MEMORANDUM TO DISTRIBUTION LIST
FROM: **Diana Fortuna, Domestic Policy Council**
SUBJECT: **Biweekly NGA/NCSL/APWA Meeting**
Wednesday, February , 1:00pm, Rm 180

We will hold the biweekly NGA/NCSL/APWA Meeting on February at 1:00pm in OEOB 180. If you have never attended and need clearance, please call Jennifer Bazzell at 456-5603. Thank you.

DISTRIBUTION LIST:

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OMB:		
Keith Fontenot	395-4686, phone	395-4875, fax
Ken Apfel	395-4686, phone	395-4875, fax

* Elaine - wth mtg w/ BR

next mtg
Dec 4 - yes

Dec 18? - prob

- bus BR
- other doc.
- reg timeline
- CR asked Golonka

INTERGOVERNMENTAL WELFARE REFORM MEETING

* Yvette re reporting
FS waiver regs
La, NJ, Va

November 12, 1996

~~* Chessor NGA~~

* Judy - re Phoenix APWA

I. Review of Issues/Recommendations from Casey Meeting on Substance Abuse
- Elaine Ryan, APWA
- Carol Rasco, DPC

Children's Justice
* Nov 22
Dec 2

II. HCFA: Review of New Emergency Reg on Medicaid Redeterminations
- Sally Richardson, HCFA

Tech Corr *
>20% Voc Ed
P10 - weaken penalty on 5 yr limit

Elaine -
* CW@admin - 15% - TMA ez Reg

EA
III. SSA Review of Regulatory Timeline
- Carolyn Colvin, SSA

Clarify
- CR sez mtg w/ HHS + Elaine

* JBA re wkly w/ HHS on WR issues

IV. Questions Still Outstanding
- John Monahan, HHS

Steisel - CSE regs
reading for - Judy Ross -
3 speeches

- HHS answers to 10/23 written questions
- end of week
} end of wk / beg of next

- Cost Neutrality/waivers
- Means tested benefits

~~Golonka:~~
HHS Reep - mtg w/ sev states in Dec? - ch care model

* JBA - Why can't we break this out?
Control gps - Keith

V. Other Business/New Questions

* Elena - preclude bucket?

If we manage to find a way to do SSI automatic bucket for MA,

* SSA; earlier mcse? - Monahan; adm reg?

* Elaine - wants a heads-up on SSI - call her

SOCIAL SECURITY ADMINISTRATION
REGULATIONS REQUIRED BY LAW TO IMPLEMENT
WELFARE REFORM PROVISIONS

	PROVISION	TYPE OF RULE	PUBLICATION DATE
1.	SSI CHILDHOOD DISABILITY STANDARD	INT. FINAL	12/96
2.	DEDICATED SAVINGS ACCOUNTS FOR SSI CHILDREN	INT. FINAL	12/96
3.	SSI $30 PER MONTH PAYMENT STANDARD FOR HOSPITALIZED CHILDREN	INT. FINAL	12/96
4.	INSTALLMENTS OF LARGE PAST-DUE SSI BENEFITS	INT. FINAL	12/96

Section of Law: 211
Title: Definition of disability standard for children in the supplemental security income program

Description: Section 211(a) revises the definition of childhood disability. The revised definition is effective for claims filed on or after August 22, 1996 and to claims that were not finally adjudicated by that date. The interim final regulations will provide the new childhood disability standard.

Section 211(b) eliminates certain of SSA's regulations. The interim final regulations will remove all regulations eliminated by the statute.

Section 211(c) makes conforming changes to the medical improvement review standard for children. The interim final rule will contain such conforming changes.

Section of Law: 213
Title: Additional Accountability Requirements(Dedicated Accounts)

Description: Each representative payee who receives who receives past-due monthly supplemental security income benefits must establish on behalf of the eligible individual, an account in a financial institution, into which the past-due benefits will be paid. The interim final regulations provide the guidelines for complying with the legislative mandate.

Section of Law: 214
Title: Reduction in Cash Benefits Payable to Institutionalized Individuals Whose Medical Costs are Covered by Private Insurance

Description: In the case of an institutionalized individual under age 18 who is eligible for supplemental security benefits and who receives payments under a health insurance policy issued by a private provider of insurance, the federal benefit rate is limited to $30 per month. The interim final regulations will provide regulatory guidance for implementation of the statutory requirement.

Section of Law: 221
Title: Installment Payment of Large Past-Due Supplemental Security Income Benefits

Description: The statute provides for payment of past-due supplemental security income benefits in installment payments if certain conditions are met. The limits to amounts payable may be exceeded if the individual has outstanding debt attributable to food, clothing, shelter and other specified items. The interim final regulations will provide regulatory guidance for implementation of the statutory requirements.

INTERGOVERNMENTAL WELFARE REFORM MEETING

October 23, 1996

I. Issues with Answers to Review

will talk more

- Circulars issue/apportionment (OMB)
- Transition rules on data collection under JOBS (HHS)
- Definition of administrative costs
- HCFA: timetable for distribution/allocation formula on $500 million
- Tribal Jobs

II. Outstanding

- Cost Neutrality/waivers
- Means tested benefits

next wk

III. Regulatory Timelines from USDA, SSA, INS

IV. New Questions Last Time
- Refugee Assistance
- ~~California~~ Question: Can $ flow w/o TANF requirements

Emily paper

Grof

~~[illegible]~~

NDPOC

- ~~[illegible]~~ [illegible]?

- How do Circulars ~~[illegible]~~ neg?

INTERGOVERNMENTAL WELFARE REFORM MEETING

October 15, 1996

I. Outstanding Issues From Last Meeting/Still Outstanding

- Circulars issue/apportionment
- Cost Neutrality/waivers
- Means tested benefits

II. New Questions/Now Outstanding

- Transition rules on data collection under JOBS
- Definition of administrative costs
- HCFA: timetable for distribution/allocation formula on $500 million
- Tribal Jobs

III. Food Stamps and 40 Quarters

- presentation on procedure by USDA

IV. New Questions - Calif Q (also NJ)

Refugee = AFDC bec
law expires next
yr, not TANF

Elaine asks for ea agency
cld do list of provisions
to be Reg'd + when

John M - Starting child care consultation
Blessing vs. Freestone - 37 states
Why didn't consult. process work

INTERGOVERNMENTAL WELFARE REFORM MEETING

October 8, 1996

I. Outstanding Issues from Last Meeting

Elaine - def of waiver - how to reconcile FS waivers w/ TANF wk reqs - "work not avail" waivers

HHS responses to specific questions
- state plan review process
- TANF - SSBG transfers
- Spending on immigrants and MOE
- Pro Rata Reductions
- Claims and Disallowances
- $50 Child Support Pass Through

II. State Plan Completeness/45 Days/When Does the Five Year Clock Start
- More detailed discussion if necessary

III. Other questions

read next time SSA Q's

- Updating OMB circulars paper from Ray?
- Waiver evaluations — costs of contracts; not req'd for TANF?
- * Work requirements and people and children with disabilities
  - make 2 parent where 1 has disab = 1 parent; might be tech corr?
- Means tested benefits - more tow Nov
- Waivers and cost neutrality

IV. Medicaid Fact Sheets - Review of Initial HCFA Answers

V. Information Systems Process

VI. New Questions

- State letter on SSA timing
- % naturalizing elig
- FC/AA

* Any way to know how many IM in fc/aa?
* Which states hv automatic bucket? - ask HHS
* Yvette + OMB re # people
* NY or Cal on TANF bens but not reqs.
* Add to issues list - give rope to states on timing of FFP for lengthy redeterminations

(1) Pls. fax copies of this to Jeremy B. A + Emily + Diana + Carol Rasco
(2) Pls. ask Lloyd to coordinate answer #5. Maddy is preparing answers to 1-4. Pls. track to schedule an mtg. next week
[illegible]

Welfare Reform Implementation Questions
From APWA, NCSL, NGA
October 4, 1996

1. **Waivers and cost neutrality:** What are the cost neutrality implications for states that continue all of their waivers or some of their waivers. We have heard that HHS has said that states that continue their waivers would be held harmless under TANF. (In other words, future allocations would not be reduced to achieve cost neutrality.) Is this true? What about those waivers which also have interactions (savings/costs) with the Medicaid and food stamp programs? What are the implications for control groups and evaluations?

