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An update on state and federal action from

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This is an update of the analysis released August 14. It contains only minor changes, except the inclusion of information on the community service provisions and provisions no longer in the bill. This summary may be revised again as our understanding of issues develops further.

Analysis of Federal Welfare Reform

On July 31, the U.S. House approved the welfare reform conference bill, HR 3734, by a vote of 328 to 101 and on August 1, the Senate approved an identical version of the bill by a vote of 78 to 21. (See page 14 for the votes of Texas' Congressional Delegation). And, today, President Clinton signed the bill.

Although the bill was touted as a means to reform welfare, this bill is, in truth, a budget cutting measure that affects abused children, children in day care, working-poor families, the elderly, children with disabilities and many individuals beyond welfare recipients. The bill repeals the guarantee that low-income mothers and children will have access to cash assistance and the federal guarantee that child care will be provided when welfare mothers are required to be in training or are leaving welfare for a job. It eliminates Supplemental Security Income (SSI) cash assistance for literally thousands of children with disabilities. It makes deep cuts to nutrition programs serving poor children, families and individuals and cuts food stamp benefits by 20 percent. This bill bars most legal immigrants from the food stamp and SSI programs. In total, federal welfare reform will affect many families and individuals who have few, if any other, options for basic assistance.

Following is an in-depth summary of each of the major components of the bill.

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CASH ASSISTANCE PROVISIONS:

- States with welfare waivers—including Texas—will be allowed to continue operating state waiver provisions. There is uncertainty about full impact of this provision.
- New federal provisions that will apply in Texas:
 - AFDC, JOBS and Emergency Assistance are combined in the new TANF block grant. States will receive fixed funding.
 - AFDC entitlement ended.
 - States must deny benefits to certain populations including, but not limited to: teen parents not in school; teen parents not living at home or in adult-supervised settings; those convicted of drug felonies after date of enactment.
- Texas waiver provisions that will likely take precedence over new federal bill:
 - Time limits
 - Personal responsibility statement
 - Pilot projects
 - Eligibility changes

HR 3734 contains many provisions related to the current Aid to Families with Dependent Children (AFDC) program and the Job Opportunities and Basic Skills (JOBS) training program which have the potential to dramatically change how states operate their welfare and job training programs. However, the extent to which the bill will be enacted in every state is not clear because a provision in the bill will allow federally-approved state initiatives to take precedence over the new federal law. This provision allows states with welfare waivers (i.e. permission from the federal government to operate innovative state welfare and work-training programs for welfare recipients) granted prior to October 1, 1996, to continue operating under their waiver to the extent that the new federal provisions are inconsistent with the waiver.

At this point, experts can only guess the full impact of the welfare changes on states with waivers. Since Texas sought and received a waiver in March of 1996, to implement its own 1995 welfare reform bill, Texas is one such state. It is not

entirely clear which new federal provisions will affect Texas and which will not. In the hopes of clarifying its waiver to ensure full operation of the state's waiver provisions, Texas recently sent an amendment to its waiver terms and conditions to the Secretary of Health and Human Services.

In this part of the analysis, we will not only report on the contents of the federal bill, but also attempt to interpret how the new federal provisions and Texas' welfare waiver (and its subsequent amendment) might interact.

First, the caveats:

- 1) The federal bill allows Texas to choose if it wants to continue operating under its waiver.
- 2) Texas has not received word about its recent amendment request.
- 3) Waivers are time-limited experiments. Texas can only operate under its waiver provisions for six years. There is currently no provision for states to continue operating their waivers after they expire.
- 4) The Texas Legislature could choose to revisit its own 1995 welfare reform bill and make changes consistent with the federal law.
- 5) Texas' waiver is based on current federal law. Although it does not clearly delineate certain provisions (e.g. entitlement to JOBS child care), it assumes them, making it difficult to understand if certain new federal provisions will affect Texas (e.g. the repeal of the child care entitlement).

Obviously, *the outcome of these questions may affect many of the specifics contained in this analysis.*

FEDERAL PROVISIONS LIKELY TO AFFECT TEXAS:

Provisions in the new federal law which do not conflict with Texas' waiver provisions will be implemented and will affect the state's welfare program. Most importantly, Texas will receive a fixed amount of federal funding, rather than continuing to receive federal match for state expenditures, and the entitlement to cash assistance will be eliminated. Following is a list of federal provisions likely to affect Texas.

Fixed Funding for Welfare and Related Work Training:

HR 3734 combines AFDC, AFDC administration, the JOBS training program for welfare recipients, and Emergency Assistance to create the Temporary Assistance for Needy Families (TANF) block grant. This new block grant will have an essentially fixed funding level through 2002 based on historical federal welfare spending for the programs in a state. This block grant replaces a financing arrangement under which the federal government matched state welfare spending and was able to provide additional funding during times when need increased.

End to AFDC Entitlement:

HR 3734 ends the guarantee to AFDC cash assistance. Although Texas' waiver is predicated upon the continuation of the AFDC entitlement, receipt of fixed block grant funding might preclude Texas from continuing AFDC as an entitlement. Realistically, Texas' funding under the block grant is expected to cover welfare caseloads over the next few years. However, at the beginning of the next century, the new block grant is expected to fall short of need, as caseloads begin to climb again. At that time, Texas could be forced to place new applicants on a waiting list.

Use of Grant Funding:

- Texas will be able to transfer up to 30 percent of its TANF funding to the Child Care and Development Block Grant and the Social Services Block Grant (no more than 10 percent to SSBG).
- Texas will not be able to spend more than 15 percent of its TANF grant on administration.

Restrictions on Who can Receive TANF Assistance:

Texas will have to comply with new federal restrictions on who can receive TANF assistance. For example, Texas will not be able to serve:

- teenage parents not in school (after their youngest child has reached 12 weeks of age);
- teenage parents not living with their parent or in an adult-supervised setting (subject to limited exceptions); or
- individuals convicted of drug-related felonies after enactment of the law; fugitive felons; and parole or probation violators. (Under current law, Texas can sanction these individuals.)

Texas is allowed to sanction a family's grant for reasons, including:

- if an adult recipient (age 21 through 50) does not have and is not working toward a high school diploma or its equivalent. (Except if the person lacks the capacity to do so.)

