5/24 SSA / Disability Advocates Mtg

PASS — enacted as return-to-work; pple use as enabler for wkg (partly bec allows Medicaid coverage)

CDR

DA&A

Return-to-Work

SSA: Team of specialists hired/trained to review PASS applications → dist. the Regional offices

- promulgated g'lines

- Ques of private for-profit preparers of PASSes → reg. regulation of fees — need legislation

SSA considering time limits, making ineligible for SSI w/PASS

CDRs

- CCD has pushed for F'ld funding for more CDRs — imp. to integrity of prog / public support

- concern abt experience of 80's looms still

DA&A → Appeal

Joan Wainwright, Dir of Communications

Return to Work — Disab grps wkg on pkg of supp. services assistance

- e.g. Personal Ass tax credit, coverage, voc rehab, etc.

- diff grp of pple than SSI

Re-engineering/Redesign - SSA trying to test before implementing
E.g.'s Adjudication Officer

SSI Kids in Welfare Reform
1- Trust/exclusion of assets
2- Kids in priv hosps w/priv payers
- suggest "hardship exemption"

CHILDREN'S SSI PROGRAM -- Additional Concerns

ISSUE/SECTION NUMBER -- Section 12213. Additional Accountability Requirements.

This section contains new requirements and limitations on eligibility for children who have funds placed in trust for their special needs. The language appears to be even more restrictive than the provisions originally included in the House bill.

CURRENT LAW -- Under current law, the Social Security Administration treats as resources only those assets actually available to and under the control of the individual. Irrevocable trusts, regardless of the original ownership of the funds, are not treated as available resources to the individual so long as the individual is not a trustee or has no control of the disbursements from the trusts and so long as the trust funds were not available to pay for food, clothing, or shelter for the individual. Often the trusts are funded with the proceeds of small medical malpractice or product liability judgments or settlements and do not involve enough funds to cover the long term care needs of an individual with severe disabilities for even a couple of years, much less a lifetime. On the other hand, the funds, if properly managed by the trustees, could provide for training, college education, or other services, oversight, and advocacy which are unavailable to the individual through the public SSI and Medicaid programs.

As a result of the trust aspects of SSA's resource policy, and with the explicit knowledge and sometimes the advice of SSA (and more recently with the explicit authorization in the Medicaid law), for many years parents seeking to prepare for the long-term future of their child with disabilities (including adult children), have established special needs trusts to meet their child's needs which go beyond those met by SSI and Medicaid. These are parents who recognize the day-to-day reality that, for the most part, their child will never be able to be self-sufficient and will always have to rely to some extent on the public programs for on-going support. SSA's interpretations of resources and trusts have been in effect for years.

CONCERNS -- In the original House-passed bill, the current Medicaid restrictions/limitations on transfer of assets and the use of trusts (passed as part of OBRA '93), as well as the exclusions from those restrictions for people with disabilities (provisions allowing continued eligibility even where trust funds exist), were incorporated by reference. While the House language raised some questions regarding the interaction of SSI and Medicaid, particularly upon the death of the individual (since in many cases, the state Medicaid agency would be eligible for reimbursement from any remaining funds), the House language generally seemed to incorporate current Medicaid policy and law into the new children's SSI provisions.

In the conference agreement, the current Medicaid policy regarding trusts and SSA's policy regarding treatment of trusts were abandoned in favor of provisions which make it difficult, if not impossible, for families to financially plan beyond SSI and Medicaid for the future of their child with a disability. These provisions:

- create disjunctions with current Medicaid law for children and adults;

- ignore/disregard long-standing SSA policy regarding the treatment of funds in trust which are based on numerous, important public policy considerations; and

- set a dangerous precedent for wholesale change regarding similar trust arrangements for adults.

These provisions are included in the conference report even though they received little-to-no discussion or debate. (The House had a provision which would have restricted far fewer trust arrangements; the Senate had nothing.) Actually, the conference agreement to the Senate provision to make it easier for parents to preserve retroactive SSI payment awards in a special account indicates understanding of the sound public policy rationale for such future-planning action. There are numerous similarities in purpose and function between the current-law trust arrangements and the Senate-designed special accounts; in revising the trust policy, these consistent public policy goals should be further explored. It is poor public policy to close off the ability of families to establish a trust to provide care and services beyond those covered by SSI and Medicaid, including advocacy and oversight, over the lifetime of a child with severe disabilities. We propose that the SSA policy regarding trusts be left intact. The alternative approach which already exists in Medicaid law (at Section 1917(c) through Sec. 1917(e)) -- to require repayment with any funds remaining upon the death of the individual -- could have been adopted instead of disqualification.

revised 3/5/96

ISSUE/SECTION NUMBER -- Section 12214. Reduction in Cash Benefits Payable to Institutionalized Individuals whose Medical Costs are Covered by Private Insurance.

This provision would limit the SSI payments to hospitalized or institutionalized children who receive any private health insurance coverage to the same level of SSI payments which is currently applicable to children and adults who reside in Medicaid funded hospital or long term care facilities (i.e. limitation to the personal needs allowance).

CURRENT LAW -- Under current law, where an individual resides in a hospital or nursing home or ICF/MR for which Medicaid is paying for the care, the individual is only eligible for the personal needs allowance ($30. per month plus any additional amount determined by the state). In these cases, it is assumed that Medicaid is covering all of the person's medical and other needs throughout a 24-hour day.

CONCERN -- Our concerns are that children who are in these settings may not fit the assumptions underlying the attempt to make the treatment equal for children covered by Medicaid or by private health insurance. For instance, parents of children with private health coverage may have very significant health care costs, such as premiums, deductibles, and co-payments, particularly COBRA extended coverage insurance premiums for those parents who have lost or had to give up their jobs due to the child's significant needs. In addition, there may be significant costs associated with health care services not covered by the private plan or for which the child has exceeded his/her lifetime maximum, even though the private plan continues to cover other care. Also, there may be other costs, such as the expenses of traveling long distances and hotel costs, etc. to maintain essential contact with a child who is located in a specialized medical center or hospital at great distance from the family home. These are expenses which the SSI benefit helps to cover to keep the child and the family together.

Further discussion would be necessary to address Members' concerns without harming children and families who must depend upon the continued assistance. If necessary, a "hardship" exception could be considered or an approach which recognizes the need to assist in meeting the individual's other related financial responsibilities in a way similar to QMB coverage of Medicare premiums.

revised 3/5/96

→ Photos for Armina

Molly - May be of interest. Diana

MEMORANDA

To: Ken Apfel
Mary Jo Bane
Mary Bourdette
Peter Edelman
Naomi Goldstein
John Monahan
Bruce Reed
Ann Rosewater
Melissa Skofield
Rich Tarplin

From: Wendell Primus

Re: Latest Draft of Secretary's Views Letter

Date: October 10, 1995

Attached for your review and comment is the latest draft of the Secretary's views letter. We understand from OMB that this will be released next week. Please forward any comments to me by Thursday (10/12) at noon.

We also intend to incorporate some of the recommendations from the SSI Commission's Executive Report into this letter.

Thank you.

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: @ DATE: 04/10/12

~~CONFIDENTIAL~~ DRAFT
10/10/95

The Welfare Reform Conference Agreement: Discussion of Policy Goals and Positions

The Administration believes strongly in the need for welfare reform legislation that promotes work and protects children. At the same time, we continue to have major concerns with specific provisions in both the Senate and House bills. The Administration's views on the final legislation adopted by the Congress will ultimately depend on whether it promotes the key goals of work, family, and responsibility, and whether states have adequate resources to move welfare recipients into work and to protect children. This letter discusses our concerns in these critical areas.

Given the magnitude of changes being considered to programs serving poor families -- from severe funding reductions, to eligibility changes, to elimination of the AFDC entitlement -- the Administration believes it is imperative that the welfare reform legislation maintain the national nutrition safety net. The Food Stamp, child nutrition, and WIC programs, among others, have successfully narrowed the gap between the diets of low-income and other families and have had profound impacts on the nutrition, health, and well-being of millions of children, working families, and elderly. The Administration strongly opposes any block grant -- whether optional or mandatory -- for any of the nation's nutrition programs. Secretary Glickman's views on conference issues related to the national nutrition safety net and the food and nutrition assistance programs administered by the Department of Agriculture are being addressed under separate cover.

NO — not your program

I. Promoting Work

Real welfare reform is first and foremost about work. The system must provide the incentives and resources for states to get the job done. Real work requirements must be backed up with real resources for education, training, and job placement to help people get jobs and keep them. The link between child care and work is especially critical. A reformed system must provide work-based incentives for states, caseworkers, and welfare recipients themselves. States should be rewarded for moving people from welfare to work -- not for cutting them from the rolls.

(A) Child Care

Ensuring that quality child care is available is a crucial underpinning of any program that purports to move parents from welfare to work and to end welfare as we know it. Therefore, the Administration strongly supports the child care provisions in Titles I and VI of the Senate Bill, which include $8 billion for child care services in addition to the funds authorized in the Child Care and Development Block Grant (CCDBG). These provisions recognize the critical importance of child care to parents' success in finding and keeping work, as well as the need for parents to know that their children are cared for in a safe, nurturing environment while they work. As benefits become time-limited and work requirements are strengthened, it is absolutely essential that child care is made available so that parents can work.

To this end, the Administration strongly supports maintaining entitlement funding dedicated to child care services (modifications to section 421(a) of the Social Security Act(SSA)), and opposes the House bill that repeals Title IV-A child care programs (section 104(a)(1)(B)), placing no requirements on states to provide child care. We further strongly prefer the Senate bill provisions which require states to maintain 1994 levels of Title IV-A child care spending in order to access a portion of the additional $3 billion appropriation (modifications to section 421(b)(1) of the SSA), and which designate federal matching funds at the Federal Medical Assistance Percentage (FMAP) for state expenditures in excess of 1994 levels (section 421(b)(3)). The Administration is concerned, however, that the Senate language requires the additional $3 billion made available for child care to be subject to reauthorization and pay-as-you-go funding rules (section 421(b)(4)) after FY 2000. We believe that to appropriately assist states in meeting child care needs, the additional money should be included in the baseline.

The Administration strongly supports work provisions in the Senate bill that (1) prohibit states from penalizing parents who refuse work when child care for a child under age 6 is not available (modification to section 404(d)(2) of the SSA); (2) provide states the option of not requiring a single parent with a child under age 6 to participate in work for more than an average of 20 hours per week during a month (modification to section 421(c)(1) of the SSA); and, (3) provide states the option of not requiring an individual who is the parent or caretaker relative of a minor child under 12 months of age to engage in work (section 404(b)(5)) recognize the potentially significant difficulties that parents of pre-school age children face in finding child care. These provisions recognize the important links between child care and a parent's success in working. In addition, they will help lower some of the child care costs otherwise associated with the increasing participation rates.

Additionally, the Administration supports the provisions in the Senate bill that maintain funding for services to working poor families, many of whom are able to stay in the workforce only because of their child care subsidies (Title VI). We strongly support the Senate provision to unify the rules and standards of other child care programs with the CCDBG (section 658T) which will assist states in operating uniform programs and help protect children. Further, the Administration strongly prefers modifications to section 658B(c) of the CCDBG Act under section 602 of the Senate bill that retains a quality set-aside and continues to require that states establish quality standards for child care within state plans. We oppose the modification of section 658T of the CCDBG Act under Title III of the House bill which allows states to transfer up to 20% out of the CCDBG to support other programs.

In addition, if the CCDBG continues as discretionary funding, the Administration recommends that, in the event the authorized funding level is not fully appropriated, the discretionary cap should be automatically adjusted downward by that amount.

(B) Maintenance of Effort

States should be required to maintain their stake in moving people from welfare to work rather than be given an incentive to cut people off. The Administration strongly supports the intent of the Senate bill to give states an incentive to continue their commitment to provide the resources necessary to support work and to help needy families with children.

Without a requirement to contribute to programs for poor families, several factors make it likely that states will significantly reduce their funding. States are likely to reduce benefits and/or create harsh time limits to discourage in-migration from other states, thereby encouraging a "race to the bottom."

In addition, because of the interaction between AFDC and Food Stamps, states will have an incentive to lower cash benefits. Because Food Stamps are funded completely by federal dollars and decrease when AFDC benefits rise, increasing benefits would result in less federal money being brought to the state. Alternatively, state reductions in AFDC benefits will lead to increased federal expenditures for Food Stamps. Finally, state funds for cash assistance, work, and child care programs for poor families with children are likely to be squeezed out by more ~~politically popular~~ programs as states face broad reductions in federal funds for a variety of public services. Given that the effort to put recipients to work will require an investment of resources beyond what is available through the block grant, the maintenance of effort provision should be viewed not as a burden on the states, but as a necessary tool for the success of welfare reform. is

While the Administration strongly supports the intent of the maintenance of effort (MOE) provisions in the Senate bill (modifications to section 403(a)(5) of the SSA), we believe the language needs to be strengthened in several ways to ensure the intent of the Senate is carried out. The Administration recommends dropping the proposed section 403(a)(5)(C)(I)(V), which permits the use of any state expenditures that meet the overall purpose of the temporary assistance program to count towards the maintenance of effort requirement. This provision would allow expenditures in a broad number of areas and for a broad range of state residents to count towards the MOE requirement. It would be difficult to enforce and thus would weaken the effectiveness of the provision significantly.

The provisions in the Senate bill which prohibit states from using funds supplanted from existing state and local programs are also difficult to enforce. Because there are fiscal implications for states (in terms of potential disallowances and access to additional funds), it is important that the bill language be made clearer and that the Secretary be given the authority to regulate state determinations in this area. = what

(C) Contingency Grant Fund and Allocation Formula

The Administration strongly believes that real reform means providing resources that allow states to cope with changes in economic and demographic conditions -- not merely shifting increased costs to states and taxpayers. States should be rewarded for moving people from welfare to work and protected in the event of high population growth, economic downswings, or other unpredictable emergencies.

The Administration prefers the Senate's contingency funds provisions (modifications to section 403(I) of the SSA), which allow eligible states to draw down additional federal funds based on their Federal Medical Assistance Percentage, once they have exceeded one-hundred percent of their FY 1994 state expenditures for AFDC related programs. The House provision would allow eligible states to receive federal loans, which must be repaid with interest within three years.

The Senate provision is preferable because the contingency grant fund would provide direct aid to states, without the repayment stipulation. Since states would require aid during downswings in their economies, there is no assurance that states would be able to repay a federal loan within three years as required by the House bill. The possibility of defaulting on the obligation would force states to choose between taking a loan in order to serve those in need or cutting benefits and restricting eligibility to conserve available funding. This is an unfair choice to impose on states, particularly when they experience dramatic increases in need.

To improve the Senate's fund, the Administration recommends several changes. The $1 billion contingency fund in the Senate bill should be increased substantially, so that eligible states can receive the additional assistance necessary to fully ~~cope with population~~ increases, economic downturns, or other emergencies. Under the current allocation formula in the Senate bill, more than half of the states would not receive additional funding during the five years of the Temporary Assistance for Needy Families block grant. It is critical that these states have access to additional funding as their needs increase. Expanding the contingency fund would help accomplish this.

The Administration supports alternative unemployment triggers that are more direct measures of child well-being and will better capture changes in child need. If the national Food Stamp program structure is retained, we support triggers that (1) allow states to qualify for the fund if its total average unemployment increased by more than ten percent, relative to 1994 and (2) allow states to draw down additional federal funding if they experience an increase of five percent in either child population or child poverty, relative to 1994. Because of the substantial time-lag associated with child poverty statistics, we recommend that the number of children receiving Food Stamps be used as a proxy for the number of poor children. If Food Stamps becomes an optional block grant to states, the Administration would support a policy that allows states who choose the option to qualify for the fund if they experience a five percent increase in the number of children who both receive the Earned Income Tax Credit and who live in families with incomes below a fixed adjusted gross income level. As with the child population and poverty trigger, the change would be relative to 1994.

why?

