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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 26, 1996

MEMORANDUM FOR: CAROL RASCO
ELAINE KAMARCK

FROM: Ken Apfel Ken

RE: Oregon's Food Stamp Waiver Request

As a part of their welfare waiver, Oregon has requested to waive three components of the Food Stamp program: Job or Work Supplementation, expansion of eligibility rules for non-AFDC recipients with regards to the vehicle resource limit, and changes to the way the State is required to measure their error rates. While the food stamp waiver has been packaged with Oregon's welfare waiver, this waiver is separate and apart from the AFDC waiver which the Administration has agreed in principle to approve. One element of the food stamp waiver has a strong relationship with the agreed upon AFDC waiver - Work Supplementation - and does not have significant costs. OMB/USDA have recommended approving this proposal. OMB and USDA have recommended that Oregon's request to raise the vehicle asset limit for the non-AFDC caseload and to change the food stamp quality control methodology be denied. I believe there would be serious consequences to allowing these two requests and I do not believe the proposals are critical to innovative welfare reform. These proposals have significant costs, are not consistent with the Administration's position on these issues, and would establish an undesirable precedent for future food stamp waivers. I strongly urge you to support OMB and USDA's recommendations.

Quality Control

Currently, States are required to do an extensive quality control (QC) review on a portion of their food stamp cases. Following their review, USDA then does a similar QC review on an even smaller portion of the cases. Using the information from these reviews, USDA calculates the average annual state and national error rates upon which incentive and sanction payments are based. OMB estimates that $2 billion in food stamp benefits will be issued erroneously in FY97. Oregon has requested a waiver to reduce the size of the State quality control sample size by approximately two-thirds, limit the eligibility items which they would review, and change some of the procedures for completing the reviews. Oregon's combined payment error rate for FY94 was 9.88%; the national average was 10.32%; the target rate is 6%. Oregon requested and the Administration has agreed in principle to provide a similar waiver for AFDC QC. We have serious concerns about this waiver and are strongly opposed to granting it under any terms. If this QC waiver is granted for Oregon, we cannot imagine any reason why every State in the country would not ask for it and the Administration would have established a precedent of approving such waivers.

USDA and OMB recommend disapproval of this component of the waiver for the following reasons:

Cost Neutrality: While cost is difficult to estimate since it is unclear which components of the QC review Oregon would like to drop, this proposal would surely impact the national error rates, liability and enhanced funding system. One possible outcome is that Oregon redefines error in such a way that its combined payment error rate drops, the national average drops and Oregon qualifies for enhanced funding. Meanwhile, States in sanction would fall further into sanction since Oregon would cause the national average to drop. While quality control does not account for many FTE at the State level, it is an unpleasant chore which the States do not enjoy. If the Oregon QC waiver is granted, every other State will want the same waiver which would completely undermine the effectiveness of the QC system and the integrity of the program. The Administration would have no basis to deny future QC waivers if the Oregon waiver is granted. Leaving only the possibility of the QC system eroding via waiver or creating unnecessary tension in the federal-state relations. This waiver could seriously undermine the Administration's role as a steward for the Food Stamp Program - it cannot be granted.

Integrity of the Quality Control Instrument: OMB estimates that $2 billion in food stamp benefits will be issued erroneously in FY97. While States administer the food stamp program, benefits are 100% federal monies . Maintaining nationally consistent measurements in quality control is critical to USDA's ability to determine which elements of the program are causing the most difficulty for States and to determine which States are managing federal monies most effectively. The Agriculture Committees have repeatedly accused the Administration of attempting to improve national payment accuracy rates by "lower the goal post" on States. If the Administration were to grant this waiver, it would in fact be "lowering the goal post" instead of requiring States to maintain a certain level of integrity.

Under this Administration, USDA has made significant efforts to eliminate process or output measures such as certification periods, monthly reporting, and matching systems. But, payment accuracy as measured by the quality control system is the only effective outcome measure the food stamp program has. If Oregon were permitted to reduce the sample size and to no longer verify whether it was issuing benefits accurately, it as well as the Federal government would loose access as to the only available information on how well the program was operating.

Interactions with Welfare Reform: The Administration has taken the position that the Conference welfare bill dangerously expands food stamp waiver authority. One of the examples the advocates and the Administration have used in arguing against the Conference bill waiver authority is that States would be able to waive out of the quality control system entirely.

Vehicle Asset Limitation

Currently, food stamp households are permitted to own a vehicle with a fair market value under $4,600. This amount is scheduled to increase to $5,000 in FY97 and index each fiscal year thereafter. The Oregon waiver would increase the limit to $9,000 and would move to an equity basis rather than a fair market value basis. (On an equity basis, a low-income household with a $20,000 car and an outstanding $11,000 loan on the car would qualify for food stamps.) The Oregon AFDC waiver would increase the limit to $9,000 on an equity basis; the food stamp waiver would raise it for the non-AFDC caseload as well.