Bonuses, Contingency Funds and Loans

- Texas will likely be one of the states to receive at least a 2.5 percent annual increase from FY 98 to FY 2000, because of its high population growth and low welfare benefits.

- Bonuses are available to states demonstrating the greatest decrease in out-of-wedlock births or to “high performing” states (i.e. those with the most success in achieving the purposes of the TANF).
- Texas can receive funds from the national TANF contingency fund if the state’s unemployment is high and rising or its food stamp caseload increases at least 10 percent over its 1994 or 1995 level. However, Texas must maintain 100 percent of its historic welfare and related spending level during the year it receives contingency funds. This \$2 billion fund is likely to prove inadequate given that between 1990 and 1992, when unemployment rose nationally, federal AFDC expenditures rose \$6 billion above the 1989 AFDC expenditures. The contingency fund has one-third as much money to cover a 5 year period.
- Texas can request a loan from a \$1.7 billion revolving loan fund.

Continued State Funding:

Texas must maintain at least 75 percent of its historic funding for all programs combined in the TANF.

Penalties that can be Assessed against Texas:

- Texas will be subject to penalties for actions including: failure to maintain at least 75 percent of its historic funding; noncompliance with child support enforcement rules; defaulting on a loan from the federal government; etc.
- States assessed penalties must replace the penalized funds with state funds during the following fiscal year. Penalties cannot be assessed in excess of 25 percent of a state’s annual grant. When penalties of more than 25 percent are assessed, they will be carried forward to the next fiscal year.

THE TEXAS WAIVER AND FEDERAL WELFARE REFORM

Since the federal bill will allow Texas’ waiver to supersede federal provisions with which it conflicts, Texas will be able to continue operating under its waiver. Most importantly, this means Texas will continue to operate under its own time-limit structure. In addition, the state will be able to implement its personal responsibility statement provisions, eligibility changes, and its pilot projects.

One important consideration involves Texas’ ability to continue operating under its own work requirements. Language in the federal bill indicates that states cannot be exempted from the federal work participation rates. (However, Texas is pursuing an amendment to its waiver to be exempted from these participation requirements). It seems plausible that Texas could operate under its own definition of work requirements, but be required to meet federal participation rates. (see discussion below)

Comparison of New Federal Provisions and Texas’ Waiver Provisions

	New Federal Provisions	Texas’ Waiver and Amendment Provisions
Time Limits	A family including a person who has received assistance for more than <u>5 years</u> (or less at state option) will be removed from the TANF program.	Texas’ waiver creates a tiered time limit. Depending on their work history and functional literacy, welfare recipients will have <u>between one and three years</u> ¹ before they are removed from the program after time limits are applied to their cases.
The Trigger for Time-Limits	A family’s time on welfare starts to count toward their time limit in <u>the first month they receive benefits</u> .	A family’s time on welfare starts to count towards their time limit <u>when the adult caretaker is notified that they are eligible for the JOBS training program, and there is an opening in the program for them</u> . (Texas’ JOBS program operates in 87 of Texas’ 254 counties where 90 percent of the AFDC population lives. Although all AFDC recipients will be given a time limit, realistically AFDC recipients in the non-JOBS counties may never have their time limit activated because they will never be required to participate in JOBS.)
Who is Removed	When the 5-year limit is reached, the <u>entire family</u> is removed from the program. States can use SSBG funds to provide vouchers for services for families removed due to time limits	When a family has exhausted their time on welfare, only the <u>adult caretaker</u> is removed from the program. Children continue to receive benefits.
For How Long	The time-limit is a <u>life-time</u> limit for adults. (Only assistance received as the head of household or as a spouse counts toward the time limit.)	Adults removed from the program due to time-limits are <u>barred for five years</u> , but can return after that time.
Hardship	Up to <u>20 percent of a state’s caseload</u> can be given hardship exemptions from the time-limit provisions in a fiscal year.	Texas can exempt individuals for up to six months for reasons of economic or severe personal hardship if they have complied with the work-related requirements. <u>There is no limit to the number of individuals who can be exempted at any one time</u> .

¹Those with a 3 year time limit may also receive an additional 12 months of assistance if they cooperate with an in-depth needs assessment.

