Secretary Carol Skornicka
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
FAX: (608) 266-1784

State of Wisconsin
Governor Tommy Thompson

Secretary Joe Leean
1 West Wilson Street
P.O. Box 7850
Madison, WI 53707-7850
Telephone: (608) 266-9622
FAX: (608) 266-7882

Jean Sheil

May 3, 1996

Mr. Leonard Sternbach
Federal Project Officer
Office of Policy and Evaluation
Administration for Children and Families
Department of Health and Human Services
370 L'Enfant Promenade, S.W.
Washington DC 20447

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Dear Mr. Sternbach:

In order to serve a wider population of welfare recipients and increase services leading to self-sufficiency, Wisconsin is submitting for your approval a request to amend the Pay for Performance and Work Not Welfare waiver projects. Each of these projects had specific objectives to help families become independent of welfare. Based on the success of these and other Wisconsin welfare reform initiatives, we now know it is possible to help more families move from dependence on welfare to self-sufficiency.

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The changes proposed in Attachment I will allow Wisconsin to help more families transition into work and self-sufficiency and prepare Wisconsin and the nation to better emphasize work-based programs as an alternative to welfare. Please consider the following issues as you examine the waiver request:

## SUCCESS LIMITED BY PROJECT CONSTRAINTS

Since its January 1, 1995, implementation date, the caseload in the two Work Not Welfare demonstration counties, Pierce and Fond du Lac, has declined by 50 percent. The project has demonstrated that intensive case management, time-limited benefits, and active community and employer involvement to address barriers to employment can help families reach self-sufficiency. Most applicants and recipients cite the time-limited nature of benefits as a reason to try to obtain immediate employment and conserve benefits as much as possible, or not enter the program at all.

Client success in finding other means of financial support has been possible for many reasons. Two primary reasons provide evidence that success can be replicated. First, the creation of Community Steering Committees and Children's Services Networks have mobilized local communities to find opportunities to overcome traditional barriers to employment, like childcare and transportation. As a result of their tremendous success, Wisconsin is planning to establish similar community groups in every county. Second, jobs in Wisconsin are plentiful, making it an employee's market. Wisconsin's 1995 average unemployment rate was 3.7 percent, the lowest since 1969. Even in manufacturing, which is where many former welfare recipients find employment, there were 596,000 jobs in 1995. That is the highest level since 1979. In contrast, the national unemployment rate in December 1995 was 5.6 percent. Wisconsin is consistently in the top ten states for low unemployment. The future outlook is even brighter. Businesses continue to move to Wisconsin, and employers will be hiring more workers this year.

Wisconsin has the capacity to place even more welfare recipients in jobs and start them on their way to self-sufficiency. Community involvement and commitment to developing employment supports, such as child care and transportation, will also help achieve this goal. However, in order to maximize the target population, it is important to expand Job Opportunities and Basic Skills (JOBS) Training program participation and consistently emphasize the temporary nature of welfare. It has also become imperative that we expand the availability of subsidized child care.

## PARTNERSHIP FOR FULL EMPLOYMENT LENDS FOCUS

In his 1995 biennial budget, Governor Tommy Thompson announced that the Division of Economic Support and the Division of Vocational Rehabilitation, currently part of the Department of Health and Social Services, will merge with the Department of Industry, Labor and Human Relations into a new Department of Workforce Development. Part of this integration has been to refocus the missions of all the merging entities and identify a purpose for the new Department. The Partnership for Full Employment is the result of this effort.

The Partnership commits the Department to the creation of a world-class work force for the State of Wisconsin. This means pulling together, under one umbrella, all services for employers who need workers and people who need jobs. Under this umbrella, welfare recipients will be united with all other unemployed populations and served in integrated Job Centers. This will result in coordination, instead of competition for the attention of employers, and we will be better able to target all employment and training options available to participants.

## SPECIAL POPULATIONS NEED SPECIAL SERVICES

Some of the current welfare population will not be required to participate in an employment program. Specifically, parents who receive benefits from the Supplemental Security Income (SSI) program have been determined to be incapable of working, and persons who serve as non-legally responsible relatives (NLRRs) and receive benefits for the children in their care are performing a service. These individuals will be exempt from work requirements, but will continue to receive services and assistance payments for dependent children through the social services agency.

## ADDITIONAL WAIVERS WILL IMPROVE SERVICE

For the reasons stated above, the Department is requesting approval to amend the Work Not Welfare and Pay for Performance demonstration projects. It is expected that the changes would be evaluated under the current Work Not Welfare evaluation contract held by MAXIMUS, Inc. and the Pay for Performance evaluation contract which is currently under negotiation.

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plan

Furthermore, these changes have been approved by the Wisconsin Legislature as a strategy to better serve Wisconsin's Aid to Families with Dependent Children (AFDC) recipients. Attachment II is an approval time line that describes public hearings and legislative debate which meets the public input requirement. Finally, Attachment III includes legislative language to support one of the waiver requests.

We look forward to a prompt response. The earlier these changes can be implemented, the sooner we can help more families obtain work, escape the trap of dependency and move toward economic self-sufficiency. If you have questions, please feel free to contact Jean Sheil, Section Chief, Project Planning and Development Section, at (608) 266-0613. Thank you for your consideration.

Sincerely,

Joe Leean
Secretary
Department of Health
and Social Services

Richard C Wagner for C.S.

Carol Skornicka
Secretary
Department of Industry, Labor
and Human Relations

Attachments (4)

- spouse, child, parent or dependent relative who lives with the participant, or,

- A required court appearance, or,

- Temporary incarceration, or,

- Child care was necessary for the participant to participate or accept employment, child care was unavailable and the JOBS agency was unable to provide or refer for alternate child care arrangements, or,

- Failure to be properly notified of a JOBS program activity, or,

- Other circumstances beyond the control of the enrollee or participant, but only as determined by the JOBS agency.

B. Specific AFDC Waiver Provisions

1. Social Security Act Provisions

Social Security Act provisions for which AFDC waivers are requested are listed in order of the Act. The sections of the Act for which a waiver is requested are underlined.

Pay for Performance Waiver Request

a. Explanatory Note: The following changes will allow Wisconsin to impose demonstration sanctions without a prior conciliation period.

402(a)(19)(A) - "that the State has in effect and operation a job opportunities and basic skills training program which meets the requirements of part F";

Need 45 CFR 250.36 cited

Explanatory Note: The following changes will allow Wisconsin to modify the criteria which exempt persons from JOBS participation, modify the fiscal sanctions of persons who do not participate and modify the participation requirements.

402(a)(19)(C) - "that an individual may not be required to participate in the program if such individual—(iii) - "subject to grant to be made if a child would be made homeless as a result of the time limit established in 2.2(3), 2.2(5), and 2.2(8) of the waiver terms and conditions.

Section 402(a)(41) and various provisions at 45 CFR 233.101(a)(1)(i), (ii) and (c)(1)(iii): AFDC-Unemployed Parent (UP) 100 Hour Requirement--to allow the State to eliminate the 100-hour requirement for recipients.

Section 402(a)(8)(A)(iv) and (B)(ii) and various provisions of the regulations at 45 CFR 233.20(a)(7)(ii), (11)(i)(C), and (ii)(B): Earned Income Disregards--to allow the State to replace the $30 and one-third income disregard with a $30 and one-sixth (1/6) income disregard without time limits.

Section 402(a) and various provisions of the regulations at 45 CFR 233.20(a): Partial Freezing of Benefits--to allow the State to not adjust benefits because of changes in income between eligibility determinations as described in 2.2(13) of the waiver terms and conditions.

Section 402(a)(19)(A) and various provisions of the regulations at 45 CFR 250.45 and 250.47: Work Experience and Employment Components--to allow the State to operate as part if its JOBS program, in addition to CWEP, work experience and employment components as described in 2.2(15) of the waiver terms and conditions.

Section 402(a)(19)(C)(i), (ii), (iii), and (iv)(I) and various provisions of the regulations at 45 CFR 250.34: Sanction--to allow the State to reduce a benefit payment by the Federal minimum wage times the number of hours that a participant's program obligations are not met, except in cases where there is good cause, as described in 2.2(14) of the waiver terms and conditions.

Work Not Welfare Terms and Conditions

Section 402(a)(19)(A) and various provisions at 45 CFR 250.36: Conciliation Procedures Due to Sanctions --to allow the State to impose demonstration sanctions without a prior conciliation period.

Section 454(11) and various provisions at 45 CFR 302.32(a) and (e) and 302.51(b)(2): Child Support Payments--to allow the State to have all current monthly child support payments made directly to the custodial parent. The monthly child support except for $50 would count when determining the amount of the AFDC benefit.

Section 402(g)(1)(A)(ii),(iii), and (iv) and various provisions at 45 CFR 256.2(b)(1) and (2), (c), and (e): Transitional Child Care--to allow the State to provide 12 months of child care within a 4-year period beginning with receipt of a demonstration grant for participants who: 1) have lost eligibility because of

## ATTACHMENT I
## Waivers Requested

### I. Expand JOBS Participation for Parents of Young Children

**Problem:** Currently, Wisconsin requires parents of children over age one to participate in the Job Opportunities and Basic Skills (JOBS) Training program under the approved State Plan. Staying out of the work force for a full year places these people at a disadvantage and places them at risk for losing valuable job skills and a recent work history which employers cite as important in making hiring decisions. This also does not replicate the reality of most working families. Women are increasingly returning to work within three months of a birth because jobs are only guaranteed for 12 weeks under Wisconsin's Family Leave Law, and because their income is required to support the family. The inequities between working women and women on Aid to Families with Dependent Children (AFDC) are becoming more visible as more women with children enter the work force.

**Response:** Waive section 402(a)(19)(C)(iii) of the Social Security Act and 45 CFR §250.30(b)(9). Waiving these sections will allow Wisconsin to require JOBS participation for women caring for children at least 12 weeks old. Good cause reasons for non-participation in employment activities would include lack of suitable child care. Wisconsin is substantially increasing expenditures for child care to ensure that adequate child care is available for working parents. The case manager will work with the participant to develop an employability plan that suits the needs of the parent. For example, participation might include parenting and life skills education. This waiver would require parents in both the Work Not Welfare (WNW) and Pay for Performance (PFP) demonstrations (experimental and non-experimental treatment groups) to participate in the JOBS program when their children are 12 weeks old.

**Rationale:** Evidence from Wisconsin's JOBS program and the California GAIN project demonstrate that immediate work force attachment leads to better outcomes. This is especially important for first-time mothers after they have completed their high school or GED educational requirements. Many of these women are young and have little, if any, demonstrated work force attachment. Fostering earlier work force attachment may help stem the high rates of second pregnancies in that first year following the birth of the first child. It will also allow these recipients to use that first year of assistance to gain work experience or participate in work force preparation activities, rather than learn a culture of dependence. And finally, the 12-week provision will make JOBS participation more like regular employment, where 12 weeks--or less--maternity leave is standard.

**II. Reconstitute the Community Work Experience Program (CWEP).**

__Problem:__ Currently the Community Work Experience Program (CWEP) participation requirement is based on the amount of the AFDC benefit available to the family that is eligible. Calculating the CWEP hours under the JOBS formula is burdensome, and it is difficult to arrange for and place recipients in work sites because the hours of work assignment have nothing to do with the way work hour requirements are defined in the work place. Furthermore, the length of participation is limited by CWEP requirements, often arbitrarily ending participation prior to the time the individual has achieved sufficient work skills and experience to enable them to move into a permanent employment position. A significant objective of Community Work Experience is to increase the employability of welfare recipients by improving work habits and skills and providing them with recent work experience that they can list on a job application. The current CWEP program frustrates the achievement of that objective because of its administrative complexity, lack of flexibility in allowing the state to tailor a program to meet individual needs, lack of sufficient incentives to encourage meaningful participation in the program, and lack of relevance to conditions that are found in the work place.