The softer triggers recommended by the Administration, coupled with the increased funding level, would greatly enhance the effectiveness of the contingency fund, since more states would have access to the fund. The funding could be augmented with the $800 million that is available to states for modifications they made to their Emergency Assistance programs in FY 1995, as well as with the $878 million that is available under the dynamic growth allocation formula. Emergency Assistance (EA) is a small component of total welfare spending, and many states have claimed EA funds for activities that are not directly related to supporting needy families with children. The allocation formula in the Senate bill would provide states with additional, automatic increases in their block grant allocation on the basis of population growth, regardless of whether states take advantage of the block grant flexibility and reduce their welfare-related spending. By shifting these resources to the contingency fund, we would increase the amount available to states to more than $2.5 billion over five years. This would truly make the contingency fund a mechanism for assisting states, only when their needs increase.

formula fight

The Administration also supports a provision which would modify the Hutchinson growth formula to direct additional funding solely on the basis of population growth. We believe that additional funds should be allocated to <u>all</u> states whose population is growing, and that funds should be distributed based on how much a state's population increased. In order to qualify for additional funding under this provision, states would be required to maintain at least 100 percent of FY 1994 spending levels on AFDC-related programs.

The Administration believes that these proposals are relatively modest and that greater resources are needed in time of severe economic conditions. We support a provision under which states could receive federal loans which would be repayable with interest within three years. Modifications to the repayment stipulations would be made in order to protect states with pervasively poor economies. In addition, in the event that the national unemployment level rose to very high levels, the Administration believes there should be a mechanism for automatically increasing the contingency fund.

Ken trigger

Reducing Cost Shift to States

(D) Lowest ~~Possible Unfunded Mandates~~

The Administration believes that strong work requirements -- moving welfare recipients off the rolls and into jobs -- must be a central focus of welfare reform. However, the Administration also recognizes that it will take substantial resources for states to meet the participation rates when they reach higher levels -- particularly given that under both bills individuals must participate 30 hours per week in FY 2000 (and more in later years) in order to be counted toward the rate.

Given the demanding efforts and high costs of meeting the work participation rates, the Administration prefers the method for calculating the participation rate contained in the Senate bill (modifications to section 404(b) of the SSA). The Senate provisions which allow other activities such as leaving welfare for work and being sanctioned to count toward the rate increases the probability that states will be able to meet the requirements without having to spend a disproportionate share of additional state money (an unfunded mandate), reducing benefits, or incurring a penalty for not achieving the minimum rate. In addition, the Senate provisions give states "credit" for achieving desired results -- beyond the requirement that individuals participate in work activities. Including those who leave welfare for work in the numerator of the rate will give states an incentive to move recipients into work as quickly as possible.

The Administration is opposed to the provision in the House bill which allow states to use caseload reductions that result from state-initiated changes in eligibility criteria -- such as setting a two-year time limit -- to reduce their required work participation rates (section 404(a)(1)(B)). Because terminating benefits is less expensive than operating a work program, the House provisions would create a strong incentive for states to meet their participation rates by throwing people off the rolls. This policy would cause more hardships and would not result in a real work requirement.

(E) Exemptions from Work Requirements

The Administration supports including the Senate bill work exemption for mothers with children under age one (modification to section 404(b)(5) of the SSA). The Senate bill recognizes the extreme difficulty most mothers could have in both meeting the work requirements and caring for an infant. Moreover, states could avoid some of the high costs of providing child care for infants. By temporarily exempting these families from the work requirement and excluding them in the calculation of the participation rates, the work requirements will be more feasible for states to meet.

(F) Definition of Work Activities

The Administration supports the definition of work activities included in the Senate bill (modification to section 404(c)(3) of the SSA). While the definitions in the two bills are similar in many ways, we prefer the Senate bill's allowance of vocational educational training to count as a work activity. Research shows These types of programs have been effective in increasing employment levels of welfare recipients and reducing welfare dependency. ~~Research on welfare-to-work programs clearly shows that programs~~ focused strictly on work activities have had a limited success in moving welfare recipients into the labor market. Programs that allow a mix of services -- i.e., vocational training combined with job search and work activities -- have been far more effective in producing results.

(G) Performance Bonuses

Real reform is first and foremost about work -- and the system must provide work-based incentives for states, caseworkers, and welfare recipients themselves. States should be given an incentive to put people to work -- rather than simply cutting them from the rolls. The Administration strongly supports the provisions in the Senate bill which provide bonus payments to states for performance on job placement and other employment-related measures (modifications to sections 403(f) and 418 of the SSA). We do recommend, however, that technical changes be made to clarify the operation of the performance bonus system.

(H) Personal Responsibility Contracts

Personal responsibility contracts will ensure that recipients are moving toward work and self-sufficiency from the very first day. The Administration strongly supports the provisions on personal responsibility contracts contained in the Senate bill (modification to section 405(a) of the SSA). These binding contracts between the state and each family receiving assistance would ensure that welfare becomes a reciprocal obligation between the state and the recipient. By signing it, the recipient agrees to take the necessary steps to become self-sufficient within a time-limited period and the state agrees to provide the services the recipient needs to achieve this goal. The Administration recommends that states be given flexibility to design these contracts in ways that best meet their needs.

II. Protecting Children

True welfare reform should make it easier for poor children to grow into productive adults -- not harder. Needy children should be assured basic protections wherever they live. Assistance to abused, neglected, and disabled children should not be slashed under the guise of "welfare reform." Children must be helped -- not hurt -- as we move ahead to create real, lasting welfare reform.

(A) Child Protection

The Administration strongly supports the Senate position maintaining current child protection policy and strongly opposes the Child Protection Block Grant created in the House bill (Title II). Reported child maltreatment and out-of-home placements have both been increasing sharply. Courts in 22 states have found child protection systems that are failing to investigate allegations of child abuse and neglect; failing to make adequate efforts to avoid unnecessary placements; and failing to take the actions needed to achieve permanency for a substantial number of foster children. We must not walk away from our commitment to abused and neglected children and those at risk of maltreatment.

The House bill responds to these increasingly serious problems through block grants that eliminate basic protections and cut funding by 12 percent below baseline over the next five years. This could lead to uninvestigated maltreatment reports and children left in unsafe homes, setting back states' efforts to improve their child abuse prevention and child protection systems. The House bill also eliminates key incentives and subsidies for families who adopt children with special needs, jeopardizing important efforts to find permanent homes for thousands of vulnerable children.

Substantial improvements need to be made in the child protection system and in the federal role in overseeing that system. The Administration supports the Senate approach because it sustains the recent changes to the child protection system, including increased flexibility for states to experiment and a new focus on prevention, and it reauthorizes and strengthens the Child Abuse Prevention and Treatment Act (Title XI).

(B) SSI Children

While the Social Security Administration will be presenting their views in a separate letter, because SSI changes have an impact on the Medicaid program, we have also included our views on these proposed changes.

The Administration strongly prefers the Senate Supplemental Security Insurance (SSI) provisions (sections 211-213) because cash benefits and Medicaid would be preserved for all poor children with severe disabilities who meet the Listing of Medical Impairments. These children have been eligible to receive cash benefits and Medicaid since the inception of the SSI program in 1974; the program came under challenge only after eligibility was expanded to children with less severe disabilities. The Administration agrees that legitimate concerns have been raised in general about burgeoning growth in the SSI and Medicaid programs, and specifically about payments and services to children with less severe disabilities.

At the same time, the Administration believes the changes outlined in the House bill (sections 602-603), which eliminate cash benefits and Medicaid for most children with severe disabilities who continue to meet the Listings of Medical Impairments, go far beyond what is needed to rectify problems in this program. Further, the House bill treats children who meet the medical listings after the date of enactment differently, requiring these children to meet a stricter standard of eligibility. While those children who meet the medical listing before enactment will continue to receive cash and Medicaid, those who apply after enactment will only be eligible for SSI cash and Medicaid if they meet the medical listing <u>and</u> are institutionalized or at risk of institutionalization. The House bill would result in a serious deterioration in support for these extremely vulnerable children at the same time other support systems also are being eliminated.

(C) Time Limits

The Administration has consistently recognized that time-limited benefits that are followed by work and that protect children are key elements of transforming the welfare system. Currently x states are testing varying approaches to time limits, and each assures that families are protected when work is not available. The Administration strongly supports time limits which assure appropriate exceptions and extensions for those who, despite best efforts and through no fault of their own, cannot find work. It is critical that both federal and state policies which establish time limits also ensure children are protected.

The Administration strongly prefers the Senate provision, which permits states to exempt up to 20 percent of the caseload from the time limit (modifications to section 405(b)(3) of SSA). Parents affected by a five-year time limit are precisely those least likely to find a private sector job. Under current System those who would Only one-third of those parents reaching a five-year time limit have a high school degree; a recent study found that three-quarters of the jobs available in low-income areas require a high school diploma. A number of studies have found that there are two to three unemployed workers for each vacancy. NO

The Administration strongly supports the provisions in the House bill which allow states to provide non-cash assistance to children who lose their benefits due to the time limit (section 405(a)(6)). Some families cut off by the time limit are likely to turn to homeless shelters and food pantries, at substantial cost to state and local governments. The House provision would allow, but not require, states to provide assistance to these children in the form of vouchers (usable only for particular goods and services) or direct payments to providers of such goods or services. The provisions in the House bill also apply to those whose benefits have been affected by the family cap and minor parent provisions.

III. II. Promoting Parental Responsibility

Government programs should reflect the values of work, responsibility, and opportunity. But in order to end welfare as we know it, we must have real, fundamental change that helps move people from welfare to work, encourages responsible behavior, and sends a strong message to the next generation that people should not have children until they are ready to care for them. Welfare reform means requiring parental responsibility, not punishing children for their parents' mistakes. We must take strong action to address the problem of teen pregnancy, but we should not give up on teenage parents and their children.

(A) Minor Mothers

True reform should make it easier for poor children to grow into productive adults -- not harder. Teenage parents should not be denied assistance -- instead, help should be conditioned on their staying in school, living at home, and moving towards self-sufficiency. The Administration strongly supports requiring young parents to act responsibly and providing them with guidance to become better parents. To this end, the Administration supports the minor parent provisions in the Senate bill (modifications to section 406(d) of the SSA). These provisions would require teen parents to live in adult supervised settings, while ensuring that they are protected from remaining in abusive situations, and funds "Second Chance" homes for those who have no other option. Conversely, the Administration strongly opposes the House provision that requires states to deny cash assistance to teen mothers (modifications to section 405(a)(5) of the SSA). There is no evidence that such a provision would have a significant deterrent effect on out-of-wedlock childbearing among teens. Moreover, at a time when we are seeking to provide states with greater flexibility to tailor their own welfare programs, the federal government should not mandate who may or may not receive assistance in each state.

(B) Family Cap

The Administration opposes placing conservative restrictions on states such as the mandatory family cap of the House bill. It supports the provisions in the Senate bill (modifications to section 406(c) of the SSA) which gives states more flexibility, not less, on this issue. Family cap provisions are currently being tested under waiver authority in several states. Preliminary results from the evaluation of the New Jersey family cap policy are not promising. This research finds that during the first 12 month period of implementation, 6.9 percent of AFDC mothers subject to the family cap gave birth to an additional child, whereas 6.7 percent of AFDC mothers not subject to the family cap gave birth to an additional child. This small difference is not statistically significant. The Administration does not believe that these results and the mixed evidence from earlier research warrant the mandatory implementation of such a policy. However, as these results are preliminary and there is much more to

no

decide for themselves

learn about this policy's impact, the Administration supports allowing states to continue to operate a family cap policy on a voluntary basis.

(C) Child Support Enforcement

The Administration is supportive of provisions in both the Senate and House bills which incorporated all of the major proposals for tougher child support enforcement that the Administration demanded. These include streamlined paternity establishment, new hire reporting, license revocation, uniform interstate child support laws, and computerized state collections.

The differences between the bills are, for the most part, technical in nature. In general, the Administration prefers the Senate version which is somewhat more comprehensive and corrected some of the technical drafting errors that were in the House bill. There are, however, three important issues that the Administration is concerned about:

- The House bill contains a provision that would subject 3.2 million children to reduced benefits because paternity has not been established, even if the mother has fully cooperated in paternity establishment efforts and the state was at fault for not establishing paternity. The Administration opposes that House provision.

- The Administration opposes the House bill mandate that prohibits states from passing through and disregarding any child support payments and are concerned that both bills eliminate the $50 pass-through for child support.

- The Administration strongly supports the House provision which adopts a "children first" priority for all child support arrearages paid to the family after they have left welfare. This provision increases the economic security of families that have left welfare and helps prevent them from returning to welfare. The Senate bill does not adopt a "children first" priority in all cases. It allows the state to have first priority for child support payments owed for the period before the family went on welfare.

The Administration strongly opposes efforts (as reflected in the Senate Finance Mark) to achieve federal savings by charging families not on welfare a 10 percent fee for child support collected. This is nothing more than a new multi-billion dollar tax on single parent families.

(D) Illegitimacy Bonus

Welfare reform should not become entangled in the politics of abortion. While the Administration strongly believes we must reduce out-of-wedlock childbearing, we do not support the use of a bonus to states who reduce their "illegitimacy ratio." It would be nearly impossible to implement the policy as written in either the House (modifications to section 403(b)(2)of the SSA) or Senate (modifications to section 406(f) of the SSA) bills because there is insufficient and unreliable data. The marital status of mothers is not directly reported in the 6 states of California, Connecticut, Michigan, Nevada, New York and Texas. Abortion data was not reported by 10 states, including California, Connecticut, Florida, and Illinois. Furthermore, abortions are measured according to location of provider, not residence of patient. Thus, a state like New York could fail to qualify for the bonus simply because the number of out-of-state patients going to New York for abortions had increased. Finally, there is currently a three year lag in data on births and a four year lag in data on abortions. These lags are particularly problematic in the House bill, which would measure births in one period and abortions in a different period. Given the inadequacy of the data, it would not be possible to determine if a state reduced its illegitimacy ratio by increasing its abortion rate.

(E) Abstinence Education

The Administration firmly believes that abstinence education is a critical component of reducing adolescent and nonmarital childbearing. However, it is critical that abstinence education target males as well as females. The Administration has great concerns about the approach in the Senate bill (section 1311) which utilizes a set-aside from the Maternal and Child Health Block Grant for this purpose. This provision would constrain the use of maternal and child health funds by states. During a time when mothers' and children's health needs are increasing, it decreases the ability of states to meet the health service needs of low income mothers and children. To prevent these health needs from escalating, additional funding is necessary for abstinence education.

IV. Ensure Protections for Legal Immigrants

Pending CUR mtg.

(A) Deeming Beyond Citizenship and Affidavit of Support

The House bill would require sponsor deeming in almost all federal and state needs-based programs, including Medicaid until the immigrant naturalizes (modifications to section 401 of the SSA). The policy would apply to current as well as future recipients. Under the Senate bill, states determine whether or not noncitizens will be eligible for means-tested public assistance and, if they are eligible, the states would be required to deem. Under the Senate bill, current immigrants would be subject to 5 years of deeming while future immigrants would be subject to deeming until they have worked for 40 qualifying quarters -- defined as quarters in which the immigrant paid payroll taxes and had income tax liability -- even if they become U.S. citizens (section 503(a)(2)).

Both House and Senate welfare reform bills would require sponsors to sign legally-binding affidavits of support for the immigrants they sponsor. Under the House bill, these affidavits would be in effect until citizenship. Under the Senate bill, the affidavits would last for the 40 qualifying quarters described above. Both bills also would expand amounts deemed to 100 percent of a sponsor's income, and eliminate the current law deeming exemption for those who become disabled after entry into the United States.

The Administration does not favor the application of severe deeming restrictions to a broad range of means-tested programs as proposed in the House and Senate welfare reform bills. Such restrictions could endanger public health and safety. We also have deep concerns about proposals to apply deeming rules to programs like Medicaid. The Administration favors a 10-year or citizenship deeming policy, whichever comes first, targeted to only AFDC, SSI and Food Stamps. This policy should be applied prospectively and not to current immigrants. The Administration favors a policy of committing sponsors to assuming responsibility for immigrants' needs and seeking reimbursement from sponsors if the immigrants are found eligible for Medicaid and receive services. The current law exemption for persons who become disabled should be retained. The broadly-based deeming rules proposed by the House and Senate would add new and significant administrative burdens to states and service providers.