Comparison of New Federal Provisions and Texas' Waiver Provisions

	New Federal Provisions	Texas' Waiver and Amendment Provisions
<p>Texas' waiver provisions concerning time limits clearly conflict with the new federal provisions, so it seems likely that Texas will be able to operate its own time limit provisions.</p>		
<p>Work Requirements and Participation Rates</p>	<p>States must require all recipients to be in work (as defined by the state) after two years. There is no penalty for not meeting this requirement.</p> <p>However, there is a separate requirement that states must have 25% of all of their TANF families in "work" (as defined below) in 1997 (rising to 50% in 2002) and 75% of their two-parent TANF families in work by 1997 (rising to 90% by 2002.) States not meeting these work participation rates will be penalized, losing 5 percent of their TANF grant in the first year and up to as much as 21 percent by 2002.</p> <p>There is an additional requirement that adult recipients (who are not exempt from the work requirement and are not engaged in work) participate in community service after two months of receiving benefits. However, states can opt out of this requirement, and there is no penalty for not adhering to it.</p>	<p>Texas' work requirements apply to those individuals in JOBS counties who are required to participate in JOBS (or who are volunteering) and for whom a JOBS slot is available.</p> <p>Note: Through its amendment request, Texas is seeking to be exempted from the federal work requirements.</p>
<p>Allowable Work Activities</p>	<p>Work activities include: unsubsidized employment, subsidized private or public sector employment, work experience, on-the-job training, community service, provision of child care to an individual participating in community service, vocational education training (with limits on duration), and job search and job readiness (with limits on duration).</p>	<p>JOBS activities include: education or literacy training, vocational training, life skills training, parent skills training, employment skills training, work experience through community work or other programs, subsidized employment, and self employment assistance. (These are outlined in the recently submitted waiver amendment that has not yet been approved.)</p>
<p>Who Must Participate</p>	<p>Adult TANF recipients are required to participate in work and are counted towards the participation rate.</p> <ul style="list-style-type: none"> • However, states cannot penalize single parents caring for a child under 6 for not participating if child care is unavailable. States may not disregard that person in calculating their participation rates. • States may exempt single parents with children under age 1 and disregard them in calculating the state's participation rate. 	<p>Texas' work requirements apply to those individuals in JOBS counties who are required to participate in JOBS (or who are volunteering) and for whom a JOBS slot is available. Generally, this includes adult caretakers between the ages of 15 and 60 who 1) are not attending school or training full time; 2) do not have a child under age 5 (this will drop to age 4 in 1997); 3) are not incapacitated, temporarily disabled, or caring for a person who is disabled; 4) are not in a remote area; 5) are not a VISTA volunteer, etc.</p>
<p>Hours in Work</p>	<p>To count towards the "all families" work participation rate, adults must be in "work" 20 hours/week in 1997 and by 2002, 30 hours/week (Except, states can allow single parents with children under age 6 to only work 20/hours week and still count towards the rate.) To count towards the "two-parent" families participation rate, adults must be in "work" 35 hours/week.</p>	<p>JOBS participants are required to participate for at least 20 hours/week.</p>
<p>The federal bill states that states cannot be exempted from the work participation requirements. While Texas may be required to meet the federal participation rates, the state may retain its own definition of work requirements.</p>		
<p>Child Care</p>	<p>The bill eliminates the current child care guarantee for AFDC Child Care for families required to participate in work training and for Transitional Child Care for families who leave welfare because they become employed.</p>	<p>Texas' waiver guarantees to make available 30 days of child care to those seeking jobs after their time limits are exhausted, up to one year of child care to those in jobs after their time limit is exhausted, and up to 8 weeks to those who need to complete JOBS education and training (with an option for another 30 days for job seeking purposes).</p>
<p>Texas intends to continue guaranteeing child care to those participating in JOBS and those leaving welfare for a job. <u>But</u>, if the state was required to meet the federal work requirements, there might not be enough funds to do that. The state does have the option of contributing additional state matching funds to increase its federal child care funding allotment, but even if it did so it is unknown whether that would be sufficient for Texas to maintain its guarantee.</p>		
<p>Functional Assessment</p>	<p>States are required to make an initial assessment of the skills, work experience and employability of each recipient who is over age 17 or has not completed high school or the equivalent and is not attending school.</p>	<p>When a person applies for welfare, Texas will assess work history and educational level and assign a preliminary time limit. When the client is required to participate in JOBS and her/his time starts to count towards the time limit, her/his functioning level will be assessed to assure the appropriate time limit is being applied.</p>
<p>Texas' functional assessment is integral to its time limits, so it seems likely that Texas will be able to implement its own assessment.</p>		

Comparison of New Federal Provisions and Texas' Waiver Provisions

	New Federal Provisions	Texas' Waiver and Amendment Provisions
Personal Responsibility State-ment	States are given the option to develop individual responsibility plans. These may include employment goals, obligations of the recipient, services the state will provide, or a requirement that the recipient undergo substance abuse treatment. States may reduce assistance to families not complying with the terms of the plans.	Adults applicants must sign a personal responsibility statement agreeing to: cooperate with child support; participate in JOBS for those who are not exempt; immunize their children; refrain from abuse of alcohol and drugs; etc. Families can be financially penalized for failure to comply.
It seems likely that Texas would implement its personal responsibility agreement provisions given that such provisions are an option in the federal bill.		
Pilot Projects:	States are given the option of using TANF funds to fund Individual Development Accounts (IDAs) which a recipient can use for post secondary education expenses, first-home purchases, and business capitalization. There are no provisions related to Texas' other pilots in the federal bill; however, the very concept of block grants is to give states additional flexibility to undertake projects such as these.	Texas will implement an IDAs pilot in four counties, allowing recipients to set up IDAs without affecting their eligibility. Funds can be used for education, training, home ownership, small business start-up , etc. Texas will implement pilot programs to test fill-the-gap budgeting and AFDC One-Time experiments.
It seems likely that Texas will implement its IDAs project and the other pilot projects in its waiver.		
Eligibility Changes	There are no related provisions in the federal bill. This is clearly a decision states can make in designing their new TANF programs.	Texas will change its eligibility requirements regarding resource limits, vehicle asset limits, and countable household income.
It seems likely that Texas will implement the income and eligibility changes in its waiver.		

Effective Dates: Generally, the welfare provisions become effective on October 1, 1996. However, the bill provides a grace period so that states can pass required legislation during the first regular state legislative session beginning after the bill becomes law. In this instance, the effective date is the first day of the first calendar quarter after the close of the regular session. (i.e. July 1, 1997 in Texas).

CHILD PROTECTION PROVISIONS

- Maintains foster care and adoption assistance entitlement
- Cuts to SSBG could mean \$10 million cut to DPRS
- No child protection block grants

No Block Grants for Child Protection:

All of the current federal programs designed to serve children who are victims of abuse and neglect remain in place. In particular, entitlements are maintained in this bill, although a previous House proposal would have combined such funding sources in a block grant. The current federal guarantee to foster care is continued for children from families that would have been eligible to receive AFDC as it existed on June 1, 1995. Adoption assistance payments continue to be an entitlement for parents adopting AFDC- or SSI-eligible children with special needs. There are no child protection block grants combining other child protection programs even though the vetoed HR 4 welfare bill contained such provisions.

Miscellaneous Changes to Federal Child Protection:

- For-profit foster care facilities will now be able to receive federal Title IV-B and IV-E child welfare funding.
- States are encouraged to consider giving preference to an adult relative over a non-relative caregiver when placing a child in foster care.
- Enhanced federal funding is extended through September 1997 for state automation projects.
- Funding is provided to the US Department of Health and Human Services to conduct a longitudinal, national study based on random samples of children who are at-risk of abuse or neglect or who are abused or neglected.