__Response:__ Wave Section 402(a)(19)(A) of the Social Security Act and 45 CFR Section 250.63(d). Waving these sections will allow Wisconsin to reconstitute the Community Work Experience Program to address the needs of two categories of welfare recipients who do not possess the necessary job or social skills to enable them to obtain unsubsidized or subsidized employment in the labor market.

The first category of recipients are those who have limited job skills and have no recent work experience and who require some training and work experience to enable them to move into subsidized or unsubsidized employment. Wisconsin proposes the following program to meet the needs of these recipients. Individuals will be placed in Community Service Jobs in the public or private nonprofit sector consistent with their aptitudes and abilities. They would be paid an AFDC benefit of $555 per month. In return for that benefit, they would be expected to work up to 30 hours per week and to participate up to 10 hours per week in educational and training activities directly related to the attainment of job skills. They would be eligible if family income is below 115 percent of the poverty level, assets are less than $2,500, and vehicle equity does not exceed $10,000. Other income available to the family would not be used to reduce their monthly benefit. However, their monthly benefit would be reduced by $4.25 per hour for each hour that they fail without good cause to participate in the work activities or education and training. The Community Service Job would be for six to nine months or until the individual moved into a subsidized or unsubsidized employment. The individual could have more than one Community Service Job placement not to exceed a total of 24 months participation.

The second category of recipients are those who present significant functional impairments that limit their ability to participate in an employment situation. This category would include recipients who present substance abuse problems, serious emotional or mental health problems, recipients who have physical disabilities, or those who present language problems. Based upon a medical and vocational rehabilitation assessment, these individuals would be required to participate in treatment or work activities consistent with their needs and designed to help them overcome their functional impairments. Such assignments might include participation in alcohol and other abuse treatment programs, mental health treatment programs, counseling, or physical rehabilitation activities or language programs appropriate to the individual's language barriers. These families would receive a benefit of $518 per month. They would be expected to participate in assigned activities for up to 28 hours per week and up to 12 hours per week in an educational or training activity designed to help them achieve treatment objectives or develop appropriate job skills. They would be eligible if family income is below 115 percent of the poverty level, assets are less than $2,500, and vehicle equity does not exceed $10,000. Other income would not be used to reduce their monthly benefit. Their benefit would be reduced by $4.25 per hour for each hour that they fail without good cause to participate in an assigned activity. Individuals could participate in transitional program activities for a maximum of 24 months.



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The 24-month participation limit for both the Community Service Jobs and the Transitional Placements could be extended on a case by case basis according to individual circumstances.

**Rationale:** The goal of AFDC and JOBS in Wisconsin is to provide temporary economic assistance in exchange for participation in work or work related activities which will lead to unsubsidized employment and economic self-sufficiency. For many people, this is a gradual process and work activities are increased in hours and complexity according to the individual's capacity to participate. The ability to require full-time participation in a Community Service Job or transitional work placement will provide flexibility needed to simulate full-time unsubsidized work in a protected and supportive environment. Wisconsin's proposal will reduce administrative complexity, provide increased incentives for participation, and provide sufficient participation time to enable individuals to develop necessary social and jobs skills which will enable them to move into the unsubsidized labor market.

## III. Strengthening Consequences of Failure to Cooperate in JOBS

**Problem:** Wisconsin requires mandatory JOBS participants be engaged in a JOBS activity assigned through their employability plan. There is an emphasis on work components. However, as WNW and PFP performance requirements become more stringent, there is a small portion of the AFDC population that refuses to cooperate. The startegy they have learned to adopt is repeated intentional failure or quitting without a good reason. This results in the grant being reduced until the individual can be placed in a new slot. There are two problems with this situation. The person must be placed in an activity, so there is little penalty in terms of grant reduction. Second, and more importantly, the actions of a few irresponsible individuals is affecting organizational capacity to develop and maintain activities such as CWEP slots. Employers who have a bad experience with a person who is clearly uncooperative are reluctant to offer placements to participants who need them.

**Response:** Waive 45 CFR Section 250.34. Waiving this section will strengthen the definition of "failure to cooperate" and allow intentional failure or voluntary quit in a CWEP/OWE, work supplementation, or OJT position to qualify as "failure to cooperate." These actions would result in invoking the normal sanction process, except that the entire grant could be suspended as follows:

- in the first instance, until the individual resumes participation in the assigned activity for two weeks;

- in the second instance, for at least three months and until the individual resumes participation in the assigned activity for two weeks; and

- in the third instance, for at least six months and until the individual resumes participation in the assigned activity for two weeks.

**Rationale:** A few uncooperative individuals are compromising many valuable JOBS opportunities for parents who need and want a chance to participate. Fair sanctions as described above will ensure that JOBS agencies have a mechanism for dealing with uncooperative individuals.

## IV. Time-Limited Benefits

**Problem:** The AFDC program is currently an unlimited entitlement. While Pay for Performance requires JOBS participation, it does not provide the urgency that the WNW time limit has demonstrated. In addition, there are many proposals at the federal level to impose time limits. In agreeing to support the Senate welfare reform bill, President Clinton also agreed to approve a five-year time limit. It would be valuable to know the implications of imposing such a time limit prior to making it a national policy. Wisconsin, with its low unemployment rate, would be an ideal test state.

Also problematic is the mandatory limit placed on "job search" for participants in the JOBS program. While we are trying to emphasize the need to constantly be looking for permanent unsubsidized employment, at a family supporting wage, current regulations do not allow states to require a JOBS enrolle to be continuously active in the job search component.

**Response:** Waive section 402(a) of the Social Security Act and 45 CFR as necessary to impose a 60-month lifetime limit on receipt of AFDC benefits and require continuous participation in some job search requirements. The limit will apply to individuals, 18 years and older, who are enrolled in the JOBS program. Extensions of the

60-month limit would be granted on a case-by-case basis when local labor market conditions preclude employment or extreme individual barriers are present. This would apply to both WNW and PFP. In the WNW demonstration, the 60-month time limit would run parallel to the existing WNW time limit. In other words, the WNW 24-month and 48-month time periods would still exist and in addition, the participant would have a separate 60-month lifetime limit. For the PFP expansion, the time limit would apply to PFP experimental and non-experimental treatment participants, and participants, over the age of 18, in both the Parental and Family and Responsibility and Learnfare demonstration projects. However, persons in Parental and Family Responsibility and Learnfare will not be expected to participate in continuous job search that would conflict with education requirements.

**Rationale:** Time limits underscore that AFDC is a temporary support for families, not a permanent source of income. Wisconsin's WNW project has shown that time limits creates a sense of urgency for families to actively seek alternatives to AFDC. Many applicants choose alternatives to AFDC in order to preserve the time limited cash benefits for a period of greater need. Currently, only five to seven families have received WNW benefits continuously since January 1, 1995, in the pilot counties. It is expected that even fewer will reach the 24-month time limit. This low rate of continuous participation is partly due to the existence of known time limits.

The keys to the success of WNW include the creation of Community Steering Committees (CSCs) and Children's Services Networks (CSNs). The CSCs have successfully identified and created job slots for WNW recipients while CSNs have consolidated supportive services for children. Both groups have served to address immediate barriers to self-sufficiency and will remain available to provide a safety net for children, in the event of the parents' refusal to accept employment.

In Wisconsin, effective supportive services and safeguards for children are coupled with time-limited benefits to ensure successful outcomes. Wisconsin will expand and intensify several service areas to go along with statewide implementation of time limits to ensure the existence of an adequate safety net:

- Establish the WNW Community Steering Committees and Children's Services Networks statewide. Wisconsin has already recommended that all local agencies establish Community Steering Committees. These two entities unite local educators, business representatives, and social service providers to help remove barriers to work. In the WNW counties, the Community Steering Committees and Children's Services Networks have successfully addressed transportation and child care for WNW recipients.

- Merge the current economic support and JOBS case manager functions to provide a more holistic approach to finding solutions for families in poverty. Allow the functions to be performed by governmental or non-governmental staff under contract with the State or local AFDC administrative agency. The JOBS program is now often administered by a non-governmental entity.

- Provide for continuous job search so that participants always have the opportunity to search for better employment.

- Continue to step-up child support enforcement efforts. Wisconsin recently adopted a child support awareness campaign that spotlights seriously delinquent obligers through media efforts.

- Work with counties and local communities to increase the supply of child care.

## V. Child Care Eligibility Expansion

**Problem:** Under both PFP and WNW, Wisconsin is helping families to avoid AFDC by providing financial planning, intensive case management and job placement services. Under PFP, we are reducing the caseload by two percent or more, per month. However, we know from past experience that after transitional day care funding expires, many of these families return to AFDC due to the lack of ability to pay for child care. Though the At-Risk Child Care Program provides some additional funding to meet the needs of this population, funding is sum-certain and waiting lists are long. Ability to continue the success of PFP and WNW is dependent upon availability of sufficient day care funds. Failure to respond to these resource needs will limit Wisconsin's ability to help families reach self-sufficiency through employment and erase all the gains being made in PFP and WNW.

**Response:** Waive Section 402(g)(1)(A)(i) of the Social Security Act and 45 CFR §255.2(a). Waiving these sections would allow Wisconsin to provide IV-A day care for families up to 165 percent of poverty. This will help those parents who need the most help, the ones struggling to stay employed long enough to make it out of minimum wage jobs. In order to ease the transition, there would also be a co-pay system designed to emphasize parental responsibility and phase out assistance as families become more independent. Each family will choose the type of child care they determine is best for their child and consistent with their income. The choices include licensed center care, licensed group care, and certified family day care. Families would make the following co-payments:

- families with income equal to or less than 75 percent of the poverty line would pay 7.5 percent of the cost of child care;
- families with income between 75 and 95 percent of the poverty line would pay 10 percent of the cost of child care; and
- families with an income greater than 95 percent of the poverty line, would pay 10 percent, plus 1.2857 percent for every percentage point by which the individual's income exceeds 95 percent of the poverty line, up to the full cost of child care.

**Rationale:** Allowing Wisconsin to use IV-A funding for child care for more low-income families will assure that child care is available to all working families below certain income and asset limits, regardless of present or past participation in AFDC. This will particularly assist families who lose eligibility for Transitional Child Care assistance under 45 CFR Part 256 and are often unable to obtain child care assistance because of state funding constraints.

In addition, the philosophy of self-sufficiency implies that parents should make the highest reasonable contribution toward their own family's child care needs. Increasing child care co-payments on a gradual basis as family income increases reinforces living within "real world" budget constraints and helps families gain the knowledge and tools needed to achieve self-sufficiency.

## VI. Create a Kinship Care Program

**Problem:** AFDC is available to children who are not living with a parent, but in the care of a non-legally responsible relative (NLRR). Lack of additional eligibility criteria for NLRRs requires the State and the federal government to pay for an out-of-home placement of a child often including the needs of the NLRR caretaker. There is increasing concern that some children are placed with an NLRR to create eligibility of the NLRR caretaker for an AFDC payment and not out of concern for the best interest of the child.

Since these are non-legally responsible relatives, they are exempt from AFDC work requirements. However, they are part of the AFDC caseload and, thus, fall into our research samples. Both PFP and WNW are comprehensive experiments designed to test the efficacy of the work force attachment model. Wisconsin would like to test whether moving them out of the AFDC system provides for a better targeted evaluation.