The Administration strongly opposes the provision in the Senate bill (section 503(a)(2)) that would deem sponsored immigrants beyond the time they become ~~U.S. citizens. This policy would create~~ two classes of U.S. citizens which, as Vice President Gore has said, would be "unfair, un-American and this Administration will fight hard to oppose it." While we defer to ~~Attorney General Reno~~ DOJ in this area, we are concerned that this policy could draw legal challenges on constitutional grounds. NO CITE DOJ letter

The Administration strongly supports making the affidavit of support legally binding. We prefer the House language whereby the sponsorship affidavits are in effect until the immigrant naturalizes, with Senate bill exemptions. We oppose the Senate language making the affidavit of support binding beyond citizenship for the reasons stated above. The Administration also has concerns about deeming 100 percent of a sponsor's income because sponsors need to support themselves and their families as well as the immigrant. We prefer retaining the current deeming formula.

(B) Programs Barred to Most Immigrant and Immigrants Subject to the Bar

The House bill would make most current noncitizens ineligible for the 5 major needs-based programs: Medicaid, food stamps, SSI, and the AFDC block grant, as well as the Social Services Block Grant (modifications to section 402 of the SSA). Exceptions would be made for refugees who have been in the country for 5 years or less (but not asylees), legal immigrants over age 75 who have lived in the U.S. for over 5 years, and immigrants too disabled to pass the naturalization exam.

The Senate bill (section 505) would make future immigrants ineligible for five years for most needs-based assistance funded by the federal government, including those programs mentioned above. States would have the option to deny benefits to noncitizens under means-tested programs like food stamps, Medicaid, and the AFDC block grants. However, noncitizens would be eligible for some programs such as foster care and adoption assistance, emergency medical care, disaster relief, soup kitchens, Head Start, immunizations, WIC, and child nutrition under the Senate bill. The Senate bill also would exempt victims of domestic violence, and refugees and asylees for the first 5 years after entry.

The Administration does not support proposals that make noncitizens broadly ineligible for assistance across a wide range of programs when, in many cases, no sponsors have committed support. The Administration would strongly prefer controlling immigrant use of means-tested benefits by strengthening sponsor deeming under the terms noted above.

The Administration also supports exempting refugees and asylees from benefit limitations imposed on other noncitizens. In addition, we recommend that refugees, asylees and others who are victims of persecution, such as Cuban nationals paroled into the U.S. for compelling humanitarian reasons, be generally exempt from benefit limitations proposed for other immigrants, for example, deeming or requirements for legally binding affidavits of support.

(C) SSI Eligibility

The Department defers to the Social Security Administration for a full discussion of views concerning SSI and noncitizens. SSI receipt conveys access to Medicaid, however, and we are very concerned about the provisions of both the House and Senate welfare reform bills that would make most elderly and disabled legal immigrants, including those currently receiving benefits, ineligible for both these programs. Instead, we support a policy of restricting eligibility by lengthening the deeming period and applying the new policy prospectively to new legal immigrants whose sponsors have committed themselves to legally-binding affidavits of support.

In general, the Administration favors exemption provisions that would moderate broad SSI and Medicaid eligibility exclusions. We favor the House provisions (section 403(b)(2)) to exempt immigrants who are either too disabled to naturalize or who are over age 75 with 5 years of U.S. residence. We also prefer the Senate provisions (section 504(a)) which exempt a number of categories of noncitizens, among them asylees and persons working enough years to qualify for Social Security.

(D) Verification of Illegal Immigrants

Under current law, 4 federal programs are required to verify the immigrant status of applicants. The Senate bill (section 507) specifies that most federal benefits would be denied to illegal immigrants, and it imposes verification procedures on a large number of new programs. Even programs for which illegal immigrants are eligible (emergency Medicaid, disaster assistance, education, school lunch, child nutrition, and WIC programs) would still be required to verify the immigration status of participants.

The Administration favors the House bill which does not mandate new verification procedures. Many discretionary programs do not now verify immigration status as a condition of eligibility, and if all means-tested programs were required to verify alienage, local service deliverers would have to expend significant amounts of administrative resources on verification procedures rather than services. There is no evidence that such procedures would be cost-effective or conducive to public health and safety. Preliminary CBO estimates indicate that this amendment would not produce much savings.

(E) 200 Percent Limitation on Sponsors Move up

The Senate bill (section 503 (f)(D)) would impose a new restriction that would only allow sponsors who earn more than 200 percent of poverty to sponsor their relatives to come to this country. The House welfare bill does not have a similar provision. The Administration ~~has strong concerns~~ strongly opposes about the Senate provision and prefers the current policy. If enacted, the Senate bill provisions would prohibit a large number of Americans from reuniting with their family members. More than a third of all Americans have incomes below 200 percent of poverty.

(F) State Option to Deny Benefits to Legal Immigrants

Both the House and the Senate bills give states the authority to determine eligibility requirements for legal immigrants under state programs. The Senate bill, however, prohibits states from enacting more restrictive eligibility rules than federal programs while the House bill subjects state and localities to the same exemptions as are applied to the federal programs. The Administration prefers the Senate provisions prohibiting states from being more restrictive, along with the House bill's exemptions for persons over age 75 and one-year grandfathering for current recipients. We defer to the Department of Justice on concerns about the legal challenges that these provisions may draw.

(G) Reporting Illegal Immigrants

The Administration opposes the provisions in Section 506 of the Senate bill that require the Health and Human Services Secretary, the Commissioner of Social Security, and the Housing Secretary to report illegal immigrants to INS at least 4 times a year. We recommend maintaining current law which generally prohibits health and welfare workers from reporting illegal immigrants to law enforcement agencies. Many immigrant families are of mixed status -- consisting of citizens and immigrants, both legal and illegal. If HHS's mission includes reporting persons suspected of being illegal immigrants, many families would stop bringing their children in for benefits and services. This "chilling effect" would be harmful, affecting the overall health and welfare of families and the communities they live in. Requiring HHS to assume a law enforcement role would undermine our fundamental mission to protect children and families.

NO

V. Effective Operations

(A) Evaluation Funding

The Administration strongly supports the Senate bill provision which authorizes funding for research and evaluation on welfare programs (modifications to section 410 of the SSA). The House bill contains provisions which require and encourage evaluations, but it provides no funding for these activities. The Administration believes that $34 million per year would be required to complete the necessary research activities, rather than the $20 million per year currently in the Senate bill. The amount currently in the Senate bill is roughly equivalent to the level of resources available for conducting demonstrations under Section 1115 and other authorities under current law. More funds will be needed under the new welfare system.

Additional funds will be needed to conduct research that will help states identify effective approaches to reducing welfare dependency and to examine the effects of the welfare reforms on children and families. Because of the significant changes made to the welfare system, it will be critical to learn from the innovative approaches undertaken by the states and understand the effects, benefits, and cost-effectiveness of different strategies. This research will enable states to make well-informed decisions about ways to operate effective programs. In addition, to encourage the continuation of 1115 waiver evaluations and ensure a reasonable return on the state and federal investment made in these projects, the federal government should be in a position to increase its contribution to these projects. The results of these important studies of state innovation will provide timely information on the outcomes and cost-effectiveness of programs emphasizing time limits and work-focused employment strategies. Finally, these funds will provide important resources for identifying and disseminating "best practices" from state welfare programs. This information will provide vital support to states in their efforts to develop effective policies and procedures.

(B) Federal Staffing

The Senate bill contains a requirement that the Secretary analyze federal staffing needs under the new legislation, and that staff be reduced in accordance with the needs (Title XII). It further specifies that 75 percent of both the FTEs working in AFDC, JOBS, and related programs as well as departmental managerial positions be eliminated. The Administration strongly opposes these provisions.

Appropriate levels of federal staff are necessary to ensure accountability and effective implementation under the bill, and to carry out the many new tasks assigned to the Secretary by the bill. The Administration recommends that the staff analysis requirements in the Senate bill be retained, but that the specific percentage and numerical targets be eliminated.

(C) Secretary's Responsibility and States' Fiscal Accountability

Both bills envision great flexibility for the states and contain general prohibitions on the Secretary's authority to regulate the conduct of states. Presumably, the Administrative Procedure Act and underlying audit legislation continue to require that reasonable standards be established and published concerning the procedures and guidelines which will be applied in implementing those requirements of the law which impose responsibilities upon the Secretary, e.g., computation of bonuses, supplemental grants, and penalties. The Administration is concerned that, while states will have maximum discretion to operate their programs, fiscal accountability for use of federal block grants must be preserved. The Administration strongly supports the provision for a program-specific audit in the Senate bill (modifications to section 408 of the SSA). The Administration also recommends that the Secretary should have specific authority to ~~regulate~~ the maintenance of effort and the administrative cap provisions of this legislation in order ~~to ensure accountability~~.

(D) Data Collection

The Administration supports the provisions in the Senate bill (modifications to section 409 of the SSA), which require data on the assistance provided and the families served to be collected on a disaggregated basis (where a set of characteristics is collected for each case). In contrast to the aggregated data required by the House bill, this method of collecting data allows for a comprehensive understanding of the interactions between the characteristics of the caseload and the assistance received. For example, both the number and characteristics of individuals becoming employed could be examined if data was collected using the Senate method, while only an overall number of employed individuals would be available if the House method were used. While aggregated data allows basic statistics to be computed, it does not allow interested parties to gain an in-depth understanding of program operations or to learn about ways in which the program could be improved. (?)

(E) Grants to Tribes

The Senate bill contains authority for tribes to receive an allocation to operate their own temporary assistance programs. The Administration supports this provision, as it recognizes the sovereign authority of tribes and the special needs of tribal people. The Administration recommends that the law makes clear that tribes should receive a continued share of state funding, and an appropriate share of administrative costs. Several aspects of the operation of this program also need to be clarified.

(F) Administrative Cost Cap

The Administration supports the House bill which is silent on the issue of spending for administration under the temporary assistance block grant. The Administration believes that under this block grant, there can be no enforcement mechanism to limit what states spend for administrative activities and overhead. The Senate language sets a 15% cap on the amount of the block grant that states can spend for administrative activities and overhead (modifications to section 403(b)(1) of the SSA). However, these restrictions only would limit state use of the federal funds, not state use of their own funds spent under the program. States would be able to spend as much of their own state funds as they want on administrative costs and overhead. Since the Senate provision would not achieve its purpose of controlling state spending for administration, the Administration recommends that this language be deleted from the conferees' bill.

(G) Additional Emergency Assistance Funds

The Senate bill establishes that the family assistance grants, after reductions for tribal set asides and performance bonuses, be increased for states that amended their EA state plans during FY 1994 (modifications to section 403(a)(2)(A) of the SSA). The state allocation of up to $800 million over 5 years to cover additional Emergency Assistance expenditures would take into account each state's proportion of total Emergency Assistance payments made to the eligible states for FY 1995. The Administration opposes this EA bonus for selected states. Instead, the funds should be added to the Contingency Fund for states that have greater assistance expenditures due to economic downturns.

States have in recent years dramatically expanded EA benefits and services, producing a concurrent expansion in federal expenditures. Much of this expansion is attributed to states shifting program costs from a broader and broader range of state expenditures. Recently, for example, some states have begun claiming federal EA funds for benefits and services provided at state or county-operated correctional facilities or group homes. Establishing state allocations under the block grant based upon FY 1994 expenditures for programs under the block grant is based upon relative federal expenditures at a particular point in time. Letting states that amended their EA plans receive an additional bonus, however, rewards them for recent cost-shifting and arbitrarily advantages states that happened to have amended their EA plans during FY 1994. This provision also allows these states to attempt to enlarge their proportion of the EA bonus pool and, thus, their individual state allocation by claiming additional FY 1995 expenditures retroactively. (States have two additional years to claim reimbursement for expenditures in a particular year.) Under the Senate provision, these EA bonuses would be paid out for five years. Shifting the EA bonus funding to the contingency fund would ensure that this additional funding is made available to states where the economies have worsened and where there really is more net spending on assistance for needy families.

(H) County Demonstration Projects

The Administration opposes the provision in the Senate bill (modifications to section 413 of the SSA) which allows counties that meet specified criteria to operate a temporary assistance block grant program. If implemented, this provision would create large administrative complexities. Many cities would be operating their own welfare programs and, in some cases, a single city, such as New York, could be operating several different programs, one in each of its boroughs. Each operating entity could establish its own rules regarding benefit levels, services provided, duration of time limits, definitions of eligible family, etc. The differences would dilute whatever clear signals recipients should be getting about family responsibility and moving to work and self-sufficiency, resulting in unintended effects on recipients. The complex data system requirements for tracking the recipients within one state with regards to benefits and services received would be greatly compounded. There would be serious waste of administrative staff as each level of government duplicates functions such as budget and finance officers, auditors, intergovernmental relations, legislative liaisons etc. as well as program directors and staff. Finally, although this section is called a demonstration, the legislative language

7

contains no language that would ensure that this would be evaluated.

VI. Other Issues

(A) Eligibility for Elderly in the SSI Program

Changes in eligibility affect SSI as well as Medicaid. While SSA will be submitting their own views letter, the Administration opposes the Senate provision (section 251) that would permanently link the eligibility age for SSI to the eligibility age for Social Security retirement benefits. Not only would this change raise the age for cash benefits from 65 to 67 gradually from 2003 through 2025 under current law, but any future changes in Social Security automatically would effect SSI. The Administration is concerned about the resulting affect on the age for entitlement to Medicaid. The Administration is opposed to making such a fundamental change in the eligibility criteria of the SSI program, especially considering the potentially more far-reaching effects on eligibility to other programs, without consideration and debate.

(B) Drug Addicts and Alcoholics

The Administration would prefer a combination of the features of the House (section 201) and Senate (section 600) bills regarding Supplemental Security Income benefits for drug addicts and alcoholics. For most provisions the Administration favors the House bill, but the Senate's approach to applying the actions to current recipients is preferred. In addition, while the Administration favors the House's substance abuse treatment funding levels, it would be preferable to put the funds into the Substance Abuse Prevention and Treatment Block Grant (as is done in the Senate bill), rather than into the Capacity Expansion Program and medications development research as is done by the House bill. In both bills the treatment money is directly appropriated by this legislation.

(C) Waiver Policy

The Administration supports the language in the Senate bill permitting a state with a waiver, granted under Section 1115 or otherwise affecting its AFDC program, to either continue operating its family assistance program under the waiver or to terminate the waiver (modifications to section 412 of the SSA). This provision would give states the flexibility to continue some waivers that were granted as part of a demonstration project, while terminating others. As discussed above, the Administration also supports inclusion of the Senate language encouraging states to continue operating under waivers and to evaluate the impact of such waivers. To increase states' incentives to continue their waivers, the Administration recommends that the waiver provisions in the Senate bill be amended to allow states who choose to do so be held harmless for cost neutrality liabilities. Currently, only states who terminate their waivers are held harmless for these liabilities.

(D) Sunset Provisions

The Administration supports the provision in the Senate bill which ends the family assistance block grant program after FY 2000 (section 112(c)). Given that this program is an untried and untested policy that could have serious consequences for a large number of poor children and families, it is critical that we reassess the effects of these policies before they are permanently implemented. This

Are we sure

provision would provide an important opportunity to make necessary alterations to the program that could improve its effectiveness.

(E) Consulting with Local Government and Private Sector Organizations

The Administration recommends adoption of the provision in the Senate bill requiring the state to consult with local governments and private sector organizations in designing its Family Assistance program (modifications to section 402(a)(7) of the SSA). Such consultation would be critical to developing a Family Assistance program that is responsive to the particular needs and circumstances of different local areas and that helps recipients in each of these areas to move from welfare into private sector employment.

(F) Disclosure of Receipt of Federal Funds

The Administration opposes the provision in the Senate bill requiring an organization that receives federal funds under the bill to disclose that fact in any advertising intended to promote public support or opposition to any policy of a federal, state, or local government (section 110). This requirement, which does not apply to recipients of federal funds under other programs, nor to federal contractors, represents an arbitrary and inappropriate mandate on these organizations.

(G) Displacement Provisions

The Administration strongly supports the provisions in the Senate bill, which prevent states from placing individuals in work activities that displace certain other workers (modifications to section 404(e) of the SSA). Individuals cannot be assigned to a work activity when an individual is on layoff from the same or equivalent job or when the employer has terminated the employment of any regular employee in order to create a vacancy. Because welfare recipients may be available to a employer at a lower cost -- because the wage is subsidized or the individual is working in exchange for their grant -- this requirement protects employees from being unfairly replaced by welfare recipients.

