Date: 12/13/96 Time: 16:51
CUNDATED: 21st century

And when I'm finished, I hope people will add up all the things we did and say, ``That is what they achieved.''

I have nothing to add to what I've already said about the first lady, except that the State Department has asked her to undertake more efforts around the world, following up on the Beijing conference, like the one she did in northern Thailand recently, speaking out on behalf of the human rights dimensions of women and young girls around the world. And I expect she will do more of that, and I expect she will continue her interests in children and families and related issues here at home. But I have nothing else to say beyond that.

Helen?

Q: Mr. President, what is your response to the perception that you are willing to sacrifice the needy and compassion at the altar of a balanced budget and bipartisanship? I refer to the fact that you have not mentioned any remedy for the punitive parts of the welfare law recently, that you're reviewing Children with Disabilities with an eye to dropping them from benefits, that you may wipe out fuel heating oil subsidies, that you may slash by $1 billion low-cost housing budget, and a few other things.

A: Well, first of all, let me say I have no intention of slashing the home heating oil budget as we come to the winter. That's one budget item I know something about.

We have in the drive to balance the budget, we have to make some tough decisions, and some of the housing issues will be brought before me, I'm sure, in the last round of appeals. But we've not made final budget decisions there.

If you look at the record of this administration, I think it would be very hard to make a case that we have been callous toward the poor. I mean, look what we did: We we doubled the Earned Income Tax Credit, raised the minimum wage, increased the availability of immunizations to poor children, dramatically expanded the number of poor children in Head Start, vetoed two welfare reform bills which revoked the guarantees of health care and nutrition to poor children because they did.

So and as a result, there are about a million fewer children living in poverty today. We had the biggest drop in poverty among children in 20 years, the biggest drop among in poverty among working single women in 30 years, the lowest poverty rate every recorded, in 1995, for African Americans. Now that is the record of this administration. I think it is very hard to make a case that an administration with that record and those policies is insensitive to the problems of the poor.

Now in welfare reform, there are two great issues before us in the welfare reform.

Issue number one is there are not now enough jobs available, particularly in a lot of urban areas, for all the able-bodied people on welfare when they run out of their two-year time limit, under the new law. I said that all along. That's why a big part of my campaign for the presidency this time was the commitment to present to Congress and to challenge the states to to do things like provide special tax incentives and wage subsidies and training subsidies to employers to help hire people off welfare and to help the cities with a lot of welfare caseload. That's the big welfare reform problem.

Number two, there are problems in the welfare reform bill, as I have repeatedly said, that have nothing to do with welfare that will hurt a lot of innocent people; principally, the way legal immigrants who get hurt through no fault of their own are treated; and the way the nutrition programs, the food stamp programs, are treated for single men who are willing to go to work and, most importantly, for working families. I have set aside several billion dollars in my balanced budget plan to fix those problems, and the budget I present to the Congress will address both of those within the context of a balanced budget plan.

On the question of the disabled children and I want to ask all of you to help all of us on this, because here's the issue. Nearly everyone who reviewed the law as it used to be said that the disability definitions were too broad and that it was very difficult to justify, given all the needs of the country, the coverage that existed under the old law. And we even proposed to the Congress that some changes be made to tighten the standards of disability coverage for children under SSI.

Now what we have to do is to define regulations under the new law. So the trick is going to be to do it in a way that does not hurt genuinely needy children and families and cause harm, instead of just tightening up a program that virtually everyone who analyzed it thought ought to be tightened up. So we're all going to have to just watch that one and try not to mess it up. And I'm the welfare reform bill I think is going to prove to be a good bill. I do not think it will increase child poverty, if we create jobs. We need to fix the non-welfare parts of the welfare bill.

Brit, let me say before you leave I know this is your last White House press conference. You'll be too important to mess with presidents and other people before long. But over the last several years, I think all of us think you have done an extraordinary, professional job under Republican and Democratic administrations alike, and we will miss you. We wish you well, and congratulations on your new position.

Q: Thank you very much, Mr. President. Thank you very much indeed.

APNP-12-13-96 1655EST

COMMUNITY LEGAL SERVICES, INC.

1424 CHESTNUT STREET
PHILADELPHIA, PA 19102
215-981-3700
FAX 215-981-0434

January 17, 1997

Why not?

Susan Daniels
Associate Commissioner
Office of Disability
Social Security Administration
560 Altmeyer Building
6401 Security Blvd.
Baltimore, MD. 21235

Re: SSI Child Disability
Notices and Advocates

Dear Susan:

We need a prompt and clear decision that the forthcoming notices to IFA children to be reviewed and the termination letters that many will thereafter receive have the names and phone numbers of local advocates willing to provide free or pro bono assistance to the families.

We wrote to you last October, 1996 requesting this for local notices going out (and since mailed in late November), but never received the courtesy of a response. Now we write in advance of the individual review notices going out to request that this information be placed not only on letters in our Region III but also nationally. A national pro bono effort is being planned by the American Bar Association to provide lawyers, and the National Organization of Social Security Claimants' Representatives (NOSSCR) has informed us that they are willing to have their name and "800" number on the letters. All this will be in vain if names and phone numbers do not appear on these two sets of letters.

We know that nothing moves very quickly at SSA, but please note that we at least aired this issue last August when we met and made a concrete request three months ago. We look forward to the most prompt treatment of this request and are available to discuss this in person or via phone conference. We trust that we can look forward to SSA's concurrence and cooperation to offer this vital assistance to families at risk.

Sincerely,

JONATHAN M. STEIN
General Counsel

MARY NOLAND
Advocating on Behalf of
Children Project Manager

cc: Deborah Colven, Deputy Commissioner
Judy Chesser, Deputy Commissioner
Arthur Fried, Chief Counsel
Ken Nibali, Deputy Associate Commissioner
Marty Ford, The Arc
Polly Arango, Family Voices
Rhoda Schulzinger, Bazelon Center for Mental Health Law
Tom Yates, SSI Coalition
Nancy Shor, NOSSCR
Bonnie Allen/ Steven Scudder, Center for Pro Bono, American Bar Ass'n
Jerome Shestack, President-Elect, American Bar Association
Don Saunders, Nat'l Legal Aid and Defender Ass'n
John O'Toole, Nat'l Center for Youth Law
Debbie Segal, Atlanta Volunteer Lawyers Foundation

Congress of the United States
Washington, DC 20515

December 4, 1996

The Honorable Carol H. Rasco
Assistant to the President for Domestic Policy
Domestic Policy Council
The Old Executive Office Building, Room 213
Washington, D.C. 20502

Dear Ms. Rasco:

We understand that the Social Security Administration (SSA), in conjunction with the White House Domestic Policy Council, is developing regulations to implement the changes to the disabled children Supplemental Security Income (SSI) program mandated by the recent welfare reform bill.

As you know, we have had a keen interest in reforming the childhood SSI system for a number of years. In our view, this program's explosive growth needed to be restrained in order that it might better serve its original intent - serving truly disabled children. That is why we have worked since the beginning of the 104th Congress to implement provisions that were finally included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Reports have surfaced indicating that Administration officials may be leaning towards an expansive view in developing these regulations; in particular, retaining some sort of "functional assessment" provision in the childhood SSI program. Needless to say, as strong proponents of the reform legislation, we are troubled by these reports, and would urge you to adhere to the letter, as well as the spirit, of the law. By eliminating functional assessments, it is our conviction that the program will see a corresponding decrease in subjectivity, fraud and abuse.

We believe that the recent changes to the childhood SSI program offer a meaningful dose of common-sense, and should serve to end the reported widespread abuse. However, these changes should be given a chance, and not undermined by the regulatory process.

Thank you for your consideration.

Sincerely,

Jerry Kleczka
Member of Congress

Jim McCrery
Member of Congress

COMMUNITY LEGAL SERVICES, INC.

1424 CHESTNUT STREET
PHILADELPHIA, PA 19102
215-981-3700
FAX 215-981-0434

Fax No. (215) 981-0436

TELECOPY TRANSMITTAL

Date: January 17, 1997

TOTAL NUMBER OF PAGES: (5) (INCLUDING THIS COVER SHEET)

TO: DIANA FORTUNA

FIRM: Domestic Policy Council - White House

FAX NO.: (202) 456-7431

FROM: JONATHAN STEIN, GENERAL COUNSEL

DIRECT DIAL: (215) 981-3742

MESSAGE: Two Conservative House Republican letters — to the President Scenario. It appears to blame White House for children being cut - & White House claims "toughest" on dis-abled children policy!

Please call the direct dial number above if there are any problems with this transmission. The information contained in this fax transmittal is legally privileged and confidential and intended only for the use of the individual or firm named above. If you receive this message but are not the intended recipient, please destroy the fax transmittal and notify us by telephone at the above direct dial phone number. Thank you for your cooperation.

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HOUSE REPUBLICAN LEADERSHIP
DEPUTY WHIP
WESTERN UNITED STATES
REPUBLICAN POLICY COMMITTEE
CONGRESSIONAL RURAL CAUCUS
CONGRESSIONAL WATER CAUCUS

Congress of the United States
House of Representatives
Washington, DC 20515-1202

COMMERCE COMMITTEE
ENERGY AND POWER
OVERSIGHT AND INVESTIGATIONS
AGRICULTURE COMMITTEE
RESOURCE CONSERVATION, RESEARCH, AND FORESTRY
DEPARTMENT OPERATIONS, NUTRITION, AND FOREIGN AGRICULTURE

November 8, 1996

The Honorable Bill Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I am writing today in regard to new rules that are currently being considered and drafted by the Social Security Administration (SSA). A great deal of concern has recently been expressed to me by constituents about pending changes in eligibility requirements for the Social Security Income (SSI) program.

As you know, the welfare reform bill produced a variety of changes in the current system and new rules for many provisions are currently being drafted by a variety of agencies to address these changes. I am particularly concerned about those rules being drafted by the SSA for the children's SSI program.

Currently, the Individual Functional Assessment (IFA) is used to determine a child's eligibility for SSI benefits in cases where the child's disorder does not correspond to the list of disabling conditions contained in SSI regulations that specify qualifying illnesses. The recently passed welfare reform bill terminated use of the IFA in determining a child's eligibility for SSI benefits. The legislation also removed maladaptive behavior as a system of a disabling mental impairment and required that all current child beneficiaries who have qualified for benefits based on an IFA diagnosis be re-examined to determine whether or not they meet the tighter eligibility requirements now being drafted. Those children who do not qualify under the new rules will not be eligible for SSI benefits after 1998.

It is from these provisions that the benefits of 1,300 disabled Idaho children are in question. I am concerned that the SSA rule-making process will establish new standards for disability that will unreasonably and unfairly deprive children who are truly needy of access to this program. Many of these children could lose their SSI eligibility and also lose their access to much needed Medicaid coverage. Standards drafted need to reflect the best interests of the children and protect those disabled children in low income families who rely on the SSI program and Medicaid for assistance.

I am hopeful that you share my concern for the impact these changes could have on our nation's disabled children and will encourage rules to be drafted that will continue to protect these children and their families. Should you have any questions about this issue, please do not hesitate to contact me.

Once again, thank you for your attention and assistance in this matter.

Sincerely,

Mike Crapo

Michael D. Crapo
Member of Congress

MDC/smm

cc: Carol Rasco, Director of the Domestic Policy Council
Franklin Raines, Director of the Office of Management and Budget

HELEN CHENOWETH
1st District, Idaho
AGRICULTURE COMMITTEE
RESOURCES COMMITTEE
1122 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6611
E-mail Address:
[illegible]

DISTRICT OFFICES:
304 N. 8TH ST., ROOM 103
BOISE, ID 83702
(208) 336-9831

[illegible] MAIN, SUITE 6
LEWISTON, ID 83501
(208) 746-4613

118 N. 2ND ST., SUITE 1
COEUR D'ALENE, ID 83814
(208) 667-0127

Congress of the United States
House of Representatives
Washington, DC 20515-1201

January 9, 1996

The Honorable Bill Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I am writing today in regard to new rules that are currently being considered and drafted by the Social Security Administration (SSA). A great deal of concern has been expressed to me by constituents about pending changes in eligibility requirements for the Social Security Income (SSI) program.