**Response:** Waive section 402(a) of the Social Security Act and 45 CFR §233.20(a)(1) to the extent necessary to allow Wisconsin to establish a Kinship Care program with a payment level per child that is not determined in accordance with AFDC payment standards. The Kinship Care program would be separated from the current AFDC program and placed under the administration of child welfare programs. Wisconsin proposes to transfer the funding for the costs of the Kinship Care assessments and benefit payment to Title IV-E of the Social Security Act. These placements, when authorized, will be paid at the rate of $215 per month for each child, with no payment provided for the relative caretaker. Once a Kinship Care placement is determined to be in the best interests of the child, approval of a payment will require, among other verification, home visits and criminal background checks. The approved statutory language can be found in Attachment III. This policy would apply to all Wisconsin NLRR caretakers.

**Rationale:** Persons who provide care for children who are appropriately removed from their parental home and for whom they are not legally responsible are providing a service to Wisconsin taxpayers and society as a whole. However, under the current AFDC program, few resources and services have been allocated to this population. In many cases, children are living with relatives because of problems at home. However, in these cases, the AFDC program does not always interact closely with child welfare officials equipped to assess the situation and ensure that the child has adequate care. Furthermore, as work is emphasized in the AFDC program, it makes less sense to serve these relatives through a work program. Kinship care will be administered with the foster care program by social work professionals equipped to assess and respond to the social service needs of the family. This approach would also remove these relatives from imposition of the time limits requested above and any other time limits that may be imposed by the federal government.

## VII. Provide Supplemental Benefits for Children with Parents Receiving Supplemental Security Income (SSI) Benefits

**Issue:** SSI recipients under the age of 65 have been determined to have a disability that prevents them from engaging in gainful employment. As a result, it makes sense to isolate them from efforts targeted to motivating and assisting people to find employment. While SSI recipients are treated differently in both PFP and WNW, like NLRRs discussed above, it makes more sense to serve them under a different system.

Currently, AFDC benefits are available for children of parents who receive SSI benefits. In Wisconsin, AFDC benefits are based solely on household size. Increments in benefits are based on the assumption that the first person in the grant is an adult who is expected to provide for certain basic household expenses, like rent, regardless of how many additional people are in the family. Grants equal $248 for one person, $440 for two, $517 for three, etc. Since SSI is designed to cover the needs of the parent and basic household expenses, the child grants should be based on the payment amount needed to add a child to the household.

**Response:** Waive section 402(a)(24) of the Social Security Act and 45 CFR §233.20(a)(1)(ii). Waiving these sections would allow Wisconsin to make a payment for the AFDC child as an addition to the SSI state supplement. Under this proposal, children in households where the parent or parents are SSI recipients would be eligible for a child-only grant of $77 per child. This payment would be added to the SSI payment in lieu of a standard AFDC benefit for a family of size one. Children in two-parent households in which only one parent receives SSI will continue to receive standard AFDC benefits if otherwise eligible. Children will retain non-financial eligibility for Medicaid benefits and food stamps. This policy would impact all Wisconsin families where all parents in the household are eligible for SSI.

**Rationale:** One reason Wisconsin has been able to successfully transition many people from welfare to work is the emphasis placed on the temporary nature of the program. The JOBS program is an important component that stresses attachment to the work force at the earliest opportunity. SSI recipients are exempt from the JOBS program due to disability and are not expected to become self-sufficient in the near future. Like the NLRR situation, it makes little sense to serve persons unable to work through a work program. The supplemental payment will bring households with SSI case heads in line with payments to non-SSI AFDC households. Payments would be similar to other states who set different benefit levels for "children only" grants.

## VIII. Require Minor Parents to Live at Home

**Problem:** Current federal law allows states to require minor parents to live at home, but it also provides many good cause reasons that result in minor parents being allowed to establish their own households. The permissiveness of the good cause reasons is contrary to the intent requiring minor parents to live at home, and it allows children to live independently of adult supervision.

**Response:** Waive section 402(a)(43)(B) of the Social Security Act and 45 CFR §233.107. Waiving these sections would provide that minor parents may not be eligible for AFDC unless they live in a place maintained by his or her parent, legal guardian, or other adult relative's own home; or lives in a foster home, treatment foster home, maternity home; or other supportive living arrangement supervised by an adult. This would apply to all PFP and WNW experimental and non-experimental treatment group members.

**Rationale:** Current regulations recognize that it is important for minors to live at home wherever possible, but they also provide many loopholes that allow teens to set up their own household. Some experts believe that a primary reason minors have children is because it is a fast road to the avoidance of adult supervision. It is imperative that we not support that strategy. The Administration for Children and

Families' current "Fast Track" waiver process includes this waiver as one option.

Minors are unprepared to care for children, set up a household, and continue to finish school or work to support their new family, all at the same time. In order to better address the needs of both children in the household, it is imperative that we require that they live in a supportive living arrangement with family, or under other adult supervision.

ATTACHMENT 2

W-2 Timeline for Enactment[1]

| | |
|---|---|
| **1995** | |
| July 31 to August 15 | Division of Economic Support (DES) staff work with Legislative Reference Bureau (LRB) and others to develop statutory language |
| August 15 to September 25 | Finalize statutory language<br>Office of Policy and Budget (OPB) finalize fiscal note |
| September 19 | Legislature begins fall floor period |
| September 25 | Executive Committee reviews and approves statutory language |
| September 29 | Legislative Joint Committee public hearing on W-2 in Milwaukee (Senate Health, Human Services and Aging Committee chaired by Senator Buettner and Assembly Welfare Reform Committee chaired by Representative Gard) |
| October 2 | AB 591 introduced in Assembly by Representative Gard with bipartisan support (50 representatives and 13 senators as co-sponsors) |
| October 3 | SB 359 introduced in Senate by Senate Buettner with bipartisan support |
| October 6 | Assembly Welfare Reform Committee public hearing on W-2 in Appleton |
| October 9 | Assembly Welfare Reform Committee public hearing on W-2 in Madison |
| October 11 | Senate Health, Human Services and Aging Committee public hearing on W-2 in Madison |
| October 25 | Senate Health, Human Services and Aging Committee public hearing on W-2 in LaCrosse |
| November 2 | Assembly Welfare Reform Committee working meeting to review proposed changes to AB 591 |
| November 28 | Assembly Welfare Reform Committee executive action taken on W-2 |
| **1996** | |
| January 4 | Joint Finance Committee public hearing on W-2 in Madison |
| February 29 and March 1 | Joint Finance Committee executive action taken on W-2 |
| March 7 | Floor debate in Assembly<br>Bill passed/messaged to Senate |
| March 13 and 14 | Floor debate in Senate<br>Bill passed and sent to Governor for signature |
| April * | Governor signs bill |

* Date unknown when signing will occur

[1] 1993 Wisconsin Act 12 included a provision directing the Department to submit by the end of 1995 a proposal for the replacement by December 31, 1998, of the AFDC program.

DRAFT

# CHILD CARE COPAYMENT SCHEDULE

Instructions: Read down the appropriate column for family size until you ... the ... level just at or below the family's income. Then read across to the family's day care payment rate in the far right column.
Note: The copayment is expressed as a percentage of the cost of care and varies by county and child care facility.