2. **OMB circulars**: We have heard that HHS intends to require that states comply with OMB grants management circulars for child care and TANF block grants despite Sec. 417 prohibition on regulating state conduct unless explicitly authorized. Nine block grants are currently exempt from the OMB circulars. While the OMB circulars were used by states for AFDC, the conversion of AFDC to a fixed block grant (with a cap on administrative spending) appears to call into question the need for their application. Some states may choose to continue to comply with the circulars but we do not believe that states should be mandated to comply. Can you clarify HHS's intent in this area? Additionally, does HHS interpret that CMA, which governs how states can draw down grant funds, also applies to TANF and child care. What will be the procedure for states that want to "roll over" funds?

3. **Transition rules regarding data collection requirements**: HHS has issued an action transmittal for data collection transition rules, effective October 1996. States are questioning why they would have to continue to collect any data on JOBS (such as participation rates, participant data) through the NIQCS considering that this program has been repealed in the Act and a state will not be operating JOBS once it receives its TANF grant. We would like to engage in consultative process with HHS to come up with reasonable data elements that states might collect in the transition before the TANF reporting requirements are effective.

4. **Definition of administrative costs**. While this definition will presumably be defined in regulations it is very hard for states to operate without some notion of how HHS intends to define admin. Is the report language around the definition of admin. under the child care block grant an appropriate model that HHS might follow for TANF? Additionally, because case managers will be undertaking so many activities beyond eligibility determination, states believe that case managers salaries should not be considered administration. What is HHS's view of this?

5. **Timetable for distribution and allocation formula for Medicaid**. When will HHS/HCFA provide information on how the $500 million available for Medicaid eligibility determination will be distributed among states as well as allocated among programs that have eligibility links to Medicaid?

6. **Tribal Jobs.** Tribes currently operating a JOBS program will be able to continue to receive separate funding and operate a work program. Will individuals served by these tribes be included in a state's work participation rate calculation even though a state has no authority over the operation of the tribe's work program?

PMI

Non-Regulatory Welfare Reform Implementation Questions
From APWA, NCSL, NGA
September 25, 1996

1. State Plan: what constitutes completeness and how long will certification take, from what date will block grant funds flow (date of submission, implementation date identified in state plan, or when deemed complete), when do requirements take effect, what counts as 45 day comment period for initial plan, and is comment period also required for plan amendments?

2. Transferability: pending technical amendments, is there an immediate/interim mechanism to allow TANF funds to be transferred directly to SSBG (without requiring transfer into CCDBG)?

3. Spending on immigrants counting toward MOE: pending technical amendments, is there an immediate/interim mechanism for permitting spending on legal immigrants to count towards MOE as suggested in Managers Agreement?

4. Pro Rata reductions: will FY 1997 work participation rates be reduced by the caseload reductions from FY 1995 to FY 1996? If so, does HHS intend to provide written guidance and/or standard data for states reflecting adjusted rates by state? How will pro rata reduction be calculated for two-parent families (based on entire caseload reduction or only two-parent/AFDC-UP reduction)?

5. Claims and disallowances: can HHS clarify/confirm that prior year claims will not be paid out of TANF funds? Will state funds used for prior year disallowances count as qualified state expenditures for MOE? Will disallowance payments be made separately or paid through a reduction in TANF grant?

6. $50 Child Support pass-through: what are states required to do vis-a-vis the $50 pass-through and $50 disregard after October 1, 1996? How and when will this information be communicated?

Dear Human Services Director:

On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was signed. This law contains several provisions affecting the payment of Supplemental Security Income (SSI) benefits to noncitizens. The Administration is committed to working to ensure the new law is implemented in a manner that fully protects the rights of those affected.

These provisions affect noncitizens who are currently receiving SSI benefits, as well as noncitizens who may apply for benefits in the future. We want to inform you of our plans for implementing the major provisions of the law so your State is equipped to provide help to those who may have questions or concerns.

The new law prohibits payment of SSI to many, but not all, noncitizens.
The law is effective upon enactment for noncitizens applying for SSI benefits after August 22, 1996. For those currently receiving SSI benefits, their benefits will continue until we have reviewed their case, which will occur next Spring and Summer. Only the following noncitizens remain eligible for SSI:

- Refugees, asylees and noncitizens whose deportation has been withheld (subject to 5-year eligibility limit).

- Certain active duty Armed Forces personnel and honorably discharged veterans. Their spouses/children also may qualify.

- Lawfully admitted aliens who have 40 qualifying work quarters (quarters earned by spouse/parents may also count).

We are asking for your help in informing your constituents who are immigrants about the new law. In particular, to avoid alarming SSI beneficiaries that their benefits will terminate immediately under the new law, we are asking for your help in making sure that noncitizens currently receiving SSI understand that their benefits will not be stopped until the following steps have been followed:

- They receive a notice (sometime in February or March 1997) from the Social Security Administration (SSA) telling them we will be reviewing their citizenship or immigration status and they have 90 days to respond.

- After the 90-day-period, if they are not in one of the eligibility categories, they will receive another letter from SSA telling them when their benefits will be stopped. This letter will explain how they can appeal the decision and how they can have their benefits continued during their appeal.

A general informational fact sheet describing how the new law affects noncitizens is enclosed.

Sincerely,

Carolyn W. Colvin
Deputy Commissioner
for Programs and Policy

Enclosure

Social Security

Supplemental Security Income For Noncitizens

New laws change the way we pay Supplemental Security Income (SSI) benefits to noncitizens. The new laws apply to people who are already receiving SSI benefits and to people who are applying for benefits.

What The Laws Say

Under the new laws, only United States (U.S.) citizens and nationals and certain noncitizens can get SSI benefits.

Who may get SSI on or after August 22, 1996?

- Citizens or nationals of the U.S.
- Noncitizens who were already getting SSI on August 22, 1996, may continue to get benefits until we review their case (see "When Will Your Benefits Stop?" on the back of this factsheet).
- Noncitizens who have been lawfully admitted to the U.S. for permanent residence and have a total of 40 qualifying work credits.
    - Work credits earned by your spouse or parent may also count toward the 40 credits. (These work credits count for SSI eligibility, but not for Social Security benefit purposes.)
    - Work credits earned after December 31, 1996, **cannot be counted if** the noncitizen, spouse, or parent received certain types of federally funded benefits based on limited income and resources during that period.
- Certain noncitizens who are active duty members, or who are honorably discharged veterans, of the U.S. Armed Forces, their spouses, and unmarried dependent children.
- Certain other noncitizens may be eligible for five years after:
    - the date of admission as a refugee under Section 207 of the Immigration and Nationality Act (INA);
    - the date granted asylum under Section 208 of the INA; or
    - the date deportation is withheld under Section 243(h) of the INA.

