the date the State agency either receives a request *for restoration from the household or otherwise learns that a loss to the household occurred. The Food Stamp rule (7 CFR 273.17) also prohibits the State agency from restoring benefits for a period longer than 12 months. The rule requires that benefits be restored even if the household is currently ineligible.*

Vision

To provide clients with a rational and consistent policy in the processing of underpayments.

Specifications

(a) Amend section 402(a)(22) of the Social Security Act to conform to Food Stamp law by requiring the issuance of agency caused underpayments to current and former recipients for a period not in excess of 12 months from the date that the agency learns about the underpayment.

Rationale

Since clients are responsible for reporting changes in circumstances that affect eligibility and benefits, a 12-month limit on restoring lost benefits due to agency error reinforces positive behavior. The change also achieves consistency between the AFDC and Food Stamp underpayment policies.

2. Recovery of Overpayments Through Federal Tax Intercept

Current Law

Section 402(a)(22) of the Social Security Act requires, as a condition for aid and services to needy families with children, a State plan which must provide that a State agency will promptly take all necessary steps to correct any overpayment to any individual who is no longer receiving aid under the plan. Recovery shall be made by appropriate action under State law against the income or resources of the individual or the family.

Vision

To allow State agencies to recover AFDC program overpayments through the use of a tax intercept program in coordination with the IRS. A 50% match rate to cover administrative costs will be provided.

Specifications

(a) Amend section 402(a)(22)(b) of the Social Security Act to permit State agencies to coordinate with the IRS to intercept Federal Income Tax Returns for the collection of outstanding AFDC overpayments, provided they pursue other means of collection under State law prior to using the Federal tax intercept program. The tax intercept recovery method would only be used to recover overpayments made to individuals who are no longer receiving aid under the plan.

(b) The administrative costs would have a 50% Federal match rate for State expenses.

Rationale

Currently States have the authority to intercept State tax refunds but are unable to do so if the overpaid individual moves to another State. A Federal system would allow States to collect from individuals, regardless of their State of residence. FNS has been running an IRS tax intercept program as a demonstration project since 1992. The program has proved to be very effective in collecting outstanding overpayments, so much so that FNS has expanded the demonstration every year to include more States. A 50% match for administrative costs supports the Administration's philosophy that the administration of the AFDC program should be an equal Federal/State partnership.

3. Administrative Cost Structuring for Certain Social Services

Current Law

Section 402(a)(15) of the Social Security Act provides for certain services to be offered and provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services. Services will be voluntary and shall not prerequisite to eligibility. This is to be provided to each appropriate relative and dependent child receiving aid and for each appropriate individual (living in the same home as a relative and child receiving aid) whose needs are taken into account in making the eligibility determination.

Vision

Section 403(a)(3) indicates that administrative costs of such services are not matched at 50 percent if the State includes family planning services under their Title XX Social Services Block Grant Program. This policy would be amended to allow for administrative matching for counseling and referral activities only.

Specifications

(a) Change Section 403(a)(3), to allow a 50 percent match for counseling and referral activities if they are provided under Title XX.

4. Declaration of Citizenship and Alienage

Current Law

Section 1137(d) of the Act requires, as a condition of eligibility for assistance, a declaration in writing by the individual (or, in the case of an individual who is a child, by another on his/her behalf) under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if such individual is not a citizen or national of the United States, whether he/she is in a satisfactory immigration status.

Vision

To bring the AFDC program into alignment with Food Stamps by allowing one adult member of an applicant assistance unit to sign the declaration of citizenship or alien status for all members of the unit.

Specifications

(a) Amend the Social Security Act by revising section 1137(d)(1)(A) as follows:

(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child or a second parent in a two-parent unit, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in satisfactory immigration status.

Rationale

The current requirement is administratively burdensome as it requires each adult in the AFDC unit to sign a separate declaration. This proposal will allow the adult payee or principal earner in an assistance unit to declare on behalf of his/her second parent and children, thereby simplifying the application and redetermination process. This proposal would also provide consistency with Food Stamps.

6. TERRITORIES

Current Law

Section 1108 of the Social Security Act permits the territories (i.e., Guam, Puerto Rico, and the Virgin Islands) to operate the AABD and AFDC programs; American Samoa is only authorized to operate an AFDC program. Funding for Child Care and Transitional Child Care is provided for under the JOBS limit of entitlement. If the territory elects to operate these programs, it must also have a title IV-E or Foster Care program. The territory must adhere to the same eligibility and payment requirements as the States. The Federal government matches 75 percent of costs; however, funding for the territories is capped. The caps are $82 million for Puerto Rico, $3.8 million for Guam, and $2.8 million for the Virgin Islands. Between 1979 and the present, the caps were increased once, by roughly 13 percent.