Other Child Protection Funding Sources:

- The 15% reduction to Social Services Block Grant (SSBG) could mean approximately a \$10 million reduction to Texas Department of Protective and Regulatory Services (DPRS). (see Miscellaneous Provisions section)
- Inclusion of Emergency Assistance (E.A.) funding in the Temporary Assistance for Needy Families block grant may result in reduced E.A. funding for protective services. (see section on Cash Assistance)

FOOD STAMPS PROVISIONS:

- Cuts food stamps, culminating in a 20% cut in 2002; approximately \$506 reduction to food stamp families in 2002. Cuts include:
 - An across-the-board reduction to all food stamp recipients
 - Barring most legal immigrants from food stamps
 - Changes in income and eligibility calculations result in reduced benefits
- Imposes stringent work requirements on able-bodied, childless adults
- No state option to take food stamp benefits in block grant, but other state options are available.
- Regulation E will not apply to EBT cards

Cuts to the Food Stamp Program:

Of the \$54 billion² in savings in the welfare bill, \$27 billion³ will come from the food stamp program. It is estimated that these reductions will culminate in a 20% cut to food stamp benefits in FY 2002, and in Texas, the average household on food stamps will lose \$506 in FY 2002.⁴ Some examples of the largest of these reductions are:

- an across the board benefit reduction resulting from lowering the basis for food stamp allotment levels. Over six years, this will affect all of the 2.5 million Texans receiving food stamps, and
- the barring of most legal immigrants from the food stamp program (see section on Immigration).

Reducing food stamp fraud and abuse, cutting administrative costs, and penalizing people who violate program requirements will result in only about 2 percent of the bill's cuts.

Changing Income and Eligibility Requirements: Food stamp costs will also be reduced by changing income and eligibility criteria which will generally result in families receiving lower benefits. A few examples of these changes are:

- freezing the standard income deduction at \$134, rather than allowing it to rise in subsequent years as current law does.
- counting as income energy assistance from state and local governments (not federal); payments for transitional housing for homeless food stamp recipients; and HUD utility allowances.
- setting the vehicle asset limit at \$4,650, with no future scheduled increase. Current law required the limit be adjusted annually for inflation.
- counting earnings of students after their 18th birthdays. Currently, these earnings are disregarded until a child is 22.

Stringent Work Requirements for Unemployed Childless Adults:

Some of the most stringent requirements in the bill are placed on able-bodied (i.e. physically and mentally fit) adult food stamp recipients (age 18 to 50) who are not raising dependent children. Such persons will only be allowed to receive food stamp benefits for three months in any three year period unless they work or participate in a work program for 20 hours per week. Those exhausting their three months of benefits will be removed even if no work training slot is available to them. Provisions can be suspended if an area has 10 percent unemployment. Also, an individual can get an additional three months of benefits if he/she returned to work after being jobless and then again became unemployed.

Other Work-Related Changes:

- States are given more flexibility to design their Food Stamp Employment and Training (E&T) programs and \$10 million additional funding is provided annually nationwide.
- Individuals who refuse to work or participate in the Food Stamp E&T program, reduce work hours below 30/week, refuse to cooperate with determination of their job status, or voluntarily quit a job without cause can be disqualified from the food stamp program for one month (longer at state option) for the first violation and six months for the third.

Changes to Expedited Food Stamps:

- States must provide expedited food stamps to eligible persons within 7 days, rather than the current 5 day limit.

² Different sources quote overall savings figures between \$54 and \$56 billion.

³ This includes the \$3 billion reduction resulting from banning most legal immigrants from the food stamp program.

⁴ Center on Budget and Policy Priorities. The Depth of the Food Stamp Cuts in the Welfare Bill. August 1, 1996.

- Persons who are homeless will no longer be able to receive expedited food stamps. Expedited food stamps will only be available to people with income under \$150/month and resources of less than \$100 and people with housing costs in excess of their income.

Disqualification from Receiving Food Stamps:

- Fleeing fugitives and persons convicted of drug-related felonies after enactment of the law will be disqualified from receiving food stamps.
- People attempting to receive benefits in more than one state are disqualified for 10 years.

State Decision-making in Food Stamps:

States are not given the option of receiving food stamp benefits in a block grant as provided for in the vetoed HR 4 welfare bill. However, this bill still gives states some new decision-making in the food stamp program. For example, states have the option to:

- request waivers from most food stamp provisions to test innovative welfare reform strategies, increase the self-sufficiency of food stamp recipients, or undertake other initiatives. This authority is much broader than current provisions which only allow states to waive administrative requirements. In fact, states could seek waivers of the new work requirements for unemployed, childless adults. There are some limitations on the scope of the waivers (e.g. food stamp allotments cannot be paid in cash).
- apply the same penalty under the Food Stamp program to persons penalized in other needs-based programs.
- “cash-out” food stamp benefits for people also receiving TANF assistance to give to employers as subsidies to hire recipients.
- simplify rules for determining food stamps benefits by using TANF rules and procedures or a combination of food stamp and TANF rules. (Texas already does this to some extent under its welfare waiver.)
- disqualify adults not cooperating with child support enforcement or adults delinquent in child support payments. (only adults are penalized, not the entire family unit).

Some latitude is given to states to establish their own procedures for applications forms, interviews, etc. because the bill deletes language in the Food Stamp Act setting federal standards for administering the program. Some federal regulations stay in place—including the language that agency personnel responsible for food stamp certifications must be employed in accordance with federal “merit system” standards. So, it is not clear what the impact of this provision will be on Texas’ plans to develop a new integrated eligibility determination and enrollment system for health and human services programs including food stamps.

Electronic Benefits Transfer (EBT)

- States will be required to implement EBT systems before October 1, 2002. (Texas already has an EBT system using the Lone Star cards.)
- Regulation E will not apply to food stamp benefits. This regulation limits the liability of cardholders (like credit card holders) for unauthorized withdrawals to \$50 if timely notification is made.

Effective Dates: Generally, food stamp provisions take effect upon enactment of the bill. However, the work requirement for childless adults becomes effective (i.e. their 3 month time limit begins) when the person is notified of the work requirement. States must notify such persons within the first three months of the bill’s enactment.

SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS:

- Narrows definition of childhood disability
- Eliminates Individual Functional Assessment
- 12,700 Texas children potentially will lose SSI benefits
- Bans most legal immigrants from receiving SSI

Changes to Eligibility for Children receiving SSI:

- Children with disabilities applying for Supplemental Security Income in the future will have to meet a narrower definition of disability to qualify for benefits. The bill replaces the current definition of disability—which requires a child to have an impairment or combination of impairments of “comparable severity” which would result in a work disability in an adult—and instead defines childhood disability as a “medically determinable physical or mental impairment which results in marked and severe functional limitations” of substantial duration.
- The bill eliminates the Individualized Functional Assessment (IFA). Currently, a child can qualify to receive SSI if he/she has an impairment on the Listing of Impairments in federal regulations or if an IFA is conducted and a state disability examiner determines the child is eligible by comparing the child’s limitations in various areas of daily activity

to the activities of same aged children who do not have the disability. The IFA has served as a vital alternative for determining eligibility for children with rare disabilities not on the listing and children with multiple disabilities.