Your local Social Security office can tell you whether you are eligible.

Proof Of Your Status Is Required

If you file a new application for SSI benefits, you must give us proof of your U.S. citizenship or noncitizen status. Noncitizens who have served in the U.S. Armed Forces may also need to give us proof of military service. Although procedures have not been finalized, here are some examples of the kind of information you may need to provide:

- As proof of citizenship–a U.S. birth certificate, passport, or naturalization certificate;
- As proof of your noncitizen status–an unexpired Form I-94 or I-551 from the Immigration and Naturalization Service (INS); or
- As proof of military service–U.S. military discharge papers (DD Form 214) showing honorable discharge–not based on your noncitizen status.

If you were receiving SSI as of August 22, 1996, you may also need to give us proof of citizenship or noncitizen status.

When Will Your Benefits Stop?

For noncitizens who are getting SSI as of August 22, 1996, the new law requires that we look at your case within 12 months to make sure that you are eligible under the new law. During February and March 1997, we will send you a letter telling you about the law and what you have to do to prove that you are in one of the eligibility categories. If you are unable to prove that you are in one of the eligibility categories, we will send you a second letter telling you when your SSI benefits will stop.

If you can receive SSI benefits for only five years because of your particular noncitizen status, we will send you a letter telling you when the five-year period ends. We will also send you a letter before we stop your benefits.

When we send you a letter about stopping your benefits, we will tell you how to appeal our decision and how to have your benefits continued during your appeal.

Information About Medicaid

If you are getting Medicaid based on your SSI, your Medicaid should continue as long as you are eligible for SSI. If we find that you are not eligible for SSI under the new law, the letter we send you about that decision will tell you more about your Medicaid.

You Can File A New Claim

If your SSI benefits stop because you are not an eligible noncitizen, you can apply again. Contact us right away if you become a U.S. citizen, your immigration status changes and you become an eligible noncitizen, or you have gained 40 qualifying work credits (because of your work and/or that of a spouse or parent). You will need to provide your naturalization certificate or other documents that show your immigration status.

If You Have A Sponsor

When you entered the U.S., you may have had someone sign an agreement to provide support for you. This agreement is called an affidavit of support and the person who signed it is called your sponsor.

If you have a sponsor, we generally will count his or her income and resources (and his/her spouse's) as your income and resources for a certain period of years from the time you arrive in the U.S.

Your local Social Security office can give you more information about these rules and how they apply in your case.

Becoming A Citizen

You can get more information about becoming a citizen by writing or visiting a local Immigration and Naturalization Service (INS) office or call 1-800-870-3676 to get an application for naturalization (N-400 Form).

For More Information About SSI

You can get more information 24 hours a day by calling Social Security's toll-free telephone number **1-800-772-1213.** If you want to speak to a representative, you should call between the hours of 7 a.m. and 7 p.m. on Monday through Friday. Our lines are busiest early in the week and early in the month, so it's best to call at other times. Please have your Social Security number handy when you call. Our representatives can give you the address and telephone number of your local Social Security office if you would like to visit the office.

If you have a touch-tone phone, recorded information and services are available 24 hours a day, including weekends and holidays.

People who are deaf or hard of hearing may call our toll-free "TTY" number, 1-800-325-0778 between 7 a.m. and 7 p.m. on Monday through Friday.

The Social Security Administration treats all calls confidentially—whether they're made to our toll-free numbers or to one of our offices. We also want to be sure that you receive accurate and courteous service. That is why we have a second Social Security representative monitor some incoming and outgoing telephone calls.

Social Security Administration
SSA Publication No. 05-11051
September 1996
ICN 480360
Unit of Issue: HD (one hundred)

Printed on recycled paper

FOOD STAMP PROGRAM

WELFARE REFORM REGULATIONS

- Nondiscretionary Rule (Interim) mid-spring 97
- Personal Responsibility Rule (Proposed)
- work regs
  State Flexibility and Eligibility Criteria Rule (Proposed)
- Welfare Reform and Regulatory Review/Program Management Rule (Proposed)
- late spring early summer
- Food Stamp Recipient Claim Establishment and Collection Standards Rule (Proposed)
- Simplified Food Stamp Program Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
- ~~Work Provisions~~ of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
- Retailer Integrity, Fraud Reduction and Penalties

NONDISCRETIONARY RULE

Section	**Subject**
109	Conforming amendments
803	Treatment of children living at home
804	Maximum allotments
805	Homeless definition
809	Standard deduction
809	Excess shelter cap
810	Fair market value
826	Minimum allotment
838	Expedited service

PERSONAL RESPONSIBILITY RULE

Section	Subject
115	Ineligibility for Drug Convictions
813	Doubled Penalties for Violating FSP Requirements
814	Trafficking Disqualification
819	Comparable Disqualifications
820	Multiple Benefits Disqualification
821	Disqualification of Fleeing Felons
822	Cooperation with Child Support Agencies
823	Disqualification for Child Support Arrears
824	Work Requirement (ABAWDs)
829 & 911	No Increase for Penalties in Other Programs
837	Exchange of Law Enforcement Information

STATE FLEXIBILITY
AND CERTIFICATION REQUIREMENTS RULE

Section	Subject
402	Alien eligibility
421	Sponsored aliens
801	Definition of certification periods
807	Student income
808	Energy assistance
809	Earned income deduction
809	Homeless shelter estimate
809	Mandatory standard utility allowance
811	Transitional housing
812	Self-employment income
818	Alien income option
827	Proration
828	Optional combined allotments
830	Allotments for households in centers
835	Operation of food stamp offices

WELFARE REFORM AND REGULATORY REVIEW/PROGRAM MANAGEMENT RULE

Section	*Subject*
820	Multiple Benefits Disqualification
835	Office Operating Procedures
836	State Employee/Training Standards
839	Fair Hearing Requests
840	Matching (IEVS and SAVE)
847	Limitation on Federal Match
848	Hours of Operation

FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT and COLLECTION STANDARDS RULE

Section	*Subject*
844	Collection of Overissuances

SIMPLIFIED FOOD STAMP PROGRAM RULE

WORK PROVISIONS RULE

Section	*Subject*
815	Disqualification
816	Caretaker Exemption
817	Employment and Training
849	Work Supplementation or Support Program
852	Employment Initiatives Program

RETAILER INTEGRITY, FRAUD REDUCTION AND PENALTIES RULE

Section	*Subject*
802	Definition of Coupon
831	Condition Precedent for Approval
832	Authority to Establish Authorization Periods
833	Information for Verifying Eligibility for Authorization
834	Waiting Period for Stores That Fail to Meet Authorization Criteria
841	Investigations
842	Disqualification of Retailers Who Intentionally Submit Falsified Applications
843	Disqualification of Retailers Disqualified Under the WIC Program
845	Authority to Suspend Stores Violating Program Rules Pending Administrative and Judicial Review

REGULATORY AGENDA -Personal Responsibility and Work Opportunity Reconciliation Act of 1996 - signed Aug-22-96