Vision

To create realistic funding levels for the territories that are reflective of the current economy and caseload. A mechanism that will provide occasional adjustments in funding levels will be developed to replace the current burdensome method of petitioning Congress for adjustments. Additionally, Territories will have the option to operate a time-limited system and a WORK program (see specifications under JOBS, TIME LIMITS, AND WORK SECTION) but will not be required to do so.

Specifications

(a) Continue to require the territories to operate the AABD, AFDC (including JOBS supportive services) and Foster Care programs. Amend section 1108 of the Social Security Act to increase the caps by an additional 25 percent and create a mechanism for indexing. The effective date shall be October 1, 1996.

(b) At-Risk child care will not be applied against the cap.

(c) The territories would not be required to operate AFDC-UP programs (effective upon enactment of this act).

(d) The cap shall be adjusted regularly, according to changes in the CPI.

Rationale

The number of public assistance programs funded under the current caps, coupled with only one adjustment to these caps in 15 years, has seriously limited the territories' abilities to provide, let alone increase benefits. Benefit payments above the cap are financed 100 percent by the territories, resulting in situations such as Guam's where the Federal share is roughly 40 percent. Puerto Rico reports that, since 1987, AFDC caseloads have nearly doubled from 98,000 units to 183,000 units. Further, beginning October, 1994, Puerto Rico will be required to extend eligibility to two-parent families. Puerto Rico estimates that an additional 40,000 families will be eligible for AFDC due to this provision. If match rates were determined by formula, as they are in the States, the territories would be eligible for higher match rates. Increasing the caps and providing a mechanism for efficient adjustments to those caps will not only continue to give territories the authority to operate public assistance programs but adequate means to do so as well.

B. REGULATORY REVISIONS

1. Automobile Resource Limit

Current Requirements

The Social Security Act provides for the exclusion of so much of a family member's ownership interest in one automobile as prescribed by the Secretary. That exclusion is set by regulation at $1500 equity value (or a lower limit set by the State) in one vehicle with any excess equity value counted toward the $1,000 AFDC resource limit.

The Food Stamp Act provides for the total exclusion of vehicles that are used over 50 percent of the time for income-producing purposes; annually producing income consistent with their FMV; necessary for long distance travel for work (other than daily commute); used as the household's home; or needed to transport a physically disabled household member. For the following vehicles, the amount of the FMV over $4,500 is counted as a resource: one per household (regardless of use); and vehicles used for work, training or education to prepare for work in accordance with food stamp employment and training requirements. For all other vehicles, the FMV over $4,500 or the equity value, whichever is more, is counted as a resource.

Vision

Reliable transportation will be essential to achieving self-sufficiency for many recipients in a time-limited program. Because a dependable vehicle is important to individuals in finding and keeping a job, particularly for those in areas without adequate public transportation, both the AFDC and the Food Stamp programs need a conforming automobile resource policy that supports acquiring reliable vehicles. This proposal would simplify the automobile resource policy by conforming the program rules and reducing the unnecessary complexity and confusion for program administrators in both programs.

Regulatory Specifications

(a) Exercise Secretarial authority and amend the regulations to increase the AFDC automobile limit to $3,500 equity value, and subsequently index for inflation.

Rationale

This proposal is a first step towards bringing a level of conformity between the two programs that would eliminate some of the administrative complexity involved with valuing vehicles under varying criteria and would result in greater effectiveness and efficiency in the administration of both programs.

2. Verification

Current Requirements

Food Stamp law and regulations include specific requirements for verification and documentation of information needed for eligibility and benefit determinations. Food Stamp regulations mandate verification of utility and medical expenses (when actual is claimed), identity, residency (address), disability and household composition. In the AFDC program, the Act and regulations do not address how verification is to occur but State procedures have generally conformed to the verification policy outlined in the Federal quality control manual.

Under the Food Stamp Act (FSA) (sections 11(e)(3),(9)) and Social Security Act (Act) (sections 402(a)(25) and 1137), income must be verified through the Income and Eligibility Verification System (IEVS). The State must request wage and benefit information for from the State Wage Information Collection Agency, the Social Security Administration, and the agency administering Unemployment Insurance Benefits. Unearned income information must be requested from the Internal Revenue Service. Both programs are also required by law to verify alien status through the Immigration and Naturalization Service's Systemic Alien Verification for Entitlement system.

Both programs review the accuracy of eligibility decisions and benefit amounts through quality control systems, with the intended result that much information is verified at application and at recertification to avoid errors. States may, in both programs, adopt other verification requirements.

Vision

Federal computer matching and verification requirements are often burdensome for both clients and eligibility staff. Even where States have flexibility, the emphasis on payment accuracy and the potential for fiscal quality control penalties have often resulted in unnecessary documentation, delays in benefits and improper denials and terminations. Yet, to assure the public that their taxes are being spent to serve only those in need, verification will continue to be a critical component of the new system for delivering assistance to families. States must be afforded the flexibility to simplify matching procedures, while assuring program integrity through minimum standards.