As you know, the welfare reform bill produced a variety of changes in the current system and new rules for many provisions are currently being drafted by a variety of agencies to address these changes. I am particularly concerned about those rules being drafted by the SSA for the children's SSI program.

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I am hopeful that you share my concern for the impact these changes could have on our nation's disabled children and will encourage rules to be drafted that will continue to protect these children and their families. Should you have any questions about this issue, please do not hesitate to contact me.

Once again, thank you for your attention and assistance in this matter.

Sincerely,

Helen Chenoweth

Helen Chenoweth
Member of Congress

JON D. FOX
13TH DISTRICT, PENNSYLVANIA

INTERNATIONAL RELATIONS

BANKING AND
FINANCIAL SERVICES

VETERANS' AFFAIRS

Congress of the United States
House of Representatives
Washington, DC 20515-3813

WASHINGTON OFFICE
510 CANNON BUILDING
WASHINGTON, DC 20515
(202) 225-6111

DISTRICT OFFICES

NORRISTOWN
LOGAN SQUARE SHOPPING CENTER
1706 MARKLEY STREET
NORRISTOWN, PA 19401
(610) 272-6400

EASTERN MONTGOMERY COUNTY
EASTON & EDGE HILL ROADS
ABINGTON, PA 19001
(215) 885-3300

24 HR. TOLL FREE
LEGISLATIVE HOTLINE
1-800-896-5700

December 27, 1996

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr President:

I write at a critical time in the implementation of the recently enacted welfare legislation as your Administration is soon to publish policies implementing the new Supplemental Security Income childhood disability standard. I encourage you to implement this law so that the maximum number of children with disabilities will be served.

As you know the new statutory test qualifying children who have marked and severe functional limitations does for the first time put into law a requirement that the actual functional impacts of childhood disabilities be evaluated by the Social Security Administration.

In this regard, Congress has ordered a functional test for children, one that first came into the program via the U.S. Supreme Court in the Sullivan vs. Zebley ruling. This decision was urged by every major national child disability and medical organization and obtained through the advocacy of our local Community Legal Services of Philadelphia.

But the exact severity threshold of the new test was not precisely established by the Congress. It was specifically left open-ended so that it could be established by the administrative agency that knew these children best.

Knowing that there may be various competing proposals available for implementation, I wish to emphasize some guiding factors that, at the least, reflect congressional intent in this area.

The great majority of the children who qualified for SSI in recent years have had quite serious disabilities. Indeed, SSA reports that of the over 250,000 children who qualified under the functional test ordered by Zebley, and now discontinued, fully 100,000 are diagnosed with mental retardation. Others have autism, sickle cell anemia, cerebral palsy, tuberculosis, diabetes, muscular dystrophy, serious burns, etc. A new test cannot jeopardize these children's access to SSI and the Medical Assistance that comes with it.

This program in 1996 is far different than the one publicized in the early 1990's. SSA has already taken major steps to tighten up the program, as seen by the dramatic fall in the childhood initial claims rate. It fell from 70% in 1991 to 30% in 1996, a percentage said to be lower than the adult allowance rate.

The unfounded criticisms of the program have been refuted by major investigations of the General Accounting Office, HHS Inspector General, and SSA's own investigation. Each agency concluded that the "coaching to get benefits" allegation was not true, and that the program did not have any evidence of systemic fraud or abuse.

The real experts in this field are groups such as The Arc, formerly the Association of Retarded Citizens, and child advocates like Community Legal Services. I understand that these groups have made sound proposals to you to increase the reliability and accuracy of actual decision-making that can only strengthen the program and also address governmental concern for more accountability in the program.

I urge you to give these proposals your most serious consideration as they will not only promote accountability but also be of tremendous assistance to the great majority of children whose very lives often depend on access to SSI and the Medical Assistance that comes with it.

In advance, I thank you for your leadership and utmost concern for the well-being of this nation's disabled children.

Sincerely,

Jon D. Fox

Jon D. Fox
Member of Congress

JDF:kln

FAX COVER

Date/Time:

Income Maintenance Branch
Executive Office of the President
Office of Management and Budget
Washington, DC 20503

TO: DIANA

FROM: RICHARD

Fax Destination

Organization:

Fax Number:

Number of Attached Pages: *Cover* + 3

Notes: Three pages Ron was referring to. He sees these as charts to speak from.

Income Maintenance Fax Number: 202/395-0851
Voice Confirmation: 202/395-4686

SSI CHILDHOOD DISABILITY

INITIAL CONGRESSIONAL PROPOSAL $15 BILLION over 5 years

- Eligibility for Cash:
  - Current Recipients -- 2 marked limitations -- 190,000 children dropped
  - Future Recipients -- only 20% would get cash under this proposal
- Block Grants to States for Services for Additional Eligible Children

VETOED WELFARE BILL $12 BILLION over 5 years

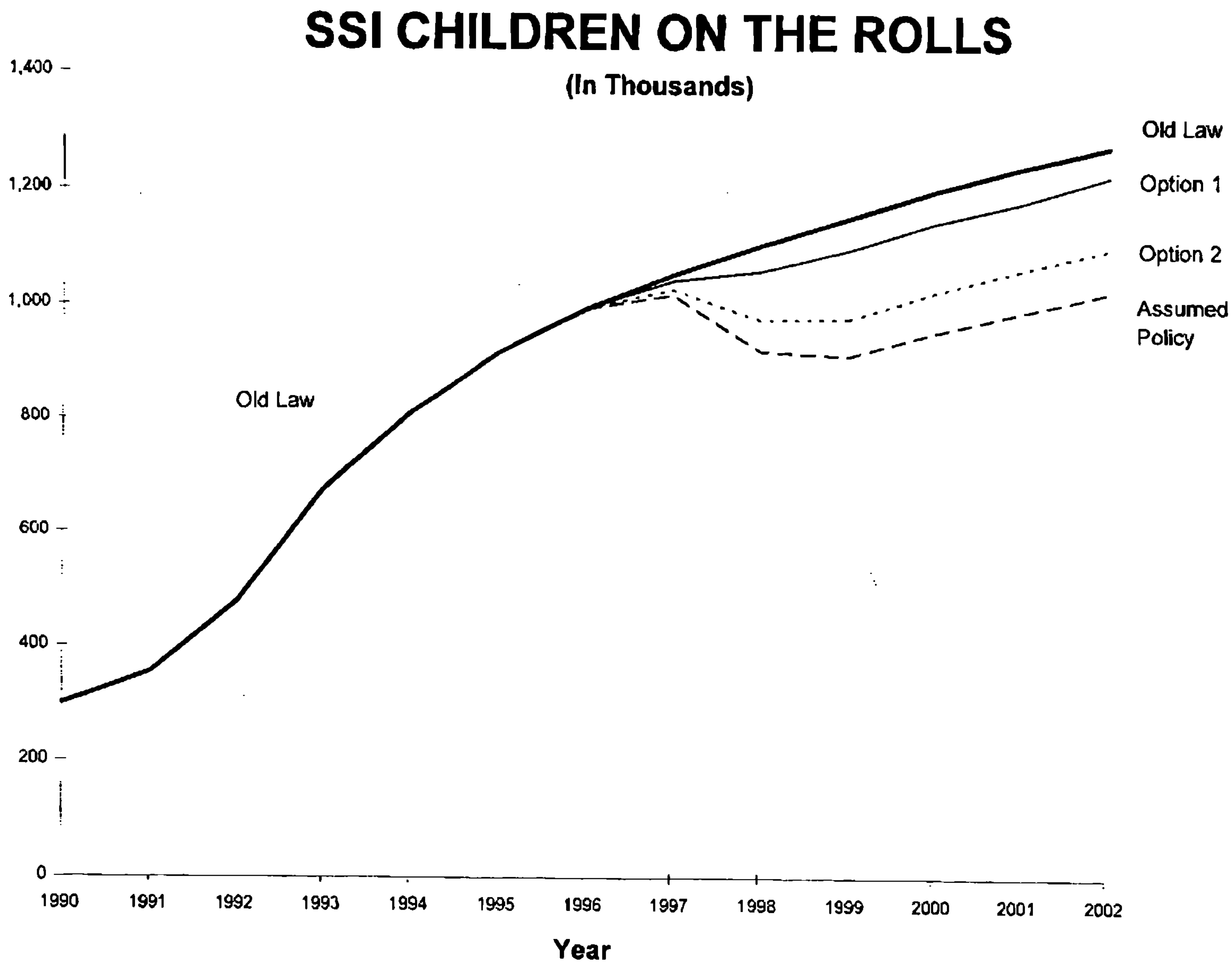
- Eligibility for Cash: 2 marked limitations -- 190,000 current recipients dropped
- Two Tiers -- Most children get 25% cut
- No Block Grant

PRESIDENT'S 1997 BUDGET $8 BILLION over 5 years

- Eligibility for Cash: 2 marked limitations -- 190,000 current recipients dropped
- Retain Full Cash Benefits
- Current Recipients Lose Benefits beginning 1-1-98

FINAL WELFARE REFORM BILL $8 BILLION over 5 years

- Eligibility for Cash: 2 marked limitations -- 190,000 current recipients dropped
- Retain Full Cash Benefits
- Current Recipients Lose Benefits beginning 7-1-97


SSI CHILDREN ON THE ROLLS
(In Thousands)
1,400
1,200
1,000
800
600
400
200
0
Old Law
Old Law
Option 1
Option 2
Assumed Policy
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
Year

SSI CHILDHOOD DISABILITY OPTIONS

STANDARD PRIOR TO WELFARE REFORM BILL

- Step One: Medical Listings -- Two Marked Limitations for Functional Equivalence Test
- Step Two: Individualized Functional Assessment -- Three Moderate Limitations

OPTION #1 — 45,000 CHILDREN DROPPED — 5-YEAR COST: \$6.4 billion

- Drop Individualized Functional Assessment (IFA)
- Add new step with "One Marked and One Moderate" Standard

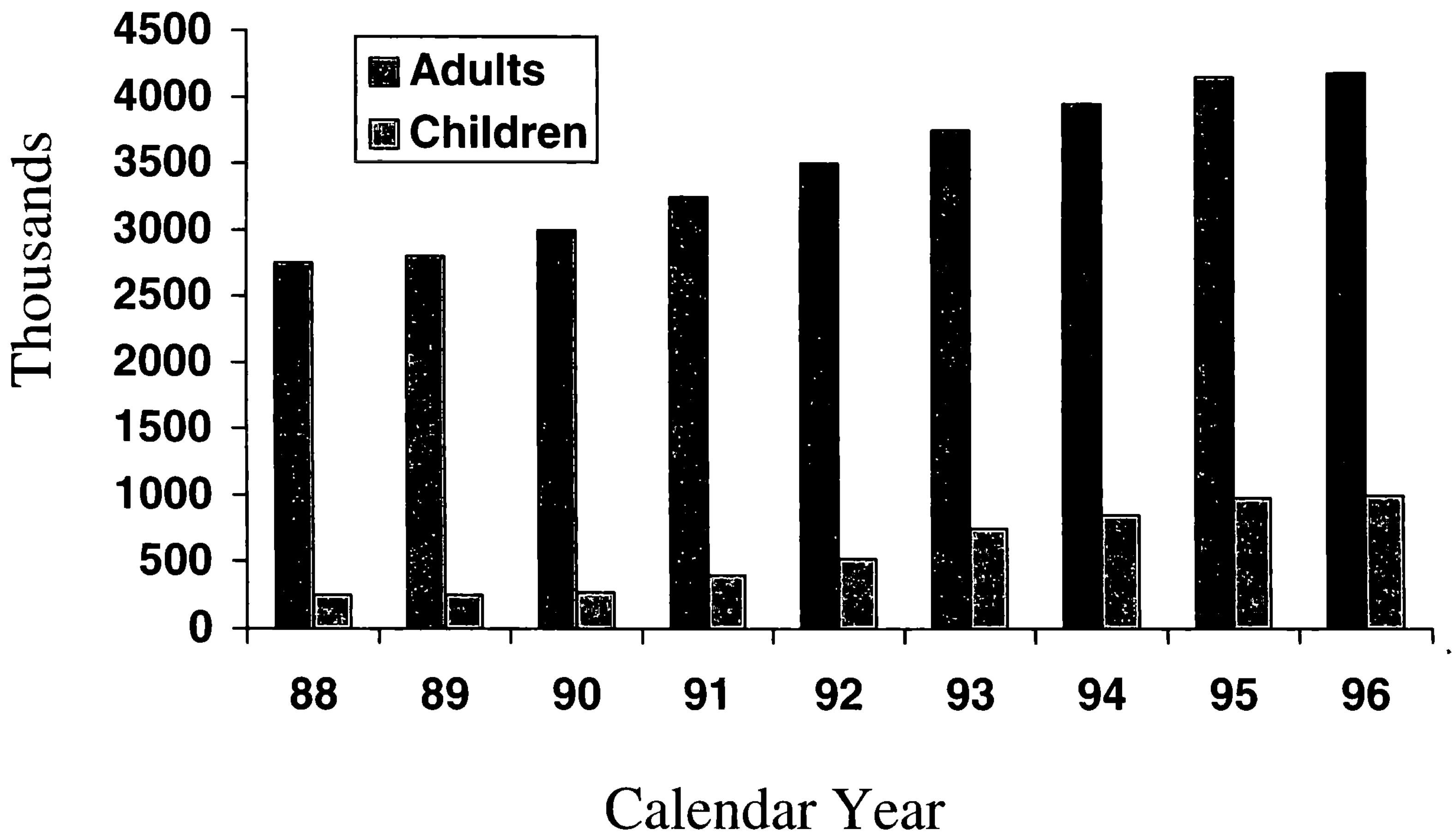
OPTION #2 — 135,000 CHILDREN DROPPED — 5-YEAR COST: \$2.4 billion