| FPL | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10+ | Co-Payment % of Cost of Care |
|---|---|---|---|---|---|---|---|---|---|---|
| | PERSONS IN FAMILY AND TOTAL MONTHLY INCOME | | | | | | | | | |
| 74.0% | $ 639 | $ 800 | $ 962 | $ 1,124 | $ 1,285 | $ 1,447 | $ 1,608 | $ 1,770 | $ 1,931 | 7.50% |
| 75.0% | $ 648 | $ 811 | $ 973 | $ 1,139 | $ 1,303 | $ 1,468 | $ 1,630 | $ 1,794 | $ 1,958 | 7.50% |
| 76.0% | $ 656 | $ 822 | $ 986 | $ 1,154 | $ 1,320 | $ 1,486 | $ 1,652 | $ 1,818 | $ 1,984 | 7.50% |
| 77.0% | $ 665 | $ 833 | $ 1,001 | $ 1,169 | $ 1,337 | $ 1,505 | $ 1,673 | $ 1,842 | $ 2,010 | 7.50% |
| 78.0% | $ 673 | $ 844 | $ 1,014 | $ 1,184 | $ 1,355 | $ 1,525 | $ 1,695 | $ 1,866 | $ 2,036 | 7.50% |
| 79.0% | $ 682 | $ 855 | $ 1,027 | $ 1,199 | $ 1,372 | $ 1,544 | $ 1,717 | $ 1,889 | $ 2,062 | 7.50% |
| 80.0% | $ 691 | $ 865 | $ 1,040 | $ 1,215 | $ 1,389 | $ 1,564 | $ 1,739 | $ 1,913 | $ 2,088 | 10.00% |
| 81.0% | $ 699 | $ 876 | $ 1,053 | $ 1,230 | $ 1,407 | $ 1,584 | $ 1,760 | $ 1,937 | $ 2,114 | 10.00% |
| 82.0% | $ 708 | $ 887 | $ 1,066 | $ 1,245 | $ 1,424 | $ 1,603 | $ 1,782 | $ 1,961 | $ 2,140 | 10.00% |
| 83.0% | $ 717 | $ 898 | $ 1,079 | $ 1,260 | $ 1,441 | $ 1,623 | $ 1,804 | $ 1,985 | $ 2,166 | 10.00% |
| 84.0% | $ 725 | $ 909 | $ 1,092 | $ 1,275 | $ 1,458 | $ 1,642 | $ 1,826 | $ 2,009 | $ 2,192 | 10.00% |
| 85.0% | $ 734 | $ 919 | $ 1,105 | $ 1,291 | $ 1,476 | $ 1,662 | $ 1,847 | $ 2,033 | $ 2,219 | 10.00% |
| 86.0% | $ 742 | $ 930 | $ 1,118 | $ 1,306 | $ 1,494 | $ 1,681 | $ 1,869 | $ 2,057 | $ 2,245 | 10.00% |
| 87.0% | $ 751 | $ 941 | $ 1,131 | $ 1,321 | $ 1,511 | $ 1,701 | $ 1,891 | $ 2,081 | $ 2,271 | 10.00% |
| 88.0% | $ 760 | $ 952 | $ 1,144 | $ 1,336 | $ 1,528 | $ 1,720 | $ 1,913 | $ 2,105 | $ 2,297 | 10.00% |
| 89.0% | $ 768 | $ 963 | $ 1,157 | $ 1,351 | $ 1,546 | $ 1,740 | $ 1,934 | $ 2,129 | $ 2,323 | 10.00% |
| 90.0% | $ 777 | $ 974 | $ 1,170 | $ 1,367 | $ 1,563 | $ 1,760 | $ 1,956 | $ 2,153 | $ 2,349 | 10.00% |
| 91.0% | $ 786 | $ 984 | $ 1,183 | $ 1,382 | $ 1,580 | $ 1,779 | $ 1,978 | $ 2,176 | $ 2,375 | 10.00% |
| 92.0% | $ 794 | $ 995 | $ 1,196 | $ 1,397 | $ 1,598 | $ 1,799 | $ 1,999 | $ 2,200 | $ 2,401 | 10.00% |
| 93.0% | $ 803 | $ 1,006 | $ 1,209 | $ 1,412 | $ 1,615 | $ 1,818 | $ 2,021 | $ 2,224 | $ 2,427 | 10.00% |
| 94.0% | $ 812 | $ 1,017 | $ 1,222 | $ 1,427 | $ 1,632 | $ 1,838 | $ 2,043 | $ 2,248 | $ 2,453 | 10.00% |
| 95.0% | $ 820 | $ 1,028 | $ 1,235 | $ 1,442 | $ 1,650 | $ 1,857 | $ 2,065 | $ 2,272 | $ 2,480 | 10.00% |
| 96.0% | $ 829 | $ 1,038 | $ 1,248 | $ 1,458 | $ 1,667 | $ 1,877 | $ 2,086 | $ 2,296 | $ 2,506 | 10.00% |
| 97.0% | $ 837 | $ 1,049 | $ 1,261 | $ 1,473 | $ 1,685 | $ 1,896 | $ 2,108 | $ 2,320 | $ 2,532 | 10.00% |
| 98.0% | $ 846 | $ 1,060 | $ 1,274 | $ 1,488 | $ 1,702 | $ 1,916 | $ 2,130 | $ 2,344 | $ 2,558 | 10.00% |
| 99.0% | $ 855 | $ 1,071 | $ 1,287 | $ 1,503 | $ 1,719 | $ 1,935 | $ 2,152 | $ 2,368 | $ 2,584 | 10.00% |
| 100.0% | $ 863 | $ 1,082 | $ 1,300 | $ 1,518 | $ 1,737 | $ 1,955 | $ 2,173 | $ 2,392 | $ 2,610 | 11.29% |
| 101.0% | $ 872 | $ 1,092 | $ 1,313 | $ 1,534 | $ 1,754 | $ 1,975 | $ 2,195 | $ 2,416 | $ 2,636 | 12.57% |
| 102.0% | $ 881 | $ 1,103 | $ 1,326 | $ 1,549 | $ 1,771 | $ 1,994 | $ 2,217 | $ 2,440 | $ 2,662 | 13.86% |
| 103.0% | $ 889 | $ 1,114 | $ 1,339 | $ 1,564 | $ 1,789 | $ 2,014 | $ 2,238 | $ 2,463 | $ 2,688 | 15.14% |
| 104.0% | $ 898 | $ 1,125 | $ 1,352 | $ 1,579 | $ 1,806 | $ 2,033 | $ 2,260 | $ 2,487 | $ 2,714 | 16.43% |
| 105.0% | $ 907 | $ 1,136 | $ 1,365 | $ 1,594 | $ 1,824 | $ 2,053 | $ 2,282 | $ 2,511 | $ 2,741 | 17.71% |
| 106.0% | $ 915 | $ 1,147 | $ 1,378 | $ 1,609 | $ 1,841 | $ 2,072 | $ 2,304 | $ 2,535 | $ 2,767 | 19.00% |
| 107.0% | $ 924 | $ 1,157 | $ 1,391 | $ 1,625 | $ 1,858 | $ 2,092 | $ 2,325 | $ 2,559 | $ 2,793 | 20.29% |
| 108.0% | $ 932 | $ 1,168 | $ 1,404 | $ 1,640 | $ 1,876 | $ 2,111 | $ 2,347 | $ 2,583 | $ 2,819 | 21.57% |
| 109.0% | $ 941 | $ 1,179 | $ 1,417 | $ 1,655 | $ 1,893 | $ 2,131 | $ 2,369 | $ 2,607 | $ 2,845 | 22.86% |
| 110.0% | $ 950 | $ 1,190 | $ 1,430 | $ 1,670 | $ 1,910 | $ 2,151 | $ 2,391 | $ 2,631 | $ 2,871 | 24.14% |
| 111.0% | $ 958 | $ 1,201 | $ 1,443 | $ 1,686 | $ 1,928 | $ 2,170 | $ 2,412 | $ 2,655 | $ 2,897 | 25.43% |
| 112.0% | $ 967 | $ 1,211 | $ 1,456 | $ 1,701 | $ 1,945 | $ 2,190 | $ 2,434 | $ 2,679 | $ 2,923 | 26.71% |
| 113.0% | $ 976 | $ 1,222 | $ 1,469 | $ 1,716 | $ 1,962 | $ 2,209 | $ 2,456 | $ 2,703 | $ 2,949 | 28.00% |
| 114.0% | $ 984 | $ 1,233 | $ 1,482 | $ 1,731 | $ 1,980 | $ 2,228 | $ 2,478 | $ 2,727 | $ 2,975 | 29.29% |
| 115.0% | $ 993 | $ 1,244 | $ 1,495 | $ 1,746 | $ 1,997 | $ 2,248 | $ 2,499 | $ 2,750 | $ 3,002 | 30.57% |
| 116.0% | $ 1,001 | $ 1,255 | $ 1,508 | $ 1,761 | $ 2,015 | $ 2,268 | $ 2,521 | $ 2,774 | $ 3,028 | 31.86% |
| 117.0% | $ 1,010 | $ 1,265 | $ 1,521 | $ 1,776 | $ 2,032 | $ 2,287 | $ 2,543 | $ 2,798 | $ 3,054 | 33.14% |
| 118.0% | $ 1,019 | $ 1,276 | $ 1,534 | $ 1,792 | $ 2,049 | $ 2,307 | $ 2,565 | $ 2,822 | $ 3,080 | 34.43% |
| 119.0% | $ 1,027 | $ 1,287 | $ 1,547 | $ 1,807 | $ 2,067 | $ 2,326 | $ 2,586 | $ 2,846 | $ 3,106 | 35.71% |
| 120.0% | $ 1,036 | $ 1,298 | $ 1,560 | $ 1,822 | $ 2,084 | $ 2,346 | $ 2,608 | $ 2,870 | $ 3,132 | 37.00% |
| 121.0% | $ 1,045 | $ 1,309 | $ 1,573 | $ 1,837 | $ 2,101 | $ 2,365 | $ 2,630 | $ 2,894 | $ 3,158 | 38.29% |
| 122.0% | $ 1,053 | $ 1,320 | $ 1,586 | $ 1,852 | $ 2,119 | $ 2,385 | $ 2,651 | $ 2,918 | $ 3,184 | 39.57% |

RAFT

# CHILD CARE COPAYMENT SCHEDULE

Instructions: Read down the appropriate for family size until you find the income just at or below the family's income. Then read across to the family's day care payment rate in the far right column.

Note: The copayment is expressed as a percentage of the cost of care and varies by county and child care facility.

| FPL | PERSONS IN FAMILY AND TOTAL MONTHLY INCOME | | | | | | | | | Co-Payment |
|---|---|---|---|---|---|---|---|---|---|---|
| | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10+ | % of Cost of Care |
| 123.0% | $ 1,062 | $ 1,330 | $ 1,599 | $ 1,868 | $ 2,136 | $ 2,405 | $ 2,673 | $ 2,942 | $ 3,210 | 40.86% |
| 124.0% | $ 1,071 | $ 1,341 | $ 1,612 | $ 1,883 | $ 2,153 | $ 2,424 | $ 2,695 | $ 2,966 | $ 3,236 | 42.14% |
| 125.0% | $ 1,079 | $ 1,352 | $ 1,625 | $ 1,898 | $ 2,171 | $ 2,444 | $ 2,717 | $ 2,990 | $ 3,263 | 43.43% |
| 126.0% | $ 1,088 | $ 1,363 | $ 1,638 | $ 1,913 | $ 2,188 | $ 2,463 | $ 2,738 | $ 3,014 | $ 3,289 | 44.71% |
| 127.0% | $ 1,096 | $ 1,374 | $ 1,651 | $ 1,928 | $ 2,206 | $ 2,483 | $ 2,760 | $ 3,037 | $ 3,315 | 46.00% |
| 128.0% | $ 1,105 | $ 1,385 | $ 1,664 | $ 1,943 | $ 2,223 | $ 2,502 | $ 2,782 | $ 3,061 | $ 3,341 | 47.29% |
| 129.0% | $ 1,114 | $ 1,395 | $ 1,677 | $ 1,959 | $ 2,240 | $ 2,522 | $ 2,804 | $ 3,085 | $ 3,367 | 48.57% |
| 130.0% | $ 1,122 | $ 1,406 | $ 1,690 | $ 1,974 | $ 2,258 | $ 2,542 | $ 2,825 | $ 3,109 | $ 3,393 | 49.86% |
| 131.0% | $ 1,131 | $ 1,417 | $ 1,703 | $ 1,989 | $ 2,275 | $ 2,561 | $ 2,847 | $ 3,133 | $ 3,419 | 51.14% |
| 132.0% | $ 1,140 | $ 1,428 | $ 1,716 | $ 2,004 | $ 2,292 | $ 2,581 | $ 2,869 | $ 3,157 | $ 3,445 | 52.43% |
| 133.0% | $ 1,148 | $ 1,439 | $ 1,729 | $ 2,019 | $ 2,310 | $ 2,600 | $ 2,891 | $ 3,181 | $ 3,471 | 53.71% |
| 134.0% | $ 1,157 | $ 1,449 | $ 1,742 | $ 2,035 | $ 2,327 | $ 2,620 | $ 2,912 | $ 3,205 | $ 3,497 | 55.00% |
| 135.0% | $ 1,166 | $ 1,460 | $ 1,755 | $ 2,050 | $ 2,345 | $ 2,639 | $ 2,934 | $ 3,229 | $ 3,524 | 56.29% |
| 136.0% | $ 1,174 | $ 1,471 | $ 1,768 | $ 2,065 | $ 2,362 | $ 2,659 | $ 2,956 | $ 3,253 | $ 3,550 | 57.57% |
| 137.0% | $ 1,183 | $ 1,482 | $ 1,781 | $ 2,080 | $ 2,379 | $ 2,678 | $ 2,977 | $ 3,277 | $ 3,576 | 58.86% |
| 138.0% | $ 1,191 | $ 1,493 | $ 1,794 | $ 2,095 | $ 2,397 | $ 2,698 | $ 2,999 | $ 3,301 | $ 3,602 | 60.14% |
| 139.0% | $ 1,200 | $ 1,504 | $ 1,807 | $ 2,110 | $ 2,414 | $ 2,717 | $ 3,021 | $ 3,324 | $ 3,628 | 61.43% |
| 140.0% | $ 1,209 | $ 1,514 | $ 1,820 | $ 2,126 | $ 2,431 | $ 2,737 | $ 3,043 | $ 3,348 | $ 3,654 | 62.71% |
| 141.0% | $ 1,217 | $ 1,525 | $ 1,833 | $ 2,141 | $ 2,448 | $ 2,757 | $ 3,064 | $ 3,372 | $ 3,680 | 64.00% |
| 142.0% | $ 1,226 | $ 1,536 | $ 1,846 | $ 2,156 | $ 2,466 | $ 2,776 | $ 3,086 | $ 3,396 | $ 3,706 | 65.29% |
| 143.0% | $ 1,235 | $ 1,547 | $ 1,859 | $ 2,171 | $ 2,483 | $ 2,795 | $ 3,108 | $ 3,420 | $ 3,732 | 66.57% |
| 144.0% | $ 1,243 | $ 1,558 | $ 1,872 | $ 2,186 | $ 2,501 | $ 2,815 | $ 3,130 | $ 3,444 | $ 3,758 | 67.86% |
| 145.0% | $ 1,252 | $ 1,568 | $ 1,885 | $ 2,202 | $ 2,518 | $ 2,835 | $ 3,151 | $ 3,468 | $ 3,785 | 69.14% |
| 146.0% | $ 1,260 | $ 1,579 | $ 1,898 | $ 2,217 | $ 2,536 | $ 2,854 | $ 3,173 | $ 3,492 | $ 3,811 | 70.43% |
| 147.0% | $ 1,269 | $ 1,590 | $ 1,911 | $ 2,232 | $ 2,553 | $ 2,874 | $ 3,195 | $ 3,516 | $ 3,837 | 71.71% |
| 148.0% | $ 1,278 | $ 1,601 | $ 1,924 | $ 2,247 | $ 2,570 | $ 2,893 | $ 3,217 | $ 3,540 | $ 3,863 | 73.00% |
| 149.0% | $ 1,286 | $ 1,612 | $ 1,937 | $ 2,262 | $ 2,588 | $ 2,913 | $ 3,238 | $ 3,564 | $ 3,889 | 74.29% |
| 150.0% | $ 1,295 | $ 1,623 | $ 1,950 | $ 2,278 | $ 2,605 | $ 2,933 | $ 3,260 | $ 3,588 | $ 3,915 | 75.57% |
| 151.0% | $ 1,304 | $ 1,633 | $ 1,963 | $ 2,293 | $ 2,622 | $ 2,952 | $ 3,282 | $ 3,611 | $ 3,941 | 76.86% |
| 152.0% | $ 1,312 | $ 1,644 | $ 1,976 | $ 2,308 | $ 2,640 | $ 2,972 | $ 3,303 | $ 3,635 | $ 3,967 | 78.14% |
| 153.0% | $ 1,321 | $ 1,655 | $ 1,989 | $ 2,323 | $ 2,657 | $ 2,991 | $ 3,325 | $ 3,659 | $ 3,993 | 79.43% |
| 154.0% | $ 1,330 | $ 1,666 | $ 2,002 | $ 2,338 | $ 2,674 | $ 3,011 | $ 3,347 | $ 3,683 | $ 4,019 | 80.71% |
| 155.0% | $ 1,338 | $ 1,677 | $ 2,015 | $ 2,353 | $ 2,692 | $ 3,030 | $ 3,369 | $ 3,707 | $ 4,046 | 82.00% |
| 156.0% | $ 1,347 | $ 1,687 | $ 2,028 | $ 2,369 | $ 2,709 | $ 3,050 | $ 3,390 | $ 3,731 | $ 4,072 | 83.29% |
| 157.0% | $ 1,356 | $ 1,698 | $ 2,041 | $ 2,384 | $ 2,727 | $ 3,069 | $ 3,412 | $ 3,755 | $ 4,098 | 84.57% |
| 158.0% | $ 1,364 | $ 1,709 | $ 2,054 | $ 2,399 | $ 2,744 | $ 3,089 | $ 3,434 | $ 3,779 | $ 4,124 | 85.86% |
| 159.0% | $ 1,373 | $ 1,720 | $ 2,067 | $ 2,414 | $ 2,761 | $ 3,108 | $ 3,456 | $ 3,803 | $ 4,150 | 87.14% |
| 160.0% | $ 1,381 | $ 1,731 | $ 2,080 | $ 2,429 | $ 2,779 | $ 3,128 | $ 3,477 | $ 3,827 | $ 4,176 | 88.43% |
| 161.0% | $ 1,390 | $ 1,741 | $ 2,093 | $ 2,445 | $ 2,796 | $ 3,148 | $ 3,499 | $ 3,851 | $ 4,202 | 89.71% |
| 162.0% | $ 1,399 | $ 1,752 | $ 2,106 | $ 2,460 | $ 2,813 | $ 3,167 | $ 3,521 | $ 3,875 | $ 4,228 | 91.00% |
| 163.0% | $ 1,407 | $ 1,763 | $ 2,119 | $ 2,475 | $ 2,831 | $ 3,187 | $ 3,543 | $ 3,898 | $ 4,254 | 92.29% |
| 164.0% | $ 1,416 | $ 1,774 | $ 2,132 | $ 2,490 | $ 2,848 | $ 3,206 | $ 3,564 | $ 3,922 | $ 4,280 | 93.57% |
| 165.0% | $ 1,425 | $ 1,785 | $ 2,145 | $ 2,505 | $ 2,866 | $ 3,226 | $ 3,586 | $ 3,946 | $ 4,307 | 94.86% |