Regulatory Specifications

(a) Exercise current Secretarial waiver authority for IEVS and SAVE to give States greater flexibility relative to the selection of alternate sources for matching activities, the elimination of certain matches, the targeting of client groups for matching and follow-up verification, and the modification of time frames for follow-up action on match "hits." Amend the Federal regulations on IEVS and change the ACF review perspective on SAVE (given the absence of regulations in this area) to provide greater latitude on what can be waived and the applicable State justification.

(b) Verification systems and time-frames for action will be included in the State Plan.

Rationale

States will welcome the increased flexibility provided by this proposal and be able to streamline their verification activities, saving time and paperwork. At the same time, the State plan approval process will ensure adequate protection of client rights and program integrity without restricting State flexibility.

NON-CITIZENS PROVISIONS

A. ELIGIBILITY FOR NON-CITIZENS

1. Apply a Uniform Standard for Determining Alien Eligibility for Non-Citizens Under AFDC, Supplemental Security Income, and Medicaid

Current Law:

Assuming they meet all other eligibility requirements, foreign nationals residing in the United States must be lawfully admitted for permanent residence or "permanently residing in the United States under color of law" (PRUCOL) to qualify for benefits of the AFDC, Supplemental Security Income (SSI), or Medicaid programs.

The term PRUCOL applies to certain individuals who are neither U.S. citizens nor aliens lawfully admitted for permanent residence. Aliens who are PRUCOL entered the United States either lawfully in a status other than lawful permanent residence or unlawfully. PRUCOL status is not a specific immigration status but rather includes many other immigration statuses. Under the SSI statute, PRUCOL aliens include those who hold parole status. The AFDC statute defines aliens who have been granted parole, refugee, or asylum status as PRUCOL, as well as aliens who had conditional entry status prior to April 1, 1980. The Medicaid statute uses the term PRUCOL but provides no guidance as to the meaning of the term.

In addition to the revisions in the regulations reflecting the interpretation of section 1614(a)(1)(B) of the Social Security Act resulting from the court in the Berger and Sudomir decisions discussed below, PRUCOL status also is defined in AFDC, SSI and Medicaid regulations as including aliens:

- *who have been placed under an order of supervision or granted asylum status;*
- *who entered before January 1, 1972, and continuously resided in the United States since then;*
- *who have been granted "voluntary departure" or "indefinite voluntary departure" status; and*
- *who have been granted indefinite stays of deportation.*

In the case of Berger v. Secretary, HHS, the U.S. Court of Appeals for the 2d Circuit in interpreted PRUCOL for the SSI program to include 15 specific categories of aliens and also those aliens whom the Immigration and Naturalization Service (INS) knows are in the country and "does not contemplate enforcing" their departure. SSA follows the Berger court's interpretation of the phrase "does not contemplate enforcing" to include aliens for whom the policy or practice of the INS is not to enforce their departure as well as aliens whom it appears the INS is otherwise permitting to reside in the United States indefinitely. The Medicaid regulations include the same Prucol categories as the SSI regulations.

The Sudomir v. Secretary, HHS decision, which focused on AFDC eligibility for asylum applicants, was less expansive. The U.S. Court of Appeals for the 9th Circuit determined that AFDC eligibility would extend only to those aliens allowed to remain in the United States with a "sense of permanence." Applicants for asylum are thus specifically excluded from receiving AFDC benefits by this decision even though they would not necessarily be disqualified for SSI due to the Berger decision.

Specifications

(a) Eliminate any reference to PRUCOL as an eligibility category in titles IV, XVI, and XIX of the Social Security Act (the Act). Standardize the treatment of aliens under these titles by identifying in the statute the specific immigration statuses in which non-citizens must be classified by INS in order to qualify to be considered for AFDC, SSI, or Medicaid eligibility. Specifically, provide that only aliens in the following immigration statuses could qualify–

- lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act (INA);

- residing in the United States with lawful temporary status under sections 245A and 210 of the INA (relating to certain undocumented aliens legalized under the Immigration Reform and Control Act of 1986);

- residing in the United States as the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent resident is pending; or

- residing in the United States as a result of the application of the provisions listed below:

  - sections 207 of the INA (relating to refugees) or 203(a)(7) of the INA (relating to conditional entry status as in effect prior to April 1, 1980);

  - section 208 of the INA (relating to asylum);

  - section 243(h) of the INA (relating to a decision of the Attorney General to withhold deportation);

  - section 244 of the INA (relating to a decision of the Attorney General to suspend deportation); and

  - any other provision of the INA, provided that: (i) the Attorney General determines that the continued presence of an alien within a class of aliens serves a humanitarian or other compelling public interest, and (ii) the Secretary of HHS determines that such interest would be further served by permitting such alien of such class to be potentially eligible for benefits under titles IV, XVI, and IX (e.g., certain aliens granted parole status).