- "Two Marked" Standard
- Drop Individualized Functional Assessment
- Add Motor Domain to Medical Listings
- Count Severe Episodic Limitations as Marked

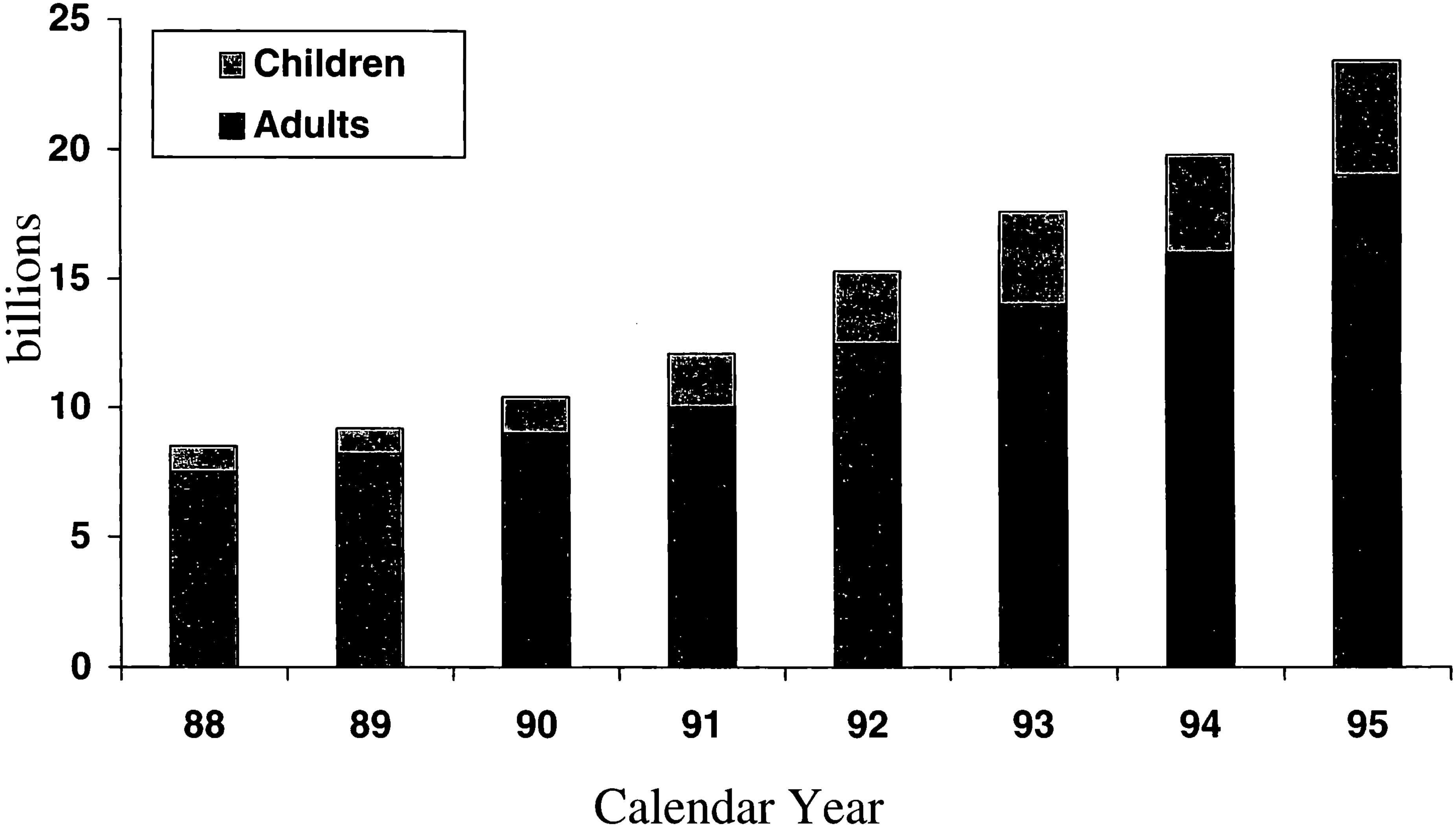
ASSUMED POLICY — 190,000 CHILDREN DROPPED — 5-YEAR COST: \$0 billion

- "Two Marked" Standard
- Drop Individualized Functional Assessment

Receiving Benefits

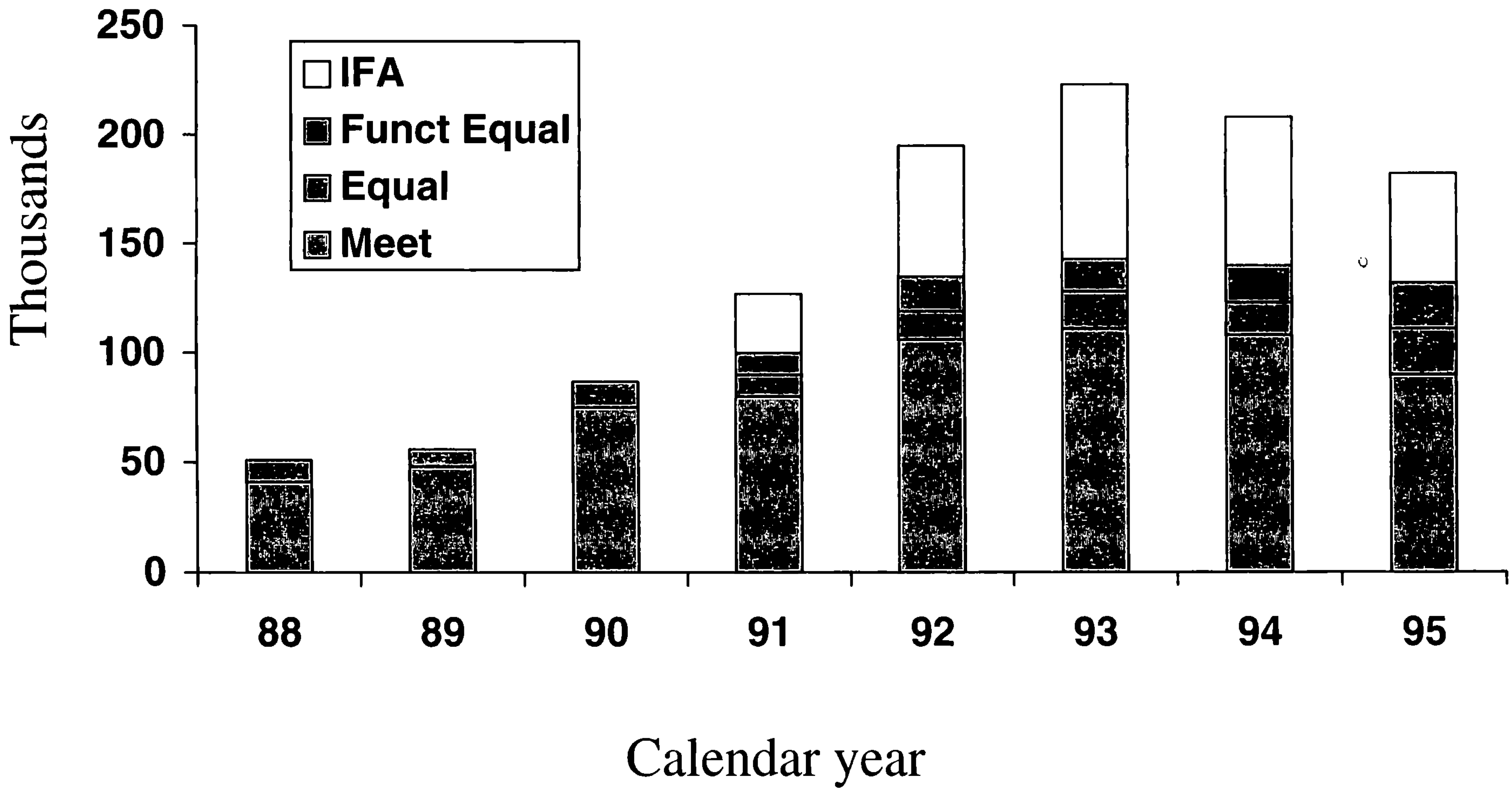


Federal Payments To Children



Awards and Bases

SSI Disabled and Blind Children



1996 Major Provisions

- The New Definition: Marked and Severe Functional Limitations
- Repealed Individualized Functional Assessment (IFA)
- Changes in "behavioral" domain

Policy Considerations

- Statute
  - Functional
  - Repeals IFA
- Conference Language
- Budget Estimates
- Congressional Letters

Time Table

SSA Must

- Publish regulation by Nov. 22, 1996
- Notify families before Jan. 1, 1997
- Finish redeterminations of IFA children by August 22, 1997
- Adjudicate new claims; 7000 per week; >40,000 pending

Other Provisions

Continuing Disability Reviews

- Three years for conditions likely to improve
- Not later than 1 year for babies of low birth weight.
- All other optional

Evidence Of Treatment

- Rep payee must present evidence of necessary and available treatment.
- If fails, without good cause, we may:
  - Suspend payment of benefits to that payee and select another;

    – or
  - Pay the child directly, if he or she is old enough.