foster parent ~~or~~, licensed treatment foster parent or kinship care relative shall be a sustaining parent with the powers and duties specified in sub. (3).

SECTION 69. 48.428 (4) of the statutes is amended to read:

48.428 (4) Before a licensed foster parent ~~or~~, licensed treatment foster parent or kinship care relative may be appointed as a sustaining parent, the foster parent ~~or~~, treatment foster parent or kinship care relative shall execute a contract with the agency responsible for providing services to the child, in which the foster parent ~~or~~, treatment foster parent or kinship care relative agrees to provide care for the child until the child's 18th birthday unless the placement order is changed by the court because the court finds that the sustaining parents are no longer able or willing to provide the sustaining care or the court finds that the behavior of the sustaining parents toward the child would constitute grounds for the termination of parental rights if the sustaining parent was the birth parent of the child.

SECTION 70d. 48.57 (3m) of the statutes is created to read:

48.57 (3m) (a) In this subsection:

1. "Department" means the department of industry, labor and job development.

2. "Kinship care relative" means a stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a preceding generation as denoted by the prefix of grand, great or great–great, whether by consanguinity, direct affinity or legal adoption, or the spouse of any person named in this subdivision, even if the marriage is terminated by death or divorce.

(am) From the appropriations under s. 20.445 (3) (d) and (p), the department shall make payments in the amount of $215 per month to a kinship care relative who is providing care and maintenance for a child if all of the following conditions are met:

1. The kinship care relative applies to the county department for payments under this subsection and the county department determines that there is a need for the child to be placed with the kinship care relative and that the placement with the kinship care relative is in the best interests of the child.

2. The county department determines that the child meets one or more of the criteria specified in s. 48.13 or 938.13 or that the child would be at risk of meeting one or more of those criteria if the child were to remain in his or her home.

4. The county department conducts a background investigation under sub. (3p) of the kinship care relative, the employes and prospective employes of the kinship care relative who have or would have regular contact with the child for whom the payments would be made and any other adult resident of the kinship care relative's home to determine if the kinship care relative or adult resident has any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child.

4m. Subject to sub. (3p) (fm), the kinship care relative states that he or she does not have any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child and that no adult resident, as defined in sub. (3p) (a), and no employe or prospective employe of the kinship care relative who would have regular contact with the child has any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child.

5. The kinship care relative cooperates with the county department in the application process, including applying for other forms of assistance for which the kinship care relative may be eligible.

(b) 1. The county department shall refer to the attorney responsible for support enforcement under s. 59.458 (1) the name of the parent or parents of a child for whom a payment is made under par. (am).

2. When any kinship care relative of a child applies for or receives payments under this subsection, any right of the child or the child's parent to support or maintenance from any other person, including any right to unpaid amounts accrued at the time of application and any right to amounts accruing during the time that payments are made under this subsection, is assigned to the state. If a child who is the beneficiary of a payment under this subsection is also the beneficiary of support under a judgment or order that includes support for one or more children who are not the beneficiaries of payments under this subsection, any support payment made under the judgment or order is assigned to the state in the amount that is the proportionate share of the child who is the beneficiary of the payment made under this subsection, except as otherwise ordered by the court on the motion of a party.

(c) The county department shall require the parent or parents of a child for whom a payment is made under par. (am) to initiate or continue health care insurance coverage for the child.

(cm) A kinship care relative who receives a payment under par. (am) is not eligible to receive a payment under s. 48.62 (4).

(d) The county department shall review a placement of a child for which the department of industry, labor and job development makes payments under par. (am) not less than every 12 months after the department of industry, labor and job development begins making those payments to determine whether the conditions specified in par. (am) continue to exist. If those conditions do not continue to exist, the department shall discontinue making those payments.

(e) The department of health and family services, in consultation with the department of industry, labor and job development, shall determine whether the child is eligible for medical assistance under ss. 49.43 to 49.47, if no other health care insurance coverage is available to the child.

SECTION 70g. 48.57 (3m) (a), (am) (intro.), (d) and (e) of the statutes, as created by 1995 Wisconsin Act .... (this act), are repealed and recreated to read:

48.57 (3m) (a) In this subsection, "kinship care relative" means a stepparent, brother, sister, stephrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a preceding generation as denoted by the prefix of grand, great or great-great, whether by consanguinity, direct affinity or legal adoption, or the spouse of any person named in this paragraph, even if the marriage is terminated by death or divorce.

(am) (intro.) From the appropriations under s. 20.435 (7) (b) and (o), the department shall reimburse counties for payments made under this subsection. A county department shall make payments in the amount of $215 per month to a kinship care relative who is providing care and maintenance for a child if all of the following conditions are met:

(d) A county department shall review a placement of a child for which the county department makes payments under par. (am) not less than every 12 months after the county department begins making those payments to determine whether the conditions specified in par. (am) continue to exist. If those conditions do not continue to exist, the county department shall discontinue making those payments.

(e) The department shall determine whether the child is eligible for medical assistance under ss. 49.43 to 49.47, if no other health care insurance coverage is available to the child.

SECTION 71d. 48.57 (3p) of the statutes is created to read:

48.57 (3p) (a) In this subsection, "adult resident" means a person 18 years of age or over who lives at the home of a person who has applied for or is receiving payments under sub. (3m) with the intent of making that home his or her home or who lives for more than 30 days cumulative in any 6–month period at the home of a person who has applied for or is receiving payments under sub. (3m).

(b) 1. After receipt of an application for payments under sub. (3m), the county department, with the assistance of the department of justice, shall conduct a background investigation of the applicant.

2. The county department, with the assistance of the department of justice, may conduct a background investigation of any person who is receiving payments under sub. (3m) at the time of review under sub. (3m) (d) or at any other time that the county department considers to be appropriate.

(c) 1. After receipt of an application for payments under sub. (3m), the county department, with the assistance of the department of justice, shall, in addition to the investigation under par. (b), conduct a background investigation of all employes and prospective employes of the applicant who have or would have regular contact with the child for whom those payments are being made and of each adult resident.

2. The county department, with the assistance of the department of justice, may conduct a background investigation of any of the employes or prospective employes of any person who is receiving payments under sub. (3m) who have or would have regular contact with the child for whom those payments are being made and of each adult resident at the time of review under sub. (3m) (d) or at any other time that the county department considers to be appropriate.

3. Before a person that is receiving payments under sub. (3m) may employ any person in a position in which that person would have regular contact with the child for whom those payments are being made or permit any person to be an adult resident, the county department, with the assistance of the department of justice, shall conduct a background investigation of the prospective employe or prospective adult resident unless that person has already been investigated under subd. 1. or 2.

(d) If the person being investigated under par. (b) or (c) is a nonresident, or at any time within the 5 years preceding the date of the application has been a nonresident, or if the county department determines that the person's employment, licensing or state court records provide a reasonable basis for further investigation, the county department shall require the person to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may provide for the submission of the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrest and conviction.

(e) Upon request, a person being investigated under par. (b) or (c) shall provide the county department with all of the following information:

1. The person's name.

2. The person's social security number.

3. Other identifying information, including the person's birthdate, gender, race and any identifying physical characteristics.

4. Information regarding the conviction record of the person under the law of this state or any other state or under federal law. This information shall be provided

on a notarized background verification form that the department shall provide by rule.

(fm) 1. The county department may provisionally approve the making of payments under sub. (3m) based on the applicant's statement under sub. (3m) (am) 4m. The county department may not finally approve the making of payments under sub. (3m) unless that county department receives information from the department of justice indicating that the conviction record of the applicant under the law of this state is satisfactory according to the criteria specified in par. (g) 1. to 3. The department of industry, labor and job development may make payments under sub. (3m) conditioned on the receipt of information from the federal bureau of investigation indicating that the person's conviction record under the law of any other state or under federal law is satisfactory according to the criteria specified in par. (g) 1. to 3.