(b) The proposal would continue the eligibility of those aliens eligible for AFDC, SSI, or Medicaid on the effective date of the amendment who began their periods of eligibility before enactment for as long as they remain continuously eligible.

(c) The proposal would also allow State and local programs of assistance to utilize the same criteria for eligibility.

Rationale

Some aliens currently considered PRUCOL did not enter the United States as immigrants under prescribed immigration procedures and quotas, but entered illegally. Others entered legally under temporary visas but did not depart. The courts have determined some of these aliens to be eligible for *benefits under the definition of PRUCOL, even though such individuals have not received from INS a deliberate immigration decision and status for permanent presence in the United States. In essence, many of these aliens are similar to illegal aliens except that they have been caught, which under current law can ironically improve an alien's situation in terms of benefit eligibility. That is, if they are caught, INS will likely grant them one of the "PRUCOL statuses"--such as voluntary departure or deferred action--which currently allows them to be eligible for SSI, AFDC, and/or Medicaid. If they are not caught, they are simply undocumented and are not eligible for any benefits other than emergency medical services. Therefore, it is reasonable to restrict AFDC, SSI, and Medicaid eligibility to specific categories of aliens who have entered the United States lawfully or who are permitted to remain in the U.S. indefinitely and are eligible to obtain permanent resident status.*

Determining which aliens must be considered for eligibility for Social Security Act programs has become excessively confusing due to judicial actions, and it is subject to ongoing challenge in the courts. This confusion--characterized by the different treatment by different programs of similar individuals--would be remedied by establishing in statute a uniform definition of alien eligibility. The proposal would provide such a uniform definition by listing the immigrant statuses and specifically citing the provisions of the INA under which they are granted, thereby eliminating the ongoing uncertainty about the precise scope of the eligibility conditions and potential inconsistencies regarding alien eligibility in the three programs. Due to the complexities of immigration statuses there are some groups of aliens which can not be defined unequivocally in statute. For example, some aliens are paroled into the U.S. for humanitarian purposes and are effectively permitted to remain indefinitely. Others are paroled into the U.S. for a very limited period of time--typically a matter of weeks--for specific purposes (e.g., to testify at a trial). The proposal would permit the Attorney General to identify those classes of aliens within certain immigration categories that are allowed to remain in the U.S. due to humanitarian or other compelling public interest reasons. In turn, the Secretary of HHS would be granted authority to determine whether those classes of aliens identified by the Attorney General would be potentially eligible for benefits.

The Food Stamp program has avoided similar problems because the categories of aliens eligible for assistance under the program have been specifically listed in law. This proposal seeks to do the same for AFDC, SSI, and Medicaid. The proposal would save administrative resources and costs. The case development required to determine if an alien is considered PRUCOL generally is time-consuming because SSA and State AFDC and Medicaid agencies must verify the alien's status with INS. In many cases, an alien's status as PRUCOL must be re-verified annually.

B. SPONSOR-TO-ALIEN DEEMING

Current Law: *Under immigration law and policies, most aliens lawfully admitted for permanent residence and certain aliens paroled into the United States are required to have sponsors.*

As a condition of entry as a lawful permanent resident, almost all immigrants must satisfy the admitting officer that they are not likely to become a public charge in the United States. For many immigrants, this requirement is met by having a relative who is a U.S. citizen or legal permanent resident agree to "sponsor" the immigrant. Sponsors sign affidavits of support or similar agreements provided by the Department of State or the Immigration and Naturalization Service affirming that they will be responsible for supporting the immigrants and ensuring that the immigrants will not become public charges. However, these pledges are not enforceable and, by themselves, have no effect on whether the immigrants can qualify for public assistance. Therefore, the Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC), and the Food Stamp program apply rules that limit sponsors' shifting their responsibilities to the programs by deeming a portion of a *sponsor's income and resources as being available to the immigrant for a particular period of time. The affidavit of support informs the sponsor and the immigrant of the deeming rules that will be applied to the immigrant by the SSI, AFDC, and Food Stamp programs.*

Specifically, sections 1614(f)(3), 1621(a), and 415 of the Social Security Act provide that in determining SSI and AFDC eligibility and benefit amount for an alien, his sponsor's (and sponsor's spouse's) income and resources are deemed to the alien for 3 years after the alien's entry into the United States. Public Law 103-152 extends the period of sponsor-to-alien deeming in the SSI program from 3 to 5 years for those applying for benefits beginning January 1, 1994 and ending October 1, 1996. For the SSI program, these deeming provisions do not apply to an alien who becomes blind or disabled after entry into the U.S. The Food Stamp program currently provides for a three-year sponsor-to-alien deeming period. Refugees are exempt from the deeming rules under all three programs. Immigration law provides generally that an alien who has resided continuously in the United States for at least 5 years after being lawfully admitted for permanent residence may file an application for U.S. citizenship.