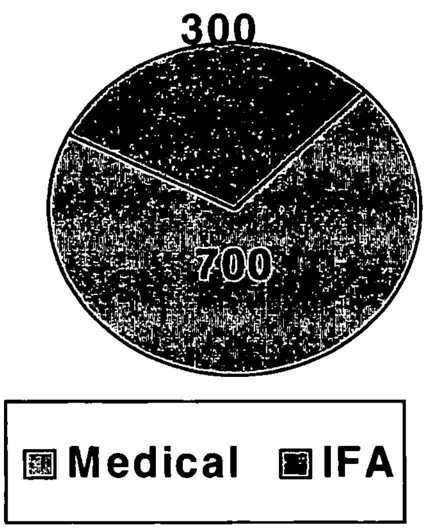
Redetermination At Age 18

- Using **adult** criteria

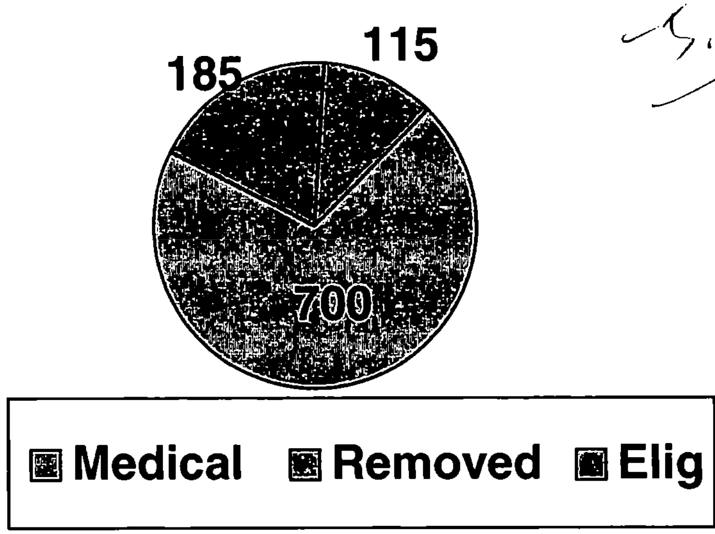
A New Childhood Standard

7.490
-5.655
1.835

Today



CBO



7.5
-5.7
1.8

- Remove IFA

  $7.49 billion saved

Four Options
(other than CBO)

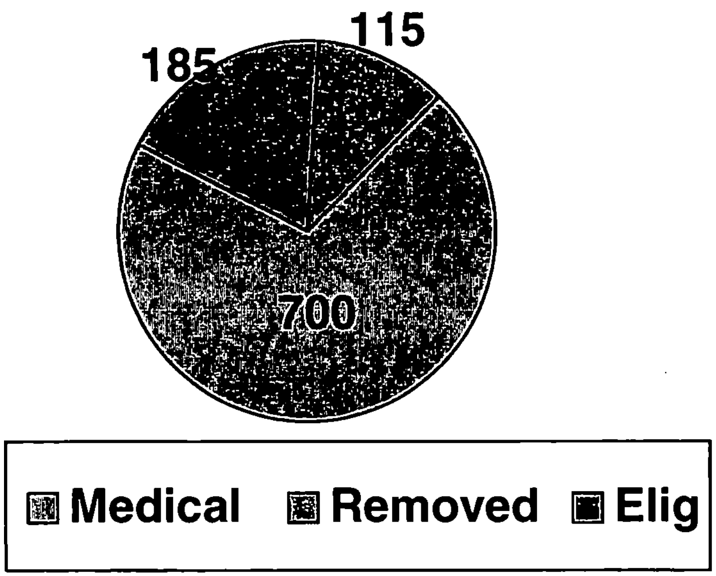
A. Current

B. Advocates

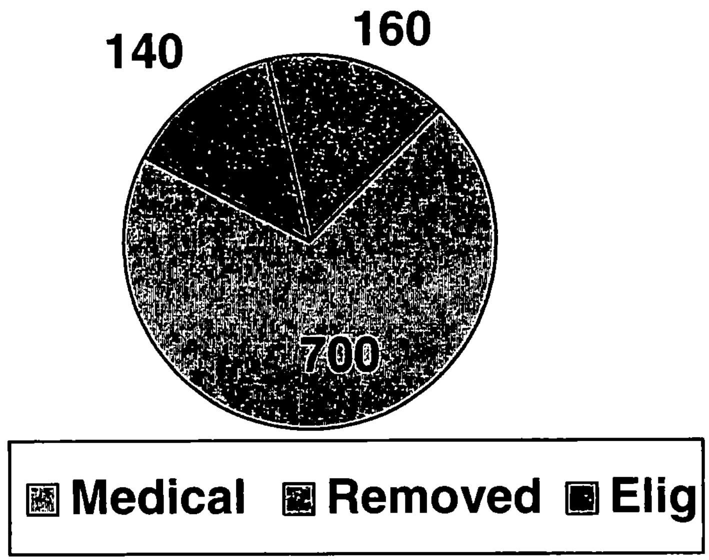
C. Marked + 2 Moderates

D. Middle Ground

CBO..............A. Current



- Remove IFA
- $7.49 billion saved



- add
  - physical domain
  - form

$5.655 billion saved

A. Adjudication Policy

- Uses existing policy to determine functional limitations through "functional equivalence" to our listings. This approach most often involves a showing of marked limitations in two of four functional areas evaluated.
- Adds specific evaluation of ***motor*** limitations for children with physical impairments;
- Requires a ***form*** to be completed by adjudicators for all functional equivalence evaluations.

Key Features of Option A."Current"

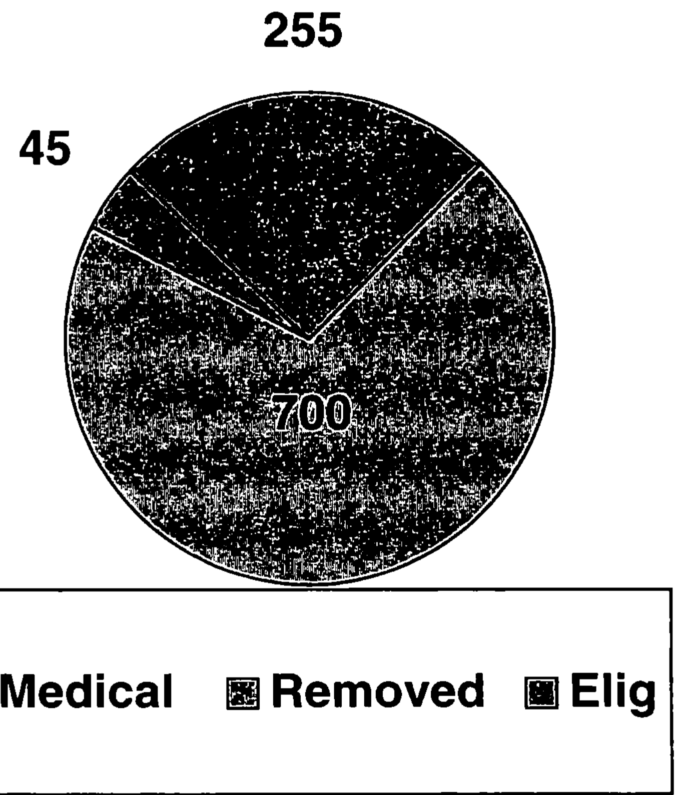
- Requires adjudicators learn a few new procedures
- Administrative cost: slightly more than "CBO" approach
- Predictability: slightly less than "CBO"
- Advocates doubt that adjudicators will understand this approach.
- Reaction
  - Congress: accept
  - Advocates: reject as too stringent

B. Advocates

new IFA-like step

drop mildest disabled

$1.6 billion saved



-149
-1.6
5.79

B. Adjudication Policy

- Uses existing policy to determine functional limitations through "functional equivalence" to our listings. This approach most often involves a showing of marked limitations in two of four functional areas evaluated.
- Adds an ***IFA-like*** procedure for those not eligible above. Not really different from current IFA and likely to produce very similar results.
- Drops only the 3 moderates.
- "Moderate" impairments too easy to find.

Key Features of Option B "Advocates"

Requires that adjudicators learn a few new procedures and some subtle distinctions

Administrative cost: almost low as "CBO"

Predictability: almost high as "CBO"

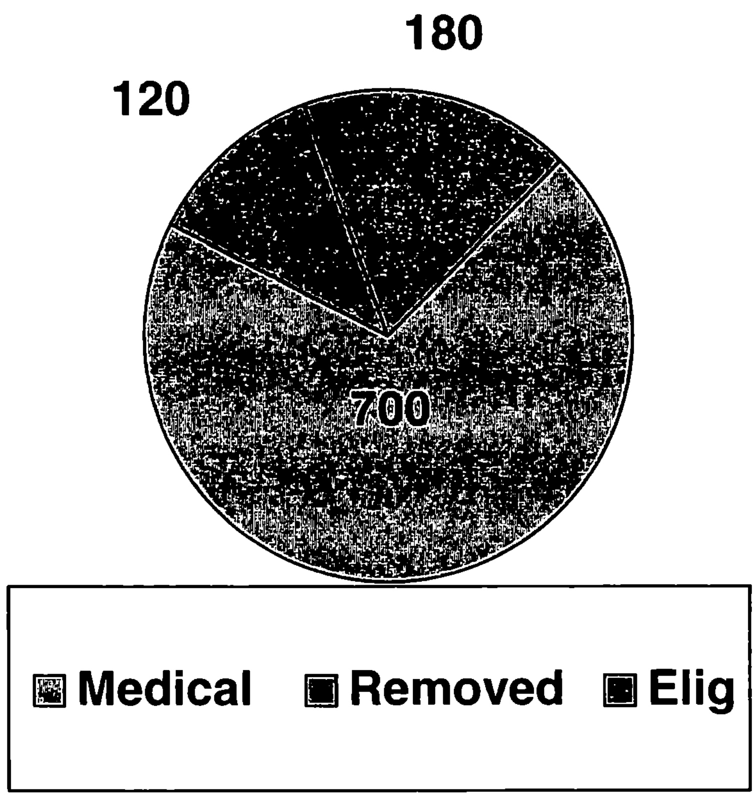
Advocates believe that adjudicators will understand this approach.

Reaction

- Congress: many will object; a few have indicated acceptance
- Advocates: jubilant

C. Marked + 2 Moderates

- add
  - physical domain
  - form
  - an IFA-like step to consider marked and two moderates
- $3 billion saved



C. Adjudication Policy

- Uses existing policy to determine functional limitations through "functional equivalence" to our listings. This approach most often involves a showing of marked limitations in two of four functional areas evaluated.
- Adds an ***IFA-like*** procedure for those not eligible above. Not really different from current IFA and likely to produce very similar results.
- "Moderate" impairments too easy to find.

Key Features of Option C "Marked + 2 Moderates"

Requires that adjudicators learn no new procedures but some subtle distinctions

Administrative cost: almost low as "CBO"

Predictability: lowest of all

Advocates likely believe that adjudicators will understand this approach.

Reaction

- Congress: many will object; a few have indicated acceptance
- Advocates: likely to accept, grudgingly

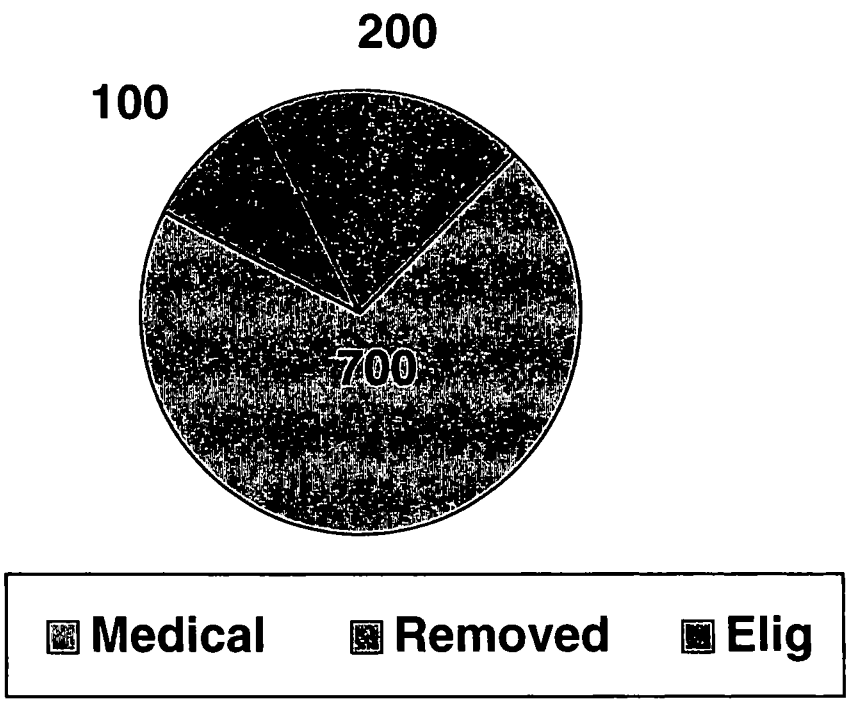
D. Middle Ground

add

- physical domain
- form
- methods for chronic illnesses

$3.9 billion saved

7.49
3.90
3.59



D. Adjudication Policy

- Uses existing policy to determine functional limitations through "functional equivalence" to our listings. This approach most often involves a showing of marked limitations in two of four functional areas evaluated.
- Adds specific evaluation of motor limitations for children with physical impairments;
- Requires a form to be completed by adjudicators for all functional equivalence evaluations.
- Creates a separate procedure for ***chronic*** illness

process [illegible]
schools - parents [illegible]

1 –

2 – when adjud [illegible] unable
(Reg) interdiscip assessment
(costs $)

Key Features of Option D "Middle Ground"

Requires adjudicators learn many new procedures and subtle distinction.