- References to “maladaptive behavior” will be eliminated from the Listing of Impairments. Children never have been able to qualify solely on the basis of a mental diagnosis and evidence of maladaptive behavior; however, such behavior could be considered in determining a child’s functioning. Under this bill, it cannot.
- The Social Security Administration has one year to reevaluate children affected by these provisions to determine if they can continue receiving benefits. Benefits will cease for non-qualifying children on July 1, 1997, or the date of the redetermination, whichever is later.
- In Texas, 12,700 children currently receive SSI due to one of the above provisions and therefore, potentially could be dropped from the program.
- Nationally, 315,000 children are estimated to either be removed from SSI or denied future benefits over the course of the next six years. (see the Other Medicaid Provisions section for information about SSI children’s receipt of Medicaid)

Other Children’s SSI Provisions:

- Every three years a child receiving SSI will be reviewed to determine if his/her disability is on-going.
- The General Accounting Office will be required to conduct a study on the impact of the new children’s SSI provisions.
- If a child receiving SSI is covered by private insurance, the child will receive only \$30 monthly SSI payments if the child is hospitalized. (This is the same benefit paid to children covered by Medicaid.)

Denial of SSI Benefits affecting Both Children and Adults:

- Most legal immigrants are banned from receiving SSI. (see section on Immigration).
- Persons convicted of having misrepresented their residence to obtain certain needs-based benefits simultaneously in two or more states are ineligible for SSI for 10 years.
- No fugitive felons are eligible to receive SSI.

Effective Date: As noted above, benefits will cease for non-qualifying children on July 1, 1997, or the date of their redetermination, whichever is later.

CHILD CARE PROVISIONS

- Additional funding is provided for child care, but
 - still between \$1.8 and \$2.4 billion short of meeting child care needs of welfare recipients in work training
 - SSBG cut could result in reduced child care funding
 - states required to provide state matching funds to receive additional child care funding
- Child care entitlements eliminated, but not certain of the impact in Texas
- Health and safety maintained
- Quality improvements funded, but at lower than current level

Child Care Entitlements:

The bill eliminates the current child care guarantee for AFDC Child Care for families required to participate in work training and for Transitional Child Care for families who leave welfare because they become employed. Because Transitional and AFDC child care are referenced in Texas’ welfare waiver, it appears the state will continue to guarantee child care to welfare recipients in training and those leaving welfare for work. However, if the state is required to meet the federal work participation rates, there might not be enough funds to do that. (See Cash Assistance section). In fact, estimates project child care funds to be between \$1.8 and \$2.4 billion short of the amount needed nationally for states to provide child care to the number of people required to work under the new law.

The New Child Care and Development Block Grant:

A new Child Care and Development Block Grant (CCDBG) is created combining Title IV-A Child Care (Transitional Child Care, AFDC Child Care, At-Risk Child Care for low-income families at risk of going on welfare) and the old CCDBG. The bill has two funding streams: one a capped entitlement at \$15 billion over 7 years, the other a discretionary program funded at \$7 billion over 7 years.

- The capped entitlement formula distributes one portion of its funding to states based on their FY 94, FY 95 or average FY 92-94 expenditure for Title IV-A Child Care. A second amount is distributed to states based on its percentage of the nation's under age 13 population (the formula for At-Risk Child Care funding). To receive this second amount, states must provide matching funds at the FY 95 state Medicaid rate and must maintain spending at their FY 94 or 95 level for Title IV-A Child Care (whichever is greater). Funds not used by a state will be redistributed to other states.
- The discretionary funds are distributed to states using the current CCDBG formula.
- It is estimated Texas will receive \$352 million in additional child care funding over the course of the six years, **if** the state meets its maintenance of effort requirements and fully matches available federal funds. Whether the state contributes additional state matching funds could influence the state's ability to maintain its child care guarantee.

Eligibility Provisions:

- Seventy percent of the capped entitlement funds must be spent on families receiving TANF assistance, those moving off TANF assistance, and families at risk of needing public assistance.
- States are allowed to raise eligibility for child care assistance from 75 to 85 percent of the state median income.

Other Funding Provisions:

- CCDBG funding cannot be transferred to another block grant, but TANF funding can be transferred to this block grant and the Social Services Block Grant (SSBG).
- The SSBG which is used to fund child care in Texas is reduced by 15 percent. (see Miscellaneous Provisions section)
- Child care funds must be obligated in the year they are received or the next year.
- Administrative costs are limited to 5 percent of the CCDBG while a range of services are defined as non-administrative including eligibility determination and/or redetermination, child care placement, recruitment, licensing, inspection, rate setting, resource and referral, etc.
- States are no longer required to pay market rate for child care, although they must ensure the rates will be adequate to provide equal access to child care for eligible children as compared to those children not eligible for subsidies.

Quality and Health and Safety:

- The requirement that states establish health and safety standards for child care is retained. As a result, providers (except certain relative providers) who receive federal funds must meet these standards.
- Funding for improving the quality and supply of child care and undertaking consumer education is continued; however, the 4 percent set aside in the CCDBG for this purpose is \$38 million below the current \$157 million funding for similar activities.

Effective Date: Generally, October 1, 1996

CHILD NUTRITION PROGRAM PROVISIONS

- State option to serve "unqualified aliens" in the child nutrition programs (Legal immigrants continue to be eligible for these programs.)
- Reimbursement rates cut for certain CACFP providers and all SFSP programs
- Start-up grants are eliminated for School Breakfast and SFSP
- Outreach funding eliminated or scaled back in child nutrition

Child and Adult Care Food Program (CACFP):

Reimbursement Rates:

A new two-tiered eligibility system is created for family child care providers.

- Tier I will be providers in low-income areas or homes operated by a low-income provider. Tier I will continue to receive current CACFP reimbursement.
- Tier II will include homes not meeting Tier I requirements. Tier II homes will either have to implement a means-test and receive full CACFP reimbursement for eligible low-income children or not implement a means-test and receive one meal rate for all their children, which would be significantly below the current reimbursement. (Lunches, for example will be reimbursed at \$.95, rather than the current \$1.575.)