<u>Specifications</u>

(a) Make permanent the five year sponsor-to-alien deeming under the SSI program. Extend from three to five years sponsor-to-alien deeming under the AFDC and Food Stamp programs.

(b) For the period beginning with six years after being lawfully admitted for permanent residence in the U.S. and until a sponsored immigrant attains citizenship status, no sponsored immigrant shall be eligible for benefits under the AFDC, SSI, and Food Stamp programs, unless the annual income of the immigrant's sponsor is below the most recent measure of U.S. median family income.

- "Annual income" of the sponsor shall include the most recent measure of annual adjusted gross income (AGI) of the immigrant's sponsor, and the AGI of the sponsor's spouse and dependent children, if any.

- "Median family income" shall be based on the most recent Bureau of the Census measure for U.S. median family income for all families, updated by the most recent measure of change in the Consumer Price Index (CPI-U).

(c) Each year the Secretary of HHS shall publish in the Federal Register the median family income amount that will be used to determine the eligibility of sponsored immigrants for the AFDC, SSI, and Food Stamp programs. This measure will be based on the most recent income data from the Current Population Survey (CPS), published by the Bureau of the Census.

(d) Allow State and local programs of assistance to disqualify from participation in general assistance any alien who is disqualified from participation in the SSI, AFDC, and Food Stamp programs due to sponsor-to-alien deeming.

(e) Effective with respect to applications filed and reinstatements of eligibility following a month or months of ineligibility on or after October 1st 1994.

(f) Exempt from sponsor-to-alien deeming under the Food Stamp program any sponsored alien who becomes blind or disabled after entry into the U.S. and becomes eligible for SSI.

(g) Raise the Food Stamp resource limit under sponsor-to-alien deeming to conform with the general resource limit under Food Stamps.

(h) Exempt from sponsor-to-alien deeming under SSI, AFDC, and Food Stamps any sponsored immigrant whose sponsor is receiving AFDC or SSI benefits.

(i) Allow the Secretaries of HHS and Agriculture--after consultation and coordination with each other--to alter or suspend the sponsor-to-alien deeming provisions on an individual case basis where it is determined that application of the standard sponsor-to-alien deeming provisions would be inequitable under the circumstances (e.g., if the sponsor has physically abused the sponsored immigrant).

Rationale

The number of immigrants entering the U.S. has been increasing recently and there has been a rapid rise in the number of immigrants receiving benefits--particularly SSI benefits. For example, the number of immigrants who received SSI benefits in December 1992 was more than double the number who received benefits in December 1987. Over a third of all aged legal permanent residents on the SSI rolls in December 1993 came onto the rolls within 12 months after their 3-year sponsor-to-alien deeming period ended, indicating that the deeming provision is instrumental in delaying alien eligibility for SSI. Maintaining (under SSI) and extending (under AFDC and Food Stamps) the deeming period to five years for lawfully admitted permanent residents for whom an affidavit of support has been signed serves to enforce the pledge made by a sponsor that the immigrant will not become a public charge and avoids increases in benefit program costs which would otherwise occur as a result of increasing immigrant use of welfare benefits. Requiring a sponsor that is in the top half of the income distribution in the U.S. to continue to be financially responsible for a sponsored immigrant beyond the five year deeming period maintains the integrity of these welfare programs which are intended to help the poorest of the poor.

For example, under the SSI program, many elderly immigrants are sponsored by their children who have signed affidavits of support. It seems equitable to require the children to continue to support their relatives for the five year deeming period, rather than allow the parents to obtain welfare entitlement benefits solely on the basis of age, particularly if the sponsors are financially able to continue supporting the immigrants they have sponsored. Sponsors generally have sufficient income and resources to support their alien relatives. Once the five year period has ended, it is equitable to continue requiring the sponsor in the top half of the income distribution to be financially responsible for the well-being of the sponsored immigrant. Nothing in this proposal would prohibit a sponsored immigrant from becoming eligible for benefits if the sponsor's income and resources were depleted sufficiently to meet eligibility criteria, as is the case with current law. Also, refugees would continue to be exempt from sponsor-to-alien deeming, and sponsored immigrants who become blind or disabled after entry into the U.S. would continue to be eligible for benefits. This proposal merely requires sponsors to continue for a longer period of time to accept financial responsibility for those immigrants they choose to sponsor. Once sponsored immigrants become citizens, it is appropriate to discontinue these eligibility rules.