Administrative cost: highest of all approachs

Predictability: least of all options

Advocates will be highly skeptical that adjudicators will understand this approach.

Reaction

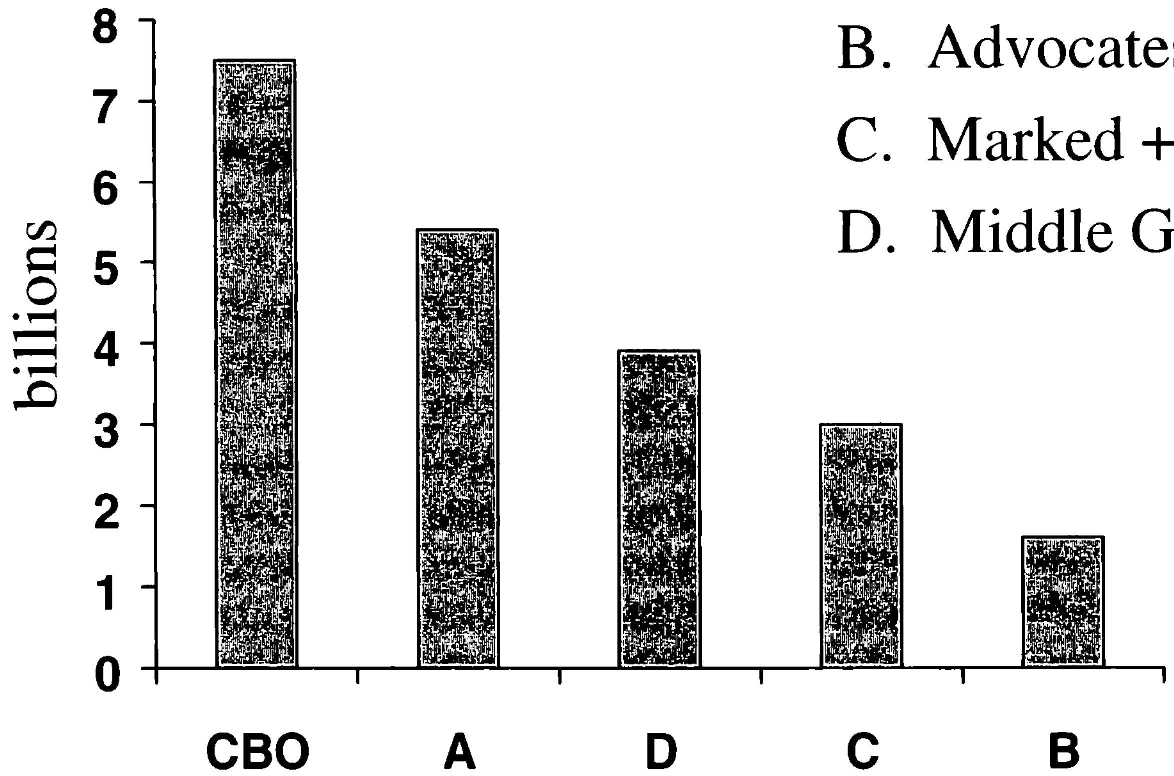
- Congress: a few may question; most will accept
- Advocates: reject as too complicated and too stringent

Estimated Savings

CBO	7.5
Options	
A. Current	5.6
B. Advocates	1.6
C. Marked + 2 Moderates	3.0
D. Middle Ground	3.9

motor + form

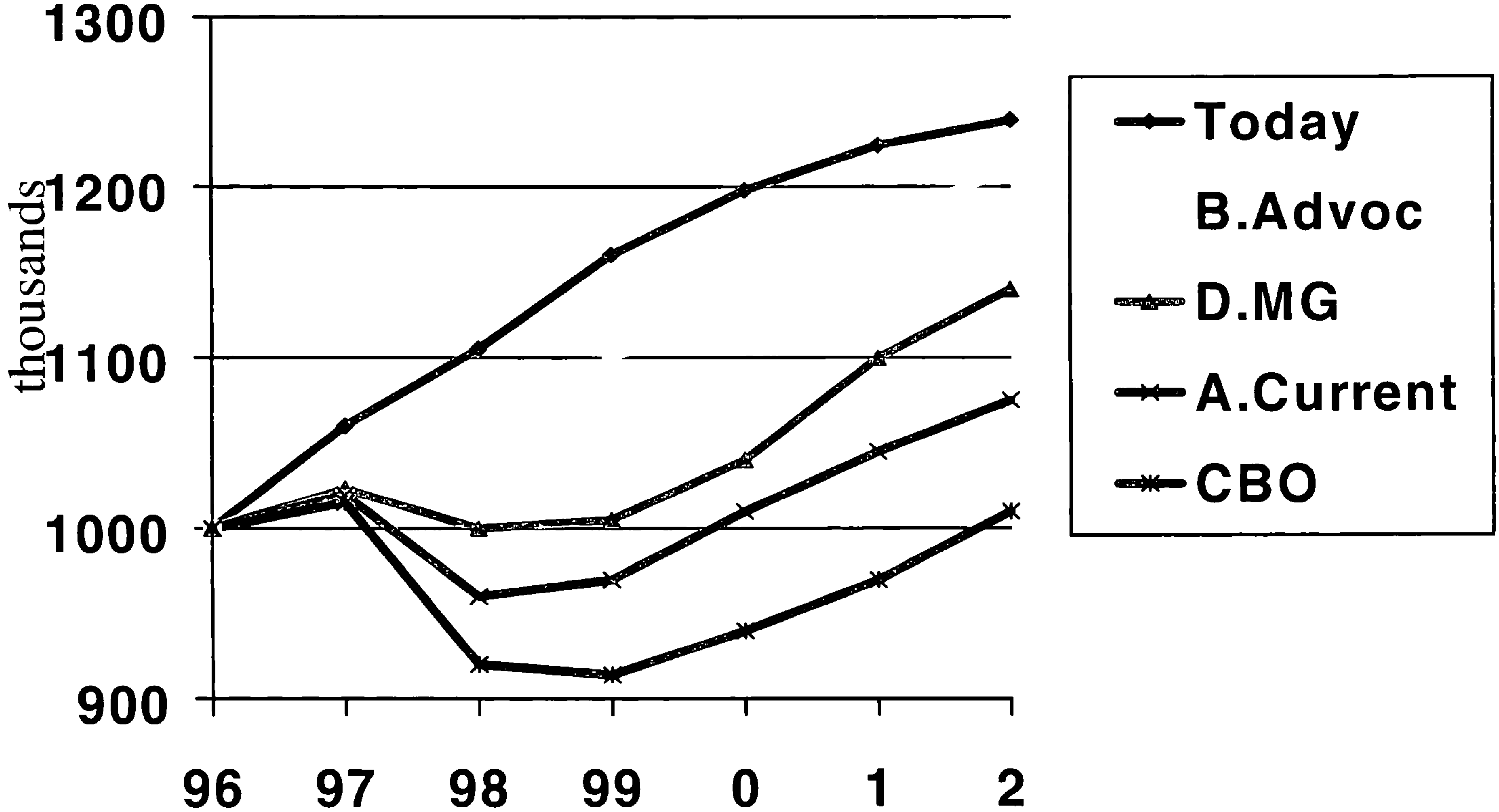
— includes 2 things



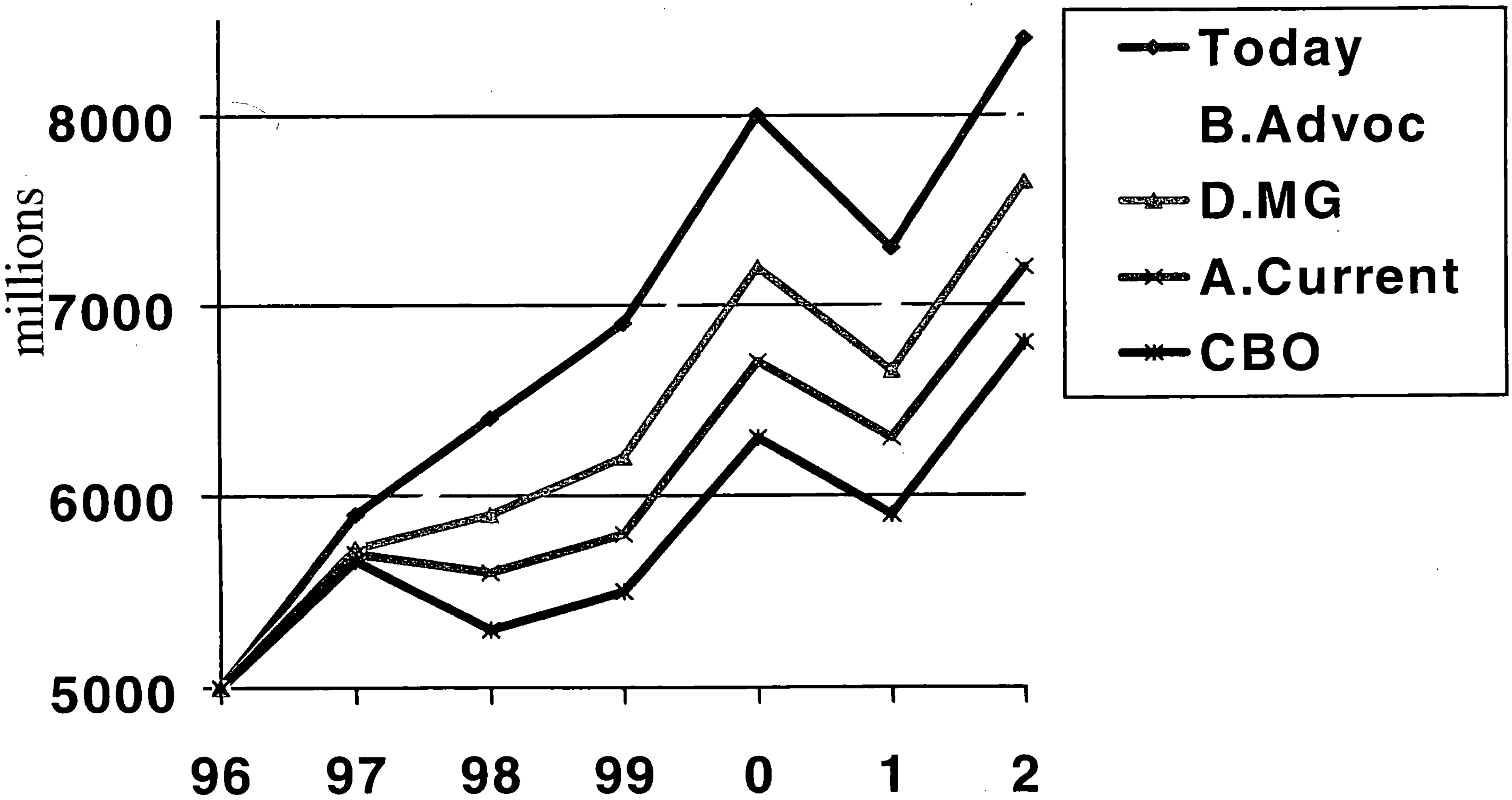
$$\begin{array}{r} 5.6 \\ -3.9 \\ \hline 1.7 \end{array} \qquad \begin{array}{r} 3.9 \\ -1.6 \\ \hline 2.3 \end{array}$$

OMB		Adv
5.6	3.9	1.6

Number of Beneficiaries



Federal SSI Payments



— Add Opt 5 (drop Opt 1)
— collapse 2+4 (SSA won't oppose MA)
Add OPC rec.