Pub. Law 104-193 Secs. Affected	8 CFR Part Affected	Type of Action	Title/Description	INS Docket No	Status of Action: Date to DOJ	Status of Action: Publication Target Date
			Lawfully Present:			
401 (b)(2)	103 To be redesignated in New Part 104 Eligibility for Public Benefits	Interim Rule	Definition of the Term Lawfully Present in the United States for Purposes of Applying for Title II Benefits under Sec. 401 (b)(2) of the Public Law 104-193 (add other terms which need to be defined --"qualified alien" as stated in Sec. 431)	1792-96	Aug-29-96	Sept-6-96
		Final				Feb-97
			International Treaty:			
401(c)(2)(b) 411(c)(2)(b)	New Part 104	AG Determination	Exception from Federal, state, & local bar for otherwise qualified, work authorized nonimmigrants or LPRs for whom US is required to pay benefits under reciprocal international treaties as determined by the AG, in consult with the Secretary of State.			
			Affidavit of Support:			
423	New Sec. 213.2	New Form	Affidavit of Support for Immigrants			Dec-96
		Interim Rule				Mar-97

REGULATORY AGENDA -Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Pub. Law 104-193 Secs. Affected	8 CFR Part Affected	Type of Action	Title/Description	INS Docket No	Status of Action: Date to DOJ	Status of Action: Publication Target Date
432	103 (New Section)	Proposed Final	Verification: Verification of Eligibility for Benefits			Oct-97 Feb-98
N/A	312	Proposed	Naturalization: Exceptions to the Educational Requirements for Naturalization for Certain Applicants	1702-96	May-16-96	Aug-28-96
		Final				Dec-96

10/23/96

DRAFT

NGA/NCSL/APWA Q's and A's

October 10, 1996

Q3: "Transitional rules regarding data collection requirements: HHS has issued an action transmittal for data collection rules, effective October 1996. States are questioning why they would have to continue to collect any data on JOBS (such as participation rates, participation data) through the NIQCS considering that this program has been repealed in the Act and a state will not be operating JOBS once it receives its TANF grant. We would like to engage in a consultative process with HHS to come up with reasonable data elements that States might collect in the transition before the TANF reporting requirements are effective."

Answer:

In recognition of the optional effective date of TANF and the delay in reporting data under TANF, Congress provided for the continuation of reporting of AFDC and JOBS data under section 116(b) of PRWORA through June 30, 1997, even for States that implemented TANF earlier. (The earliest data collection begins under TANF is for the July - September 1997 quarter, and reporting could begin as late as the January - March 1998 quarter.)

We have not issued final transitional data collection requirements to States. We circulated a draft for comment at a conference in September which included State representatives and would welcome comments prior to our issuing the final document. In this draft, we proposed that States continue to collect AFDC recipient characteristic data through the National Integrated Quality Control system and use that system, at their option, to collect payment accuracy and other State data. We also proposed that States continue to collect financial and program data for work activities under the system set up for the JOBS program.

Our proposal is based on several factors. First, we believe that collection of these transitional data is important to provide information on what happens during the transitional period and baseline data for assessing the new programs. Secondly, the nature and type of data required to be reported under section 411 of TANF are very similar to the data now reported. Thirdly, the burden of reporting these data are not significant since much of the data comes from existing automated systems.

We do not believe that it would be an efficient use of either Federal or State resources to work on development of temporary transitional data elements. Significant modifications could necessitate costly and time consuming State system modifications which would be used only on a temporary basis. We need to reserve our resources to work, in consultation with the States, on developing the data collection elements and reporting under TANF.

Q4: "Definition of administrative costs. While the definition will presumably be defined in regulations it is very hard for states to operate without some notion of how HHS intends to define admin. Is the report language around the definition of admin. under the child care block grant an appropriate model that HHS might follow for TANF? Additionally, because case managers will be undertaking so many activities beyond eligibility determination, states believe that case managers salaries should not be considered administration. What is HHS's view of this?"

Answer:

We believe that there will be some differences between the definitions for "administrative costs" for TANF and the child care program. Each of these programs has unique programmatic differences as well as different statutory and report language specifically related to administrative costs. As with the child care programs, HHS anticipates that the definition for administrative costs for TANF will be broader than what has traditionally been considered administrative costs under the AFDC program.

narrower

We do anticipate addressing the definition of administrative costs through the regulatory process. A notice of proposed rulemaking that will define administrative costs for TANF is expected to be released in January of 1997. We plan to conduct an open consultative process prior to the issuance of these regulations and look forward to input from our partners.

Q5: "Timetable for distribution and allocation formula for Medicaid. When will HHS/HCFA provide information on how the $500 million available for Medicaid eligibility determination will be distributed among states as well as allocated among programs that have eligibility links to Medicaid?"

MMIS@ model
12/18 expect

Answer:

HCFA will issue a proposed Federal Register Notice for comment in December. HCFA will be consulting broadly with States, through NGA, APWA, and NCSL prior to issuance of the proposed notice.

11/12-21 show them draft

Technicals

Q6: "Tribal JOBS. Tribes currently operating a JOBS program will be able to continue to receive separate funding and operate a work program. Will individuals served by these tribes be included in a state's work participation rate calculation even though a state has no authority over the operation of the tribe's work program?"

ANSWER:

Section 412(a)(2) of the Social Security Act, as amended, authorizes grants to the tribes that conducted a JOBS program in FY 1995. Section 412(a)(2)(C) specifies that the funds are to be used to "make work activities available to members of the Indian tribe".

Under section 407(b)(1)(B)(ii), the denominator in calculating the State's participation rate includes "the number of families receiving such assistance during the month that include an adult or a minor child head of household receiving such assistance..." minus certain sanction cases. Thus it includes tribal families receiving assistance under a State's TANF program. For purposes of meeting its work participation rate, a State may count participation in section 412(a)(2) activities that conform to section 407 requirements in the numerator. If the section 412(a)(2) activity is not a countable work activity under section 407, the State may still require work activities of the tribal participant in order to meet its work participation rate requirement.

We hope to work closely with States and tribes in the next few months to help design and promote mutually supporting programs which ensure that tribal members participate in appropriate activities which will prepare them for work and economic independence. We will also be looking at the language in section 407 and 412 in the context of the Secretary's report to the Congress on technical amendments to PRWORA.

How does this restrict states?

Q2. OMB circulars. We have heard that HHS intends to require that states comply with OMB grants management circulars for child care and TANF block grants despite Section 417 prohibition on regulating state conduct unless explicitly authorized. Nine block grants are currently exempt from the OMB circulars. While the OMB circulars were used by states for AFDC, the conversion of AFDC to a fixed block grant (with a cap on administrative spending) appears to call into question the need for their application. Some states may choose to comply with the circulars but we do not believe that States should be mandated to comply. Can you clarify HHS's intent in this area? Additionally, does HHS interpret that the CMIA, which governs how states can draw down grant funds, also applies to TANF and child care? What will be the procedure for states that want to "roll over" funds?

The new Section 417 of the Social Security Act ensures that States maintain broad flexibility in developing and implementing their welfare reform policies and plans. It sets specific limits on the Federal role in regulating and enforcing welfare policy. However, Section 417 does not extend to financial management issues that are not based on Title IV-A of the Social Security Act.

In addition, TANF and and the new child care funds include some key differences from early block grants. The Act requires States to maintain significant levels of effort to receive full Federal funding. Grants from the contingency fund and part of child care are capped matching funds, not fixed grants. The Federal government must be sure that it treats all States equitably in determining which State receives how much funding. In addition, many states will continue to co-administer TANF, Medicaid, and Food Stamps. The Federal government must be able to ensure the continued proper management of these open-ended entitlements.