Strong enough

technical fix
out enforcement

VII. Summary

The Administration believes the current welfare reform effort can be improved by including provisions from both the Senate and House bills in the final bill. This document outlines our recommendations in a number of critical areas. In addition, we have attached a summary of the operational and technical issues that also should be taken into consideration in the final development of the bill.

SSA

DRAFT

Dear Conferee,

The Administration has significant concerns about several Supplemental Security Income (SSI) issues and one broader issue affecting all program benefits in the welfare reform legislation. The House bill is particularly onerous in its impact on children with disabilities. The provisions of the House bill would eliminate cash SSI benefits for as many as 600,000 children in the fifth year of the bill (Fiscal Year (FY) 2000). The Senate bill is an improvement in that the number of children denied cash benefits would be reduced to 250,000 in FY 2000. We would urge that the provisions of the Senate bill eliminating the double counting of maladaptive behavior be the only change in eligibility requirements to be retroactively applied to children with disabilities. This would preserve cash SSI benefits for an additional almost 55,000 children with disabilities.

Secondly, the Administration would urge that pass-along provisions be retained so that maintenance of effort requirements would continue to require existing state supplements to augment federal SSI benefits in high cost states. If these maintenance of effort requirements are eliminated 2.9 million beneficiaries could have their benefits substantially reduced.

Third, deeming provisions for non-citizens should not be applied beyond citizenship. Once a person attains citizenship status that status should include all the rights of citizenship. We question the constitutionality of doing otherwise.

Fourth, the age of eligibility for the Supplemental Security Income program should not be conformed to age increases currently in place to determine retirement age under the Social Security program. There is no provision of an early eligibility age for SSI. By comparison, under the Social Security program individuals can retire several years early and the majority of those receiving Social Security have opted to do so.

Below is our discussion of the provisions in the bills, in the order of their appearance in the bills.

<u>Noncitizen Eligibility for SSI Benefits</u>

Both <u>section 403</u> of the House bill and <u>section 202</u> of the Senate bill generally would prohibit noncitizens from being eligible for SSI with certain exceptions.

Under section 403 of the House bill, noncitizens in the following categories could be eligible: refugees during the 5-year period after their admittance to the United States; lawfully admitted permanent residents over age 75 who have resided in the United States for at least 5 years; active duty Armed Forces personnel, honorably discharged veterans, and their spouses and dependent children; and, lawful permanent residents who cannot take the naturalization examination because of physical or developmental disability or mental impairments. Noncitizens on the SSI rolls at the time of enactment who would not be in one of these excepted categories could remain eligible for SSI for 1 year after the date of enactment.

Under section 202 of the Senate bill, these noncitizens could be eligible: refugees, asylees, and individuals who have their deportations withheld. (Eligibility for such individuals would be limited to the 5-year period after their arrival in the United States); noncitizens who have worked and have sufficient quarters of coverage to be fully insured for Social Security benefits; and, noncitizens who have been battered or subjected to extreme cruelty. Noncitizens on the SSI rolls at the time of enactment who would not be in one of these excepted categories could remain eligible for SSI until January 1997.

Both bills end eligibility for noncitizens already on the SSI rolls beyond January 1997 and would result in significant numbers of non-sponsored aged, blind, and disabled individuals losing SSI eligibility. However, since the House bill would make exceptions for certain elderly and disabled noncitizens, we would prefer it over the Senate provisions if modifications were made to add asylees and individuals who have had their deportations withheld to the list in section 403 of exempted noncitizens who could be eligible for 5 years after their entry.

In addition, we have a number of technical concerns with these sections and would be willing to work with the Conference Committee in addressing our concerns. For example, the provision in the House bill to exempt individuals too disabled to take the naturalization examination does not appear to be necessary. Section 312(b)(1) of the Immigration and Nationality Act already provides an exemption for persons with disabilities. Thus, such individuals could become citizens without taking the naturalization test as long as they meet the other citizenship requirements--i.e., lawful permanent residence for 5 years and filing naturalization applications.

In the Senate bill, we would support an amendment with respect to treatment of refugees, asylees, and noncitizens whose deportations are withheld who adjust to lawful permanent residence status after entry. We believe that the status under which the noncitizen was admitted into the United States should continue to be the status used to determine eligibility for benefits during the 5-year period. Otherwise there would be a disincentive for any affected noncitizen to seek adjustment in his or her status.

The Senate bill also needs clarification in regard to the exception to ineligibility for SSI for noncitizens who are fully insured for Social Security benefits and its relationship to the provision requiring the deeming of sponsors' assets until the noncitizen has worked for 40 quarters in the United States. The number of quarters of coverage needed to be fully insured is based on how many quarters elapse between the quarter the individual becomes aged 21 and the quarter in which he or she becomes disabled or reaches age 65. The maximum number of quarters needed is 40. However, a young individual who became disabled shortly after his or her 21st birthday could become fully insured with as few as 6 quarters. Thus, if such an individual were a noncitizen, he or she could become eligible for SSI benefits. However, if he or she entered the United States on the basis of a legally enforceable affidavit of support, the sponsor's assets would be deemed to him or her for 40 quarters even though he or she was fully insured. We would prefer the Senate provision with an amendment to provide that deeming would also end when the immigrant is "fully insured" or with citizenship.

First year administrative costs of these provisions are estimated at $44 million. The provisions are expected to produce annual administrative savings of about $40 to $50 million as a result of fewer alien applications and associated post-entitlement workload reductions.

Deeming of Sponsors' Income and Resources

Both bills also contain provisions with regard to the deeming of sponsors' income and resources in determining SSI eligibility and benefit amount. Section 421 of the House bill would provide that in the case of new legally enforceable affidavits of support, deeming would apply until the noncitizen became a U.S. citizen. Under section 502 of the Senate bill, the deeming period would be for 5 years or, as specified in the new legally enforceable affidavits, until the alien earns 40 quarters of coverage in the United States regardless of whether he or she becomes a U.S. citizen, whichever is longer.

Deeming has been shown as an effective way of holding sponsors responsible and we support strengthening that responsibility as reflected by the extended deeming provision in the Administration's welfare reform bill last year. However, we have strong reservations about both bills because they would repeal the current-law exemption from deeming for sponsored noncitizens who become blind or disabled after entry and change the current-law deeming formula so that the needs of the sponsors' families are not taken into account. In addition, virtually all sponsored aliens on the rolls at the time of enactment would lose eligibility under the Senate bill as of January 1, 1997. However, the new deeming rules would have to be applied to them for the period between enactment and January 1997. This would be a significant administrative workload requiring the identification of all sponsored noncitizens currently exempted from sponsor-to-alien deeming--for example, parolees and disabled immigrants--for whom we have no information about their sponsors' incomes and resources. **For this reason, we would prefer that the new deeming rules would apply only to new applicants for SSI benefits.**

We are strongly opposed to continuing deeming of the sponsor's income and assets beyond citizenship. Because discrimination between citizens on the basis of national origin, even by the federal government, is in general subject to strict scrutiny, this section may be subject to a constitutional challenge as applied to naturalized aliens, who may be ineligible, solely because of their former status as aliens, for benefits to which other citizens are entitled. However, the section might be defended on the grounds that it merely regulates the process of naturalization, by making persons who intend to become citizens ineligible for certain benefits, even after their naturalization. On that theory, the section might be upheld as a valid exercise of Congress' power over immigration. We are unable at this time to opine definitively on the constitutional issue presented.

Affidavits of Support

We support making affidavits of support legally enforceable contracts. However, we do not believe that SSA should promulgate reimbursement rules, as required in section 503(d)(3) of the Senate bill, for other government agencies that administer means-tested benefits. We prefer the approach in the House bill which requires the Attorney General's to promulgate reimbursement rules for all government agencies. The Senate bill would permanently bar SSI eligibility for most lawful permanent residents--the bulk of immigrants with sponsors--who could be eligible for SSI. Therefore, it is likely that there would be very few cases in which SSA would be seeking reimbursement. It is more likely that other programs will be more affected by this requirement than SSA.

Drug Addicts and Alcoholics

The Administration does not oppose the elimination of all SSI benefits to individuals whose drug-addiction/alcoholism (DA/A) is a contributing factor material to their disability as required in both section 601 of the House bill and section 201 of the Senate bill. Neither do we oppose the provisions in section 201 of the Senate bill requiring that SSI disability recipients identified as having a DA/A condition be referred to substance abuse treatment and receive their benefits through a representative payee. We have major concern about administrative costs associated with these last two proposals. It is critical that additional funding be provided or these requirements be eliminated. We estimate that the administrative costs associated with these two provisions alone exceed $1.6 billion to review currently eligible recipients and an additional $1 billion over the next five years for new applicants.

Also, the provision concerning treatment for current recipients is unclear in its application. We prefer that the provision be effective at the date of the individuals' first continuing disability review occurring after the date of enactment, parallel to the representative payee provision.

Childhood Disability

Both section 602 of the House bill and sections 211 and 212 of the Senate bill would tighten eligibility criteria for SSI children by repealing the comparable severity standard and eliminating the individualized functional assessment and would require continuing disability reviews in SSI childhood disability claims. The administrative costs associated with these provisions over the next 5 years total about $470 million for the House bill and approximately $670 million for the Senate bill.

We strongly oppose the House provisions that would eliminate most prospective cash benefits in favor of block granted services. This provision essentially punishes innocent children--as many as 600,000 fewer children with disabilities would receive cash benefits in FY 2000. Cash benefits are superior to block-grant services in several regards. For instance, cash benefits provide greater flexibility to meet the varied and changing needs of children with disabilities; cash benefits support and preserve the capacity of families to care for children with disabilities in their homes; and cash benefits provide a means for the parents of children with disabilities to determine the needs of their children, rather than to place this judgement with a government agency that is ill equipped to make such a determination.

Additionally, the intent of this proposal--to provide necessary services and treatment--would likely not be met for two reasons. First, it is impossible to foresee every possible service that a disabled child might require. And, second, States would be allowed to pick and choose from the list of "authorized services" which services they would offer and to determine which "qualified children" could receive them. Therefore, we would be unable to ensure that children with disabilities, our most vulnerable population, would be treated fairly and equally in this nationwide program.

In addition, we oppose the House provision which would codify one narrow section of SSA regulations into law as the new definition of disability. This provision would deny SSA the ability to adapt its rules to improved medical practices and changing circumstances.

We much prefer the Senate provision that establishes in law a new general definition of childhood disability that also eliminates references in regulations to maladaptive behavior. We would prefer these changes to apply prospectively, except for children who have conditions such as a personality disorder, a conduct disorder, an oppositional defiant disorder, or an attention deficit hyperactive disorder. Conditions such as those cited commonly involve maladaptive behavior and are representative of claims that have been problematic. For children with such conditions, eligibility would be redetermined during the specified timeframe; the remaining childhood recipients would be subject to periodic continuing eligibility reviews. In addition, if at the time of such review, it is determined that the child's eligibility was based on maladaptive behavior, the child's eligibility would be redetermined under the new standard.

While we do not oppose the efforts to require continuing disability reviews, we are concerned that these additional workloads would over-stress SSA's limited resources. We favor the Senate version of this provision, which makes clear that the current medical improvement standard applies to these reviews; although we would rather drop the provision requiring that a parent or guardian present evidence of "medically necessary" treatment, since this concept is not well defined and would be difficult to enforce. Finally, neither the House nor Senate versions provides sufficient time to issue regulations. Therefore, we prefer a modification to authorize 12 months to issue implementing regulations.

<u>Applicability of Medicaid Rules Regarding Counting of Certain Assets and Trusts</u>

<u>Section 602(c)(4)</u> of the House bill would require that the SSI program treat trusts and disposal of assets in the same way as they are treated in the Medicaid program. There is no comparable provision in the Senate bill.

We do not oppose the provision in principle. However, we do not believe that the intent of the provision will be achieved simply by making reference to a section in Medicaid law. If the treatment of trusts is applied in the same manner as under Medicaid law, it would result in the exclusion of many types of trusts which are currently exceptions in the Medicaid program under the rationale that they relate to situations where long-term health care is an issue. The same rationale would not be appropriate with regard to the SSI program which is designed to meet ordinary day-to-day basic needs. In addition, following strict Medicaid rules could limit the number of States in which the provision would apply since States are not required to apply the provision to noninstitutionalized individuals. Further, the provision in the bill is restricted to children under age 18, and only in cases in which the child had control over the trust. It would be appropriate in the SSI program to apply the same treatment to all individuals regardless of age or whether they are institutionalized as long as they are able to benefit from the trust.

Medicaid law provides that each State will make determinations as to whether the disposal of assets provision applies in each case based on the individual situations. If it is intended that the provision in section 602(c)(4) for using Medicaid rules in the SSI program be strictly adhered to, it would mean that States would be making eligibility determinations based on separate State criteria rather than uniform SSI national criteria. We would be willing to provide the conference committee with draft language to perfect the provision so that it will fully achieve its intended goal.

With respect to the disposal of resource provision, while we would prefer that the provision be dropped since experience has shown that individuals do not divest themselves of resources in order to obtain SSI. If dropping the provision is not possible, we would prefer language specifically tailored to the SSI program. We are prepared to provide the committee perfecting language for such an approach.

<u>Reduction of Cash Benefits Payable to Certain Institutionalized Children</u>

According to its title, <u>Section 602(f)</u> of the House bill would provide that the $30 payment standard for persons in certain medical treatment facilities would apply to recipients under age 18 regardless of whether Medicaid or another source pays for their treatment. (Currently, the $30 payment applies to individuals in Medicaid facilities; institutionalized individuals whose care is being paid for by a source other than Medicaid--for example, Medicare--may be eligible for up to $458 a month.) There is no comparable provision in the Senate bill.

In principle, we support the provision but there are technical problems that need to be resolved. The title of the provision indicates that it would apply only to children, but the language of the provision would apply to both children and adults. We suggest that the language of the provision be revised to indicate clearly that the $30 payment limit will now apply to <u>children</u> regardless of the source of payment for their care. (The payment limit will continue to apply only to those adults whose care is covered by Medicaid.) Additionally, because of changes in Medicaid coverage categories over time, the list of facilities in section 1611(e)(1)(B) of current law is no longer applicable. In order to prevent inequitable situations, we strongly suggest as part of the amendment that the specified list of institutions in section 1611(e)(1)(B) be replaced with the term "medical facility" so that the provision would have a broader scope. **This additional portion of the provision will apply to both children and adults.**

We would be willing to provide the conference committee with draft language to perfect this provision.

<u>Repeal of Pass-Along Requirement for State Supplementary Programs</u>

<u>Section 605</u> of the House bill and <u>section 214</u> of the Senate bill would repeal the current requirement for States to maintain their State supplementary payments at certain levels from year to year. This so-called "pass-along" requirement was added to the l·w in 1976 in reaction to some Sta:es' reducing their supplementary payments when SSI cost-of-living increases occurred. The intent of the original pass-along provisions was to assure that individuals would get an annual increase in their SSI/State supplementary payment amount without requiring States to increase their payments.

We oppose the provision and note that repealing pass-along would leave the States free to reduce or eliminate their supplementary payment programs. Although we have no indication as to what States would do with regard to their State supplementary programs if pass-along were repealed, up to 2.9 million aged, blind, and disabled individuals could be affected, some significantly. For example, nearly 400,000 individuals nationwide receive State supplementary payments but not federal SSI benefits. Loss of State supplementary payments in such cases would also mean loss of Medicaid.

<u>Exchanging Information with Law Enforcement</u>

Both bills require SSA to provide law enforcement personnel, upon their request, the addresses of SSI recipients involved in, or who have information concerning parole or probation violations, other criminal activities, or criminal investigations.

We support technical amendments to modify this provision to specify that the request for such information include certain identifying information which SSA would need in order to comply with the request and be in writing from an authorized official of the agency, contain sufficient identifying information to insure that the amount of information that we disclose is as limited as possible, and be based on an order from a court of competent jurisdiction.