2. A person receiving payments under sub. (3m) may provisionally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or provisionally permit a person to be an adult resident if the person receiving those payments states to the county department that the employe or adult resident does not have any arrests or convictions that could adversely affect the child or the ability of the person receiving payments to care for the child. A person receiving payments under sub. (3m) may not finally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or finally permit a person to be an adult resident until the county department receives information from the department of justice indicating that the person's conviction record under the law of this state is satisfactory according to the criteria specified in par. (g) 1. to 3. and

the county department so advises the department and the person receiving payments under sub. (3m). A person receiving payments under sub. (3m) may finally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or finally permit a person to be an adult resident conditioned on the receipt of information from the county department that the federal bureau of investigation indicates that the person's conviction record under the law of any other state or under federal law is satisfactory according to the criteria specified in par. (g) 1. to 3.

(g) Subject to par. (h), the department may not make payments to a person applying for payments under sub. (3m) and a person receiving payments under sub. (3m) may not employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or permit a person to be an adult resident if any of the following applies:

1. The person has been convicted of a violation of ch. 161 that is punishable as a felony or of a violation of the law of any other state or federal law that would be a violation of ch. 161 that is punishable as a felony if committed in this state.

2. The person has had imposed on him or her a penalty specified in s. 939.62, 939.621, 939.63, 939.64, 939.641 or 939.645 or has been convicted of a violation of the law of any other state or federal law under circumstances under which the applicant or other person would be subject to a penalty specified in any of those sections if convicted in this state.

3. The person has been convicted of a violation of ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, or of a violation of the law of any other state or federal law that would be a violation of ch. 940, 944 or 948, other than a violation of s. 940.291, 940.34, 944.36, 948.45, 948.63 or 948.70, if

committed in this state, except that the department may make payments to a person applying for payments under sub. (3m) and a person receiving payments under sub. (3m) may employ in a position in which the person would have regular contact with the child for whom those payments are being made or permit to be an adult resident a person who has been convicted of a violation of s. 944.30, 944.31 or 944.33 or of a violation of the law of any other state or federal law that would be a violation of s. 944.30, 944.31 or 944.33 if committed in this state, if that violation occurred 20 years or more before the date of the investigation.

(h) Notwithstanding par. (g), a person whose application to the county department for payments under sub. (3m) has been denied on one of the grounds specified in par. (g) 1. to 3. may petition the department of health and family services for a review of that denial. If that department determines that making those payments would be in the best interests of a child, those payments shall be made. The department of health and family services shall promulgate rules to provide standards under which to review a petition under this paragraph.

(i) The county department shall keep confidential all information received under this subsection from the department of justice or the federal bureau of investigation. Such information is not subject to inspection or copying under s. 19.35.

(j) The county department may charge a fee for conducting a background investigation under this subsection. The fee may not exceed the reasonable cost of conducting the investigation.

SECTION 71f. 48.57 (3p) (g) (intro.) of the statutes, as created by 1995 Wisconsin Act .... (this act), is amended to read:

48.57 (3g) (g) (intro.) Subject to par. (h), the county department may not make payments to a person applying for payments under sub. (3m) and a person receiving payments under sub. (3m) may not employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or permit a person to be an adult resident if any of the following applies:

**SECTION 71h.** 48.57 (3t) of the statutes is created to read:

48.57 (3t) Notwithstanding subs. (3m) and (3p), the department may enter into an agreement with the governing body of a federally recognized American Indian tribe to allow that governing body to administer the program under subs. (3m) and (3p) within the boundaries of that reservation.

**SECTION 71m.** 48.65 (1m) of the statutes is created to read:

48.65 (1m) (a) In this subsection, "adult resident" means a person 18 years of age or over who lives at a day care center licensed under this section or contracted for under s. 120.13 (14) with the intent of making that day care center his or her home or who lives for more than 30 days cumulative in any 6–month period at a day care center licensed under this section or contracted for under s. 120.13 (14).

(b) 1. After receipt of an application for a license to operate a day care center or a referral from a school board under s. 120.13 (14), the department of health and family services, with the assistance of the department of justice, shall conduct a background investigation of the applicant or person referred.

2. The department of health and family services, with the assistance of the department of justice, shall conduct a background investigation of any person who, on the effective date of this subdivision .... [revisor inserts date], is a day care provider licensed under this section or contracted for under s. 120.13 (14) or who, on the effective date of this subdivision .... [revisor inserts date], has an application for licensure or a contract offer pending, within 6 months after the effective date of this

5/21 Karl K -
also N Dak
req drug + alc couns
as part of soc contract
(Utah under Bush)

**WELFARE REFORM AND DRUG TESTING**

The Clinton Administration has already given several states welfare reform waivers to test innovative ways to combat drug abuse -- including drug testing, substance abuse screening, mandatory drug treatment, and tough sanctions. The President's welfare reform plan, the Work First and Personal Responsibility Act of 1996, allows any state that wants to implement drug testing for welfare recipients to do so.

Gary Gridler
514. 7836

## Welfare Reform Waivers to Allow Tough Drug Policies

The Clinton Administration is giving states the tools they need to get welfare recipients off drugs, and to get tough with those who refuse to cooperate. In the past three years, the Administration has granted a record 61 waivers to 38 states to reform their welfare systems. These waivers include:

- **South Carolina**: Earlier this month, the Administration approved a waiver to allow random testing of welfare recipients identified as having drug problems. Those who refuse to comply with treatment can lose all welfare benefits.

- **Ohio**: Approved in March 1996, this waiver requires pregnant women to participate in substance abuse screening as part of prenatal care, with sanctions for failing to comply.

- **Oregon**: Also approved in March 1996, the Oregon plan requires welfare recipients identified as having drug problems to get treatment. Failure to comply results in escalating sanctions that lead to a cutoff of all benefits.

- **Connecticut**: Under a waiver approved in August 1994, welfare recipients with identified drug problems must comply with drug treatment, with sanctions for failure to do so.

- **Texas**: Through a waiver approved in March 1996, applicants must sign a personal responsibility contract that makes drug abstinence a condition of eligibility for benefits. Recipients convicted of drug crimes after signing the statement are subject to increasing sanctions.

## The President's Welfare Reform Plan Allows States to Implement Drug Testing

The President's welfare reform bill, the Work First and Personal Responsibility Act of 1996, already allows states to carry out drug testing of welfare recipients. Under the President's plan, all welfare recipients are required to sign personal responsibility contracts, which spell out the responsibilities they must fulfill in order to receive assistance. States would be allowed to decide for themselves whether to include drug testing and treatment under their personal responsibility contracts.

Under the President's plan and any other welfare reform plan, courts will subject any state's drug testing efforts to Constitutional scrutiny to make sure they are consistent with the "reasonable requirement" under the 4th Amendment.

# FACSIMILE TRANSMISSION

ADMINISTRATION FOR CHILDREN AND FAMILIES
OFFICE OF THE DEPUTY ASSISTANT SECRETARY
FOR POLICY AND EXTERNAL AFFAIRS
370 L'ENFANT PROMENADE, S.W.
WASHINGTON, D.C. 20447

**DATE:** 5/20/96
**TO:**
**Name:** Bruce Reed
**Organization:**
**Telephone:**
**Fax:** 456-5557
**Number of Pages (excluding cover):** ~~1~~ 4

Carl Corper
~~456~~-4535
401-

401-9220

**FROM:**

**Name:** Ann Rosewater
Deputy Assistant Secretary
for Policy and External Affairs

**Telephone:** (202) 401-5180
**Fax:** (202) 205-3848

**MESSAGE:**

This has been reviewed by counsel.

# DRUG TESTING/SUBSTANCE ABUSE TREATMENT

Question:

What is the Administration's position on mandatory drug testing of welfare recipients? How have you restricted States proposals in this area under waivers?

Answer:

- This Administration would permit States to require drug testing and substance abuse treatment of welfare recipients under the President's welfare reform proposal, provided such testing is in compliance with the Constitution and the Americans with Disabilities Act (ADA).

- Under waivers, we have allowed several states to require participation in substance abuse treatment programs under their JOBS program, which in one case includes the use of random drug testing in conjunction with treatment, and another state we have allowed sanctions of individuals convicted of crimes related to drug and alcohol use.

- In all but one case, reaching agreement with these States could be characterized as a mutual process of working out the details, such as:

  - assuring that case/JOBS workers followed appropriate, prescribed criteria in referring individual to assessment for substance abuse and assuring the assessment was performed by qualified clinicians; or Ohio/S.C

  - in the case of convictions, working out language with the State's legal staff and assuring that the incident leading to a conviction occurred after the recipient's initial signing of a personal responsibility agreement (i.e., did not occur prior to welfare receipt). Texas

- A proposed waiver to require random drug testing warranted more significant modification of the State's request in order to assure that rules would not violate constitutional protections or provisions of the ADA. S.Caro

- The State had asked that persons identified as requiring substance abuse treatment, convicted of an alcohol/substance abuse offense, or giving birth to a child with a controlled substance in his/her system would be required to submit to random drug tests and/or participate in substance abuse treatment. Further, recipients would be made ineligible for benefits if they tested positively for a controlled substance or alcohol use following completion of treatment. SC

- Under the ADA individuals cannot be denied public assistance because of use of alcohol or legal drugs, and sanctioning an individual on AFDC simply because he or she has tested positive for these substances would be such a denial. Further, random testing is constitutional only when it can be shown that intruding upon an individual's Fourth Amendment rights is justified by promotion of a legitimate government interest. Finally, in conjunction with a welfare reform demonstration, random testing among AFDC recipients must be shown to further the purposes of the Social Security Act, i.e., to furnish financial assistance and increase family capability for self-support. Using random testing, as one method among others to monitor the need for or compliance with a treatment program are uses that further the purposes of the Act. SC

- As a consequence of these concerns, our agreement with the State allows for such persons to be referred for clinical assessment for participation in alcohol and drug treatment programs and to allow clinical staff assessing compliance with a treatment program, during and after completion of treatment, to use random testing as a method. However, failure to pass a random test, by itself, will not constitute non-compliance. It will however, be used as a basis for changing or resuming treatment. SC

- Noncompliance with the treatment program may, if it continues for 30 days, result in a sanction of the family's full AFDC cash benefit. SC

Elena K -

# WAIVERS RELATED TO DRUG/ALCOHOL ABUSE TREATMENT/TESTING

Waiver requests related to drug and alcohol (substance) abuse treatment and testing have fallen into three categories:

- Requirements for compliance with necessary substance abuse treatment programs universally, for pregnant women or in conjunction with JOBS requirements. This includes approved requests from:

  Connecticut (under JOBS, but provision eliminated under amended welfare reform demonstration) and

  Ohio (applicable to pregnant women)

  Oregon (universal)

- Random testing for substance abuse as part of substance abuse treatment. This includes an approved demonstration in South Carolina (in connection with a personal responsibility agreement) and a pending waiver request from Kansas (under JOBS). It is not clear from the latter request whether such testing is restriction for treatment use only.

- Sanctions related to convictions for offenses related to alcohol and drug use and abuse. This includes an approved demonstration in Texas and pending amendments to a demonstration in Indiana.

# ANTI-FRAUD DEMONSTRATIONS

**Massachusetts:** The Massachusetts "Two-Digit Fingerprint/Photo Matching Demonstration Project" will be implemented for 48 months in both Springfield offices and in the Lawrence office. In an effort to reduce and prevent fraud, all grantees in these offices will be required to be fingerprinted and/or have a digitized photo taken, as a condition of eligibility for AFDC. For the purpose of this waiver, grantees are defined as adults, including teen parents, who are included in the AFDC grant or are under a sanction. In a two-parent household, both parents are considered grantees. Once implemented, failure to cooperate with this requirement will result in the removal of the grantee(s) from the grant.

