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An update on state and federal action from

The Center for Public Policy Priorities

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Texas Moving Quickly to Submit State Plan for Welfare Block Grant

Since the passage of the federal Welfare Act last month, the governor and state agencies have been assessing the fiscal and policy implications of moving quickly to accept the new block grant funding and the policy changes that come with it. The first step in the process is the development and submittal of a state plan for the new Block Grant for Temporary Assistance for Needy Families (TANF).

Public Hearing on the State Plan for the new Block Grant for Temporary Assistance for Needy Families September 24, from 9:00 a.m. to 3:00 p.m. In the Auditorium of the Capitol Extension

This is the only public hearing scheduled before submittal of the plan to HHS.

By submitting a state plan to the Department of Health and Human Services (HHS) before the end of September, Texas becomes eligible to draw down the full block grant allocation beginning October 1, 1996. For Texas, where AFDC caseloads have been dropping, the block grant funding is more generous than the current funding formula. Therefore, the Commissioner of Health and Human Services is pushing ahead with submitting the state plan. However, many questions about the full impact of the block grant remain unanswered and the quick submittal has risks.

First, there is limited time for any meaningful public input or active involvement of those around the state who have worked with recipients. Second, along with the funds come accelerated timetables for the new rules and significant penalties if we are unable to meet new requirements such as the increased work participation rates. Additionally, the state agencies involved will have little time to develop the infrastructure and staff capacity to implement the myriad new responsibilities. In particular, the slow development of the local workforce boards raises serious questions about the ability of the state to rapidly address the significant new responsibilities to assist clients in becoming job ready and employed.

Also, prohibitions against providing assistance to minor parents (unless they are in school and living with an adult) pose new issues for the state to address.¹

A draft of the State plan we have reviewed reveals a document limited in detail with no radical departures from the new state program set in place by HB 1863. However, there is language in the plan that suggests significant changes are being considered and will likely appear in the coming legislative session. Also, it is likely that there will be additional changes to the draft before the hearing next week.² Additionally, the draft refers to several Appendices that were unavailable for review.

The following outline provides a description of the state plan requirements contained in the recent Welfare Act and some discussion of what Texas is proposing in its plan. It is important to remember that this state plan only applies to TANF, not to other provisions of the bill related to Food Stamps, child care or other programs. The TANF block grant replaces AFDC, AFDC admin., Emergency Assistance and job training for welfare recipients. It is worth noting that the draft plan is completely silent on how the state plans to reallocate funds from the block grant among the three state agencies (TDHS, TWC, and DPRS) who have used these funds in the past.

The TANF State Plan

In general, in order for a state to be eligible for TANF funds it must submit a state plan within the two year period immediately before the fiscal year for which the block grant is allocated. **The state plans under TANF are markedly different than previous state plans for AFDC or for many other programs.** Most notably, very little detailed information is required from states and HHS is only authorized to determine that the state plan is complete. Gone is any HHS authority to approve or disapprove a plan, add components, or negotiate with a state the details of its plan. Moreover, it is not clear if there are any consequences if a State fails to follow its State plan.

The federal bill directs that a state plan will be comprised of: **1) an outline of certain information, 2) a set of special provisions, and 3) a set of certifications.**

An outline of how the State intends to conduct a program on the problem of statutory rape, in order to expand teenage pregnancy programs in scope to include men. This program should target state and local law enforcement, the education system, relevant counseling services, and provide education and training.

★ The Texas plan suggests the state will initiate such a program.

Special Provisions: In addition to the outline, the State plan must include the following:

An indication of whether the State intends to treat families moving into the state from another state differently from other families, and if so, how.

★ The Texas plan states that we do not treat families moving into the state differently.

An indication of whether the state intends to provide assistance to non-citizens of the United States, and if so, include an overview of such assistance.

★ The Texas plan states that individuals who are not citizens (**legal** immigrants) but are already residing in Texas will continue to receive assistance under TANF. However, those who entered the US on or after enactment (8/22/96) will be ineligible for assistance for five years. It further states that Texas deems the income and resources of sponsors as required by the federal bill.

Texas had the option whether or not to continue assistance to current legal immigrants and it is encouraging that the draft plan indicates the state has elected to do so. The language also implies that legal immigrants would be eligible for assistance after five years, which is also a state option.

The State plan must set forth objective criteria for eligibility determination and the delivery of benefits and for fair and equitable treatment, including provisions for recipients who have been adversely affected to be heard in an administrative or appeal process.

★ The Texas plan again refers to its existing waiver and other details provided in the plan as well as referring to an Appendix.

Within a year of enactment of the Act (August 22, 1997) the state must decide whether or not to require parents or caretakers, who have received assistance for two months and are not engaged work, to participate in community work experience employment as defined by the state. Recipients must not be required to participate if they are unable due to the unavailability of child care.

★ Texas opts **not** to operate a mandatory community service program, referring instead to the ability of the local workforce boards to include such a program if it meets the needs of local recipients.