USDA and OMB recommend disapproval of this component of the waiver for the following reasons:

Cost Neutrality: USDA estimates this component of the Oregon waiver would cost the food stamp program approximately $3 million per year. Food Stamp benefits are financed entirely by federal monies. While similar waivers have been granted to other states (Florida, Iowa, Michigan, Ohio, North Dakota) it has always been in the context of cost neutrality i.e., the State has offered some sort of reduction in federal costs in order to offset the cost of the expansion. Oregon has not provided such an offset. Granting the Oregon waiver would establish a difficult precedent to ignore in the future. For example, California has recently applied for a similar food stamp waiver on the vehicle asset limitation which would cost in excess of $5 million per year. <u>If the Oregon waiver were granted for all States, the cost would be $265 million per year or a cost of $1.3 billion over five years</u>.

Interactions with Welfare Reform: The Administration's welfare reform bill would actually lower the vehicle asset limitation as a welfare reform savings proposal. The proposal would eliminate the scheduled expansion to $5,000 and simply allow the limit to increase each fiscal year with the CPI. The Oregon waiver is inconsistent with this proposal. In addition, if Oregon and other States are permitted to waive the current rules, CBO would have to lower the savings from this $360 million proposal (the HR4 version of the vehicle asset cap would save $950 million).

One of the single most egregious provisions in the Conference Welfare Bill is a proposal to cap federal spending on the Food Stamp Program. The Republicans have consistently argued that the program is growing out of control and that spending must be reigned in. The

Administration has fought hard against this spending cap proposal and appears to have made some progress with regards to the National Governors's Association's proposal. Granting the Oregon Food Stamp waiver, thereby increasing spending administratively, would only provide the Republicans with further ammunition to support the annual spending cap on food stamps.

Alternative: Oregon's request is a simple expansion the federal food stamp rules intended to allow more households on the rolls. It does not apply to AFDC households, nor does it test an innovative approach to move individuals to work. Essentially, the waiver is tantamount to an interest free loan from the Federal government to the State. If Oregon desires to supplement federal food stamp benefits with State monies, USDA is willing to explore with the State how best to put such a plan into operation. This approach seems more reasonable than granting Oregon a waiver condition upon cost neutrality when USDA knows the waiver will exceed cost neutrality. Any agreement would have to ensure adequate measurement, a guaranteed pay back dollar for dollar and a payback pending Administrative appeals.

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

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MEMORANDUM TO THE PRESIDENT

SUBJECT: Executive Action on Welfare Reform

Our Administration has made considerable progress in reforming the federal welfare system, even as congressional action has been stalled. As you noted in January in your State of the Union address, AFDC caseloads are down. Food Stamp rolls are down. Work participation rates and child support collections are up. And 37 governors--Democrats and Republicans--have taken advantage of demonstration waivers issued by HHS to demand work, require responsibility, and protect children.

We now have the opportunity to take further executive action in the areas of work and responsibility, and to address the special needs of teen parents, even as we continue to work with Congress on bipartisan legislation. The actions I have outlined below would not only highlight your commitment to welfare reform, but could genuinely encourage the states to step up their own commitments to change. I believe these executive actions would spur Congress forward on bipartisan national legislation, and, if legislation is not forthcoming, would enhance the Administration's independent progress on welfare reform.

I propose four areas of action. While these proposals are severable, we see them as a package. I recommend that you issue a Presidential Memorandum instructing the Department to take action in all four areas as soon as possible.

Background

A major goal of welfare reform is to help AFDC recipients achieve economic self-sufficiency. This focus also underpinned the Family Support Act, which established the JOBS program in 1988. HHS has the authority to implement immediately proposals that strengthen the states' JOBS obligations and affect the recipients participating in JOBS programs and to urge similar changes for AFDC recipients not in the JOBS programs, bringing closer together activities and expectations for the two groups. New regulations would be required in order to place additional mandates on states and recipients in the AFDC population who do not participate in the JOBS programs.

Personal Responsibility Plans

Proposal: Require States to have Personal Responsibility Plans in place for most welfare recipients.

As a condition of receiving JOBS funding, every two years, states must submit State Plans for administering their JOBS programs. The submission and review of State Plans provide a forum for shaping the administration of the JOBS programs. As one element of program administration, states must ensure that JOBS participants receive employability status assessments and have individual employability plans. Typically, these individual plans have been oriented significantly toward education and training.