With respect specifically to the Cash Management Improvement Act, both the Federal and State governments will be making substantial investments in welfare reform. Federal funds will continue to be available throughout the period of need. The flow of outlays in any given period should reflect the relative investments of each level of government over the fiscal year. Cash flow would be generally be expected to be fairly even across the fiscal year. Exceptions would occur when States have programmatic needs for a different flow of funds.

The question on "roll over" appears to refer to section 404(e) which permits States to reserve TANF funds provided for a fiscal year "without fiscal year limitation". Under this provision, States may use in any future fiscal year TANF amounts that have been provided to it for a prior fiscal year. Any portion of the State Family Assistance Grant that a State does not expend will, at the Federal level, be carried forward as an obligated, unexpended balance. States will not have to make any specific request; they will be made available through the normal fashion for requesting and reporting draw down of funds from the Department's Payment Management System.

DRAFT

TOP ISSUES

USDA:

- How will the requirement for a three-month time limit on food stamps for able-bodied childless adults aged 18-50 be implemented? How will waiver to this provision work?
- How will waivers that were in effect when law was enacted be affected?
- How can states implement the law in a timely way, especially those provisions effective on enactment -- particularly given states are simultaneously implementing TANF, and conversion requires substantial systems modifications and worker training?
- What steps are required to implement the "40 quarters" exception to the ban on food stamp benefits for legal immigrants?
- Timeliness of regulatory clearance process

SSA:

- How will SSA process requests from states and other agencies regarding the 40 quarters of coverage exception to restrictions on alien eligibility for public benefits?
- How will children currently receiving SSI disability benefits be affected by the legislation? (Issues include definition; due process; when will children be terminated from the rolls; how many children)
- How can Federal and State agencies work together on the verification process?

HHS:

- How to design work programs and post-employment supports
- How to assess families coming into the system
- How to ensure that there are sufficient child care funds for TANF families, working families, and families that need after-school child care
- General clarification of Medicaid eligibility for immigrants
- Specific clarification of Medicaid eligibility for immigrants within the context of TANF

~~Jobs piece for repro~~

~~* Waiver + bg timing~~

- * Guidance this pm

* Waivers Thurs am 8:45
(Rich → Ron)

MEETING WITH NGA/NCSL/APWA ON WELFARE REFORM

AGENDA
September 4, 1996

APWA/Johnson - wants to work w/us on perf fund

I. Review of Conference Agenda

II. Review of Agency Roles

- o Presentations
- o Break-out sessions
- o Paper to be handed out

III. Press issues - closed, no press conf.

IV. Follow-up Meetings

→ get back to us w/ top 5 issues

→ 9/18 next mtg * prefer pm

* Monahan re Q+A on timing of TANF grant

* Bach - what happ'd?

Big issues

- Waivers - can Adm shed light at conf? maybe

* ~~Immig~~ - state option

if no new affid of spt - new deeming reqs don't apply

They like INS's interp. Had thought narrower

$\boxed{\text{Elena → Bob B.}}$

HCFA still struggling w/how states can exercise state option

Call HCFA ← * HCFA has to keep pace w/ cash changes - move together

NATIONAL GOVERNORS' ASSOCIATION

Bob Miller
Governor of Nevada
Chairman

George V. Voinovich
Governor of Ohio
Vice Chairman

Raymond C. Scheppach
Executive Director

Hall of the States
444 North Capitol Street
Washington, D.C. 20001-1512
Telephone (202) 624-5300

Date: 9/17/96

FAX COVER SHEET

To: Diana Fortuna

Fax Number: 456 7431

From: Andrea Kane for Evelyn Ganzglass

Fax Number: 202-624-5313

Number of Pages (including this page): 3

If you had any problems receiving this transmission, please call: Karen Krause, at (202) 624-7835.

Remarks:

Here is NGA list of issues for discussion tomorrow.

Thanks!

- Reports sessions - task out wk
- Tasks

September 19-20, 1996 - NASHVILLE, TENNESSEE

LOCATION: ***LEGISLATIVE PLAZA***
6TH AVE & UNION STREET, NASHVILLE, TN

Hotels in Downtown Nashville:
Hermitage Hotel
6th Avenue and Union Street
(800) 251-1908

Holiday Inn Crowne Plaza
623 Union Street
(615) 259-2000

Doubletree Hotel
315 Fourth Avenue North
(615) 244-8200

September 24-25, 1996 - PORTLAND, OREGON

LOCATION: ***SHERATON PORTLAND AIRPORT HOTEL***

Hotel Information
Sheraton Portland Airport Hotel
8295 Northeast Airport Way
Room rate: $82/night for participants of APWA's seminar ***until Sept. 9th****
(503) 281-2500

*Note: Overflow reservations will be referred to the nearby Hampton Inn.

September 26-27,1996 - LOS ANGELES, CALIFORNIA

LOCATION: ***KINSEY AUDITORIUM, CALIFORNIA MUSEUM OF SCIENCE & INDUSTRY***
700 STATE DRIVE, LOS ANGELES, CA 90037

Convenient Hotel
Crowne Plaza Hotel Los Angeles
3540 South Figueroa Street
Los Angeles, CA 90007
Rate: $79 sgl; $89 dbl for APWA attendees ***, based on space availability***
(800) 872-1104 (national) (800) 244-7331 (California)

Accommodations-General Information:
Participants are responsible to make their own hotel reservations. (Some nearby hotels are listed for your convenience, but these are not associated with the seminars unless so specified.)

Location and Hotel Information for APWA Welfare Reform Seminars

September 12-13, 1996 - NEWARK, NEW JERSEY

LOCATION: ***SHERATON MEADOWLANDS HOTEL***

Hotel Information:
Sheraton Meadowlands Hotel
2 Meadowlands Plaza
East Rutherford, NJ
Room rates: $115 sgl; $120 dbl for attendess of APWA's welfare reform forum until ***September 4th***. (Note: Rates will rise after this date.)
(800) 982-9360

September 16-17, 1996 - MINNEAPOLIS, MINNESOTA

LOCATION: ***MINNEAPOLIS CONVENTION CENTER***
1301 SECOND STREET SOUTH, MINNEAPOLIS, MN

Hotels in Downtown Minneapolis*
(Shuttle service is available between hotels and the Minneapolis Convention Center. Please consult your hotel upon arrival.)

Sheraton Hotel - Metrodome
1330 Industrial Boulevard
Room rate: $79 per night ***until August 30, 1996***
(800) 777-3277

Radisson Hotel - Metrodome
615 Washington Avenue SE
Room rate: $70 per night ***until September 1, 1996***
(800) 822-6757

Holiday Inn Metrodome
1500 Washinton Ave SE
Room rate: $95 per night ***until September 6, 1996***
(800) 448-3663

Important**: Hotel rooms are reserved on a ***first come, first serve- basis. If you try to confirm a room after the cut-off date, you **may not** be able to find a room, as September is a very busy conference month in Minneapolis, and rooms are **quite scarce**. For this reason, **it is recommended that you book your room as far in advance as possible.**

APWA

AMERICAN PUBLIC WELFARE ASSOCIATION

Gerald H. Miller, President

A. Sidney Johnson III, Executive Director

July 17, 1996

Ms. Carol Rasco
Assistant to the President for Domestic Policy
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Ms. Rasco:

We recently learned that the administration is considering filing an unsolicited brief in support of a private right of action (under 42 U.S.C. § 1983) in the child support enforcement program in a case the Supreme Court has decided to hear next term, *Blessing v. Freestone*. A bipartisan group of 39 states and territories has joined in a brief supporting the state of Arizona's position opposing a private right of action in this case. The American Public Welfare Association, the National Governors' Association, and the National Conference of State Legislatures, as well as other national organizations, intend to file briefs in support of Arizona and the states' position.