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MEMORANDUM TO THE PRESIDENT ?

Jeremy - this is 'pre-draft'. It has not been through the formal channels, but I wanted you to have a look. KA.

FROM: Franklin D. Raines — Δ chart?
Carol Rasco

RE: Welfare Reform Administrative Issues in Food Stamps and SSI with Significant Budgetary Impact

One of the most difficult resource decisions in the FY 1998 budget and beyond is how we meet the deficit reduction goal while correcting the problems in the Welfare Bill. In the near future, we will discuss with you a number of legislative proposals that address your concerns with the bill. However, three potential administrative fixes to welfare bill for Food Stamps, SSI children, and Medicaid need your immediate decision. This memo summarizes these issues and provides a overall budgetary context for Welfare Reform implementation decisions.

Savings in Welfare Reform and Cost of Fixing the Bill

When you announced you would sign the welfare bill, you expressed general agreement with the concept of the new "TANF" block grant, the successor to AFDC. At the same time, you made it clear that you disagreed with the deep budget cuts outside TANF; mainly cuts to Food Stamps and benefits for legal immigrants. CBO estimated that the new bill reduced spending by $14 billion more than your proposal -- even after increasing TANF/AFDC spending by $7 billion over the projected entitlement levels to make the block grant more acceptable to States.

Though you did not make the explicit connection, many assumed that this $14 billion in additional savings defined the Administration's first available resource to finance fixing the bill. And, in fact, it would be possible to address all of the concerns you articulated at the bill signing within the confines of the additional $14 billion in estimated savings over the President's balanced budget. However, a number of issues on both the savings and the spending sides provide compelling reasons to revisit this assumption. First, there are a range of options to ameliorate the concerns with the bill, and the most expansive proposals cost much more than $14 billion. Second, a number of concerns emerged as we began to implement the bill. Three of these -- Food Stamps for 18-50 year olds, SSI for children, and transitional Medicaid -- need immediate attention, and include options that range in total cost from $0.5 to $8.3 billion over FY 1997-2002.

If you use welfare bill savings to make the administrative fixes to Food Stamps for 18-50 year olds, SSI children and transitional Medicaid, you will be left with two choices: 1) use less resources to finance the legislative proposals to fix those problems you identified at the welfare bill signing (benefits to immigrants, the Food Stamps shelter deduction, and improved contingency funding); or, 2) move to restore the funding cuts in these areas, thus putting greater pressure on spending for other budgetary priorities.

In sum, we could readily spend more than twice the $14 billion on legitimate welfare problems, or decide to spend less. And given the deficit goal, all claims on resources -- even those outside

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of welfare reform, compete against each other. Below is a brief summary of the key concerns and the potential costs involved:

Cost of Administrative and Legislative Welfare Reform Options

Outstanding Issues	**Costs** ($ in billions, 1997--2002)		
Administrative/Immediate			MG
SSI disabled children	$ up to 6.5	$2.5	+1.7
Transitional Medicaid	up to 2.0		
Food Stamps, 18 - 50s	up to 3.4	$1b	
Legislative			
Benefits to immigrants	$ up to 19.0	our proposal ($18)	
Other Food Stamps	up to 2.7	repeal cap	
Total	up to 33.6		

Food Stamp Time Limits for Childless Adults

The welfare reform bill limited food stamps for childless adults to 3 months in 3-years (see issue paper in attachment 1). Individuals are exempt from the time limit if they are: under 18 or over 50 years of age; responsible for the care of a child or incapacitated household member; medically certified as physically or mentally unfit for employment; pregnant; or exempt from the food stamp work requirements. This provision is estimated to save approximately $3 billion over FY1997-2002. When States fully implement this provision in 1997, almost 800,000 individuals will be ineligible to receive Food Stamps each month. These individuals may only stay on the program if they are working over 20 hours per week or participating in an intensive workfare program. We not expect States to establish costly workfare slots for this group given limited resources are pressures to create jobs for the welfare population. About half these individuals have no other income other than Food Stamps, putting their average monthly income at $171 or 28% of the poverty level. Over 40% of this group is made up of women.

The law provides an exemption for cities, counties, or states with unemployment rates above 10%, at State request, and allows States to request waivers for any group of individuals residing in an area that "does not have a sufficient number of jobs to provide employment for the individuals." The Administration must decide how broadly to define the criteria for areas with insufficient jobs. The time limit goes into effect on November 22 of this year. State are already preparing their internal guidance and formulating waiver requests. Oregon, Louisiana, West Virginia, and Washington have already submitted requests.

There is substantial latitude in the law for how the Administration interprets exemptions and waivers, and thus for the numbers of individuals actually denied benefits. USDA has proposed guidance that ranges from exempting areas heavily dependent on declining industries, for example coal mining, to providing waivers to groups of individuals who face fewer employment opportunities due to insufficient job skills, for example, persons without a high school education.

~~DRAFT~~ taking adv of "allow" exemption DRAFT

We recommend limiting waivers to geographic-based criteria. While individuals without a complete high school education do face a tougher labor market than others, it does not seem reasonable to assume that they cannot find employment regardless of the local circumstances. USDA's draft ~~The~~ guidance would exempt an individual without a high school diploma from the time limit even though she lives in an area with 4% unemployment. Some might perceive an exemption for this group to be an education disincentive. Highly preliminary estimates show that if exempting persons without a high school diploma could exclude 45% of those subject to the time limit. In total USDA's guidance could exempt between 65 to 75% of those subject to the time limit and therefore reduce the savings by as much as $2 billion over FY1997-2002. It is unlikely that all States will take full advantage of such broad exemption criteria, however the Administration would have to defend the position. Consistent w/ wr pos?

While the Administration strongly opposed time limits, exempting entire classes of individuals, such as persons without a high school education, goes beyond what Congress contemplated in providing exemptions to the provisions. We believe that the geographic-based exemptions can provide relief to as many as one-third of all persons affected by the provisions and are more defensible as an appropriate exercise of the discretion Congress granted. This interpretation could exempt up to 30% of those subject to the time limit who are living in areas with historically high, albeit under 10%, unemployment. Savings could be reduced from $3 billion to about $2 billion over the FY1997-2002 period.

SSI Childhood Disability Definition

The welfare reform law provided a new, tightened definition of childhood disability for the SSI program. Both the Congress and the Administration proposed tightening the requirements with virtually identical language. However, the statutory language is not precise, SSA has substantial discretion in drawing the eligibility line to implement the new law and advocates and some Senate moderates have argued for an implementation policy that is significantly less restrictive.

The SSI children's provision in the final welfare reform bill was scored for $8.4 billion in savings over 6 years and $1.9 billion in FY 2002, and was expected to remove 190,000 children from the rolls by the middle of 1997. These savings are similar to the estimates for the proposal in the FY 1997 President's budget. The option proposed by advocates would cost $5.8 billion over 6 years, $1.5 billion in FY 2002, and affect 145,000 fewer children currently on the rolls. A decision is needed on this issue in the near future. SSA has held approximately 7,000 cases a week since August, pending a resolution of this issue.

We have developed 4 options for you to consider. They are summarized on the following table and described in detail in attachment 2. Option 1 is the proposal as understood at the time of enactment by OMB and CBO. Option 2, which SSA Commissioner Chater supports, would limit the impact for children with physical disabilities and would require more documentation of

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Attachment 1

COMPARISON OF OPTIONS FOR DETERMINING SSI CHILDHOOD DISABILITY UNDER WELFARE REFORM

	SEVERITY STANDARD FOR DISABILITY	REDUCTIONS IN NUMBER OF CHILDREN RECEIVING SSI PAYMENTS		SSI AND MEDICAID COSTS FROM 1997-2002	EFFECT OF OPTIONS ON NUMBER OF RECIPIENTS AND OUTLAYS IN 2002	
		CURRENT RECIPIENTS REMOVED FROM ROLLS BY SEPTEMBER 1997 (down from 1.0 million before welfare reform)	IN 2002 (down from 1.3 million before welfare reform)		Additional Eligible Children	Additional SSI and Medicaid Costs
Option 1	Significantly Tighten Eligibility	**190,000**	**250,000**	**0**	**0**	**0**
Option 2	Tighten Eligibility; Modify Determination Process	**145,000**	**185,000**	**$2.0 billion**	**65,000**	**$0.5 billion**
Option 3	Add New Step with Lower Standard than Options 1 or 2	**45,000**	**50,000**	**$6.6 billion**	**200,000**	**$1.5 billion**
Option 4	Same as Option 2, but retain Medicaid for all current recipients	**145,000**	**185,000**	**$2.5 billion**	**65,000**	**$0.6 billion**

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the rationale for disability determinations in all cases, all of which could be done administratively. Option 3 is the advocates position. Option 4 would implement the SSA proposal through administrative action and seek legislation to retain eligibility for Medicaid for all children currently on the rolls who lose SSI. Under current Medicaid law most children who lose SSI are expected to retain Medicaid; new legislation would provide for those children not covered under current Medicaid law.

OMB recommends the fourth option, use administrative discretion to moderately soften the policy and retain the eligibility for 45,000 children who would otherwise lose benefits. We would seek Congressional support for retaining Medicaid for all children currently on the rolls. This would avoid the extreme change in policy represented by the advocates' proposal. Whereas the advocate's option would cost \$1.5 billion in FY 2002, this recommendation would cost \$0.6 billion.

DPC recs

Transitional Medicaid. ------- Waiting for an insert from Health Division

Summary of Other Welfare Reform Policy and Budget Issues

The immediate administrative decisions discussed above will compete for resources with the legislative options we will discuss in a few weeks. Below is a brief summary of those issues to provide the full context.

Food Stamps

In the Welfare Reform signing statement, you specifically cited two food stamp provisions as unacceptable. First, the welfare reform bill caps the food stamp shelter deduction, effectively cutting \$3 billion in benefits from a million households with high housing costs -- primarily families with children. Remedies for the excess shelter deduction range from increasing the cap over time to removing it entirely. Legislation repealing the cap could cost as much as \$0.4 billion in FY 2002 and \$2 billion over 6 years. In addition, we are concerned that due to certain freezes in deductions in the Food Stamp benefit calculation that over the long term Food Stamp recipients will only receive 75 to 85% of their COLAs. We are looking at options to ameliorate this problem. These are legislative options and they could be considered as part of the FY 1998 budget. Second, as discussed above, you objected to the Food Stamp cuts for childless adults.

Benefits for Immigrants

The welfare bill profoundly restricts most legal immigrants access to many federal and state assistance programs -- banning them from SSI and Food Stamps until citizenship. In the signing statement, you expressed deep disappointment with the provisions affecting legal immigrants and especially noted the restrictions on Food Stamps and the absence of protections for immigrants who become disabled.

The immigrant provisions in welfare reform saved $25 billion over 6 years. While the Administration has taken some administrative measures to slow the effect of these provisions, a meaningful fix would require legislation. If the welfare bill provisions were repealed and replaced with the Administration's more modest proposal, it would cost approximately $18 billion over 6 years. Exempting immigrants who become disabled after entry and children from the SSI, Food Stamp and Medicaid bans would cost approximately $8 billion over 6 years.

Conclusion Pending

WHITE PAPER ON NEW DEFINITION OF CHILDHOOD DISABILITY FOR SUPPLEMENTAL SECCURITY INCOME

ISSUE: The welfare reform law provided a new general definition of childhood disability for the Supplemental Security Income (SSI) program intended to tighten eligibility requirements. Both the Congress and the Administration proposed tightening the requirements with virtually identical language. However, the statutory language is not precise. The Office of General Counsel at the Social Security Administration (SSA) believes that SSA has substantial discretion in drawing the eligibility line.

The President's FY 1997 Budget Request proposed the new childhood disability provision as part of a larger welfare reform bill with estimated savings of $8.4 billion over the six-year period from FY1997-FY2002 and $1.9 billion in FY 2002. These savings were based on OMB's understanding at that time of where SSA would draw the line in tightening the eligibility requirements. SSA also advised CBO of its intentions. When the legislation was enacted, the provision was scored at these levels.