Accounting by Representative Payees

The House bill makes no change to the representative payee accounting provision. Section 213(a) of the Senate bill would require SSA to advise representative payees of their responsibilities and would require payees to document expenditures and keep contemporaneous records of expenditures. This section would also would delete the current requirement for annual reports by representative payees and would require SSA to implement statistically valid procedures for reviewing a sample of the contemporaneous records which payees would be required to keep.

We oppose the Senate bill. The Senate provision regarding advising payees of their responsibilities and requiring recordkeeping is unnecessary because these requirements are met by SSA's current policies and procedures. With regard to payee accounting, although the bill attempts to substitute a review of a sample of payees' records, annual accounting by all payees is currently mandated by the Jordan court decision as a means of ensuring due process protections under the Fifth Amendment of the Constitution and would still apply. Thus, the requirement for a sample review would increase the administrative burden on SSA by requiring a different type of review of a sample of unspecified size in addition to the universal annual accounting (which currently costs more than $70 million annually to administer).

Dedicated Savings Account

Section 213(b) of the Senate bill would provide that any lump-sum SSI benefit for a disabled child at the request of the child's representative payee be paid into a special dedicated savings account. Monies in this account could be used only for certain specified purposes. There is no comparable provision in the House bill.

We do not oppose the provision. However, we have a number of technical concerns that we would like to raise with staff for its consideration.

Studies

The Administration does not oppose the requirement in section 223 of the Senate bill that the Commissioner arrange for an independent study of the disability process and the definition of disability. However, we prefer a modification to avoid overlap with the study to be conducted by the National Commission on the Future of Disability. Therefore, the study of disability should be restricted to include the current definition of disability and any research and development by SSA of the methodology for making disability determinations as described in the disability redesign. This should include the identification of a medically determinable impairment(s); the current

Listing of Impairments or the proposed Index of Disability Impairments; any functional measure of ability to work; and the development of baseline work activities.

We do not oppose in section 231 of the Senate bill the creation of a commission on the "future of disability," but we recommend that a separate general appropriation of $2 million be set up to fund the commission since it will cover disability issues throughout *all* Federal programs.

Increased Age Requirement

Section 251 of the Senate bill would increase the age requirement for "aged benefits to correspond with the Social Security program's "retirement age." Beginning in 2003, the age will increase 2 months per year until it reaches age 66 in 2008. A similar transition between ages 66 and 67 will occur between 2021 and 2026. There is no comparable section in the House bill.

We oppose the provision because it could put at risk poor elderly individuals who would lack skills or experience to enable them to be self-supporting at an advanced age. The SSI program and the Social Security program are not comparable. For example, unlike Social Security, SSI has no provision for optional early retirement at age 62.

Prohibition on Payment of Federal Benefits to Certain Persons

Section 507 of the Senate bill provides that certain Federal benefits, including Social Security benefits, would be payable only to persons lawfully present within the United States, whom the provision defines as U.S. citizens, permanent resident aliens, and certain categories of aliens and U.S. nationals. Thus, this section would appear to prohibit the payment of Social Security benefits to aliens who are outside the United States or who have been temporarily admitted to the United States.

These payment restrictions would violate the terms of the bilateral Social Security totalization agreements with 17 foreign countries, including Canada and virtually all of Western Europe. Furthermore, the U.S. has treaties with at least 9 countries which require the U.S. to pay Social Security benefits to foreign treaty nationals inside the United States on the same basis as U.S. citizens. Seven of these treaties require the U. S. to accord this national treatment to foreign treaty nationals whether they are inside or outside the U.S. In addition, under current law, Social Security benefits are payable to aliens outside the U.S. who are citizens of one of the 65 countries whose social insurance system affords reciprocal treatment to U.S. citizens.

Legislation abrogating existing agreements and treaties or otherwise adversely affecting the Social Security benefits of foreign nationals could lead to retaliatory restrictions on the payment of social insurance benefits by other countries to U.S. citizens. Furthermore, it would be unfair to deny Social Security benefits to aliens whose eligibility for benefits is based on earnings from authorized work which were covered under Social Security and subject to Social Security taxes. Finally, if the legislation results in the termination of bilateral Social Security agreements, many U.S. workers and employers will lose the right to foreign Social Security tax exemptions accorded to them pursuant to the agreements. Thus, we strongly oppose section 507 and urge that it be dropped by the Conference Committee.

Battered Individual Exemption

Section 701 of the Senate bill would exempt individuals who have been battered or subjected to extreme cruelty from certain provisions of SSI law. Although we understand that the exemption is intended to apply to the prohibition on eligibility for most noncitizens and as an exception to sponsor-to alien deeming, the bill language also exempts such battered individuals from any of the provisions in section 1614(a) of the Social Security Act, which includes the restriction on benefits to residents of the United States, the age 65 requirement for SSI aged benefits, the statutory definition of disability and blindness, and the so-called medical improvement standard for continuing disability determinations. Thus, the language exempts battered individuals from any of these general eligibility provisions and seems to go far beyond the scope of the other SSI amendments of the bill. We would support the exemption if it were modified to apply only to noncitizens who are otherwise eligible but who would not meet one of the other noncitizen exceptions.

Delinquent Child Support

Section 972 of the Senate bill would provide that non-custodial parents who are more than 2 months delinquent in paying child support are ineligible to receive any means-tested Federal benefits. A non-custodial parent who becomes delinquent in child support a second or any subsequent time would not be eligible to receive any means-tested Federal benefits for a 2-year period.

We oppose this provision with regard to the SSI program. The provision raises questions of due process with regard to suspending benefits. Until the child support enforcement database is fully automated SSA would find it administratively difficult to carry out this provision.

Finally, we would like to point out that implementation of some of the provisions of H.R. 4 will impose additional information collection requirements on SSA that will increase the difficulty of complying with the Paperwork Reduction Act.

In closing, we would be pleased to work with you to improve the SSI program.

Shirley S. Chater
Commissioner of Social Security

* Get SSA's ltr

1 - Non-citizen benefits
- may fall sec Const'l

200% issue → if <200% pov, can't sponsor imm

aged over 75
persecuted refugees
Greenstein: those at risk of homelessness

Office of Legislation and Congressional Affairs
Social Security Administration
Fax Sheet

Date: 10/13/95

Pages: **Cover +** 10

Fax to: Molly Brostrom

Fax number: 456-7028

Phone number: 456-5561

Fax from: **Judy L. Chesser, Deputy Commissioner**
ODCLCA
Phone number: **(202) 482-7148**
Fax number: **(202) 482-7153**

Please contact Paulette Anderson (202) 482-7148 if transmission is incomplete.

Message:

- Non-citizen elig for benefits → +admin costs (screen 1.5M records, notices to 70K)

  would remove sig't #'s w/no other means of support

- Sponsor-to-alien deeming admin

SUMMARY OF PROVISIONS TO CHANGE THE SUPPLEMENTAL SECURITY INCOME PROGRAM IN THE HOUSE- AND SENATE-PASSED VERSIONS OF H.R. 4

H.R. 4--Personal Responsibility Act (House Passed)	H.R.4-Work Opportunity Act (Senate Passed)	Preferred Position
DEFINITION OF DISABILITY FOR CHILDREN--CURRENT RECIPIENTS		
For continued eligibility for cash benefits, must meet or equal the Listings of Impairments. The benefits of recipients who qualified on the basis of an IFA would be terminated. Such recipients would be able to requalify for SSI benefits if they are subsequently determined to have an impairment which meets or equals the listings. No provision.	Must have a medically determinable physical or mental impairment which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted for a continuous period of not less than 12 months. Would require the Commissioner, within one year after date of enactment, to redetermine the eligibility of any recipient receiving benefits on enactment date and whose benefits may terminate by reason of these amendments. The medical improvement review standard (MIRS) would not be applicable; instead, the eligibility criteria for new applicants for benefits would apply. These redeterminations would be given priority over other types of reviews. These amendments would apply with respect to benefits for months beginning on or after 01/01/97.	Support Senate provision, modified to apply the changes prospectively, except for those children who have a condition such as a personality disorder, a conduct disorder, an oppositional defiant disorder, or an attention deficit hyperactive disorder. For these children, redeterminations, using the new childhood definition of disability, would be made, within the specified timeframe. All other childhood recipients would be subject to periodic eligibility reviews. In addition, if at the time of the review, we determine that the child's eligibility was based on maladaptive behavior, the child's eligibility will be redetermined based on the new standard.
DEFINITION OF DISABILITY FOR CHILDREN--NEW APPLICANTS		
To be eligible for cash benefits, must (1) meet or equal the listings and (2) be either institutionalized or would be required to be institutionalized if not receiving personal assistance. Those applicants who meet or equal the listings but do not meet the above requirements would be eligible for services under the SSI block grant program (discussed later in this document).	Same as current recipients.	Support Senate provision.
IMPAIRMENT EVALUATION--COMPARABLE SEVERITY STANDARD		
Repealed	Repealed.	No Conference issue
IMPAIRMENT EVALUATION--INDIVIDUALIZED FUNCTIONAL ASSESSMENT		
Eliminated.	Eliminated.	No Conference issue
IMPAIRMENT EVALUATION--DOMAINS		
No provision	Would delete references to maladaptive behavior in the domain of personal/behavioral function in sections 112.00 C.2. and 112.02B.2c(2) in the listing	Support Senate provision.

SSA/ODCLCA
10/4/95

H.R. 4--Per Responsibility Act (Passed)	H.R.4-Work Opportunity Act (e Pa	Preferred Posit
IMPAIRMENT EVALUATION--LISTING OF IMPAIRMENTS		
Directs the Commission on the Evaluation of Disability in Children to review the childhood mental impairment listings to ensure that they are appropriate and that only children with severe disabilities would be eligible for benefits.	Would delete references to maladaptive behavior in the domain of personal/behavioral function in Section 112 and 112.02B 2.c(2) in the listing.	Support Senate provision.
For adjudicative purposes, would freeze the Listing of Impairments which was in effect on April 1, 1994. Directs the Commissioner to submit an annual report to the Congress on the listing of impairments applicable to individuals who have not attained age 18 and to recommend any necessary revisions.	No provision	
CONTINUING DISABILITY REVIEWS (CDRS) AND REDETERMINATIONS		
The eligibility of recipients who have nonpermanent impairments and have not attained age 18 and who are eligible for SSI cash benefits or for services under the block grant program would be determined at least once every 3 years.	Similar to Personal Responsibility Act. In addition, the MIRS would be applicable, and, at the time of the review, the parent/guardian must present evidence that the child is receiving appropriate treatment.	Support Senate provision, modified to eliminate requirement relating to treatment
The eligibility of recipients for SSI cash benefits or services under the block grant program by reason of disability would be redetermined during the one-year period that begins on the date such individual attains age 18. The criteria used in determining the eligibility for such benefits of applicants age 18 and older would be applicable in making such redeterminations. A report to Congress regarding these redeterminations would be due by 10/01/98.	Similar to Personal Responsibility Act, except that a report to Congress is not required.	Support Senate provision.
Repeals provision in P.L. 103-296 pertaining to disability reviews for recipients who attain age 18.	Same as Personal Responsibility Act.	No Conference issue.
The continuing eligibility of a child who is eligible for SSI benefits on the basis of low birth weight would be redetermined after the child has received such benefits for 12 months.	The continuing eligibility of a child who is eligible for benefits on the basis of low birth weight would be redetermined no later than 12 months after the child's birth. In addition, the MIRS would be applicable, and, at the time of the review, the parent/guardian must present evidence that the child is receiving appropriate treatment.	Support House provision. SSA is not an authority on determining appropriate treatment. Also, such a determination would interfere with a family's rights to determine what, if any, treatment their child should receive.
BLOCK GRANT PROGRAM		
Would establish an SSI block grant program beginning FY 1997 to provide medical and non-medical services to children either eligible for cash benefits by reason of disability or would be eligible for such cash benefits except that, although the individual has an impairment that meets or equals a listed impairment, he/she is neither institutionalized nor would be institutionalized if he/she were not receiving personal assistance.	No provision.	Oppose House provision because eliminating most prospective cash benefits in favor of block granted services disadvantages as many as 600,000 or more disabled children in FY 2000. It not only removes the flexibility of the parent to be the primary caretaker but it introduces an impossible responsibility to foresee every possible service that a disabled child might require.
Would provide a "bridge" of cash benefits for individuals who do not qualify for cash benefits under new block grant program.	No provision.	Oppose House provision. However, if block grant program passes, do not oppose. If cash benefits retained, this provision becomes unnecessary
NOTICES		
Individuals whose cash benefits would be terminated under these amendments must be notified within 1 month of enactment.	Individuals whose benefits would be terminated under these amendments must be notified within 90 days of enactment.	Support Senate provision, but modified to give SSA at least 6 months to notify individuals.

H.R. 4--Per[illegible] Responsibility Act ([illegible]e Passed)	H.R.4-Work Opportunity Act (Senate Passed)	Preferred Position
	REGULATIONS	
Would require that regulations needed to implement the amendments be issued within 3 months of enactment.	Would require that regulations needed to implement the amendments be issued within 2 months of enactment.	Support House provision, but modified to give SSA at least 12 months to issue regulations.
	CASH BENEFITS FOR INSTITUTIONALIZED CHILDREN	
SSI cash benefits for all institutionalized individuals covered by either Medicare or private insurance would be limited to $30 per month. Effective 90 days after enactment.	No provision	Support House provision if modified to make it apply specifically to children (rather than all individuals).
	IMPROVEMENTS TO CHILDHOOD DISABILITY PROCESS	
No provision	Would require the Commissioner to issue a request for comments in the <u>Federal Register</u>, not later than 60 days after enactment, regarding improvements in the disability evaluation and determination procedures for individuals under age 18 and to promptly review such comments and issue any necessary regulations not later than 18 months after the date of enactment.	Do not oppose Senate provisions.
	STUDY OF DISABILITY	
No provision.	Would require the Commissioner, not later than 90 days after the date of enactment, from funds otherwise appropriated, to arrange with the National Academy of Sciences, or some other independent entity, to conduct a comprehensive study of the disability determination process, the definition of disability and the medical listings under titles II and XVI of the Social Security Act. Would also require the Commissioner to issue an interim and final report of the findings and recommendations to the President and the Congress not later than 18 months and 24 months, respectively, from the date of the contract for such study.	Do not oppose Senate provision. However, prefer modification to avoid overlap with the National Commission on the Future of Disability. The Study of Disability should be restricted to include the current definition of disability and any research and development by SSA of the methodology for making disability determinations as described in the disability redesign. This should include the identification of medically determinable impairment(s); The current Listing of Impairments or the proposed Index of Disability Impairments; any functional measure of ability to work; and the development of baseline work activities.
	NATIONAL COMMISSION ON THE FUTURE OF DISABILITY	
No provision	Would establish a 15-member National Commission on the Future of Disability, whose expenses would be paid from funds otherwise appropriated for SSA. The Commission would be required to undertake a comprehensive study of all matters related to the nature, purpose, and adequacy of all Federal programs serving individuals with disabilities and to report its recommendations for changes to the President and the Congress. Would require the Commission to submit an interim report, at the end of the first year, to the President and the Congress. This report must include a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative actions. A final report, which discusses both the Commission's final findings, conclusions, and recommendations and an assessment of the extent to which the recommendations contained in the interim report have been implemented, would be required no later than the date on which the Commission terminate--2 years after the date the Chairman and Vice-Chairman are designated by the Commission.	Do not oppose Senate provision, however recommend that a separate general fund appropriation of $2 million be set up to fund the Commission since it will cover disability issues in all Federal programs. Note: Vote divides 5-5-5 (House, Senate, President)

H.R. 4--Personal Responsibility Act (House Passed)	H.R.4-Work Opportunity Act (Senate Passed)	Preferred Position
REPRESENTATIVE PAYEES FOR SSI BENEFICIARIES		
No provision.	Would require that SSA (a) advise representative payees of specific examples of ways to spend SSI cash benefits and the proper role of a representative payee, and (b) require payees to document expenditures and keep contemporaneous records of expenditures.	Do not oppose Senate provision.
No provision	Would remove current requirement for annual reports by payees and would modify current provision for review of reports to apply to a sample of records. Amendments would be effective with respect to benefits paid after the date of enactment.	Oppose Senate provision. The universal accounting mandated by the *Jordan* court to comply with the due process clause of the Fifth Amendment would still apply. Reviewing a sample of records in addition (as required in the Senate bill) would not necessarily better identify potential misusers and would, as an add-on to the present process, increase costs. We prefer to await the outcome of a 2-year OIG study, now almost complete, which will identify which types of payees are most likely to misuse benefits. We expect to receive statistically valid findings to support a proposal to the *Jordan* court for using targeted samples in place of universal annual accounting. Results of the survey are due by the end of 1995.
LUMP SUM RETROACTIVE PAYMENTS		
No provision.	Would provide that any lump sum payment made to a disabled child under the SSI program may, at the request of the child's payee, be paid into a special dedicated savings account. Monies in this account could be used only for education and job skills training, special equipment or housing modifications related to, and required by, the child's disability, or appropriate therapy and rehabilitation.	Do not oppose Senate provision. Seek modification of language to ensure timely and appropriate use of funds, and to prevent the sheltering of additional assets and the misuse of funds by the representative payee.
No provision.	All money paid into this account and interest accrued to the account would be excluded from the determination of the child's resources for purposes of eligibility under the SSI program. Would be effective for payments made after the date of enactment.	