In the strongest terms possible, we urge you to refrain from filing a brief in the *Blessing v. Freestone* case. As the state administrators of the child support enforcement program under Title IV-D of the Social Security Act, we believe a private right of action would have a detrimental effect on the child support enforcement program and the children and families we serve.

As you know, states' commitment to the success of the child support enforcement program is well-documented. Indeed, since FFY 1992, both state paternity establishment and state child support collections have *increased by 40 percent each*. Further, the provisions in the bipartisan child support reform bill before Congress today reflect innovative strategies—such as new hire reporting, centralized collections, license suspension and passage of the Uniform Interstate Family Support Act (UIFSA)—that were tested and proven at the state level. In fact, every substantive provision included in the bipartisan child support reform measures before Congress today was first developed

810 First Street, NE, Suite 500, Washington, DC 20002-4267 (202) 682-0100 FAX: (202) 289-6555

as a state innovation. Such efforts stand in testimony to states' dedication to the enforcement of child support cases.

As you know from your work with state and local government, these efforts would not have been possible if states had been subject to individual lawsuits on every aspect of the child support enforcement program. Such litigation diverts resources from providing the greatest good to the most people to responding to individual litigants for whom, despite our best efforts, no child support may ever be collected. Allowing a private right of action in child support, in effect, creates an new entitlement.

Again, we urge you not to file a brief in this case.

Thank you for your efforts to help state and federal government improve the child support enforcement program.

Sincerely,

Gerald Miller
President, American Public Welfare Association, and
Director of the Michigan Family Independence Agency

Gary Stangler
Chair, National Council of State Human Service Administrators, and
Director of the Missouri Department of Human Services

NATIONAL CONFERENCE OF STATE LEGISLATURES

444 NORTH CAPITOL STREET, N.W. SUITE 515 WASHINGTON, D.C. 20001
202-624-5400 FAX: 202-737-1069

September 5, 1996

The Honorable Carol Rasco
Assistant to the President for Domestic Policy
2nd Floor, West Wing
The White House
Washington, DC 20500

Dear Ms. Rasco:

I am writing on behalf of the National Conference of State Legislatures to strongly urge the Administration not to file an *amicus* brief against the state of Arizona in *Blessing* v. *Freestone*, No. 95 -1441. In *Blessing* v. *Freestone*, the plaintiffs assert a private right of action against the state to enforce collection of child support under the Child Support Enforcement Act. The Act does not create such a right. Rather, it establishes a framework for state agreements with the federal government regarding the collection of child support. It makes the Department of Health and Human Services-- not private parties--responsible for oversight.

If the Solicitor General files a brief supporting a broad private right of action, we could only conclude that the Administration is demanding that states guarantee child support collection. The law is not intended to open states to suit for specific failures in collection efforts. Such a rule would square with reality no more than a law subjecting the Internal Revenue Service to suit for failure to collect 100 percent of taxes owed. Throwing states into a maelstrom of litigation over individual collection efforts would detract from the cooperation needed between the federal government and the states to enhance enforcement.

The power of the federal government to require states to guarantee child support is restricted. Nevertheless, if the federal government seeks to compel state action as a condition of funding, it should do so through the legislative process. The effort to strengthen child support collection in Pub. L. 104-194, the welfare reform law, does not establish a state guarantee of collection.

Again, in the strongest terms, we urge you to resist efforts to radically expand private rights of action against states administering federal programs.

Sincerely,

Michael Box

Michael Box
House Majority Chairman, Alabama
President, NCSL

MB/JF/gw

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

JUL 29 1996

Mr. Gerald Miller
President
American Public Welfare Association
810 First St., N.E.
Suite 500
Washington, D.C. 20002-4267

Dear Mr. Miller:

Thank you for your letter of July 17, 1996 urging the Federal government to refrain from filing a brief in Blessing v. Freestone supporting a private right of action. We are aware that 40 States have joined in an amicus brief supporting Arizona's position in the case. We are reviewing the merits of the case carefully.

As you know, we are committed to working in partnership with States to strengthen the child support enforcement program, encourage parental responsibility, and enable families to become self-sufficient. The President has announced several initiatives just in the last month that strive to accomplish these goals.

Thank you for your work on behalf of the nation's children.

Sincerely,

David Gray Ross
Deputy Director
Office of Child Support
Enforcement

cc: Gary Stangler
Chair, National Council of State
Human Service Administrators

Diana

THE WHITE HOUSE

WASHINGTON

October 4, 1996

The Honorable Donna E. Shalala
200 Independence Avenue, S.W. Room #615F
Washington, D.C. 20201

Dear Secretary Shalala:

Our efforts to make the new welfare reform law a success depend on many factors, but perhaps none is more important than our ability to work cooperatively with the states.

As part of our efforts to implement the law smoothly and effectively, we have been holding weekly meetings with your staff and staff from the National Governors' Association, the National Conference of State Legislatures, and the American Public Welfare Association. These meetings are communications sessions, where we review the status of the groups' outstanding questions, rather than policy or decision-making meetings.

I want to thank you and your staff for all your efforts to date to make these meetings constructive and helpful, including your agency's involvement in a successful conference sponsored by the three groups in September. I also want to take this opportunity to reiterate how important these meetings are to ensuring that we implement this law in a manner that minimizes start-up problems and recognizes the states as our partners.

So that your staff can plan ahead, we are meeting every Wednesday at 1 p.m. in the Old Executive Office Building Room 180. We have asked that you send no more than two people to the meeting, and it would be helpful if you could send the same people from week to week to the greatest extent that schedules allow, so that we have some continuity in our discussions. We will send an agenda to your staff and to the three organizations by noon on Mondays with the specific topics to be covered and the person covering them.

If your staff has any substantive questions about these meetings, they may call Jeremy Ben-Ami at 456-5584. Any logistical questions such as clearances and meeting rooms can be directed to Jill Pizzuto at 456-5565.

Thank you again, and I look forward to working with you on this critical undertaking.

Sincerely,

Carol

Carol H. Rasco
Assistant to the President
for Domestic Policy

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

24-Sep-1996 05:37pm

TO: (See Below)

FROM: Suzanne E. Dale
Intergovernmental Affairs

SUBJECT: Local Government/Welfare Mtg. 9/25 2:30pm

The representatives from local government associations who will be participating in the 2:30pm welfare reform implementation meeting tomorrow are:

Don Borut, Executive Director, National League of Cities (NLC)
Jose Dimas, Legal Counsel, National League of Cities (NLC)
Marilina Sanz, Associate Legislative Director, National Association of Counties (NACo)
Joan Crigger, Assistant Executive Director, U.S. Conference of Mayors (USCM)

They will all be entering through the NW Gate shortly before 2:30pm. I will greet them in the WW Lobby and bring them up to Carol's office. If you have any questions, please feel free to call me at 6-5080.