**Approved: January 17, 1996**

**Illinois:** Illinois will test the use of electronic fingerprinting technology in Dupage and in Cook County's West Suburban and Western local offices for 48 months. Participation is mandatory. Failure to participate will result in denial of an application or in termination of an active case. Equitable and timely benefits to eligible families will be ensured through a user friendly and fair system. Client focus groups will be used to solicit suggestions for the program. Confidentiality will be protected during the process and the information will not be shared with any other agency.

The State also has a demonstration requiring retinal imaging. Except for the technique, the project is the same as the fingerprint demonstration and operates in Madison County.

**Approved: February 12, 1996**

**Texas:** Texas has an electronic imaging (fingerprinting plus photo identification) demonstration in Bexar and Guadalupe counties for 69 months. Participation is mandatory at application or recertification. If a client refuses, the case will be denied. The information will be kept confidential and used only by the Department of Human Services.

**Approved: March 22, 2996**

**California:** The State requested that its ongoing fingerimaging demonstration in Los Angeles (AFIRM) be continued from its present ending date, September 30, 1996, to March 31, 1999, or upon statewide implementation, whichever is earlier. AFIRM requires fingerprinting of aided adults or minor parents as a condition of eligibility. Failure to cooperate results in ineligibility for the individual. Those not cooperating may be investigated for fraud.

**Approval of extension: March 22, 1996**

WELFARE REFORM WAIVERS REQUIRING DRUG TESTING OR TREATMENT

The Clinton Administration is giving states the tools they need to get welfare recipients off drugs, and to get tough with those who refuse to cooperate.

- <u>South Carolina:</u> Earlier this month, HHS approved a waiver to allow random testing of welfare recipients identified as having drug problems. Those who refuse to comply with treatment can lose all welfare benefits.

- <u>Ohio:</u> Approved in March 1996, this waiver requires pregnant women to participate in substance abuse screening as part of prenatal care, with sanctions for failing to comply.

- <u>Oregon:</u> Also approved in March 1996, Oregon requires welfare recipients identified as having drug problems to participate in diagnosis, counseling, and treatment. Failure to comply results in sanctions that culminate in a cutoff of the grant.

- <u>Connecticut:</u> Under a waiver approved in August 1994, welfare recipients with identified drug problems must comply with drug treatment, with sanctions for failure to do so.

- <u>Texas:</u> Through a waiver approved in March 1996, applicants must sign a drug abstinence statement. Recipients convicted of drug crimes after signing the statement are subject to increasing sanctions.

[Any responsible plan for drug testing and treatment must deal with constitutional and ADA concerns. While addressing these legitimate issues, the Administration has given states the authority to crack down on those who abuse drugs or alcohol while on welfare.]

~~Howard~~

Texas only 25

Conn wld be [illegible]

W-2 → legislation

WAIVERS RELATED TO DRUG/ALCOHOL ABUSE TREATMENT/TESTING

Waiver requests related to drug and alcohol (substance) abuse treatment and testing have fallen into three categories:

- o Requirements for compliance with necessary substance abuse treatment programs universally, for pregnant women or in conjunction with JOBS requirements. This includes approved requests from:

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205-3598

To Howard Rolston

# FACSIMILE TRANSMISSION

ADMINISTRATION FOR CHILDREN AND FAMILIES
OFFICE OF THE DEPUTY ASSISTANT SECRETARY
FOR POLICY AND EXTERNAL AFFAIRS
370 L'ENFANT PROMENADE, S.W.
WASHINGTON, D.C. 20447

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**DATE:** 5/20/96
**TO:**
**Name:** Bruce Reed
**Organization:**
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**Number of Pages (excluding cover):** 4

Carl Corper
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**FROM:**

**Name:** Ann Rosewater
Deputy Assistant Secretary
for Policy and External Affairs

**Telephone:** (202) 401-5180
**Fax:** (202) 205-3848

---

**MESSAGE:**

This has been reviewed by counsel.

# DRUG TESTING/SUBSTANCE ABUSE TREATMENT

Which waivers /when?

Question:

What is the Administration's position on mandatory drug testing of welfare recipients? How have you restricted States proposals in this area under waivers?

Answer:

- This Administration would permit States to require drug testing and substance abuse treatment of welfare recipients under the President's welfare reform proposal, provided such testing is in compliance with the Constitution and the Americans with Disabilities Act (ADA).

- Under waivers, we have allowed several states to require participation in substance abuse treatment programs under their JOBS program, which in one case includes the use of random drug testing in conjunction with treatment, and another state we have allowed sanctions of individuals convicted of crimes related to drug and alcohol use. Texas?

- In all but one case, reaching agreement with these States could be characterized as a mutual process of working out the details, such as:

  - assuring that case/JOBS workers followed appropriate, prescribed criteria in referring individual to assessment for substance abuse and assuring the assessment was performed by qualified clinicians; or Ohio/S.C

  - in the case of convictions, working out language with the State's legal staff and assuring that the incident leading to a conviction occurred after the recipient's initial signing of a personal responsibility agreement (i.e., did not occur prior to welfare receipt). Texas

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- Under the ADA individuals cannot be denied public assistance because of use of alcohol or legal drugs, and sanctioning an individual on AFDC simply because he or she has tested positive for these substances would be such a denial. Further, random testing is constitutional only when it can be shown that intruding upon an individual's Fourth Amendment rights is justified by promotion of a legitimate government interest. Finally, in conjunction with a welfare reform demonstration, random testing among AFDC recipients must be shown to further the purposes of the Social Security Act, i.e., to furnish financial assistance and increase family capability for self-support. Using random testing, as one method among others to monitor the need for or compliance with a treatment program are uses that further the purposes of the Act. SC

- As a consequence of these concerns, our agreement with the State allows for such persons to be referred for clinical assessment for participation in alcohol and drug treatment programs and to allow clinical staff assessing compliance with a treatment program, during and after completion of treatment, to use random testing as a method. However, failure to pass a random test, by itself, will not constitute non-compliance. It will however, be used as a basis for changing or resuming treatment. SC

- Noncompliance with the treatment program may, if it continues for 30 days, result in a sanction of the family's full AFDC cash benefit. SC

SC modified

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**Approved: January 17, 1996**

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The State also has a demonstration requiring retinal imaging. Except for the technique, the project is the same as the fingerprint demonstration and operates in Madison County.

**Approved: February 12, 1996**

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**Approved: March 22, 2996**

**California:** The State requested that its ongoing fingerimaging demonstration in Los Angeles (AFIRM) be continued from its present ending date, September 30, 1996, to March 31, 1999, or upon statewide implementation, whichever is earlier. AFIRM requires fingerprinting of aided adults or minor parents as a condition of eligibility. Failure to cooperate results in ineligibility for the individual. Those not cooperating may be investigated for fraud.

**Approval of extension: March 22, 1996**

employability plan. Failure of an individual to comply with the participation requirements in such activities, without good cause, will result in the imposition of a sanction as specified in item 15 d), above. Participation in activities described in this item does not constitute participation in JOBS for purposes of determining the State's participation rate under 45 CFR 250.74(b).

g) Parents or needy caretaker relatives whose needs are not included in the assistance unit as a result of noncooperation with Child Support Enforcement requirements or who have not met other conditions of eligibility and who are otherwise non-exempt, will be required to participate in the JOBS program. Failure of the individual to comply with JOBS requirements, without good cause, will result in the imposition of a sanction as specified in item 15 d), above.

22) Approved work activities under this component may include unsubsidized employment, subsidized employment, community work experience, alternative work experience, work study employment, unpaid internship approved by the State, VISTA volunteer work, volunteer work approved by the State, Job Corps, the National Service Program, and job search. Alternative activities may be substituted for the work requirement under certain circumstances if meeting the work requirement would preclude completion of other activities essential to attain self-sufficiency, such as secondary school attendance or GED programs for parents or needy caretaker relatives under age 20, or education or training activities when approved by the State, including English as a Second Language (ESL). Activities related to solving family or personal crisis, such as substance abuse treatment or other health activities, and the procurement of housing for homeless families may also be substituted for the work requirement under certain circumstances, for temporary periods of time, when approved by the State. Participation in activities which are not included in the definition of "activities" set forth in 45 CFR 250.78(b)(1), does not constitute participation in JOBS for purposes of determining the State's participation rate under 45 CFR 250.74(b).

11) **Pregnant AFDC Recipients:** Refusal, without good cause, by pregnant AFDC recipients, who receive Medicaid services through a managed care organization, to cooperate with substance abuse assessment and/or treatment will result in a sanction. The determination that substance abuse treatment is necessary will be made by a local Alcohol and Other Drug Addiction (AODA) provider certified by the Ohio Department of Alcohol and Drug Addiction Services. Compliance with the treatment program will be determined by local AODA providers using recognized methods of assessment. The provisions of 402(a)(9) of the Social Security Act apply.

Failure to comply will result in the following sanctions:

i) for the first failure, the recipient will be ineligible for AFDC cash benefits until the failure ceases or one payment month, whichever is longer;

ii) for the second failure, the entire assistance group will be ineligible for AFDC cash benefits until the failure ceases or one payment month, whichever is longer;

iii) for the third failure, the entire assistance group will be ineligible for AFDC cash benefits until the failure ceases or two payment months, whichever is longer;

iv) for the fourth or subsequent failure, the entire assistance group will be ineligible for AFDC cash benefits for the longest of the following: until the failure ceases; thirty-six payment months; or the remainder of the recipient's sixty month period.

Connecticut?

Or.

(7) As appropriate, AFDC applicants and recipients may be required to participate in mental health and substance abuse diagnostic, counseling and treatment programs. Case managers will be trained to identify indications of the need to refer applicants and recipients to participate in diagnosis, counseling, and treatment programs. Upon referral, assessment of the necessary treatment will be made by appropriate clinical staff. If treatment is found necessary for the person to function successfully in the workplace, the State will require such treatment when resources are available. The following fiscal sanctions will be imposed for failure, without good cause, to comply with diagnosis, counseling, or treatment requirements:

- First level: For a client who fails to cooperate with this requirement and has not been previously sanctioned or has been sanctioned in only one previous month, the first two months of non-compliance will result in a $50 decrease in the grant.

- Second level: A client who fails to cooperate with this requirement and has been sanctioned in two or three previous months will be removed from the grant, except that AFDC cases including a work-eligible alien parent will continue to be subject to a $50 decrease in the grant for this sanction period.

- Third level: For a client who fails to cooperate with this requirement and has been sanctioned in four or more previous months, the sanction will be the closure of the grant.

The sanction will be removed, at any point in the sanction process, when a recipient complies.

SC | OR

doesn't say testing => no testing

Add Texas

2.4 Federal funding will be available under title IV-A:

(1) at the applicable assistance payment matching rate for allowable expenditures for AFDC cases in excess of those funded by diverting AFDC and Food Stamp benefits;

(2) at the applicable assistance payment matching rate for expenditures which would otherwise be unallowable under section 403 of the Social Security Act due to the operation of section 408 of the Act, provided that the State's share of such expenditures is re-invested by the State in improved operation of the demonstration;

(3) at the 50 percent matching rate for expenditures related to JOBS employment and training services for participants not covered due to the limitation under section 403(k).

Expenditures related to JOBS employment and training services (i.e., (c) above) must be incurred during the period beginning with the deemed beginning date of the demonstration and ending with the last day of any subsequent quarter which falls on or before the termination date of the demonstration; moreover, the amount of such expenditures may not exceed the amount of expenditures for JOBS employment and training services for treatment group cases during the operation of the demonstration.