H.R. 4--Per[illegible]l Responsibility Act (House Passed)	H.R.4-Work Opportunity Act ([illegible]te Pa[illegible])	Preferred Posit[illegible]
DRUG ADDICTS AND ALCOHOLICS		
Would prohibit SSI eligibility, including cash SSI benefits and Medicaid coverage, to those individuals whose drug addiction and/or alcoholism is a contributing factor material to their disability.	Same as Personal Responsibility Act	No Conference issue.
No provision.	Would require new and current SSI disability recipients who have a DA&A condition (as determined by the Commissioner) to receive their benefits through a representative payee even after attaining age 65	Do not oppose Senate provision. However, we have major concern about administrative costs associated with such a provision. It is critical that additional funding be provided or this requirement be eliminated.
No provision.	Would require SSA to refer to the appropriate State Agency for substance abuse treatment any beneficiaries receiving SSI disability benefits who have a DA&A condition.	Do not oppose Senate provision. However, prefer modification that referrals for treatment be made as appropriate, and for current beneficiaries that referral for treatment be effective at the date of the first CDR after enactment. In addition, we have major concern about administrative costs associated with such a provision. It is critical that additional funding be provided or this requirement be eliminated.
Would provide appropriations for fiscal years (FYs) 1997 through 2000 of: (1) $95 million for use in carrying out section 1997I of the Public Health Service Act; and (2) $5 million for use in carrying out the medication development project to improve drug abuse and drug treatment research administered through the National Institute on Drug Abuse. The grants would be made to each State which submits an application	Would provide appropriations of $50 million for FYs 1997 and 1998 each for activities relating to the treatment of drug and alcohol abuse under section 1933 of the Public Health Service Act.	Defer to HHS.
No provision.	Would also require notification of all DA&As affected by the provision within 90 days from date of enactment. Any DA&A who wishes to reapply for benefits after such notification would be required to do so within 4 months after enactment, and the Commissioner would be required to make a determination of their eligibility within 1 year after enactment.	Support Senate provision, modified to delete reapplication requirement.
Effective October 1, 1995.	Effective upon enactment for new applicants. Effective 1/1/97 for current recipients.	Support Senate provision.
FRAUDULENT STATEMENTS OF RESIDENCE		
Would deny SSI benefits, for a period of 10 years, to an individual convicted in Federal or State court of having made a fraudulent statement with respect to his/her place of residence in order to receive benefits simultaneously in two States. Effective upon enactment.	Same as Personal Responsibility Act.	No Conference issue.
DENIAL OF BENEFITS TO FUGITIVE FELONS		
Would deny eligibility for SSI with respect to any month in which an individual is a fugitive felon or is violating a condition of probation or parole imposed under State or Federal law. Effective upon enactment.	Same as Personal Responsibility Act.	No Conference issue.

H.R. 4--Per[illegible] Responsibility Act (House Passed)	H.R.4-Work Opport[illegible]ty Act ([illegible]te Passed)	Preferred Posit
FUGITIVE FELONS INFORMATION EXCHANGE		
Would require that the Commissioner release the address of any SSI recipient at the request of a law enforcement officer if the officer furnishes the name of the recipient and notifies the agency that the recipient: o is a fugitive, or o is violating parole or probation, or o has information that is necessary for the officer to conduct his/her official duties, and the location or apprehension of the recipient is within the official duties of the officer and the request is made in proper exercise of such duties. Effective upon enactment.	Same as Personal Responsibility Act	No Conference issue. Seek language clarification to ensure that such disclosures are made only on the basis of an authorized written request at the direction of a court of competent jurisdiction.
EXPANSION OF FEDERAL PARENT LOCATOR SERVICE		
Requires HHS to transmit to SSA, for verification purposes, certain information about individuals and employers maintained under the Federal Parent Locator Service. SSA would verify the accuracy of, correct, or supply to the extent possible, and report to HHS the name, SSN, and birth date of individuals, and the EIN of employers. SSA would be reimbursed by HHS for the cost of this verification service.	Same as Personal Responsibility Act	No Conference issue.
COLLECTION AND USE OF SSNs FOR USE IN CHILD SUPPORT ENFORCEMENT		
To improve the effectiveness of State child support enforcement procedures, States must have in place laws that would require that: (1) the SSN of any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application; (2) the SSN of any person subject to a divorce decree support order, or paternity determination or acknowledgement be placed in the pertinent records; and (3) the SSN of any deceased person be placed in the pertinent death records and be recorded on the death certificate.	Same as Personal Responsibility Act	No Conference issue.
COUNTING OF TRUSTS AND ASSETS FOR DISABLED CHILDREN UNDER SSI		
Would apply Medicaid rules[1] with regard to the counting of trusts and of assets which have been disposed of for less than fair market value to individuals under age 18 who are eligible for SSI benefits. In cases involving trusts, amounts contained in a trust over which the individual has control will be considered assets for purposes of determining SSI eligibility. In connection with the disposal of assets, an individual who has transferred his/her own assets for less than fair market value in the 36 months prior to application for benefits will be found ineligible for SSI for a period of months prior equal to the amount of the transferred assets divided by the amount of the Federal benefit rate for an individual. Effective 90 days after enactment. [1] See page 9 for an explanation of Medicaid rules with regard to the treatment of trusts and the disposal of assets.	No provision	Do not oppose House provision, but will work with staff to perfect language to assure that the provision works in SSI program.

H.R. 4--Per Responsibility Act (Passed)	H.R.4-Work ity Act (te Passed)	Preferred Position
REPEAL OF PASS-ALONG		
Would repeal the current-law requirement Effective on enactment.	Same as Personal Responsibility Act	No Conference issue. Seek effective date modification so that repeal would be effective for months beginning after December 31, 1995. Modification would ensure that States would have a full calendar year (rather than only 9 months) to make up any shortfall from calendar year 1994 in order to be in compliance for calendar year 1994
NONCITIZEN ELIGIBILITY FOR BENEFITS		
Prohibits SSI eligibility for all noncitizens except:	Prohibits SSI eligibility for all noncitizens except.	Oppose both House and Senate provisions. Both would result in significant numbers of non-sponsored individuals being taken off the rolls, many of whom do not have any other means of support. However, prefer House provision if modified to include asylees and noncitizens whose deportations are withheld (eligibility limited to 5 years after arrival) and clarified with regard to LAPRS unable to take the naturalization test.
Refugees (eligibility limited to the 5-year period after their admittance to the United States:	Same as Personal Responsibility Act	
Lawfully admitted permanent residents (LAPR) over age 75 who have resided in the United States for at least 5 years:	No comparable provision.	
Active duty Armed Forces personnel, honorably discharged veterans, and their spouses and dependent children lawfully living in the United States: and.	Honorably discharged veterans and their spouses and dependent children lawfully living in the United States.	Either provision would require SSA to screen nearly 1.5 million records to establish citizen/noncitizen status, and the Senate provision would require SSA to send notices to nearly 700,000 noncitizens currently on the rolls
LAPRS who otherwise qualify for naturalization but who cannot take the naturalization examination because of physical or developmental disability or mental impairments	No comparable provision.	First year administrative costs of these provisions are estimated at $44 million. The provisions are expected to produce annual administrative savings of about $40-50 million as a result of fewer alien applications and associated post-entitlement workload reductions
No comparable provision.	Asylees (eligibility limited to the 5-year period after their arrival in the United States)	
No comparable provision.	Noncitizens who have had their deportations withheld (eligibility limited to the 5-year period after their arrival in the United States):	
No comparable provision	Noncitizens who have worked and have sufficient quarters of coverage to be fully insured for Social Security benefits: and.	
No comparable provision.	Noncitizens who have been battered or subjected to extreme cruelty if the application of the prohibition of eligibility would endanger such individuals	
Would require posting information and general notification to the public and program recipients of the changes regarding alien eligibility for SSI.	Would require notification of all noncitizens affected by the provision within 90 days from date of enactment. Any noncitizen who wishes to reapply for benefits after such notification would be required to do so within 4 months after enactment, and the Commissioner would be required to make a determination of their eligibility within 1 year after enactment	
Effective upon enactment except that aliens eligible for SSI at the time of enactment could remain eligible for 1 year after enactment.	Effective upon enactment except that aliens eligible for SSI at the time of enactment could remain eligible until 1/1/97	

H.R. 4--Per	Responsibility Act (House Passed)	H.R.4-Work Opportunity Act (Senate Passed)	Preferred Position
SPONSOR-TO-ALIEN DEEMING		
No comparable provision.	Repeals current-law deeming rules	Oppose Senate provision. It would require the application of new, more stringent deeming rules to currently eligible noncitizens most of whom would be removed from the rolls at the end of the grace period Represents a significant administrative workload
In cases in which a legally enforceable affidavit is executed, all of the sponsor's income and resources would be deemed to the alien until citizenship	Deeming would apply for 5 years or until the alien worked 40 quarters in the United States, whichever is longer, if specified in affidavit of support regardless of whether the individual becomes a U.S citizen. All of the sponsor's income and resources would be deemed to the individual until the end of the deeming period	Support House provision
No comparable provision.	Would require determination of the individuals' ability to provide themselves with food and shelter in the absence of SSI. If not, only the amount of the sponsors' income and resources actually provided would be deemed.	Oppose Senate provision It would add significantly to administrative complexity and would appear to obviate the need to deem the sponsor's income and resources to the noncitizen.
Effective with respect to new, legally binding affidavits of support (Another provision requires new affidavits to be legally binding no later than 6 months after date of enactment.)	Effective upon enactment.	Support House provision
DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD		
No comparable provision.	Requires SSA to develop a prototype of a counterfeit-resistant Social Security card made of plastic or polyester which uses security features, such as magnetic stripes, holograms, etc. and provides reliable proof of citizenship or legal resident alien status. SSA is to conduct a study and issue a report to Congress on the different methods of improving the Social Security card application process. The study is to evaluate the cost and workload implications of issuing a counterfeit-resistant card for all individuals over a 3, 5, and 10-year period In addition, the study is to evaluate the feasibility and cost implications of imposing a user fee for replacement cards. Appropriations would be authorized from the OASI trust fund to fund the study	Do not oppose Senate provision
PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO CERTAIN PERSONS		
No comparable provision	Prohibits payment of Federal benefits including Social Security benefits, with some exceptions, to any non-citizen who is no longer residing in the United States. Payments would be permitted to U S. citizens, permanent resident aliens, aliens whose deportation has been withheld under section 243(h) of the INA, asylees, refugees, parolees who have been paroled for a period of at least 1 year, or nationals of the U S (as defined in section 101(a)(17) of the INA.	Oppose Senate provision. Would violate 17 existing international Social Security Totalization agreements, as well as at least 9 treaties. Would lead to adverse treatment of U S citizens receiving benefits under foreign social insurance systems. Would deny benefits to aliens who worked legally and paid Social Security taxes. 7 0

OCT-13-95 18:57 FROM: OLCA DC ID: 2024827155 PAGE 9

H.R. 4--Per[illegible] Responsibility Act (House Passed)	H.R.4-Work Opportunity Act (Senate Pa[illegible])	Preferred Position
EXEMPTION OF BATTERED INDIVIDUALS FROM CERTAIN REQUIREMENTS		
No comparable provision.	Gives the Commissioner the authority to exempt individuals who have been battered or subjected to extreme cruelty from certain requirements in SSI law, including the requirements that they would have to: be age 65 or meet the statutory definition of disability or blindness; be residents of the United States; and, be either U.S. citizens or qualified noncitizens.	Support Senate provision if it were modified to apply only to noncitizens who would not otherwise meet one of the exceptions to the general prohibition against SSI eligibility for noncitizens established by this bill.
MISCELLANEOUS SSI PROVISIONS		
No comparable provision.	Increases the age requirement for "aged" benefits to correspond with Social Security program's "retirement age." Beginning in 2003, the age will increase 2 months per year until it reaches age 66 in 2008. A similar transition between age 66 and 67 will occur between 2021 and 2026.	Oppose Senate provision. This change could put at risk poor elderly individuals who would lack skills or experience to enable them to be self-supporting at an advanced age.
No comparable provision.	Provides that non-custodial parents who are more than 2 months delinquent in paying child support are ineligible to receive any means-tested Federal benefits. A non-custodial parent who becomes delinquent in child support a second or any subsequent time, would not be eligible to receive any means-tested Federal benefits for a 2-year period.	Oppose Senate provision. Raises due process issues with regard to suspending payments.
No comparable provision.	Requires COSS to report to INS no less than four times a year, the name, address and other identifying information of every individual the COSS knows to be in the United States illegally.	Oppose Senate provision. Redundant reporting.

<u>Medicaid Rules for the Treatment of Trusts and the Disposal of Assets:</u>

<u>Trusts</u>--Only grantor trusts, (i.e., trusts that are established by an individual, his/her spouse or someone acting on his/her behalf which are made up, in whole or in part, from the assets of the individual) and only those portions of the trusts attributable to the assets of the individual can be counted as a resource of the individual under certain circumstances. In the case of a revocable trust, the entire corpus of the trust is counted as a resource to the individual and any payments made to or for him/her from the trust count as income. For revocable trusts, the look-back date is 60 months in the past.

In the case of an irrevocable trust, payments made to or for the individual count as income. Income to the trust and the portion of the trust that could be paid to him/her count as resources. Payments made from the trust to someone else, and portions of the trust that can only be paid to someone else, are counted as assets transferred for less than fair market value. For irrevocable trusts, the look-back date can be 36 or 60 months in the past depending on the situation.

There are certain types of trusts which will not cause an individual to be found ineligible (i.e., certain trusts for disabled individuals, certain pooled trusts and income trusts, all with estate recovery provisions).

<u>Treatment of Transfer of Assets</u>--If an institutionalized individual disposes of assets for less than fair market value at any time on or after a date which is 3 years (or 5 years in the case of certain trusts) before the date of application and institutionalization (the date back to which an individual's activities are examined is called the look-back date), he/she will be found ineligible, commencing with the month after the month of the transfer, for the number of months equal to the total value of the assets divided by the average cost of nursing facility services in the State (or, at the option of the State, the community) in which he/she resides.

Transfers prior to the look-back date are not considered. States must apply these provisions to all institutionalized individuals and have the option to apply them to noninstitutionalized individuals.

However, an individual will not be found ineligible for Medicaid if satisfactory showing can be made to the State that: he/she intended to dispose of the assets at fair market value or for other valuable consideration, the assets were transferred for a purpose other than to qualify for benefits, or all assets have been returned to the individual.

If the assets are placed in a trust, such action is treated as a disposal of assets for less than fair market value. The look-back date varies according to the type of trust established.

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

THE DIRECTOR

September 20, 1995

NOTE FOR LEON PANETTA
CAROL RASCO
LAURA TYSON
PAT GRIFFIN
JOE STIGLITZ

FROM: ALICE M. RIVLIN AMR

SUBJECT: Welfare Reform Memorandum

Attached is draft memorandum I have prepared for the President on key issues that confront us on welfare. I would welcome your comments.