Distribution:

TO: Jeremy D. Benami
TO: Diana M. Fortuna
TO: Jill Pizzuto
TO: Dorothy K. Craft

CC: Emily Bromberg
CC: Alison Bracewell
CC: John P. Hart
CC: Marcia L. Hale

STATE/FEDERAL WELFARE REFORM GROUP

AGENDA
September 30, 1996

I.	Progress on Regulatory Process Elaine – state plan – 45 day – Calif. – legal clarif – clock on time limit start beyond after 45 days	John Monahan
II.	Performance Fund	John Monahan
III.	Clarification on waivers and public comment period 7 in; 8 by 10/1; 10 by 11/1 watch ex / tog – want to live by law	Carol Rasco Bruce Reed
IV.	Food stamp implementation change in CR	Diana Fortuna
V.	First TANF state plan approvals	John Monahan
VI.	Consultation process for technical corrections legislation (due November 22)	Jeremy Ben-Ami

L John tkg respons.

APWA Agenda Q: non-cit TANF/MA/SSBG
* released?

also IVA linkage
Wed @ 10 –
*NCSL + APWA + SSA
*Tell them to call me – Elaine
Sherri – elderly MA
~~to be last minute~~

~~John – This is CR's agenda – sorry~~

$500m – cant all go to MA
(isnt it all supposed to?)

OMB Q re quarterly/circular – Richard

MTB – Judge Ross rd yes? – tell him no – cse
– alr def in p law?
~~I assume we should mention this???~~
~~She will call on you – You can~~
~~always say we plan to approve~~
~~some soon / very soon.~~

*Willing to look @ control gp / being tested? cant decide whether to continue

Sherri – Disabled or disabled child – lots of Qs
CR ser get no Q's

* John M – Get me list(s)
~~[illegible]~~ *CR – week from Wed; answer or say when

DRAFT RESPONSES TO 9/25 NGA QUESTIONS

Q1. "What constitutes completeness and how long will certification take, from what date will block grant funds flow (date of submission, implementation date identified in state plan, or when deemed complete), when do requirements take effect, what counts as 45-day comment period for initial plan, and is comment period also required for plan amendments?"

Answer:

The Department is committed to ensuring that States can move ahead promptly on welfare reform and receive the resources that Congress made available to them for the TANF block grant. We understand that the situations of individual States vary greatly and that for many States, the initial plan submitted this fall is likely to be amended as a result of later discussions and, in many cases, State legislative action. The guidance below has been developed to balance several critical goals: to allow States to move promptly, to ensure maximum flexibility for individual State circumstances, to carry out the Department's statutory responsibilities to review completeness, and to encourage States to take advantage of the State plan and public comment processes to the fullest extent possible.

Plan Completeness

A plan is complete if it contains all the information required by section 402 of the Social Security Act, as amended. Section 402 requires States to outline how they intend to achieve certain key goals. While there can be no fixed rule for the amount of detail required, the plan should provide enough information to make possible informed public comment. An optional State plan guide has been distributed by HHS in case it is useful to States.

The determination that a plan is complete must be made on a case-by-case basis.

Completeness Determinations

The Act requires the Secretary to find that a State plan contains the elements necessary under section 402 of the Social Security Act, as amended, i.e., that the plan is complete. It is our goal to determine plan completeness as promptly as possible and not more than 30 days after receipt. If a State submits a plan to the Secretary at the same time that it begins the 45-day comment period, we would expect to have determined whether a plan is complete shortly after the end of the 45-day period.

Effective Dates for Requirements

In order to provide maximum flexibility to accommodate individual State circumstances, we have identified three basic scenarios that are possible under the statute:

a. A State which has fulfilled its 45-day consultation requirement may submit a complete plan, as described in the new section 402(a), to the Secretary and implement the plan immediately. The Secretary will review the plan, may request further explanation, and will assure that it includes the necessary elements. The State may implement immediately and does not have to wait for the Secretary's review. The State is subject to the TANF rules upon implementation.[1]

b. A State which has not fulfilled a 45-day consultation requirement may submit an otherwise complete plan, as described in the new section 402(a), to the Secretary, but it may not implement the plan until the 45-day period has expired. The Secretary will review the plan during that period, may request further explanation, and will assure that it includes the necessary elements. The State is subject to TANF rules on the date that it provides assurance that the 45-day comment requirement has been satisfied or such later date as elected by the State.

c. A State which has fulfilled its 45-day consultation requirement may submit a complete plan, as described in the new section 402(a), to the Secretary and request that the Secretary assure that it includes the necessary elements. The State could elect to delay implementation until the Secretary's review is conducted or until some other future point (but prior to July 1, 1997). In this case, the new TANF rules would take effect after the plan submittal, on the delayed implementation date.

Effective Dates for Funding

Section 116(b)(1)(B) of PRWORA specifies how a State's SFAG is calculated in FY 1997. A State's FY 1997 SFAG is the lesser of:

(1) the State's annual SFAG amount determined under section 403(a)(1) prorated by the number of days in FY 1997 between the date the Secretary first receives from a State the plan described in section 402(2) and September 30, 1997; or

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[1] If a State implements a plan in violation of the Act, it may be subject to imposition of a penalty. An intentional violation may subject the State to an enhanced penalty.

(2) the difference between the State's annual SFAG amount determined under section 403(a)(1) and the amount of Federal payment the State receives with respect to expenditures made in FY 1997 for AFDC, JOBS, and EA.

In the first and third scenarios, above, the same date, i.e., the date the State actually implements TANF, will be used in both calculations. In the first scenario, the date ACF receives the plan is the same as the date on which the State implements TANF. In the second scenario (if the State elects to delay implementing TANF beyond completion of the 45-day comment period) and the third scenario, where a State elects to delay implementing TANF until a date after its plan is received by the Secretary for her review, ACF will deem the date of receipt of the plan to be the same as the date the State elects to implement TANF.

For the second scenario, above, if the State chooses to implement immediately following completion of the 45-day comment period, then ACF will use the date it first receives the State plan for purposes of computing the first of the two amounts above. The date the State actually comes under TANF, i.e., the date the State completes its 45-day comment period, will be used in computing the amount of AFDC, EA, and JOBS reimbursement used in calculating the second of the amounts, above. In no case can a State receive both AFDC and TANF funds for the same time period.

<u>45-day Comment Period on Initial Plan</u>

For a plan to be complete, the State must explain how it has met the 45-day comment period required under the statute. Under section 402(a)(4), the certification by the State must include assurances that local governments and private organizations have been consulted and "have had at least 45 days to submit comments on the plan and the design of such services." While a State may certify that this requirement has been met by a process that occurred prior to enactment of PRWORA, we would encourage States to consider carrying out a period of public comment in the context of PRWORA.

At State option, a State may submit a plan that is complete in every other respect but has not yet received a period of public comment. In this case, the 45-day comment period can run concurrently with the Secretary's review of the plan; the State's TANF grant will be calculated back to the date of submission of the plan. Minor changes or corrections, additions or deletions in response to comments received during the 45-day comment period would not require a new comment period.

<u>Comments on Plan Amendments</u>

The statute does not specifically require a comment period for amendments. We believe a comment period is not necessary for minor, procedural or non-substantive changes. However, we are considering whether to require a 45-day comment period if the amendment would significantly change the plan, either in its entirety, or with regard to any major provision of the plan. Additional guidance on this issue will be provided in future regulations.

The 45-day comment period will be necessary for biennial plan submittals that are required under the statute.

Q2. "Transferability: Pending technical amendments, is there an immediate/interim mechanism to allow TANF funds to be transferred directly to SSBG (without requiring transfer into CCDBG)?"

Answer: In light of the statutory language, we have no mechanism available to permit transfers to SSBG only. The practical impact of the statutory language is that a State must transfer $2 from TANF to CCDBG in order to transfer $1 to SSBG.