FINANCING PROVISIONS

Vision

The financing for welfare reform comes from three areas: (1) reductions in entitlement programs; (2) extensions of various savings provisions set to expire in the future; and (3) better EITC targeting and compliance measures. Estimated Federal savings for all proposals are roughly $9.3 billion over five years.

A. ENTITLEMENT REFORMS

1. Cap the Emergency Assistance Program

Vision

The AFDC-Emergency Assistance (EA) Program is an uncapped entitlement program. In fiscal year 1990, expenditures totalled $189 million; by fiscal year 1999 they are projected to reach almost $1 billion. While the intent of the EA program is to meet short-term emergency needs and help keep people off welfare, States currently have wide latitude to determine the scope of their EA programs. Recently, States have realized that the definition of the program is so broad that it can fund almost any critical services to low-income persons. Some States have begun shifting costs from programs which the States fund primarily on their own such as foster care, family preservation, and homeless services into the matched EA program. States appear to be funding services that address long-term problems as well as true emergency issues.

Specifications

(a) Modify the current Emergency Assistance program by establishing a Federal cap for each State's EA expenditures. The cap will be set in fiscal year 1995 and increased by the Consumer Price Index in each subsequent year.

(b) The basic allocation formula is a combination of two components:

(i) Allocation among States proportional to their requested expenditures in 1994; and

(ii) Allocation among States proportional to their total AFDC spending in the previous year.

(c) There will be a ten-year transition period, and the weighting of the components will shift over time, with increasingly more weight being given to the second component. Beginning in 1995, the weighting will be 90 percent by component 1 and 10 percent by component 2. The weighting will be altered by 10 percentage points each year such that by 2004, the weighting will be 100 percent by component 2.

Rationale

The proposal ensures that all States will receive continued funding equal to their actual 1991 levels. The Federal match will continue at 50 percent up to the cap. This proposal raises about $1.60 billion over five years. The basic allocation formula balances the need to protect States that have been spending heavily on EA in and before 1994 with the potential claims of new States which have not previously had claims for services under EA.

2. Tighten Sponsorship and Eligibility Rules for Non-Citizens

Vision

In recent years, the number of non-citizens lawfully residing in the U.S. who collect SSI has risen dramatically. Immigrants rose from 5 percent of the SSI aged caseload in 1982 to over 25 percent of the caseload in 1992. Since 1982, applications for SSI from immigrants have tripled, while immigration rose by only about 50 percent over the period.

Most of the legal permanent resident applicants enter the country sponsored by their relatives, who agree as a condition of sponsorship that their relatives will not become public charges. To enforce this commitment, until this year, current law required that for 3 years, a portion of the sponsor's income in excess of 110 percent of poverty be "deemed" as available to help support the legal permanent resident (LPR) immigrant should they need public assistance. Currently, about one-third of the LPR immigrants on SSI subject to the deeming rules apply in their 4th year of residency. Last fall, to pay for extended unemployment benefits, Congress extended the time of deeming under SSI from three years to five years until 1996 when it reverts to three years again.

The Administration proposal related to non-citizens contains two parts--extending the deeming period for sponsor income and coordinating eligibility criteria under four Federal assistance programs.

Specifications

(a) Deeming Make the current five-year period of sponsor responsibility permanent law under the SSI program and extends from three years to five years sponsor responsibility under the AFDC and Food Stamp programs. The sponsor's income would be deemed as available to support the immigrant should they apply for public assistance. For the period beginning with six years after being lawfully admitted for permanent residence in the U.S. and until a sponsored immigrant attains citizenship status, if the sponsor has income above the U.S. median family income ($39,500), the sponsor will continue to be responsible for ensuring the support of the immigrant.

Rationale

This will have the effect of denying benefits to immigrants with sponsors with income above the median. Once immigrants attain citizenship, they will be eligible to apply for benefits on their own. Any immigrant whose sponsor is receiving SSI or AFDC benefits would be exempt from sponsor-to-alien deeming under SSI, AFDC and food stamps. The proposal affects applications after the date of enactment (i.e., it would grandfather current recipients as long as they remained continuously eligible for benefits). These changes in deeming rules would not apply to, and would have no effect on, Medicaid eligibility for immigrants. This part of the proposal saves about $2.8 billion over five years.

(b) Set consistent deeming rules for sponsored immigrants across three Federal programs (SSI, AFDC, and Food Stamps). Sponsor responsibility is based on longstanding immigration policy that immigrants should not become public charges.