(4) at the 50 percent matching rate for expenditures to provide such resources as are necessary and available for AFDC recipients to participate in and successfully complete mental health and substance abuse treatment provided pursuant to 2.1(7) above.

(2) The State will require applicants and recipients to sign an Individual Self-Sufficiency Plan (ISSP) outlining employment and training requirements, family skills training, and substance abuse treatment if determined to be necessary by the Department of Alcohol and Other Drug Abuse Services (DAODAS). The following individuals will be exempt from signing the ISSP:

- individuals at least six months pregnant whose pregnancy is verified by a qualified licensed health care provider;
- caretakers or parents of a child under one year of age except when the custodial parent is under age 25 and has not completed high school education, in which case there is no exemption regardless of the age of the child;
- incapacitated individuals whose incapacity is confirmed, if the State deems necessary under criteria it has established, by the Department of Vocational Rehabilitation, as a physical or mental impairment that prevents the recipient from engaging in gainful employment or participating in education or training;
- individuals who care for an incapacitated person whose incapacity has been verified by a physician;
- individuals who are unable to participate because child care and reasonable transportation were not provided when needed for participation in employment and training programs.

(3) A participant who is determined to be job ready will be required to participate in job club and job search activities. Individuals who are not successful in finding employment after completing a 60-day job club and job search will be reassessed to determine if additional training or education is necessary prior to employment. If it is determined that additional education or training is required but such training or education is not immediately available, individuals must participate in the State's Alternate Work Experience Program (AWEP) while awaiting an opportunity to participate in education or training. Individuals who are not determined to need additional education or training will be required to conduct job search for up to 10 hours per week and to participate in AWEP.

(4) The State will refer to DAODAS for clinical assessment for participation in an alcohol or drug treatment program AFDC recipients who:

(a) have been identified by a case manager with concurrence from a supervisor as possibly in need of alcohol or other drug abuse treatment service using screening indicators provided by DAODAS;

(b) within 6 months prior to the date of last application for AFDC or subsequently have been convicted of an alcohol- or drug-related offense; or

(c) within 6 months prior to the date of last application for AFDC or subsequently gives birth to a child who tests positive for drugs.

RANDOM TESTING AS CLINICAL METHOD

Determination that substance abuse treatment is necessary will be made by appropriate clinical staff of DAODAS. Such staff will also assess the participants' compliance with the treatment program using recognized methods of assessment including, but not limited to, random testing. In no instance shall failure to pass a random test, by itself, constitute a non-compliance with treatment. For participants who complete the DAODAS treatment program, the State will monitor their compliance with the ISSP using recognized methods of assessment including, but not limited to, random testing. Failure to pass such a random test shall not constitute the basis for a sanction, but may constitute grounds for review by a clinical professional who will determine if there are additional indicators of substance abuse or grounds for resumption of treatment.

The State will keep records of individuals' alcohol and drug treatment participation confidential pursuant to section 402(a)(9) of the Social Security Act; such information will not be made available to law enforcement personnel.

B. **Personal Responsibility Statement**

1. Adult applicants and recipients must sign a personal responsibility statement that requires as a condition of eligibility the following:

a) cooperation with child support requirements and paternity establishment;

b) EPSDT screenings and checkups for children, subject to availability and funds;

c) proof of immunizations (as defined in "Promoting Child Health in Texas" demonstration) for children regardless of age;

d) agreement that adult recipients and teen parents who have completed school will not quit a paying job of at least 30 hours per week without good cause;

e) participation by each JOBS non-exempt JOBS volunteer adult recipient in a JOBS activity designed to enable the recipient to become independent through:

- o education or literacy training,
- o job placement or employment skills training program;
- o volunteering for service in the recipient's community;
- o serving in a community work program or other work program approved by the State.

f) abstinence from the use or sale of marijuana, controlled substances and the abuse of alcohol. Compliance will be determined as follows:

Upon the next periodic review after signing the PRA the recipient will be required to answer the following questions on the application form: "FOR AFDC HOUSEHOLDS: If any caretaker relative or parent in the AFDC household has been convicted of, or has a deferred adjudication for, a criminal offense

BASED ON CONVICTION

involving 1) using, selling, or possessing marijuana or a controlled substance in violation of chapter 481, Texas Health and Safety Code, or 2) the abuse of alcohol since signing the Personal Responsibility Agreement (Form 1073), the department may impose a penalty by reducing the household's benefits. Has anyone in your AFDC household been convicted (or had a deferred adjudication), as described above, since signing the Personal Responsibility Agreement? ____Yes ____No."

If the recipient states they have a conviction, or deferred adjudication for an offense that occurred after signing the PRA the AFDC grant is reduced by $25 until the next complete review. The eligibility worker must ascertain the answer to the above question at each periodic review and apply the sanction accordingly;

 

## Waiver Recommendation:

TO EXTEND AFDC FRAUD DISQUALIFICATION PENALTIES FOR THOSE CONVICTED UNDER WELFARE FRAUD, MEDICAID FRAUD AND ILLEGAL DRUG USE. THOSE CONVICTED OF A MISDEMEANOR WOULD BE DISQUALIFIED FOR 12 MONTHS FOR THE FIRST AND SECOND OFFENSES, AND PERMANENTLY FOR THE THIRD OFFENSE. THOSE CONVICTED OF A FELONY WOULD BE DISQUALIFIED FOR 10 YEARS FOR THE FIRST AND SECOND OFFENSES AND PERMANENTLY FOR THE THIRD OFFENSE.

## Current Policy:

Fraud disqualification penalties are applied to administrative, civil and criminal program violations. The penalty period is based upon the number of violations the individual has committed and is as follows:

- 1st occurrence results in a 6-month penalty;
- 2nd occurrence results in a 12-month penalty; and,
- 3rd occurrence results in a permanent penalty.

## Rationale for Proposal:

- Welfare fraud is a serious crime and as such must have serious consequences.
- Work must be more attractive than fraud.
- Public assistance is to be a temporary program. Welfare fraud assumes a deceitful misrepresentation that does not encourage work or legitimate self-sufficiency.

Social Security Act Section 402(a)(40); 45 CFR 235.112(c)

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**Revised Waiver Recommendation:**

TO ESTABLISH THE SIGNING AND FULFILLMENT OF THE TERMS OF THE PERSONAL RESPONSIBILITY AGREEMENT (PRA) AS A CONDITION OF ELIGIBILITY FOR ADULT PARENTS AND CARETAKER RELATIVES. THE TERMS OF THE PRA ARE EXPANDED TO INCLUDE RAISING CHILDREN IN A SAFE, SECURE HOME AND AGREEING NOT TO USE ILLEGAL DRUGS OR OTHER SUBSTANCES THAT WOULD INTERFERE WITH THE PERSON'S ABILITY TO BE SELF-SUFFICIENT.

**Current Waiver Provision:**

All parents and caretaker relatives are to sign the Personal Responsibility Agreement or receive a fiscal sanction of $90 against the family's AFDC grant for non-compliance.

**Traditional Policy:**

There is no Personal Responsibility requirement.

**Rationale for Proposal:**

- The purpose of the Personal Responsibility Agreement is to obtain the client's commitment to work toward self-sufficiency.

- An agreement establishes the commitment of a client to take action to take care of the children and become independent, and the commitment of the agency to provide temporary support during the client's transition to self-sufficiency.

Social Security Act Section 402(a)(26); 45 CFR 233.10(a)(1)

KANSAS — NEW AMENDED APPLICATION



**Statute and Regulations to Be Waived:**

- Elimination of the 8 week job search limit for cash and food stamp recipients. [Title IV-A of the Social Security Act 402 (a)(19)(A); Title IV-F of the Social Security Act 482(g)(2)(B); 45 CFR 250.60(c); 7 CFR 273.7(f)(1)(I).]

- Elimination of the 20 hour per week JOBS participation limit for parents with a child under 6. [Title IV-A of the Social Security Act 402(a)(19)(C)(iii)(II); 402(a)(19)(G)(iv)(I); 45 CFR 250.30(b)(9)(ii)]

**Add #36, Alcohol and Substance Abuse Screening**

Alcohol and drug screening which may include a drug test shall be an allowable activity of the JOBS program and the Food Stamp Employment and Training Program. If a recipient who is a participant in the JOBS or Food Stamp Employment and Training Program is diagnosed with alcoholism and/or drug addiction, such person shall complete a treatment program recommended as a result of the evaluation. Failure to undergo such alcohol and drug screening and/or to complete a treatment program shall result in a penalty for failure to cooperate with a work-related activity. Such penalty is described in Item # 11 above. The results of any test administered as part of this program shall be confidential and shall not be disclosed publicly except to employees of the Department of Social and Rehabilitation Services when necessary in the performance of their official duties or to professional persons when necessary to assist such professional persons providing treatment to the participant. Any employee or professional person to which such information is disclosed shall be subject to confidentiality requirements.

**Statute and Regulations to Be Waived:**

Title IV-A of the Social Security Act 402(a)(19)(A); 402(a)(19)(G); Title IV-F of the Social Security Act 482(d)(1)(B); 45 CFR 250.34(a)(1); 250.34(c)(2); 250.34(d); 250.34(e)(2);250.47(a); 7 CFR 273.7(b)(1)(vi).

KANSAS — NEW AMENDED APPLICATION

# AMENDMENTS TO KANSAS WELFARE REFORM WAIVER REQUEST

## Modify #10. Standardize Potential Employment Requirements

Penalty for violating a potential employment requirement without good cause shall be as follows:

If an applicant or recipient parent or spouse voluntarily quits a job or is fired for misconduct, the household shall be ineligible for three months. If someone other than the parent or spouse violates the potential employment rule, the three month penalty shall apply to the individual. The ability to re-establish eligibility during a disqualification period shall remain.

## Modify #11. Standardize Work Requirements

The penalty for a non-exempt parent or legally responsible person who fails or refuses to meet work related requirements without good cause shall be the removal of the individual's needs from the AFDC or Food Stamp benefit for two months. The income and resources of the disqualified individual will be counted in full with no earnings disregard allowed. If the individual has not cooperated within two months, the family's cash and food stamp assistance will be terminated for two months with no ability to cure the penalty. If a non-legally responsible individual fails to co-operate, the individual is closed for two months. The individual must cooperate with the work requirement before assistance will be reinstated.

## Modify #12. Expand Child Support Enforcement

The penalty for failing to cooperate with Child Support Enforcement shall be as follows:

Immediate termination of child care assistance and removal of the individual's needs from the AFDC and food stamp benefit for two months. If the individual does not cooperate within two months, the family's assistance shall be terminated for two months with no ability to cure the penalty. Assistance will not be reinstated until the caretaker or parent cooperates with Child Support Enforcement.

## Modify #32. Count SSI Income

The income and resources of adults who receive SSI will be counted in determining eligibility for AFDC and medical assistance. The state would have the option of also counting the income and resources of children who receive SSI in determining eligibility for AFDC and medical assistance.

## Add #35. *KansasWorks*

Although progress has been made in assisting many public assistance recipients to permanently leave the welfare rolls, state outcome reports show that the education and training investment model has not been highly successful in moving the public assistance population into employment. With the education and training investment model, resources are targeted towards providing participants with a continuum of services beginning with education and training, moving through job readiness activities and ending with employment. With the emphasis on education and training, the state has not been sufficiently focused on forging the strong links with employers that is essential to helping public assistance recipients gain work experience and find jobs. Studies show that a work-based system of support offers the best opportunity for helping low-income families attain self-sufficiency and escape poverty. Kansas is, therefore, implementing ***KansasWorks,*** an initiative focused on moving public assistance recipients quickly into employment.