A State may transfer in total in a fiscal year up to 30% of the funds paid to it under section 403(a). The funds paid to it under section 403(a) include: State Family Assistance Grant; Bonus to Reward Decrease in Illegitimacy; Supplemental Grant for Population Increases in Certain States; and, Bonus to Reward High Performance States. (Funds may not be transferred from the Contingency Fund which is under section 403(b)).

All 30% of the funds may be transferred to the CCDBG program. However, if a State wishes to transfer funds to SSBG, funds must be transferred to the CCDBG program. The restriction on the transfer of funds to SSBG is found at section 404(d)(2) which stipulates that, of the amount transferred, no more than one-third may be transferred to SSBG.[2]

Q3. "Spending on immigrants counted toward MOE: pending technical amendments, is there an immediate/interim mechanism for permitting spending on legal immigrants to count towards MOE as suggested in the Managers Agreement?"

Answer: Section 409(a)(7)(B)(i)(III) of the Social Security Act (SSA), as amended by the PRWORA, provides that States may use State expenditures for families that would have been eligible for

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[2] The statutory language is: "Notwithstanding paragraph (1) [relating to the 30% limit], not more than 1/3 of the total amount paid to a State under this part for a fiscal year that is used to carry out State programs pursuant to provisions of law specified in paragraph (1) [CCDBG and title XX] may be used to carry out State programs pursuant to title XX."

TANF but for the application of section 402 of Title IV of PRWORA. Thus, we can only count toward MOE spending on families who would be eligible but for the application of section 402 of title IV of PRWORA.

We recognize that a State would not often be in a position where it would choose to use its own funds when it is authorized to use TANF funds. Thus we agree that this provision would make more sense if it referenced section 403, instead of section 402. However, absent a technical amendment, we can only count toward MOE spending on families who would be eligible but for the application of section 402 of title IV. HHS shares the States' concern about this important policy issue and will be looking at it in the context of the technical amendments proposal required under section 113 of PRWORA.

Background

In general, section 402(b)(1) of Title IV of PRWORA provides that States have the option to provide TANF assistance to qualified aliens. If a State opts not to provide TANF to qualified aliens, such aliens receiving benefits as of the date of enactment (August 22, 1996) shall continue to receive such assistance until January 1, 1997.

However, aliens who are identified in the exceptions listed at section 402(b)(2)(A) cannot be denied benefits under TANF for the 5-year periods specified in section 402(b)(2)(A).

Section 402(b)(2)(B) and (C) identifies those aliens who cannot be denied benefits under TANF for any future period, so long as they meet the State's eligibility criteria for the TANF program.

Thus, if a State uses its own funds for an individual (and his/her family) who becomes ineligible for TANF (1) because the State has chosen not to provide assistance with TANF funds to those individuals after January 1, 1997, or (2) because the State has chosen not to provide assistance with TANF funds to those individuals who have exceeded the specific 5-year time limitations in section 402(b)(2)(A), these State funds can be used to meet the State's MOE requirement, provided that the expenditures are otherwise "qualified state expenditures" and the immigrants to whom the State provides assistance would be "eligible families" but for the application of section 402.

Q4. "Pro Rata Reductions: will FY 1997 work participation rates be reduced by the caseload reductions from FY 1995 to FY 1996? If so, does HHS intend to provide written guidance and/or standard data for states reflecting adjusted rates by state? How will pro rata reductions be calculated for two-parent families (based on entire caseload reduction or only two-parent/AFDC-UP reduction)?"

Answer:

Reductions for Fiscal Year 1997

Yes, FY 1997 work participation rates will be reduced by the caseload reductions from FY 1995 to FY 1996. As required by section 407(b)(3), such reductions in caseload cannot take into account families that are diverted from a State program as a result of (1) differences in eligibility criteria or (2) changes required by Federal law. Any State that implements TANF prior to January 1, 1997, will be subject to the participation rate requirements effective July 1, 1997, or for the last quarter of FY 1997. (Any State implementing after January 1, 1997, will be subject to participation rates effective 6 months after TANF implementation.) Caseload reductions from FY 1995 to FY 1996 will be used to make the pro rata reductions required by revised section 407(b)(3) of the Social Security Act.

Written Guidance

Regarding the question on written guidance, section 407(b)(3) specifies that the Secretary of Health and Human Services must prescribe regulations for reducing the minimum participation rate for a fiscal year based on decreases in the average monthly number of families receiving assistance. We anticipate that these regulations will address calculations for both the entire caseload and two-parent families.

We are interested in hearing from our State partners on how the pro-rata reductions should be calculated and how to factor out the effects of reductions resulting from changes in Federal law or differences in eligibility criteria. This input will assist us in drafting the applicable regulations.

Q5. "Claims and disallowances. Can HHS clarify/confirm that prior-year claims will not be paid out of TANF funds? Will state funds used for prior-year disallowances count as qualified expenditures for MOE? Will disallowance payments be made separately or paid through a reduction in TANF grant?"

Answer:

Payment of Prior-Year Claims

Claims for prior-year expenditures, i.e., expenditures made prior to FY 1997, for AFDC and Emergency Assistance will be paid through the AFDC appropriation. They will not affect how much a State receives for FY 1997 for AFDC/JOBS and TANF. Prior-year JOBS expenditures will be charged to the JOBS grants for the appropriate prior year.

Treatment of Prior-Year Disallowances under MOE

State funds used for prior year disallowances will not count as qualified expenditures for MOE. The MOE provisions at section 409(a)(7) require that a State make its expenditures in the fiscal year for which TANF funds are provided. Thus, for FY 1997, prior year expenditures, whether disallowed or not, cannot count towards meeting a current year's MOE requirement.

Recoupment of Disallowances

For TANF penalties, the various provisions in section 409 provide that penalties will be taken through offset of the next fiscal year's TANF grant. For AFDC and JOBS program disallowances, ACF's policy is to reduce claims for Federal reimbursement for AFDC or EA expenditures so long as such funds are available to offset. If sufficient funds are not available, debts will be collected via offsetting any grant to the State as required by the Debt Collection Improvement Act of 1996.

Q6. "$50 Child support pass-through. What are states required to do vis-a-vis the $50 pass-through and $50 disregard after October 1, 1996? How and when will this information be communicated?"

State Requirements

Under title I of PRWORA (TANF block grant), if a State chooses not to implement Temporary Assistance to Needy Families sooner, it must continue to disregard for AFDC eligibility purposes until July 1, 1997, the first $50 of any child support passed through to a family receiving assistance. However, under title III of the law (child support enforcement), effective October 1, 1996, in cases receiving assistance, a State must first pay the Federal government its share of the child support collection and then may retain, or pass through to the family, the State share of the collection. Therefore, the mandate to pass through to the family the first $50 of support collected in assistance cases is eliminated after September 30, 1996.

A grace period is allowed until after the next State legislative session, however, in States in which a change in State law is required in order to eliminate the $50 pass-through. In these States, the $50 pass-through would remain in effect, as required under State law, during the grace period. Any support passed-through, whether required by State law or by State option, must come entirely from the State's share of the collection.

Distribution of Guidance

We have received numerous questions on this issue and have shared this response widely. We have provided it to each of our Regional Offices to ensure that quick, accurate and consistent responses are provided to questions on this topic.

We will send this send answer and the other answers to all States now. In addition, we hope to soon set up a web site to transmit policy questions and answers related to welfare reform and the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act electronically.