Molly -
This may also help for Monday meeting - p4
- Diana

DRAFT

MEMORANDUM FOR THE PRESIDENT

FROM: Alice M. Rivlin

SUBJECT: Welfare Reform -- Conference Issues

Earlier this week, the Senate passed by 87 to 12 a welfare reform bill that represents a significant improvement over the bill the House passed last March. Senate conferees will be pressured to compromise on the bill's provisions with their House counterparts, undoing improvements in many areas, such as the added child care funding, a State maintenance of effort provision and fewer benefit restrictions. These would be serious losses. If there is to be a bill that the Administration can approve in good conscience, it is imperative that we act to prevent erosion of the Senate bill's gains and, wherever possible, make improvements. We should tell the conferees clearly that where the House and Senate bills differ on a major issue, the House provisions are unacceptable and that a move to adopt them jettisons the possibility that the bill can be signed.

But movement towards the House bill is not our only problem. The Senate bill still has serious shortcomings. Specifically, it includes a very modest countercyclical mechanism, limited resources for child care and job training, and deep cuts in the SSI kids and immigrant provisions. The food stamps block grant proposal also raises very serious concerns.

This memo highlights the key differences between the House and the Senate bill and flags key concerns.

MAGNITUDE OF THE BUDGET CUTS

After lengthy deliberations this summer, you proposed $38 billion in 7 year savings in all low income non-health entitlements. The Congressional Budget Resolution cuts far deeper in this area than the President's budget (about $110-120 billion over 7 years). The savings in the welfare bill represent the major component of these savings goals.

As this memo highlights, the budget cuts in the Senate bill, while major improvements, still create serious problems. If the conference moves closer to the House cuts, the problems worsen.

The following table summarizes the savings in the welfare bills.

If a welfare bill is enacted as a freestanding bill, then the Congress will be close to its budget targets for low income non-health entitlements (except for EITC, Social Services Block Grant, and some additional food stamps savings). It is clear that any final welfare bill will include considerably more cuts to these programs than you have proposed.

WELFARE BILL SAVINGS

($ billions over 7 years, CBO, net of discretionary cap adjustments)

	President's Plan*	Senate Bill*	House Bill*
AFDC/JOBS/Child Care/ CSE/Child Protection	0	-4	-16
Immigration, DA&A and SSI Kids	-13	-31	-44
Nutrition (excl. Immigrants)	-20	-31	-42
Total	-33	-66	-102

*Does not include EITC or Title XX Savings

THE AFDC BLOCK GRANT

The Senate bill made many major improvements. More resources are provided, particularly for child care, which is funded by a grant and a setaside in the Senate bill. States must maintain some level of effort to receive federal support. States would receive bonuses for moving recipients into jobs. The punitive mandates such as the family cap and teen moms restrictions included in the House bill are gone. The foster care program is not cut drastically. Work requirements are more responsible. A more realistic proportion of welfare moms are exempted from the work requirement. And states would have access to a contingency fund to provide added resources in an economic downturn. These are very important improvements to the House bill that should be retained.

While the Senate made the AFDC block grant much more acceptable, there are still two significant problems with the Senate bill:

Training and Child Care: The first problem deals with funding for training and child care. The Senate bill toughens work program requirements on States while providing nearly flat funding at the FY 1994 level for AFDC cash benefits and work programs, and significantly underfunds child care. The House bill cuts funding by $14 billion for these activities and the Senate cuts $4 billion. For a point of comparison, Senator Daschle's bill *adds* $14 billion over seven years to pay for implementation of work requirements. Given the low overall level of Federal funding for the proposed block grant, States will be forced to make tough choices -- either significantly increase their own resources, cut the level of cash benefits, mandate some of the punitive restrictions included as options in the Senate bill, forego child care for some children, and/or forego meeting the work requirements. The fiscal bind on States will worsen over time.

Contingency: The second problem with the Senate bill relates to the contingency fund. The Senate established a very important principle when it agreed to provide added resources during a recession. But the funding level is insufficient. Between 1989 and 1993, a period encompassing the last national economic downturn, AFDC caseloads grew by roughly 32%, and total Federal AFDC expenditures grew by $8 billion. The provision in the Senate bill provides a total of $1 billion in countercyclical assistance over five years. This is a pitifully small amount -- just 1% of Federal program spending for the proposed AFDC, JOBS and child care block grant over five years. Clearly, the contingency in the Senate bill would not have been adequate in the last recession, and it is extremely unlikely to provide a meaningful cushion in future downturns.

NUTRITION PROGRAMS

On three out of four counts, the changes to the nutrition programs in the Senate version of the bill are vastly preferable to the House version. The House welfare bill would:

(1) create block grants for the child nutrition programs including school lunch,

(2) cap the overall level of food stamps spending, so that a recession would cause a nationwide reduction in benefits,

(3) cut food stamps benefits by about $34 billion over 7 years, reducing benefits by almost 25% in FY2002 and about 35% by FY2005, and

(4) establish an optional food stamps block grant -- but only for those states with a fully established comprehensive electronic benefit system (EBT)to replace food coupons.

In the Senate, we were effective in our strong opposition to the House child nutrition block grants and the food stamps cap. The

Senate bill rejects these two policies and pared back food stamps only about two thirds as deeply as the House, but created an open-ended option for states to block grant food stamps.

Budget Cuts: The Administration's budget proposal was fashioned to reduce spending in the Food Stamp program while preserving uniform, national eligibility for most of those currently entitled to the program. Our seven year food stamps savings are $19 billion. While our spending cuts proposal is tough and the Senate proposal very tough, the House proposal can only be characterized as downright draconian. We need to try to hold the line here.

Food Stamps Block Grant: The one area where the House bill is preferable to the Senate relates to the food stamps block grant. We have always maintained that the preservation of a national food stamp entitlement program is critical if there is to be an AFDC block grant, since a national nutrition program helps to moderate the effects of the AFDC changes on low income families. The House provision requires that States be able to provide food stamps electronically via Electronic Benefit Transfer (EBT) and that they dedicate all of the benefit monies to food assistance. The EBT requirement will delay State's decisions to block grant food stamps for a couple of years. And by requiring that the block grant be for food assistance alone, States will be precluded from making whole a family's AFDC cuts by converting Food Stamps to cash. The House approach, while not perfect, basically keeps Food Stamps as a national program.

Unfortunately, the Senate's food stamp block grant option essentially endangers the national program by taking a big step towards abdication of the national role in combating nutritional deficiency. Because the Congress plans to cut the program so deeply, many States, at least initially, will receive less federal funds if they stay in the national program rather than opt into the block grant. And if a large number of states opt out of the uniform entitlement, political support for the program will fall. In addition, since the bill requires that only 80% of the block grant be used for food assistance, the current language would allow States to make even deeper nutrition cuts. The remaining 20% of the grant can be used for non-nutrition purposes, making up for fiscal pressures elsewhere.

In conference, we need to significantly tighten up the food stamps block grant, stop the House child nutrition block grants and the food stamps cap and try to keep overall savings in the range of the Senate bill.

BENEFITS FOR IMMIGRANTS

Both the House and Senate bills include very steep reductions in benefits to legal immigrants. If these proposals become law, How big is SSI prog?

billions of dollars in costs may be shifted to States with high immigrant populations unless the States also choose to restrict benefits. House and Senate immigration savings amount to $26 billion and $19 billion, respectively, over the next 7 years. Your budget plan, on the other hand, proposed only $5 billion in cuts affecting immigrants. The House bill -- the more severe of the two approaches -- would ban from the rolls over 1 million immigrants currently enrolled in either SSI, Medicaid, or food stamps.

While the Senate legislation on immigrants is somewhat softer than the House bill, it still makes dramatic changes. The Senate bill denies SSI benefits to approximately 400,000 elderly and disabled non-citizens currently receiving benefits -- almost all immigrants now on the SSI rolls. For all Federally funded, needs based programs, including Medicaid, the bill would limit access to benefits for many immigrants currently in the country and would ban most new immigrants from a wide range of benefits for 5 years after entering the country. The Senate bill would also deny benefits to naturalized citizens for up to seven years after they become Americans (the Vice-President has expressed the Administration's opposition to this provision). Under the Senate bill, a working poor legal immigrant who becomes disabled would be ineligible for any cash or non-emergency medical assistance.

A number of provisions could make the legislation more acceptable. First, benefits could be allowed for naturalized citizens. Second, benefit termination could be limited to cash benefits, thereby continuing Medicaid for poor immigrants. Finally, exemptions could be made for current SSI recipients and/or immigrants who become disabled after entering the country. All of these proposals have merit, but would significantly reduce savings. The Congress will strongly resist efforts to soften the immigrant provisions.

DISABLED KIDS

The Senate bill is vastly preferable to the House bill on its approach to reforming the SSI children's disability program. The House bill cuts $14 billion over 7 years and terminates all cash assistance to 170,000 kids now on the rolls and 875,000 by the year 2000 (only 20% of currently eligible kids would receive cash assistance). State provided support services would be provided to about half of the eligible kids denied cash benefits through a new Federal block grant.

The Senate bill does not cut eligibility as deeply and continues cash benefits for all eligible children. But the Senate bill would still terminate benefits for 170,000 disabled kids now on the SSI rolls and another 225,000 by the year 2000. The Senate bill saves nearly $9 billion over 7 years, compared with $5 billion in your plan. Both the House and Senate bills go too far;

we could argue for a final bill that makes special arrangements for kids already on the rolls, but this would reduce savings.

CONCLUSION

As outlined in this memo, we believe that the Senate bill, while vastly preferable, still has shortcomings, and most problems can't be fixed without added resources. We need to try to fix the Senate problems. But-- at a minimum-- if we aren't in a position to strengthen the Senate bill, we have to push hard to maintain the gains won in the Senate and to draw the line on additional cuts in low-income programs.

It is likely that the bill will move quickly to conference. The Administration needs to work quickly on its conference strategy in the hopes of influencing the final outcome of the bill. Since we need to articulate our positions clearly to the Congress, we will develop an Administration statement on the bill as soon as possible. We will draft such a statement for clearance within the White House.

Judy Chesser = aliens/non-citizens
482-7148

Toni Lorraine
410/965-7767

EXECUTIVE OFFICE OF THE PRESIDENT

12-Oct-1995 10:27am

TO: Diana M. Fortuna

FROM: Richard E. Green
Office of Mgmt and Budget, HRD

SUBJECT: SSI KIDS -- draft reconciliation SAP

Following is the section on SSI that is in the latest version I have of the Senate reconciliation SAP:

Supplemental Security Income. While the Senate provisions on the SSI children's disability program are more moderate than the House bill, they still cut benefits for too many children. The House bill makes deep cuts and terminates all cash assistance to 170,000 disabled children now receiving SSI benefits. By the year 2000, close to a million future applicants who would be eligible under current rules would be cut off from cash assistance. While some of these children may be eligible for services funded through State block grants, the size of the block grants is an arbitrary 25% less than the funding source that currently provides cash benefits, which it would replace. The Senate welfare bill does not cut the program as deeply and continues cash benefits for all eligible children, although it still would end benefits for 170,000 disabled children now receiving SSI (and another 225,000 future applicants by the year 2000).

Are SIS forward or will we fix ask?

The Administration also is concerned about a little noticed change in the SSI eligibility rules. The Senate welfare bill would gradually raise the age requirements for elderly poor applying for SSI from 65 to 67, in line with the rising age requirements for Social Security. About 35,000 people could be affected when the change is fully phased in. The apparent consistency of this change masks an important difference between these two programs; Social Security benefits continue, even if they are partial payments, as the normal retirement age rises from 65 to 67. SSI, however, would not be paid to those not meeting the new age requirements. For the elderly poor who do not meet the restrictive definitions of SSI Disability and lack sufficient Social Security benefits, SSI can help to fill the gap between need and income. This provision, added at the last minute and not subjected to adequate public scrutiny and debate, should be dropped.

Diana

THE WHITE HOUSE

WASHINGTON

95 JUN 13 P1:47

June 13, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: Carol Rasco

SUBJECT: Attached Clipping on SSI and Elderly Immigrants

You had sent me the attached Washington Post article on the growth in the number of elderly permanent residents on SSI and noted that we need a careful position on the issue.

In our welfare reform bill, we took the position that the income of an immigrant's sponsor should be deemed available to the immigrant for a period of five years for the purposes of determining eligibility for SSI, as well as AFDC and food stamps. This period would be longer if the sponsor's annual income was above the U.S. median family income. In that case, the immigrant would not be eligible for benefits until citizenship.

However, since that time, the House and the Senate Finance Committee have both acted on this issue as part of their welfare reform bills. As the article notes, the House would bar legal immigrants from receipt of Medicaid, SSI, school lunch, and other Federal programs, with an exception for those older than 75 who have lived in the U.S. for at least five years. The Senate Finance Committee approach is tougher. It would bar legal immigrants from receipt of SSI, except those who are older than 65 who have worked in the U.S. at least 10 years (long enough to qualify for SSDI and old-age benefits). Both would also exempt recent refugees and veterans. These measures result in significant savings within each bill: $6 billion out of $69 billion in savings in the House welfare reform bill, and approximately $10-11 billion out of $32 billion in savings in the Senate Finance version.

One very recent development is Senator Simpson's immigration proposal. Senator Simpson would require an immigrant's sponsor to agree to financially support the sponsored individual until the sponsored individual has worked in the U.S. for 40 qualifying quarters. The bill would save $8.5 billion over five years. In our comments on Simpson's bill, we said that, while the Administration strongly supports making the affidavit of support legally binding, we have reservations about setting the period of obligation and deeming at 40 qualifying quarters, as it could lead to deeming even after the immigrant becomes a naturalized citizen. This feature of Simpson's bill was criticized by others in the attached Washington Post article over the weekend.

We offered to work with Simpson's Subcommittee to establish a reasonable deeming policy that addresses these concerns. We suggested that one option could be to deem sponsored immigrants for 10 years or until citizenship with certain exemptions.

We have not made this issue a priority in our comments on the welfare reform bill to date, and have therefore not been actively pushing our deeming proposal during the recent debate on the Hill. The conference will be a more appropriate time for us to weigh in, once we have ascertained how much support Senator Simpson is garnering.

cc: Leon Panetta
Anthony Lake

The Washington Post, June 11, 1995

Senate Measure On Immigrants Draws Protest

Benefits Limits Apply Even After Citizenship

By Barbara Vobejda
Washington Post Staff Writer

The Senate welfare reform bill would make it more difficult for legal immigrants to receive benefits even after they become citizens, which immigrant groups claim would violate long-standing tradition by creating two classes of citizens.

Republican legislation in the House and Senate calls for restricting welfare aid to legal immigrants. But only in the Senate bill do the restrictions extend beyond the point at which immigrants become citizens.

"It means that a naturalized citizen doesn't have all the rights of a citizen who was born here," said Josh Bernstein, a policy analyst with the National Immigration Law Center. "We're asking people to pledge allegiance to the country, take on the full responsibilities of citizenship, but we're withholding some of the benefits of citizens."

A spokesman for Sen. Alan K. Simpson (R-Wyo.), who proposed the language, dismissed arguments that the policy would be unfair to immigrants who become citizens.

For Simpson, said Richard W. Day, chief counsel to the Judiciary immigration subcommittee, "it's a matter of principle that newcomers should be self-supporting."

Under the welfare bill approved by the House in March, most legal immigrants who have not become citizens would be barred from receiving benefits under the major welfare programs—including Aid to Families with Dependent Children, food stamps, Medicaid and Supplemental Security Income (SSI) for the elderly and disabled.

Illegal immigrants are not eligible for most programs under current law, nor would they be under the proposed changes.

Immigrant groups and others protested the House provisions affecting legal immigrants, arguing they are living in this country legally and paying taxes and should be eligible for the same programs as other Americans.

To some extent, those provisions were softened in the legislation approved by the Senate Finance Committee last month. Under the Senate bill, for example, noncitizens would be barred from only one program, SSI, rather than the five programs in the House bill.

But in other ways, the Senate bill is more restrictive than the House version.

The issue most disturbing to immigrant groups is the Senate provision that would make it more difficult for legal immigrants to qualify for benefits even after they become citizens. The added barrier to benefits is a requirement that states, when determining eligibility, take into account the income not only of the immigrants applying for assistance, but the income of the sponsors of those immigrants, and the sponsors' spouses.