Given the potential for SSA to exercise discretion in this area, this paper provides four options for drawing the eligibility line that differ considerably in terms of how many children will lose benefits. Option 1 represents the position on which the official scoring was based. Thus, from a budgetary perspective, choosing any of the other three options, each of which represents looser eligibility requirements than Option 1, has costs over the six-year period and in 2002, the target year for balancing the budget. Attachment 1 is a chart summarizing the impacts of each of the four options.

The decision will affect both current recipients and new applicants. Under any of these options, current recipients would not begin to lose benefits before July 1997. However, soon after a decision is made, SSA can begin to process new claims. Approximately 7,000 cases per week have been held since enactment in August, pending a resolution of this issue. In addition, there is a statutory deadline of November 20, 1996, for SSA to promulgate rules codifying the new definition, although implementation can begin prior to such codification. The first three options described in this paper can be implemented immediately. The last one can, in part, be implemented immediately, but also would require legislation.

BACKGROUND: Under SSI, an individual under the age of eighteen with physical or mental impairments of sufficient severity may be determined disabled for purposes of receiving means-tested cash benefits. Prior to enactment of welfare reform, a child was considered disabled under the law if he or she had an impairment of "comparable severity" with that of an adult. This lack of statutory specificity in the mid-1970s gave SSA considerable flexibility to implement the law. In response to a 1990 Supreme Court decision (*Sullivan v. Zebley*), SSA established an additional step (known as the Individualized Functional Assessment or IFA) to the disability determination process that it had established that allowed for a determination of disability at a lower level of severity than was in place prior to that decision.

Prior to the establishment of the IFA in 1991, there were 300,000 children on the rolls. Today, approximately one million children are receiving benefits. The growth has been attributed mainly to a combination of the effect of the *Zebley* decision and an expected expansion in the number of children with mental impairments on the rolls as a result of changes to SSA regulations. If there had been no change in the law, SSA estimates that the rolls would have grown to 1.3 million by FY 2002.

Since the IFA was put in place, there has been a perception by many that the standard of severity had been lowered too far. This perception has been reflected, in part, by media reports on children receiving "crazy checks," i.e., SSI payments for exhibiting behavioral problems significant enough to qualify for benefits under these lower standards. Although neither SSA nor GAO has found any evidence of unqualified children being found eligible, the appropriate threshold for eligibility clearly became an issue.

Under the new welfare reform law, a child is disabled if he or she has an impairment which results in "marked and severe functional limitations." The new law also explicitly eliminated the IFA. By this action, Congress most clearly signaled its intention that the eligibility standards should be tightened.

To understand the options better, a rudimentary discussion of the determination process is helpful. The specialized terms used in the options have become familiar enough to Congressional staff to allow them to appear in letters sent to the President by a number of Senators and advocacy groups. Attachment 2 provides a brief description of the disability determination process and the terms used in describing standards of severity.

OPTIONS: Below is a brief description of each option.

<u>Option 1 -- Significantly tighten eligibility -- eliminate the IFA and make no other changes.</u>
An estimated 190,000 children currently on the rolls would lose benefits by September 1997. This option is consistent with the assumptions in the FY 1997 President's Budget and, therefore, has no cost in FY 2002 or over the six-year period from 1997-2002.

SSA would clarify the current procedures and regulations related to the determination process and eliminate the IFA as required by the new law. Except for elimination of the IFA, determination procedures would be essentially unchanged. The level of severity would be what is known as "Listing level" or "two marked" (see Attachment 2).

<u>Analysis</u>: **Option 1** is arguably closest to Congressional intent, as shown by the amount of savings scored by CBO and OMB during the debate on this issue and at the time of enactment. It

is also the option with the largest impact and does not take advantage of SSA's existing regulatory authority to make changes to the disability determination process independent of the welfare reform bill.

Option 2 -- Tighten eligibility by eliminating the IFA, but modifying current process. An estimated 145,000 children currently on the rolls would lose benefits by September 1997. This option would cost $0.6 billion in FY 2002 and $2.0 billion from FY 1997-2002.

After eliminating the IFA, SSA would modify the current process by adding a fifth "domain" to the four mental disorder-oriented domains currently used for the "functional equivalence" evaluation described in Attachment 2. The fifth "domain" would be a "motor domain." The addition of this physical disorder-oriented domain would ensure greater consideration of limitations caused by combinations of physical impairments. The level of severity would be "Listing level" or "two marked," with the "motor domain" essentially providing an additional opportunity to have a "marked" limitation in a second domain. In addition, SSA would put in place a standard form that adjudicators would be required to fill out when making their determinations. SSA believes that this form would promote greater uniformity in decision making and lead to more allowances than would otherwise occur.

Analysis: **Option 2**, by adding a "motor domain" and promoting the greater discipline and uniformity in the process that would result from the standard form, would be consistent with a policy to tighten eligibility and help ensure that a significant number of severely disabled children are found eligible, without lowering the standard of severity below that explicitly identified in the Conference Report as appropriate under the Listing. Independent of the passage of the welfare reform legislation, these are changes that make programmatic sense, at the same time that they have the effect of reducing the number of children who would lose benefits compared to the first Option.

Option 3 -- Tighten eligibility some by eliminate the IFA, modifying the current process, and adding a new additional step with a lower severity standard. An estimated 45,000 children currently on the rolls would lose benefits by September 1997. This option would cost $1.5 billion in FY 2002 and $6.6 billion from FY 1997-2002.

After eliminating the IFA, a new additional step at a "lower-than-listing level" of severity would be included in the determination process. SSA's General Counsel believes that the legislative history can be read to allow for such a new step. In order to distinguish this option from the process prior to the new law, the severity standard would be higher than the IFA standard. The standard proposed by the advocates of "one marked and one moderate limitation" accomplishes this purpose in a manner that can be immediately implemented.

Analysis: **Option 3** would put SSA in the position of defending a much lower threshold than was anticipated by either the Administration or the Congressional conference committee at the time of enactment. However, SSA believes it would be legally defensible to create a more lenient test that would drop fewer children from the rolls. Given that SSI cash benefits link these children to Medicaid coverage, and that the welfare reform bill simultaneously makes many other changes to the welfare system that could affect these families, it could be argued that it is appropriate to err on the side of SSA using its legal discretion to keep more children on the rolls. At the same time, Option 3 risks going so far that it might revive the "crazy check" stories that appeared in the media. To that extent, there is much less risk to Option 2 in terms of criticism from Congress.

Option 4 -- Tighten eligibility as in Option 2 and propose legislation to provide for retention of Medicaid through age 18 for all current SSI recipients found no longer eligible for SSI cash benefits. An estimated 145,000 children currently on the rolls would lose benefits by September 1997. Under the legislation, those children would still be eligible for Medicaid. This option would cost $0.6 billion in FY 2002 and $2.5 billion from FY 1997-2002.

Eligibility for SSI, ~~with variations~~ in certain States, is categorically linked to eligibility for Medicaid. Under Option 5, legislation would be introduced to ensure that those children currently on the SSI rolls who are found no longer eligible for SSI would retain Medicaid coverage through age 18.

Analysis: **Option 4** could serve as a compromise solution in terms of ensuring the provision of key health benefits to current recipients who are found no longer eligible for cash benefits. Many of these children would already qualify for Medicaid under current law, which provides for coverage for children under age 12 in families whose income is less than 100% of poverty and children under age 6 in families whose income is less than 133% of poverty. Further, this coverage phases up to age 19 by 2002. The legislative proposal in this option would ensure coverage for those current recipients who do not fit the profile of children covered under current law. Those future applicants who would have received SSI under the rules before welfare reform, but not under the tightened eligibility requirements, and are above the age and income levels provided for under Medicaid law would not get Medicaid coverage under this proposal.

In this paper and the first two attachments, the options have been discussed in terms of the number of children who could lose benefits and the costs of the options in relation to savings anticipated at the time the bill was enacted. Attachment 3 provides a brief summary of which interested parties might provide support or opposition for each option.

Attachments (3)

Attachment 1

COMPARISON OF OPTIONS FOR DETERMINING SSI CHILDHOOD DISABILITY UNDER WELFARE REFORM

	SEVERITY STANDARD FOR DISABILITY	REDUCTIONS IN NUMBER OF CHILDREN RECEIVING SSI PAYMENTS		SSI AND MEDICAID COSTS FROM 1997-2002	EFFECT OF OPTIONS ON NUMBER OF RECIPIENTS AND OUTLAYS IN 2002	
		CURRENT RECIPIENTS REMOVED FROM ROLLS BY SEPTEMBER 1997 (down from 1.0 million before welfare reform)	IN 2002 (down from 1.3 million before welfare reform)		Additional Eligible Children	Additional SSI and Medicaid Costs
Option 1	Significantly Tighten Eligibility	**190,000**	**250,000**	**0**	**0**	**0**
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Option 4	Same as Option 2, but retain Medicaid for all current recipients	**145,000**	**185,000**	**$2.5 billion**	**65,000**	**$0.6 billion**

Attachment 2
DISABILITY DETERMINATION PROCESS

The disability determination process involves first identifying whether a child's impairment can be found to "meet or equal" the numerous impairments in SSA's 100-page tabulation of medical impairments (known as the "Listing of Impairments"). If a child's specific impairment (1) is not found in the Listing and (2) is not found by an evaluating physician or psychologist to "medically equal" an impairment in the Listing, the individual may still be determined to be "disabled."

In this third step, he or she can be found to have an impairment that is "equivalent" to the listing by an evaluation of the functional limitations caused by the impairment in a number of "domains" (or functional areas). These four "domains" include personal behavior, social behavior, cognition/communication, and concentration. In these cases, the disability determination hinges on the level of severity of the functional limitation. Individuals are found to have impairments "equivalent" to the Listing if they have "marked" limitations in at least two of the four "domains"-- the "two marked" criteria has become known as "Listing level severity." The IFA essentially added an additional step similar to the step above, but allowing for eligibility if a child had "one marked and one moderate limitation" or "three moderate limitations."

It has proven very difficult to generalize about the children who do or do not qualify at different levels of severity. The most meaningful distinction appears to be from the perspective of the decision maker determining whether or not the child meets the eligibility requirements. The decision maker is typically a State employee working on a claim in a State Disability Determination Service office or an SSA Administrative Law Judge adjudicating an appeal. The attached table identifies some of the key differences between "moderate" and "marked" limitations.

The key point of the table is to illustrate the difficulty of the decision as to whether a child's limitation in a given domain is "moderate" or "marked." The core question is whether a particular problem or limitation is "occasional" or "occurs sometimes" (and therefore is "moderate") or whether the problem is "frequent" or "persistent" or "constant" (and therefore "marked"). The broad range of judgment involved in the determination that a given limitation is "moderate" leads to the vast difference between the estimated effects of Option 2 and Option 3.

Attachment 2 -- Table

Examples of Moderate and Marked Functional Limitations

CHILD #1 -- MENTAL IMPAIRMENT 14-year old boy with mild **mental retardation** who does not have specific medical findings to meet listings	CHILD #2 -- PHYSICAL IMPAIRMENT 12-year old girl with juvenile **rheumatoid arthritis** who does not have specific medical findings to meet listings
Example of Moderate in Personal Domain: can be on his own only in familiar places; can only handle small amounts of money; has to be reminded of personal care at home **Example of Moderate in Social Domain**: has only occasional difficulty maintaining relationships with children his own age	**Example of Moderate in Motor Domain**: occasional pain and stiffness in knees and ankles limits walking when pain occurs; unable to run; is sometimes symptom-free; sometimes has general malaise from illness and medication **Example of Moderate in Personal Domain**: pain and stiffness in wrist are less frequent and severe; when they occur, cause some difficulty in self-care activities such as eating, dressing, toileting **Example of Moderate in Social Domain**: when symptoms are present, tends to be irritable and avoids interacting with people.
Example of Marked in Personal Domain: gets lost when on his own; can't handle money; requires close supervision at home for bathing and dressing **Example of Marked in Social Domain**: has serious difficulty maintaining relationships with children his age	**Example of Marked in Motor Domain:** frequent pain and stiffness in knees and ankles requires cane to walk; unable to run; is rarely symptom-free; frequent general malaise from illness and medication **Example of Marked in Personal Domain:** frequent pain and stiffness in wrists causes serious difficulty eating, dressing, toileting, etc.; is rarely symptom free **Example of Marked in Social Domain**: Because of frequent illness and symptoms, is depressed, irritable, and socially withdrawn

Attachment 3
IMPLICATIONS OF OPTIONS

Option 1 -- The tightest definition of childhood disability is consistent with assumptions made by both the Congressional Budget Office and the Office of Management and Budget when scoring this provision of the welfare reform bill. It represents the position we believe the majority of the Republican conferees would say was intended by the change in the law. This position is reflected in the language of the conference report.