Other Provisions:

- The annual inflation adjustment is lowered because the reimbursement rates will now change based on the Consumer Price Index for “food at home”, rather than “food away from home.”
- The option to serve an extra meal or snack to children in care more than eight hours is eliminated.
- The bill eliminates the requirement for states to expand CACFP, the authority to use administrative funding for outreach and recruitment, and requirements to provide information on WIC through CACFP.

Summer Food Service Program (SFSP):

Reimbursement Rates

- Reimbursement rates for SFSP are reduced from \$2.1675 per lunch to \$1.97. This cut is likely to force numerous program sponsors to no longer provide this vital food assistance.

Outreach and Program expansion

- Funding to start new SFSP programs is eliminated.
- Outreach materials will no longer be available.
- SFSP providers are no longer required to inform other service organizations of the availability of the SFSP.

School Lunch and Breakfast:

- States were not given the option of converting their school lunch and breakfast programs to block grants, as the vetoed HR 4 welfare bill allowed.
- Schools no longer have to inform students and parents of the nutritional content of meals.
- Funding is no longer available for schools initiating or expanding School Breakfast; nor are outreach materials available.

Women, Infants and Children (WIC) Program:

The option to disqualify undocumented aliens (which includes some currently legal immigrants) is the provision with the possibility to most dramatically affect the WIC program. (See section on Immigration Provisions) The other changes to WIC are minor. The bill removes a number of current WIC requirements, but allows state and local agencies to continue these activities (e.g. state evaluation of nutrition education and breastfeeding; provision of information about other programs for which WIC clients may be eligible). Also, the bill eliminates the requirement that USDA establish staffing standards for state WIC agencies. The bill gives USDA the option of continuing certain requirements (e.g. soliciting bids on behalf of states wishing to participate in USDA-sponsored multi-state contracts for infant cereal.)

Effective Dates: CACFP changes are effective upon enactment; SFSP changes are effective on January 1, 1997.

CHILD SUPPORT PROVISIONS

(This section excerpted from the *Children's Defense Fund: Welfare Analysis*, posted on Handsnet, August 8, 1996).

The bill makes a broad array of child support changes that are generally very positive. These changes move states towards more centralized, automated system that are capable of taking steps to locate noncustodial parents and to begin enforcement actions automatically, which may help stretch scarce staff time and resources. The bill builds on successful state models requiring all states to have in place practices that pioneering states have shown to be effective (for example, the bill creates both national and state new hire reporting registries, so that child support withholding can begin quickly when a noncustodial parent changes jobs; it requires states to report child support delinquencies to credit bureaus without waiting for a request to do so; and it requires states to have the authority to withhold, suspend, or restrict the use of drivers' licenses, professional and occupational licenses, and some recreational license). It improves interstate enforcement by bolstering federal services to locate parents across state lines and by requiring all states to have in place common paternity procedures in interstate cases.

The bill ends the \$50 child support pass-through that previously gave children on welfare at least some benefit from child support paid on their behalf. However, it does give children formerly on welfare priority over the state in most instances when back child support is collected and support is owed both to the child and to the state.

Effective Dates: Though there are a number of effective dates, the general rule is that the new child support provisions take effect October 1, 1996. Because many of the changes require state legislative action; however the bill provides a

grace period so that states can pass required legislation during the first regular state legislative session that begins after the bill becomes law.

IMMIGRATION PROVISIONS:

- Certain categories of legal immigrants deemed “unqualified aliens” and are treated the same as undocumented immigrants
- Most legal immigrants barred from food stamps and SSI
- State option to bar current legal immigrants and after 5 years in U.S., future legal immigrants from need-based programs
- State option to maintain Medicaid coverage for current legal immigrants
- Nutrition programs protected for most legal immigrant children; state has options regarding access by “unqualified aliens”

The provisions of the welfare bill that relate to the treatment of documented, legal immigrants who are residing lawfully in the U.S. are some of the most complex. They are also, unfortunately, among the provisions most likely to have near-term negative impact on large numbers of poor Texans.

“Qualified” and “Unqualified” Aliens: The bill defines new categories of immigrants for purposes of eligibility for needs-based programs. Importantly, some categories of persons legally present in the U.S. will now be treated the same as undocumented immigrants for purposes of program eligibility, and lumped together under the new title, “unqualified aliens.” Among the categories of legal immigrants who will become “unqualified” are:

- Certain employment-related categories, including temporary agricultural workers,
- Spouses and minor children of immigrants who sought citizenship under the Immigration Reform and Control Act of 1986 (“Family Unity” status),
- Persons in Temporary Protective Status,
- Various “non-immigrant” categories, such as college students.

“Unqualified Aliens” and Federal Benefits: Undocumented immigrants have long been completely and permanently ineligible for most federal need-based programs. Under the new law, the above-listed categories of legal immigrants will also be ineligible. The exceptions to the ban—services for which “unqualified aliens” may be eligible—include:

- Emergency Medicaid services
- Immunizations
- Testing for and treatment of communicable diseases
- Short-term, in-kind (non-cash) emergency disaster relief
- Non-cash assistance like temporary shelters, soup kitchens, crisis intervention *as designated by the U.S. Attorney General*
- Some grandfathering of current housing benefits

“Qualified” Legal Aliens and Federal Benefits:

- **SSI and Food Stamp Bar:** The majority of legal status immigrants who remain in the “qualified” category will nevertheless be barred from eligibility for Supplemental Security Income (SSI—cash assistance for poor persons who are elderly or have disabilities) and Food Stamps. Nationwide, this will result in the loss of ongoing SSI benefits to about 350,000 poor elder legal immigrants, and to about 150,000 impoverished legal immigrants with disabilities. About 900,000 legal immigrants will lose Food Stamps nationwide. In **Texas**, about 53,000 elder or disabled legal immigrants were receiving SSI in 1995, and about 187,000 were receiving Food Stamps. Eligibility for SSI and Food Stamps for all legal aliens will be reviewed within one year of the bill’s enactment. All will lose their benefits at that time, unless they fall into one of the exception categories described below.