Rationale

Sponsored immigrants most often apply for SSI benefits on the basis of being aged, and are different from most citizens in that the latter typically spent their life working and paying taxes in the U.S. At *the same time, this proposal ensures that truly needy sponsored immigrants will not be denied welfare benefits if they can establish that their sponsors are no longer able to support them, if their sponsors die, or if the immigrant becomes blind or disabled after entry into the U.S. The policy would not affect refugees or asylees.*

Vision

Currently, due to different eligibility criteria in statute, and litigation over how to interpret statutory language, the four Federal programs (SSI, AFDC, Medicaid, and Food Stamps) do not cover the same categories of non-LPR immigrants. For example, aliens whose departure the INS does not contemplate enforcing are eligible for SSI, but not for Food Stamps. The Food Stamp program has the most restrictive definition of which categories of non-LPR immigrants are eligible for benefits (i.e., the eligibility criteria encompass a fewer number of INS statuses). SSI and Medicaid have the most expansive definition of which categories of non-LPR immigrants are eligible for benefits, and the AFDC program falls between these extremes. This element establishes in statute a consistent definition of which non-LPR immigrants are eligible for welfare benefits.

(c) Eligibility criteria Establish similar eligibility criteria under four Federal programs (SSI, AFDC, Medicaid, and Food Stamps) for all categories of immigrants who are not legal permanent residents.

Rationale

This proposal makes eligibility criteria in the SSI, Medicaid, and AFDC programs similar to the criteria that currently exist in the Food Stamp program. The new list of INS statuses required for potential eligibility to the SSI, Medicaid, and AFDC programs is also virtually identical to those listed in the Health Security Act providing eligibility for the Health Security Card. Like the extended deeming provisions, this part of the proposal affects applications after date of enactment (i.e., it would grandfather current recipients as long as they remained continuously eligible for benefits). This part of the proposal saves about $900 million over five years.

3. New Rules Regarding SSI Benefits for Drug and Alcohol Addicted Recipients

Current Law

Current law requires that all SSI disability recipients for whom substance abuse is material to the finding of disability must be in available treatment and must have their payments made through a representative payee (a third party who receives and manages the funds). Payments to these SSI drug addict and alcoholic (DA&A) beneficiaries are suspended if the individual fails to participate in appropriate alcohol or drug treatment, if such treatment is available. No similar requirements are made of Social Security (Title II) disability beneficiaries who receive benefits on the basis of addictions. The representative payee and treatment requirements have been part of the SSI program since its inception over 20 years ago. However, the provisions have not been implemented effectively.

Specification

(a) Strengthen sanctions and apply new time limits to benefits paid to individuals receiving Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) benefits who have substance abuse problems that are material to their disability finding.

Rationale

The Congress is reaching decisions on these proposals currently in conference on H.R. 4277, a bill which the Administration supports. We anticipate savings of $800 million over five years. Should the final bill yield savings of less than $800 million, we are committed to working with Congress to fully finance the package.

4. Income Test Meal Reimbursements to Family Day Care Homes

Current Law

The Child Care Food Program provides food subsidies for children in two types of settings: child care centers and family day care homes. They are administered quite differently. The subsidies in centers are well targeted because they are means-tested; USDA believes that over 90 percent of Federal dollars support meals served to low-income (below 185 percent of poverty) children. The family day care part of the program is not well targeted because it has no means test (due to the burden it would place on the providers). A USDA-commissioned study estimates that 71 percent of Federal food program dollars to family day care homes support meals for children above 185 percent of the poverty line. While the child care center funding levels have been growing at a modest rate, the family day care funding levels are growing rapidly--16.5 percent between 1991 and 1992.

Specifications

(a) Amend section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) to establish a two-tiered reimbursement structure (in the Child and Adult Care Food Program) with a higher level of reimbursement for meals served by family day care homes located in low-income areas. Low-income areas would be defined as those in which half of the households have incomes below 185 percent of poverty. Family day care homes not located in low-income areas would have the option of receiving lower rates of meal reimbursement or administering a means test to enrolled children.

(b) Under the means tested option, meals served to children whose family income is below 185 percent of poverty would be reimbursed at the higher rate, while those served to children from higher income families would be reimbursed at the lower rate. Meals served to children enrolled in programs operated by low income providers would also be reimbursed at the higher rate. Finally, meals served to the day care providers' own children would continue to be means-tested.

(c) Provide family day home sponsoring organizations with an additional $10 per home per month for each home it sponsors in low-income areas. Authorize $2 million to States agencies for technical assistance to sponsors to help implement the new reimbursement system in FY 1995. Technical assistance funding would increase to $5 million in FY 1996. Authorize for FY 1997 through FY 2000 $5 million for the licensing of family day care homes in low-income areas.

Rationale

This approach better targets the family day care food program funding to low-income children and creates minimal administrative requirements for providers. This provision yields savings of about $500 million over five years.

5. Limit Deficiency Payments to Those Making $100,000+ from Off-Farm Income Per Year

Vision

USDA farm programs are criticized for unfairly supporting large farms and wealthy producers rather than smaller farms and lower-income farmers. The Congressional Office of Technology Assessment concluded that most big farms "do not need direct government payments and/or subsidies to compete and survive."