Option 2 -- The modifications to the regulation envisioned by this option represent the Social Security Administration's best efforts to identify an option that moderates the effects of the legislation without significantly reducing the standard of severity for eligibility childhood disability benefits. The expectation is that a majority of Republicans would not see this proposal as contrary to the spirit of the conference agreement, while advocacy groups would see it as an effort to at least recognize the problems of severely disabled children with multiple physical impairments who would not otherwise qualify for the rolls. However, advocacy groups and Senate moderates could be expected to find neither Option 1 nor Option 2 acceptable. + would blame Adm.. ~~say that the Adm had the opp~~

Option 3 -- The loosest definition is favored by various advocacy groups. It is also being championed by at least five Senators (Daschle, Conrad, Chaffee, Cohen, and Moseley-Braun). The rationale for this option comes from the position of advocates and some members of Congress that the Congress did not intend to establish a high severity standard, even after eliminating the IFA. While this position relies more on what the conference report does not say than on what it does say, it is not inconsistent with the SSA General Counsel's position that this option is within SSA's regulatory discretion. There would undoubtedly be significant negative reaction to this option from the Republican majority and it could be represented as negotiating in bad faith.

Options 4 -- Proposing legislation to provide for continuation of Medicaid coverage for children currently receiving benefits who are found ineligible for SSI under tightened eligibility rules (see Option 2) would address concerns that loss of Medicaid is as difficult a blow for the families of these children as the loss of SSI cash benefits. The issue of how long children currently on the rolls who might be found no longer eligible would continue to receive benefits was the last item of negotiation between the Administration and the Republican majority in this title of the welfare reform bill. This proposal would represent an effort to ameliorate the final result of that part of the negotiations. However, given the fact that many of these children will be covered by Medicaid under current Medicaid law, it may be seen as a relatively low cost way of partially addressing a key concern of the advocates. At the same time, the advocates would probably not be satisfied by this proposal, in part because it does not ensure Medicaid covera~~ge for futur~~e applicants who will not be eligible for SSI under tightened eligibility rules.

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

October 21, 1996

MEMORANDUM FOR FRANKLIN RAINES

THROUGH: Ken Apfel
Barry White
Keith Fontenot

FROM: Matthew McKearn

SUBJECT: USDA Guidance for States Seeking 18-50 Waivers -- DECISION

ISSUE: How broad or narrow should USDA guidance on Food Stamp waivers be, with what related impact on costs? Range of budget impact: $500 million to $2.9 billion.

BACKGROUND

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-438) limits able-bodied adults to three months of food stamp participation in a 3-year period. Individuals are exempt from the time limit if they are: under 18 or over 50 years of age; responsible for the care of a child or incapacitated household member; medically certified as physically or mentally unfit for employment; pregnant; or exempt from the food stamp work requirements. However, the law also permits the Secretary of Agriculture to grant State requests for waivers for any group of individuals residing in: an area with an unemployment rate above 10 percent; or an area that "does not have a sufficient number of jobs to provide employment for the individuals."

As with other aspects of this Act, there is substantial discretion on how tightly or loosely to define the statutory exemptions and the terms of the waivers. An outer bound estimate suggests that as many as 60% of all individuals subject to the provisions could be exempted under the guidance as currently proposed by USDA, if all States were to elect the full range of options, reducing savings from $4.1 billion to as low as $1.2 billion.

The Administration strongly opposed provisions to limit food stamp benefits to households that seek work, but are unable to find jobs, due to the lack of employment opportunities during welfare reform negotiations. Nearly one hour of the budget reconciliation discussions between Sen. Dole, Rep. Gingrich, and the President focused on this issue. Throughout the welfare reform debate, this was one of the main areas of concern to Leon Panetta. The President publicly noted his dissatisfaction with this provision in his signing statement for P.L. 104-438. Most recently, the President underscored the importance of this issue by singling-out the "18-50s" discussion in your October 2 welfare reform implementation memo to question how high unemployment areas will be defined in guidance.

Likely Adjustments to Savings. At the time of enactment we estimated these provisions would deny benefits to 1.1 million persons monthly and save $4.1 billion over seven years. Actual savings are unlikely to reach this level regardless of the pending guidance for two reasons (see table below). First, USDA does not anticipate having final regulations in place until the beginning of FY 1999. States will thus have considerable discretion to implement the medical exemptions and other provisions, absent regulations, and are likely to interpret the exemptions more liberally, decreasing anticipated savings by approximately $850 million in FY 1997. Second, the scoring estimates inadvertently did not include a factor for the impact of the waiver available to "areas" with unemployment in excess of 10%. If all eligible counties request this waiver it would reduce the number of persons subject to the time limits by 10% and decrease savings by $325 million over 7 years. We propose to the adjust the baseline for this effect. **The numbers presented below reflect our outer bound estimate of the impact of waivers if States take full advantage of all provisions. To the extent that States do not, the cost of the waivers decreases proportionately.**

Estimated Savings and Impact of Waivers [1]

	($ billion)	
	FY 2002	FY 1997 -2002
Estimate in Baseline	-$0.6	-$4.1
Adjust for error in 10% unemployment	-0.1	-0.3
Loss in savings prior to regulations	---	-0.9
Adjusted Baseline	-0.5	-2.9
Guidance Options		
USDA Proposal	+0.3	+1.8
Net Savings	**-0.2**	**-1.2**
Tighten Guidance	+0.1 - +0.2	+0.5 - +1.0
Net Savings	**-0.4 - -0.5**	**- 2.6 - -3.1**

Proposed Guidance. The proposed guidance would establish parameters for what States should consider submitting as justification for a waiver. The critical unknown in estimating the potential impact of waiver guidance is how many States will request waivers, or what the "take-up rate" will be. In addition to considering the impact of waivers on participants, States will also weigh the potential administrative burdens. From the standpoint of administrative ease, States are more likely to request waivers if they can exempt entire classes of participants State-wide, or all persons within specific geographic areas. To the extent that USDA guidance limits

[1] These are rough OMB staff estimates. They do not reflect the January 1998 Food Stamp baseline.

waivers to subgroups in specific areas, fewer States may request waivers. States must also weigh conflicting political support that will vary from State to State. Because the implications of these factors remain unknown, the estimates provided reflect outer-bounds that assume States will make complete use of all available waivers. Federal policy (OMB Directive No. 11) requires that all USDA waivers determinations must be based on the use of Bureau of Labor Statistics (BLS) data or BLS standard methodologies. The procedures for determining which areas are eligible for a waiver because they meet the 10% unemployment threshold are straightforward.

USDA proposed six alternatives to document waivers for areas without sufficient jobs: Lack of Jobs in Designated Labor Surplus Areas; Lack of Jobs in States with Extended UI Benefits; Lack of Jobs Based on Education or Skill Levels; Lack of Jobs Due to Lagging Job Growth; and Lack of Jobs in Declining Occupations or Industries. We have concerns with two of the criteria, which are outlined below.

Waivers Based on Education or Skill Level. USDA proposed waivers based on individuals without a high school education because these individuals face a marked lack of jobs appropriate to their skill levels. Data from BLS suggest that the unemployment rate among individuals without a high school diploma is 2.3 times higher than the average unemployment rate. If we assume that waivers are only granted for those States with unemployment rates in excess of 10%, 39 States and the District of Columbia are eligible for States-wide waivers for all individuals without a high school education. Conversely, the data show that large proportions of such individuals do get jobs. Providing waivers for individuals without a high school diploma in these States would exempt over 40% of all recipients subject to the time limits.

Labor Surplus Areas. USDA proposes allowing waivers for approximately 1,300 jurisdictions designated as Labor Surplus Areas by BLS, because their unemployment rate exceeds the national average by 20% for a period of two years. This measure would expand the number of areas eligible for a waiver far beyond the straight 10% unemployment measure. Very preliminary estimates suggest that as many as one-third of all food stamp recipients subject to the provisions live in labor surplus areas. For example, the entire city of Miami, with an unemployment rate of 7.6% would qualify for a waiver.

OPTIONS FOR GUIDANCE CONTENT

Option 1: Approve guidance as proposed by USDA. Savings loss: Approximately $1.8 billion. If States take full advantage of the waiver criteria proposed by USDA it could excluded as many as 60% of the able bodied childless adults from the work provisions, and reduce the law's estimated savings by as much as $1.8 billion over seven years, if all States requested the full range of waivers.

Option 2: Ask USDA to tighten the proposed criteria. Savings loss: Approximately $500 million - $1 billion. Individuals with limited education do face more difficultly in finding employment and probably merit special consideration. However, USDA's guidance could be interpreted as granting a waiver to these individuals even if they live in a State with as low as 4.4% unemployment. USDA could develop alternative conditions for approving waivers for persons without high school educations. For example, they could tighten the scope of the insufficient education waiver by allowing it only in areas with unemployment rates in excess of an established level or in designated labor surplus areas. A very rough estimate suggests that this would narrow the exemption to 15% of the participants subject to the time limits and reduce savings by $500 over 7 years if all States requested this waiver for all eligible areas in a State.

Similarly, USDA has proposed using Designated Labor Surplus Areas as a sole determinant of "insufficient jobs". Labor Surplus Areas currently must have an unemployment rate in excess of 7.5%, well below the legislated threshold of 10%. This designation would provide waivers to all groups of individuals in a large expanse of areas with unemployment rates well below the 10% threshold -- exempting as many as one-third of food stamp recipient eligible for the waiver.

Option 2 provides relief for some individuals facing limited employment activities because they don't have a high school education, but limits the waiver to areas that have higher unemployment rates. It also suggests that in areas with unemployment less than 10%, waivers should not be granted to all individuals subject to the work provisions.

Option 3: Exclude lack of education or Labor Surplus Area from the list of guidance. Savings loss: Under $100 million. Relatively few areas are likely to meet the remaining four criteria for establishing areas without sufficient jobs. It seems unlikely that these criteria alone will provide any significant relief to large urban areas that may have high unemployment among groups of individuals, while the overall unemployment rate remains low.

PURPOSE OF THE MEETING: We are meeting with you to discuss the options available and come to a resolution. The Administration has committed to providing timely guidance to give States the ability to minimize the disruption associated with implementing the time limits. The clock for the 3 month limit on participation begins December 1 and States need guidance because they are required to notify affected recipients by that date and modify their eligibility systems to track those individuals subject to the time limits.

The guidance also has implications for the Administration's strategy to address provisions of the Welfare Reform legislation that the President opposed. To the extent that the effect of the provisions can be mitigated through administrative action, it reduces the cost of legislative proposals necessary to reverse the policy. However, even broad use of waivers does not address the Administration's fundamental concern that individuals who actively seek work should not lose food assistance because jobs are not available.

Skila

Can't do advocs – #'s

Option 1 not an opt
Collapse
Work hard on re-review

"chronic and ...." ~ episodic

Chris J – MA + expanded ch.

	SSA ests Svgs	(OMB in (–)) Ch cut	
Option 1	7.49 b	185	(vs 198)
OMB	5.6 → 1.83 (vs 2.0)	140	(vs 145)
Advoc	1.6 → 5.9 (vs 6.6)	45	✓
Me	3.9 → $\boxed{3.6}$	$\boxed{100}$	