Exceptions to the ban on SSI and Food Stamps for “qualified aliens” are:

- Immigrants who have 10-years (40 quarters) or more of Social Security-qualified work history. For purposes of counting work quarters after enactment, quarters will only be counted if the immigrant used **no federal need-based benefits** during that time. (e.g., a person who works for 9 years and becomes permanently disabled and unable to work will never be able to get SSI benefits.)
- Refugees, asylees, and those granted withholding of deportation are eligible for SSI and Food Stamps **only during their first 5 years in the U.S.**
- Legal immigrants who are veterans of, or on active duty with the U.S. military.
- **5-Year Bar on Other Federal Need-Based Aid:** “Qualified aliens” arriving after enactment of this law will also be barred from accessing other federal need-based programs during their **first five years** in the U.S. This will

include Medicaid and TANF. This could apply to Social Services Block Grant-funded (SSBG) programs (like child protection, child care and community care), and many smaller programs depending on how House and Senate rules governing this type of budget bill are applied.

Groups exempted from this ban are:

- Refugees, asylees, and those granted withholding of deportation, and
- Legal immigrants who are veterans of, or on active duty with the U.S. military.

Programs exempt from this ban, i.e., from which qualified aliens may receive benefits during their first 5 year of U.S. residence, include **all the benefits listed above for unqualified aliens, plus:**

- School Lunch and Child Nutrition programs
 - Limited Foster Care and Adoption Assistance
 - Head Start, public education, higher education student loans and grants
 - Job Training Partnership Act programs.
- **State Options for Current Qualified Legal Aliens and Future Qualified Legal Aliens (AFTER the 5 year bar):** States have the option to bar current “qualified aliens” and at the end of their 5-year bar, new “qualified aliens” from all need-based programs using federal funds (again, including TANF, Medicaid, SSBG, and others).
 - However, the same groups exempt from the SSI & Food Stamp bar may not be barred by the states.
 - States may treat legal immigrants residing in the state at enactment differently than future immigrants with respect to program eligibility.
 - In Texas, about 97,000 legal immigrants were receiving Medicaid in 1995 and just over 22,000 were receiving AFDC (the new TANF).
 - **Sponsor Deeming:** States choosing to continue eligibility for any legal immigrants (current or future) for federal needs based programs (except the exempted programs discussed above) must count the income and resources of the immigrant’s sponsor as if they were available to the immigrant. This is called sponsor deeming. Deeming will extend until citizenship or until the immigrant has worked for at least 10 years. This provision will require deeming in some programs (e.g. Medicaid) which currently have no deeming requirements and will extend the period in which a sponsor’s income is counted in other programs (e.g. the new TANF).

State and Local Programs:

States will have the option to similarly limit eligibility of “qualified aliens” for programs funded by state and/or local governments, subject to the same exceptions mandated for the SSI/Food Stamp bar. They may also require deeming of sponsor income for such programs if they choose.

A very significant provision of the bill dictates that no state or local program may serve **undocumented** immigrants (not the broader “unqualified” group) **unless the state legislature passes legislation after enactment specifically authorizing their eligibility.** In Texas, this would mean that Public Hospital Districts and County Indigent Health Care programs would require new authorizing legislation to allow them to provide undocumented persons with health care services beyond those on the exception list above. It may be significant that there are no provisions for sanctions for states that fail to comply with this provision. In addition, experts in immigration law believe this provision will be found unconstitutional. (See also Immigrant Provisions and Nutrition Programs below.)

Immigrant Provisions and Nutrition Programs:

- There are no bars on eligibility of “qualified alien” children for school breakfast, school lunch, Summer Food Service Program (SFSP), WIC, or the Child and Adult Care Food Program (CACFP).
- If a state provides public education to “unqualified alien” children, it must also provide school breakfast and lunch benefits to those children. (Federal case law currently requires states to educate these children, but separate pending federal legislation is considering allowing states to prohibit undocumented immigrant children from receiving public education.)
- The Act appears to give states an “option” whether or not to bar “unqualified alien” children from the WIC, SFSP, and CACFP. This would represent an administrative nightmare and would generate massive new administrative costs for Texas’ child nutrition programs. At this time, signs appear hopeful that Texas will not pursue a bar on undocumented children, but it will be important to monitor this issue in the months to come.

Immigrant Provisions and Medicaid:

To recap, states will have some choices about Medicaid eligibility of most legal immigrants.

- States can decide whether or not to continue coverage of legal immigrants **who are already here**. States that elect to discontinue Medicaid for these residents would be subject to the same exceptions as the SSI/Food Stamp bar.
- Legal immigrants arriving **after** enactment will be ineligible for Medicaid for 5 years unless they are refugees, asylees, or veterans of the U.S. military (no state option here).
- States have the **option** whether or not to provide Medicaid eligibility **after** that 5-year freeze-out to legal immigrants who arrive **after** enactment.
- States that decide to continue Medicaid eligibility for any legal immigrants (current or future) **must** count the income and resources of the immigrant's sponsor as if they were available to the immigrant (this is called "sponsor deeming")

There are no immediate indications that Texas officials intend to eliminate Medicaid eligibility for legal immigrants currently enrolled in Medicaid. Certainly, cutting off cash benefits and food stamps for poor elders (about which there is no state option) will be devastating, and Texas politicians are not likely to want to be seen as adding to this misery. Medicaid eligibility of future legal immigrants may be less politically sensitive—and therefore more vulnerable to being cut. It will be important to monitor legislative activity in this policy area.

Effective Dates: Legal immigrants receiving SSI and food stamps remain eligible until their eligibility is redetermined, either during a regularly scheduled review or during a special redetermination which must occur within a year of the bill's enactment. States opting to remove current qualified aliens from TANF, Medicaid or SSBG-funded services cannot terminate such assistance until after January 1, 1997. The required 5 year bar of new qualified aliens from TANF, Medicaid and SSBG-funded programs begins immediately for those arriving after the enactment date of the bill.

OTHER MEDICAID PROVISIONS:

States will be required to continue to offer Medicaid benefits to people who meet the qualifications of the AFDC program in effect on July 16, 1996.

The new welfare act does **not** include a major restructuring of Medicaid; Congress is not yet close to an acceptable compromise on major Medicaid changes. Nevertheless, the sweeping provisions in the bill changing SSI eligibility for children and general eligibility for federal assistance by **legal** immigrants have profound implications for Medicaid eligibility of persons in these categories. A summary of Medicaid provisions in the act is provided below.