The next State Plan submissions for the JOBS programs are due this summer. We propose to require states, in their summer submissions, to commit to a work-based reorientation of their JOBS participants' individual employability plans. Prior to the summer State Plan submissions, the Department would prescribe the components of employability plans necessary to transform them into genuine Personal Responsibility Plans focused on job search, work and activities directed at quick movement of JOBS participants into the labor force.

At the same time, we would urge states to institute similar, work-based Personal Responsibility Plans for all recipients who can work, even for those who are not JOBS participants. States implementing that practice would significantly expand the scope and reach of work-based planning for their beneficiary population. Through regulation, we could make Personal Responsibility Plans a requirement for all AFDC recipients who are able to work.

Require Teens to Stay in School

Proposal: Seek to keep minor parents in school, and encourage States to make minor parents live at home.

The Family Support Act requires that JOBS participants who are minor parents and who have not graduated from high school stay in school as a condition of receiving benefits. That Act, in addition, permits states to require minor parents to live at home and to receive assistance in the form of protective payments to their own parents. Because the latter is an explicit State option in the statute, living at home could not be made a federal requirement through executive action.

Universe of minor moms 50,000

As part of the executive action, HHS would have states describe how they will ensure that JOBS-participating minor parents stay in school. In addition, we would strongly urge states to take advantage of their option to require minor parents to live at home whenever appropriate and could provide public recognition for States exercising that option.

– by '95 – so that everyone is a job participant –

Work Requirements

Proposal: Establish and strengthen work requirements.

Two distinct actions are necessary in order to establish and strengthen work requirements: One, our new Personal Responsibility Plans should be extended to cover all AFDC recipients able to work and should be reoriented toward work. Two, new and expanded state work participation rates should be established.

The Family Support Act required that states have specified percentages of their non-exempt AFDC recipients participating in the JOBS program each year. Those participation rate standards expired in 1995. (AFDC-UP participation rates, which cover a very small part of the caseload, are currently at 60 percent, and remain in place through 1998.)

Rather than set new participation rates for just the JOBS programs, all states should aim for participation by all non-exempt recipients in work or activities leading toward work. States should set performance goals for participation and for placements. We can implement these goals incrementally.

First, in structuring this summer's round of State JOBS Plans, we would require states to incorporate the new work focus, as noted above. Additionally, we would urge states to create individual employability assessments for non-JOBS participants and to direct those employability plans, too, toward work. Second, we would redefine "participation." We would make clear that both unsubsidized and subsidized work count as participation, and that those who leave the caseload for work should be counted for six months. The requirement of 20 hours per week of work would continue to provide the basis for the participation rate.

We would establish new participation goals. In calculating the rate of participation, we would ask the states to report not only data on JOBS participants but also information on the whole non-exempt caseload working or directly preparing for work. We would suggest that participation goals for that combined population (i.e., JOBS participants and others) be set at 30 percent in 1997, 35 percent in 1998 and 40 percent in 1999. (We would separately retain the currently established requirement for the AFDC-UP recipients.)

These goals would serve as guidance to states as they plan to meet the obligations that regulations would impose on them and their recipients once such regulations are published and gain the force of law.

To ensure that these work requirements do not become unfunded mandates, states would be reminded that, under current law, they can draw down federal funding not only for their JOBS programs but also, as they need it, for the administration of work programs for those who are not JOBS participants, and for child care expenses for all participants. Is the money there?

Focus on Performance

Proposal: Reallocate quality control (QC) resources toward employment-related goals, and recognize high performing States in a White House ceremony.

We do not have the authority under current law to institute a performance bonus for job placements. We can, however, take three important steps to focus on performance.

First, as noted above, we would urge that State Plans spell out participation goals. We would work with states on their plans to ensure reporting consistent with state flexibility. The Department would develop regulations that would make this proposal legally enforceable.

Second, we can reshape our Quality Control (QC) system to focus on performance. The current QC system is designed to assess payment accuracy and focuses exclusively on monitoring compliance with eligibility requirements. Substantial state and federal resources are devoted to carrying out extensive case reviews and assessing penalties against the states for overpayments. A Federal-State workgroup (our "QC Academy") last year recommended that we redirect some of these monitoring and auditing resources toward broader performance goals, such as employment and placements. As part of the executive action, HHS would modify the QC requirements so that the states and the federal government redirect resources to monitoring and improving performance.

Third, we could hold a White House ceremony in May or June to recognize the progress states have made in increasing work participation, and to give special recognition to those States with the best performance or the most improvement in 1995.

Recommendation

These executive actions, combined with our ongoing work to facilitate state-by-state reforms would make significant, additional progress toward national welfare reform even if the Congress fails to pass an acceptable bipartisan bill. Prior consultation with the Governors would help to ensure successful implementation of these actions.

I recommend that you issue a Presidential Memorandum directing my Department to take the actions outlined above.

Donna E. Shalala