For the most part, sponsors are relatives of the immigrants.

Advocacy groups argue that few immigrants could qualify for assistance under the proposed provisions, known as "deeming" rules. Also, these groups say, the relatives of immigrants are often struggling financially, and supporting another family would send them into further economic difficulty.

Under current law, the income of sponsors must be "deemed" when a noncitizen applies for three programs: AFDC, food stamps and SSI.

In the House version, the deeming requirement would end when an immigrant became a citizen. In the Senate bill, the deeming requirement would apply even after an immigrant becomes a citizen.

"To create this distinction between naturalized citizens and other citizens is a huge departure from a couple hundred years' worth of tradition in this country," said Cecilia Muñoz, deputy vice president at the National Council of La Raza.

That argument was supported by David Martin, University of Virginia professor of law. "Traditionally, the dividing line has been obtaining citizenship," Martin said. "Virtually every kind of restriction that applies to aliens ceases to apply when you become a citizen."

Day said Simpson had disagreed with the House provisions creating an outright ban on benefits to noncitizens, arguing there should be a "limited safety net" for immigrants who fall on hard times.

But when that happens, sponsors who have pledged to help support immigrants should be held to that agreement, Day said. Taking into account the income of the sponsors in determining eligibility is similar to considering the alimony or child support other welfare applicants may be receiving, he said.

"It's just like another asset that should be considered," Day said. "Folks who are their relatives should be responsible for them, not the American taxpayer."

MAY 31 1995

AN UNCERTAIN OLD AGE

THE IMMIGRANT ELDERLY

Benefit Lifeline May Be Severed For Noncitizens

Last of three articles

By Lena H. Sun
Washington Post Staff Writer

Phan Hue rolls up his pants and sleeves to show the scars from four bullet and shrapnel wounds, reminders of his days in the South Vietnamese army. Now living in Falls Church, Phan, 74, and his wife survive on $680 a month in federal benefits for the elderly poor, known as Supplemental Security Income, or SSI. They stretch those dollars by turning the heat down in the winter, sitting outside in the sun to keep warm, and seldom buying meat.

The two refugees are among hundreds of thousands of elderly immigrants, all of them legally admitted into the country, who would lose such benefits under the Republican-sponsored welfare reform bill that passed the House in March and under another bill pending in the Senate. These cuts are an essential part of the GOP proposals because they produce roughly one-third of the $66 billion in savings over five years that backers expect to glean from the House welfare plan, and about 40 percent of the $26 billion in savings from the Senate version.

The impact of the legislation goes far beyond dollars and cents. Already these money-saving proposals have prompted a wide-ranging debate over the place of legal immigrants in American society. For the first time, they are being judged substantially in relation to their use of publicly funded health care and other entitlements, as opposed to their

See ELDERLY, A5, Col. 3

ELDERLY, From A1

economic, social and cultural contributions to society.

"When did we change the definition of American? . . . From Albert Einstein to Martina Navratilova; from An Wang, the founder of Wang computers, to Elie Wiesel, winner of the Nobel Peace Prize—all have come to this country and been accepted as Americans," said Rep. Norman Y. Mineta (D-Calif.) during the House floor debate.

But advocates of the new restrictions insist that legal immigrants must accept substantial sacrifices at a time of widespread cuts in federal spending on assistance programs.

"Quite frankly, I do not think that when we're cutting benefits and cutting welfare for our citizens, I don't see why we should stretch and say that we have an obligation to those that aren't even citizens of our own country," said Rep. E. Clay Shaw Jr. (R-Fla.), an author of the House welfare plan.

The issue is likely to be a major point of contention in coming months now that the welfare reform debate has moved to the Senate, where some prominent Republicans favor either adopting less restrictive measures or letting individual states decide on immigrants' eligibility.

'In Every Sense Part of Us'

Sen. Alan K. Simpson, (R-Wyo.), a longtime leader on immigration policy, often argues that legal immigrants enter into a contract with the government when they come to the United States. They pay taxes and serve in the military. To take the safety net from them, he said, "would be a very grave mistake" and goes against the spirit of House Republicans' "Contract With America."

"They live in your home town. They go to the Rotary Club. They're in the service club," Simpson said. "They are in every sense part of us—except for one thing, the right to vote."

The House version of welfare reform would produce savings of between $18 billion and $21 billion over five years by barring most legal immigrants from receiving a range of federally funded benefits, from Medicaid to school lunches.

Exceptions would be made for legal immigrants over 75 who have lived here five years, recent refugees and veterans, among others. Undocumented aliens would continue to be barred from welfare programs and non-emergency health care welfare programs.

The Senate version of the welfare bill adopted last week by the Finance Committee would give states the option of barring legal immigrants from the basic cash welfare program, Aid to Families with Dependent Children.

But, like the House bill, the Senate legislation targets the federal program that has been used by increasing numbers of elderly immigrants and refugees in the last decade: the Supplemental Security Income program, which provides assistance to the nation's disabled and elderly poor.

The Senate version of welfare reform would produce savings of between $10 billion and $11 billion over five years by keeping most elderly immigrants from receiving aid under SSI.

Exceptions would be made for legal immigrants who have worked in the United States long enough to qualify for Social Security disability income or old-age benefits—at least 10 years—and for recent refugees and veterans.

An estimated 738,000 legal aliens received SSI benefits in December 1994. Legal aliens account for nearly 12 percent of all SSI recipients and 30 percent of all recipients 65 or older. Since 1982, the number of legal residents receiving SSI has risen 580 percent, reflecting a surge in immigration.

Robert Rector, a policy analyst with the Heritage Foundation who favors the new restrictions, says knowledge about these benefits has spread in immigrant communities here and overseas, attracting foreign-born elderly who are turning the U.S. welfare system into a "deluxe retirement home."

Critics of the legislation say the bills, particularly the broader House legislation, would hurt the needy and vulnerable. For immigrants who arrive too late in life to work enough time to qualify for Social Security, there is virtually no other way to get affordable health insurance except through SSI. In most states, elderly people receiving SSI automatically qualify for Medicaid, the government health insurance program for the poor and disabled.

Another category of immigrants that opponents of the cutbacks consider particularly deserving are those who worked in the United States long enough to get Social Security but were employed in such low-wage, low-benefit jobs that they now need SSI to keep them out of poverty. About one of every four legal immigrants receiving SSI, many of them former workers in the garment and service industries, also gets Social Security retirement benefits.

Juan Martinez, 71, a retired day laborer, lives in Weslaco, Tex., in the Rio Grande valley. Originally from Mexico, Martinez worked for 16 years picking cucumbers, tomatoes, strawberries and oranges in Ohio, Florida and Michigan. He retired four years ago after he became ill with diabetes. He receives $287 a month in Social Security, and $178 in SSI. His wife, also a retired farm worker, receives an additional spousal Social Security check of $139 a month.

Martinez would be protected under the Senate welfare reform bill, but the House version would cut off his SSI income and force the couple to live on an annual income of $5,112, substantially below the poverty line.

"They can check with my bosses, they can find out if I worked or not," said Martinez, his words tumbling out in Spanish. "If they get rid of the check, I couldn't pay the electric, I couldn't pay the water, I couldn't pay for the old car I got—I couldn't pay for anything."

Others who would be hard-hit are refugees, with the largest numbers having fled the former Soviet Union and Southeast Asia. Refugee advocates say the United States played a central role in the political upheavals that produced the flow of refugees during the Cold War and therefore a special obligation to help them once they are here.

Proponents of the bill say the United States should not use welfare to compensate for misery under communism.

The group most frequently criticized by proponents of restricting benefits are elderly immigrants coming to the United States to join their American-citizen children. Many are too old or disabled to work. Advocates of welfare reform say children who sponsor their parents to come to the United States, not American taxpayers, should take care of them.

Opponents say elderly immigrants who are eligible for SSI are not cheating the system but making normal use of a benefit that native-born Americans would not deny their own families.

In the Washington area, where foreign-born residents make up 12 percent of the general population—higher than the national average—the two largest groups of legal residents receiving SSI are from Vietnam and South Korea, according to the Social Security Administration.

When Families Can't Help

Du Won Kim, a retired South Korean auto parts salesman, came to the United States 10 years ago to be with his grown daughter and son. Kim, now 74, stayed briefly with his daughter in her Silver Spring home but moved out because he did not want to live in the same house with his son-in-law's mother. He lives alone in a subsidized apartment in Rockville.

He worked for about a year in a delicatessen but stopped when he turned 65 and was eligible to receive SSI. His monthly check is $458. He can pay his $128 monthly rent, but he relies on his daughter for additional money to cover living expenses.

The daughter, Chong Hong, 51, is an American citizen. She owns a Rockville sandwich shop; her husband is an auto mechanic. With three daughters in college, she said, she is unable to provide full financial support for her father.

"I can't cover all his expenses," she said. "In Korea, the wives stay home, but in America, my husband and I both work hard, and still we do not have enough for everything."

Her brother, recently divorced, is also struggling and cannot provide for his father.

Kim turns 75 next year and would be exempt from the ban under the House bill, but unprotected under the Senate version. He is taking no chances. He is applying for citizenship.

Other elderly immigrants may not be as fortunate.

Phan, the former South Vietnamese army sergeant, has a third-grade education and little chance of learning enough English to pass the citizenship test. In 1987, he fled his village in central Vietnam for the Philippines on a fishing boat with six of his nine children and their families.

A year later, they arrived in the United States. The children are working—some as carpenters, one as a custodian—but their wages are low, and they cannot help their parents financially. The $680 in monthly SSI benefits barely covers rent, utilities and food for Phan and his wife, Truong Thi Ty, 68, who arrived last year.

The blue couch in their one-bedroom Falls Church apartment is threadbare. A white Frisbee turned upside down is the tray for chipped teacups. One recent afternoon, the fiance of one of their granddaughters brought them a bag of shrimp, a treat they seldom buy themselves.

Truong has frequent migraines, and may have diabetes. Phan suffers from severe arthritis. Because of his age, Phan would keep his benefits under the House bill, but his wife would lose her SSI stipend and Medicaid coverage. Under the Senate version, the couple would lose their entire monthly income of $680.

"If the government does not help out the old people, I don't see how we can survive," said Phan, speaking agitatedly in Vietnamese. "The Americans helped the Vietnamese fight the Communists. I don't really don't understand about the politics here. But if America had won the war, then all the Vietnamese soldiers would be leading a much happier life everywhere."

Staff writers Guy Gugliotta and Peter Pae contributed to this report.

THE PRESIDENT HAS SEEN 5/31

Leon / Chr / Tony —

We need to clarify position on this — also might have some foreign policy implications

BC

207

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

L NO: 38
FILE NO: 15

10/18/95

URGENT

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 5

TO: Legislative Liaison Officer - See Distribution below:

FROM: Janet FORSGREN (for) [illegible] Janet Forsgren
Assistant Director for Legislative Reference

URGENT

OMB CONTACT: Connie BOWERS 395-3803
Legislative Assistant's line (for simple responses): 395-7362

SUBJECT: VETERANS AFFAIRS Conference Document RE: HR4, Personal Responsibility Act of 1995

welfare reform + VA benefits

DEADLINE: 10:00 am Thursday, October 19,1995

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is the Department of Veterans Affairs' draft letter to the conferees on welfare reform for your review. The above-mentioned deadline is firm.

AGENCIES:

7-AGRICULTURE - Marvin Shapiro - 2027201516
29-DEFENSE - Samuel T. Brick, Jr. - 7036971305
52-HHS - Sondra S. Wallace - 2026907760
61-JI TICE - Andrew Fois - 2025142141
76-National Economic Council - Sonyia Matthews - 2024562174
110-Social Security Administration - Judy Chesser - 2024827148
114-STATE - Julia C. Norton - 2026474463

EOP:

Apfel_K
Himler_J
White_B
Fontenot_K
Smith_C
Dean_S
Hustead_T
Vickers_P
Siclari_M
Long_B
Taylor_W
Haun_D
Mertens_S
Bavier_R
Damus_B
OMB-LA
Murguia_J
Kane_T
Connaughto_J
Brostrom_M
Wamath_S
Forsgren_J
Murr_J
O'Connor_J

RESPONSE TO
LEGISLATIVE REFERRAL MEMORANDUM

LRM NO: 2838
FILE NO: 15

If your response to this request for views is simple (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter.

Please include the LRM number shown above, and the subject shown below.

TO: Connie BOWERS 395-3803
Office of Management and Budget
Fax Number: 395-6148
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: ______________________________ (Date)

______________________________ (Name)

______________________________ (Agency)

______________________________ (Telephone)

SUBJECT: VETERANS AFFAIRS Conference Document RE: HR4, Personal Responsibility Act of 1995

The following is the response of our agency to your request for views on the above-captioned subject:

______ Concur

______ No Objection

______ No Comment

______ See proposed edits on pages __________

______ Other: ______________________________

______ FAX RETURN of ____ pages, attached to this response sheet

DRAFT VA

Dear __________:

I am writing to express the serious concerns of the Department of Veterans Affairs regarding 2 aspects of welfare-reform legislation, H.R. 4, currently under consideration by the conference committee.

Garnishment of VA Benefits

Both the House and Senate versions, at sections 762 and 962 respectively, would end the general prohibition against garnishment of VA benefits to satisfy private debts. Specifically, under each bill, veterans' disability benefits could be garnished to satisfy child-support and alimony obligations.

The longstanding bar to garnishment of veterans benefits is a reflection of the Nation's commitment to provide, on a priority basis, for the welfare of those who have sacrificed so much in defense of our freedoms. Payment of such benefits as compensation for service-connected disabilities is a sacred trust; these benefits should never be relegated to just another source of collections. Garnishment of these payments is especially inappropriate because VA already has, by virtue of 38 U.S.C. § 5307, authority to administratively divert a portion of these payments to estranged dependents of those veterans who have failed to meet their support obligations.

For these reasons, we strongly recommend that VA benefits remain exempt from garnishment.

We also wish to point out apparent drafting errors in both the House and Senate provisions that would *exempt* from garnishment certain VA payments currently subject to garnishment for this purpose, i.e. compensation received in lieu of military retired pay.

DRAFT

Limits on Benefits for Aliens

Section 401 of the House-passed bill would bar eligibility, under any Federal means-tested program, to "any alien who is not lawfully present in the United States". A similar prohibition appears in section 402 of the House bill regarding aliens lawfully in the United States as nonimmigrants. Such means-tested programs, as defined in section 431(d) of the bill, would include certain programs of benefits and services to veterans under title 38, U.S. Code, including VA pension, dependency and indemnity compensation for parents, and VA health care for certain veterans. The Senate-passed bill contains (at section 507) an even more sweeping prohibition which would bar eligibility for any VA benefit to persons not lawfully present within the United States, and (at section 505) a provision to bar means-tested benefits to noncitizens entering the United States on or after the date of enactment for a period of 5 years commencing on the date of entry. We strongly oppose these prohibitions as they relate to VA benefits and services.

First, we assume the proscription in section 401 of the House bill is intended to apply only to foreign nationals residing in the United States; VA has a number of beneficiaries who are noncitizens living abroad, and of course their eligibility should not be extinguished simply by virtue of their choice of residence. We also assume section 507 of the Senate bill is not intended to apply to either benefits VA is authorized to provide foreign nationals living abroad who served in the U.S. armed forces proper, or to benefits VA is authorized to provide under sections 107 and 1731 of title 38 to veterans of certain Philippine forces who served in support of U.S. armed forces during World War II. Both the House and Senate provisions need to be clarified in these respects, however.

As indicated above, VA benefits are provided to meet the Nation's obligations to those who have served, and eligibility very fittingly is therefore not dependent upon U.S. residence or naturalization status. Also, various naturalization preferences in U.S. immigration laws facilitate veterans' lawful immigration to the United States, and we are unaware of any significant number of aliens illegally in this country in order to take advantage of our programs. Hence at least as they would relate to veterans benefits, we do not

DRAFT

believe these provisions' enactment would have any appreciable effect in combating illegal immigration and we would not welcome whatever enforcement burdens they would add to our program administration.

We therefore urge you to exempt VA benefits and services from any such eligibility restrictions for non-residents or noncitizens.

[OMB clearance para.?]

Sincerely yours,

JESSE BROWN