Specification

(a) Make producers receiving $100,000 or more in off-farm adjusted gross income ineligible for Commodity Credit Corporation (CCC) crop subsidies (price support loans and income support payments).

Rationale

The proposed targeting of subsidies would direct farm payments to smaller, family farms, which deserve Federal financial help more than large agricultural enterprises and individuals with sufficient off-farm income. It would cause an estimated 1-2 percent of program participants to drop out of USDA farm programs. Most of these wealthiest participants include corporations and individuals for whom farming is not a primary occupation or source of income. This proposal would save about $500 million over five years.

B. EXTEND EXPIRING PROVISIONS

1. Hold Constant the Portion of Food Stamp Overpayment Recoveries that States May Retain

Vision and Rationale

States are permitted to keep some portion of the 100-percent Federal Food Stamp recoveries as an incentive payment for pursuing program violations. This proposal raises about $100 million over five years.

Specification

(a) Extend the 1990 Farm Bill provision which reduced the percentage of recovered Food Stamp over-issuances retainable by State agencies for fiscal years 1991-95. Under this provision, which would be extended to fiscal years 1996-2004, States could retain 25 percent of recoveries from intentional program violations (previously 50 percent) and 10 percent of other recoveries (previously 25 percent).

2. Extend Fees for Passenger Processing and Other Custom Services

Vision and Rationale

A flat-rate merchandise processing fee (MPF) is charged by U.S. customs for processing of commercial and non-commercial merchandise that enters or leaves U.S. warehouses. The fee, adopted by OBRA 1986, generally is set at 0.19 percent of the value of the good. Other variable customs fees are charged for: passenger processing; commercial truck arrivals; railroad car arrivals;

private vessel or private aircraft entries; dutiable mail; broker permits; and barge/bulk carriers. NAFTA extended the MPF and other fees through September, 2003. This proposal would save about $1 billion in that year.

Specification

(a) Extend the fees through September, 2004.

3. Extend Railroad Safety User Fees

Vision and Rationale

Railroad safety inspection fees were enacted in the Omnibus Budget Reconciliation Act of 1990 to pay for the costs of the Federal rail safety inspection program. The railroads are assessed fees according to a formula based on three criteria: road miles, as a measure of system size; train miles as a measure of volume; and employee hours as a measure of employee activity. The formula is applied across the board to all railroads to cover the full costs of the Federal railroad safety inspection program. The fees are set to expire in 1996. The 1995 President's Budget proposed to extend the fees through 1999 and expand them, effective in 1995, to cover other railroad safety costs. The proposal raises about $200 million over five years.

Specification

(a) Extend the Railroad safety inspection fees permanently.

4. Extend Expiring Corporate Environmental Income (CEI) Tax Used to Finance Superfund

Vision and Rationale

A broad-based environmental tax, based on corporate alternative minimum taxable income (0.12 percent) in excess of $2 million, was first enacted in 1986 and is set to expire at the end of 1995.

Superfund reauthorization legislation would provide a further CEI tax extension through the year 2000, which would provide sufficient additional credit needed for budget scoring of the Superfund legislation's "orphan share" proposal. All revenue from the CEI tax extension, whether enacted in welfare reform or Superfund legislation, will continue to be dedicated to the Hazardous Substance Superfund to be used only for Superfund cleanups.

Specification

(a) Extend the CEI tax into 1998.

C. EITC TARGETING AND COMPLIANCE MEASURES

1. Deny EITC to Non-Resident Aliens

Vision and Rationale

Under current law, non-resident aliens may receive the Earned Income Tax Credit (EITC). Because non-resident taxpayers are not required to report their worldwide income, it is currently impossible *for the IRS to determine whether ineligible individuals (such as high-income nonresident aliens) are claiming the EITC. We estimate that about 50,000 taxpayers will be affected by our proposal, mainly visiting foreign students and professors. The proposal raises about $100 million over five years.*

Specification

(a) Deny the EITC to non-resident aliens completely.

2. Require Income Reporting for EITC Purposes for Department of Defense (DoD) Personnel

Vision and Rationale

Under current law, families living overseas are ineligible for the EITC. The first part of this proposal would extend the EITC to active military families living overseas. To pay for this proposal, and to raise net revenues, the DoD would be required to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2. Such nontaxable earned income includes basic allowances for subsistence and quarters. Because current law provides that in determining earned income for EITC purposes such nontaxable earned income must be taken into account, the additional information reporting would enhance compliance with the EITC rules. The combination of these two proposals raises about $200 million over five years.

Specifications

(a) Extend the EITC to active military families living overseas.

(b) Require DoD to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2.