Certifications: In the state plan the Chief Executive Officer of the State must certify:

- 1. that the State will operate a child support enforcement program;*
- 2. that the State will operate a foster care and adoption assistance program and will ensure children receiving assistance under this program are eligible for Medicaid;*
- 3. which State agency or agencies will administer and supervise the program;*
- 4. that local governments and private sector organizations have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and,*
- 5. that local governments and private sector organizations have had at least 45 days to submit comment on the plan and design of such services.*

★ The Texas Plan states that the Governor certifies each of the above provisions will be implemented. The response to the requirements for public input are addressed by suggesting that input from the state's formal advisory councils and other "informal methods" have provided input on the plan and the design of welfare services. This seems to be a rather generous

definition of "public input" on this particular document.⁵

In this section of the plan Texas "reserves the right to" transfer TANF funds among other agencies and programs as allowed in the Welfare Act and to use TANF funds to operate a subsidized employment program using food stamp and TANF benefits as a wage supplement. The state also reserves the right to use private and/or nonprofit organizations for placement services.

We have heard indications that the governor is very interested in how Mississippi has implemented its "Work First" program and those suspicions are confirmed by the above statements. Mississippi includes a wage subsidy program which "cashes out" AFDC and Food Stamp benefits and provides the funds to employers to subsidize jobs for recipients. There has been a good bit of controversy about this type of program and there are both good and bad ways of implementing such "work first" efforts, but it is clear that Texas is looking to implement such a model.⁶

The State must also certify that:

1. That the State will provide equitable assistance for Indians not falling under the tribal assistance plan; and,
2. That the State has established and is enforcing standards and procedures to enforce against program fraud, abuse, nepotism, conflicts of interest, kickbacks and political patronage.

★ The plan states that the Governor certifies the provision of these policies and procedures.

There is an optional certification relating to Domestic Violence: At State option, the governor may certify that the State has established specific standards and procedures to address recipients who may be the victims of domestic violence, including referrals to support services and exemptions from such stipulations as time limits and work requirements.

★ This issue is not addressed in the draft plan. Again only a draft was available at the time of this analysis, it is not clear if this important issue will be addressed in the final draft.

States must specify their policy for removal of assistance from a household when the minor child(ren) for whom assistance is provided is absent for a period no less than 30, or more than 180, days

★ This issue is not addressed in the draft plan. Same note as above.

The State must make a summary of the State plan available to the public.

★ The draft plan includes an assurance that it will comply with this requirement.

General Issues

The Welfare Act does not specify a method for states to file amendments to the State plan but implies that State plans will be updated, or new ones submitted, on a biennial basis. Many States, Texas among them, are moving quickly to file State plans, assuming that amendments can be easily filed at a later date when further, more detailed policy and programmatic changes are developed.

Once a state files its plan it is deemed to constitute the State's acceptance of the TANF provisions and funding, terminating the entitlement of any individual or family to benefits under the preexisting AFDC program.

With the State moving quickly on the submittal of the State plan, timelines for critical elements of the new block grant

are accelerated. We will fall under the earliest possible effectiveness date of July 1, 1997 for many of the provisions and immediately for others. Of particular concern are the work requirements and the provisions prohibiting assistance to teen parents.

Because the State plan is so general, testimony or written comments will be difficult to target to specific issues. However, it will be important to raise concerns about the many decisions the state still has to make and the responsibilities it accepts by the early submittal of the plan. In the next Policy Page we will be providing a detailed discussion of the many critical decisions the state will face in the coming months as it seeks to understand and implement the new federal welfare bill.

¹ The state must develop the capacity to determine if a home is safe for the minor parent and if not, then some system of exemptions or alternative adult-supervised settings or foster care must be in place.

² There are rumors that the state is considering the development of a separate, state funded, program for two-parent AFDC families. It is believed this would remove those families from the pool that must be counted for work participation rates. The mandatory participation rates for two parent families are 75% in FY 1997 and rise to 90% in 2002. It is believed these targets are unattainable, making removal of those families from the denominator a strategy for avoiding significant penalties. However, it is not yet clear whether HHS will allow such a strategy.

³ For more information on the TIES project contact Marcia Kinsey at the Center.

⁴ In the bill, the illegitimacy ratio is defined as the comparison of the rate of out-of-wedlock births in the most recent 2 year period compared to the number of such births during the previous 2-year period. States are eligible for financial bonuses up to \$25 million if they reduce this ratio while insuring that the rate of abortions is less than the rate in FY 1995.

⁵ It is clear that if THHSC and the governor are planning on submitting a plan before October 1st, no real consulting or significant public involvement will occur outside of the single scheduled public hearing. Also, the 45 day comment period will begin running as soon as a summary of the plan is available and will run concurrently with the submittal of the plan. This is very different from previous state plan submittals where a more systematic public input process was included.

⁶ The Center is currently researching these types of work programs and will have a detailed report completed before the legislative session. For more information contact Patrick Bresette.

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