Eligibility Changes:

- States must continue to offer Medicaid coverage to all persons who meet the AFDC income, resource, and family structure standards the state had in effect on July 16, 1996. This means, even if a family loses cash assistance due to **time limits**, they will still be eligible for Medicaid if their income remains at the AFDC level.
- States may not increase their AFDC income or resource limits (as they apply to Medicaid eligibility) by more than the rate of inflation in the CPI. However, states **may** adopt less restrictive methods for counting income or resources. The latter provision could allow a state to make this new eligibility category somewhat more flexible.
- States can, as under current law, **lower** eligibility standards, but to no lower than those in place in May 1988. Texas' AFDC benefits have had no legislative increases since 1985, so only tiny inflation adjustments have been made since 1988. Thus there is probably no threat of rolling back Medicaid eligibility related to this provision.
- States have the **option** to cut off Medicaid for a parent or caretaker who is sanctioned (loses the family's cash assistance) due to refusal to comply with work requirements, but the children must retain their Medicaid coverage. Medicaid benefits for pregnant women **could not** be terminated due to failure to comply with work requirements.
- Twelve months of transitional Medicaid benefits will continue to be available to persons losing cash assistance benefits due to increases in income and four months for those losing assistance due to child support increases (if their new income is less than 185% of the federal poverty level). States apparently would **not** be allowed to offer any additional months of extended Medicaid benefits.
- The prohibition of cash assistance and Food Stamp eligibility for persons convicted (after enactment) of drug-related felonies **does not** extend to Medicaid.
- About 160,000 children (currently-available estimates vary) nationwide **will** lose eligibility for SSI within a year of enactment of this law due to the elimination of the Individual Functional Assessment (IFA) process for eligibility. However, not all will lose their Medicaid. Roughly 80-85% are expected to meet the requirements for coverage as impoverished children. If these predictions hold true, about 20,000-25,000 nationwide **will** lose coverage. Some examples of conditions kids have who became SSI-eligible via the IFA process include: mental retardation, cerebral palsy, tuberculosis, autism, head injuries, and arthritis. Children with **multiple** health problems and developmental

delays—none of which would by itself qualify them for SSI under the remaining “medical listings” eligibility standards—are among the most severely affected by this “throw out the baby with the bath-water” act of Congress.

Administrative Costs:

- States can receive additional matching funds (via an enhanced matching funds rate) to cover the costs of new administrative costs related to implementing these new Medicaid policies. Up to \$500 million nationwide would be available for such claims between 1997 and 2000.

MISCELLANEOUS PROVISIONS:

- SSBG is cut by 15 percent. Could mean a \$30 million cut to programs including child care, child and adult protection, community care, family planning, etc.
- Block grant funds (specifically, CCDBG and TANF) are to be appropriated by State Legislatures, even in states in which the Governor previously had exclusive control over federal block grants. However, crucial policy decisions may still be made by the Governor and executive branch agencies.
- The FY 96 Title XX Social Services Block Grant (SSBG) 15 percent reduction is maintained through FY 2002. Texas averted program reductions in FY 96 by transferring funding from other sources and carrying forward a previous SSBG balance. In FY 97, the state may be able to employ similar strategies. However, by FY 98, the state will likely cut programs as a result of the SSBG reduction. This could mean roughly a \$30 million reduction in services including family planning, child and adult protection, family violence, child care, and community care. A new provision also allows SSBG funding to be used to purchase vouchers for services for families reaching their time limits under the TANF program.
- Minor changes to the Earned Income Tax Credit (EITC) are made to reduce EITC errors and curtail EITC receipt by those whose income appears low as a result of “paper” losses in income.

WHAT’S NOT IN THE BILL:

Some provisions debated by Congress during the development of the welfare reform bill were not included in the final version of the bill. Among these are provisions:

- prohibiting states from providing welfare assistance to children born while their family is on welfare (known as the “Family Cap”);
- creating an option for states to receive a food stamp block grant;
- creating a child protection block grant of any type;
- creating a Medicaid block grant or changing the basic eligibility criteria; and
- creating onerous disclosure requirements for non-profits receiving federal funds under programs authorized in the welfare bill. (This was similar to previous measures proposed by Rep. Istook.)

Sources: CBPP, Families USA, FRAC, Bazelon Center for Mental Health Law, CLASP, CDF, NHeLP, National Immigration law Center, Immigrant Policy News, the Texas Department of Human Services, the bill, the conference report

TEXAS CONGRESSIONAL DELEGATION VOTE ON THE WELFARE REFORM BILL

United States Senators - Texas Delegation	For	Against	For	Against
Phil Gramm - R	✓		Kay Bailey Hutchison - R	✓
United States Congressmen - Texas Delegation	For	Against	For	Against
Bill Archer - R - Houston (7)	✓		Pete Geren - D - Fort Worth (12)	✓
Dick Armey - R - Lewisville (26)	✓		Henry B. Gonzalez - D - San Antonio (20)	✓
Joe Barton - R - Ennis (6)	✓		Gene Green - D - Houston (29)	✓
Ken Bentsen - D - Houston (25)	✓		Ralph M. Hall - D - Rockwall (4)	✓
Henry Bonilla - R - San Antonio (23)	✓		Eddie Bernice Johnson - D - Dallas (30)	✓
John Bryant - D - Dallas (5)	✓		Sam Johnson - R - Plano (3)	✓
James Chapman - D - Sulphur Springs (1)	✓		Greg Laughlin - D - West Columbia (14)	✓
Ron Coleman - D - El Paso (16)		✓	Sheila Jackson Lee - D - Houston (18)	✓
Larry Combest - R - Lubbock (19)	✓		Solomon P. Ortiz - D - Corpus Christi (27)	✓
Kika De La Garza, II - D - Mission (15)	✓		Lamar Smith - R - San Antonio (21)	✓
Tom DeLay - R - Sugarland (22)	✓		Charles W. Stenholm - D - Stamford (17)	✓
Lloyd Doggett - D - Austin (10)	✓		Steve Stockman - R - Webster (9)	✓
Chet Edwards - D - Waco (11)	✓		Frank Tejeda - D - San Antonio (28)	✓
Jack Fields - R - Humble (8)	✓		William Thornberry - R - Clarendon (13)	✓
Martin Frost - D - Dallas (24)	✓		Charles Wilson - D - Lufkin (2)	✓

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