

**RECIPIENT  
IMPACT  
STATEMENT**

**S 2513  
HR 4929**

**June, 1986**

**COALITION OF CALIFORNIA  
WELFARE RIGHTS ORGANIZATIONS**

**SECTION-BY-SECTION ANALYSIS OF  
THE NEW DEMOCRATIC WORKFARE BILL  
S 2513, Senators Moynihan, Kennedy & Kerry**

**HR. 4929, Congresspersons Mr. Levin, Ms. Kennelly, Mr. Rangel and Mr. Gephardt**

**EXECUTIVE SUMMARY OF THE BILL**

This bill would create a new program called "Work Opportunities and Retraining Compact of 1986".

**Who Will Be Required to Participate?**

The program would require all AFDC recipients who are currently required to register and participate in the WIN program, to participate in this program.

All participants would be required to participate in the program in "good faith", whatever that may mean.

**Who Will Operate the Program?**

The program will no longer be operated by the jobs people, which is the state employment agency; rather it will be operated by the "welfare people", who are not in the business of jobs, rather they are in the business of issuing public assistance benefits to persons it determines to be "eligible".

**How Will the Registration Process Work?**

There will be a single intake and registration point, which will be the state or local welfare agency.

During the registration process the agency will assess the employment capabilities of registrants within an unspecified time period.

**What Happens After Registration?**

After registration the statute provides that participants will be provided with what is termed "in-depth counseling". Upon the completion of the in-depth counseling the state welfare agency will develop an employability plan and assign the participant to one or more of the following programs:

- WIN
- WIN-DEMO
- WORKFARE
- WORK SUPPLEMENTATION

- WORK DEMONSTRATION PROGRAM UNDER SECTION 1115
- JTPA
- JOB SEARCH, VOCATIONAL EDUCATION
- AND OTHER STATE, LOCAL OR PRIVATE PROGRAMS WHICH ARE CONSISTENT WITH THE GOALS OF THE WORK PROGRAM

State Flexibility

The statute provides that states can take any or all actions which are not "inconsistent" with this law in order to achieve the program objectives.

Registration at the State or Local Welfare Agency- §402(a)(19)(A)-SUPPORT

**SUMMARY OF THE PROVISION**

This section would require that all AFDC recipients register for work with the state or local welfare agency, rather than the state employment agency.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

The reason that persons were required to register for work with the state welfare agency was primarily to "connect" them promptly with the state job agency so they can get a job as soon as possible.

In recent years a greater consideration has arisen for state welfare agencies. They have been subject to certain sanctions for "welfare payment errors" because the recipient who is required to register with with the Work Incentive Program (WIN) had not registered.

This change would ensure that states would no longer face an error due to the fact that the recipient did not register with the WIN program.

From the recipient point of view, this really makes no difference, because registration is merely a procedural step.

**RECOMMENDATION**

None

Redefining the Criteria of Exemption for Persons Who Live In a Place Which is Too Re-  
mote §402(a)(19)(iii)-OPPOSE

**SUMMARY OF THE PROVISION**

This section would change the definition of "remoteness" as used to define conditions which would exempt recipients from participation in the WORC program.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

Existing law provides that any person who is so remote from the WIN program shall be exempt from participation in the program.

The new law would provide that such remoteness only applies to the extent that there are no programs that the recipient can participate in. Thus if a person lives 200 miles away from the main office of the welfare department, but the little town that he or she lives in has a workfare project site, such a recipient would be required to participate in the program.

Such a person would have to travel to the welfare department, register for work and go through the assessment. After they have been assessed, they would be required to make another trip to the main office for another so-called "in-depth assessment" before being assigned to the local workfare project site.

**RECOMMENDATION**

Maintain the current language of subsection (iii). Strike the words "work incentive project" and in lieu thereof insert the words, "the intake assessment".

**Requiring "Good Faith" Participation in the Program §402(a)(19)(vi) - OPPOSE**

**SUMMARY OF THE PROVISION**

This provision would require persons to participate in the program "in good faith". The "good faith" standard would replace the "good cause" standard.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This provision would require participants to participate in the program in "good faith". If the participant does not participate in good faith and has good cause to do so, he/she can be sanctioned under this language.

**RECOMMENDATION**

Amend this section by stating that participants shall be required to participate or cooperate in the program in good faith, unless they have good cause for refusal to participate or cooperate.

Sanctions for Persons Who Do Not cooperate or Participate in the Program in Good Faith-  
§402(a)(19)(F)- OPPOSE

SUMMARY OF THE PROVISION

This section provides that any person who is required to participate in the program shall be subject to a durational ineligibility period set by the Secretary if they do not participate in the program in "good faith" without good cause.

ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT

This provision would allow the Secretary of HHS to establish a certain period of time that a participant will be sanctioned for refusal to participate or cooperate in the program.

Many sanctions are a result of misunderstanding between the participant and the workfare program operators. In addition, many, perhaps most, sanctions are imposed as a direct result of a deliberate policy adopted by workfare operators, which is to sanction as many recipients as possible in order to make a showing that the program is "cost effective".

Two-parent families are denied all AFDC benefits for a 90-day period the first time the principal wage earner refuses to participate in the program, and for a six month period the second and subsequent act of refusal to participate.

In the cases of a single parent family, the parent will be deleted from the AFDC assistance payment for a period of 90-days for the first instance of refusal to participate and 6 months for any subsequent refusal to participate.

As written, the bill would probably allow states to impose much harsher sanctions than those currently in place.

These sanctions demonstrate that these work program are "punitive" in nature and indeed rather barbaric. In America the punishment must fit the crime. The crime in these cases is the fact that one of the parents have allegedly refused to cooperate with the workfare operators or participate in the workfare program. The punishment meted out is to starve the entire family for up to six (6) months.

What is the purpose of the sanction? If it is to cause the noncooperative parent and his or her children to suffer it serves its purpose well. But if it is to get the parent to cooperate, then it fails to meet its objective. It continues to punish the parent and the family, even though the parent is willing to cooperate/participate before the 90 days or 6 months are up.

This provision defeats the purpose of the Social Security Act. It is anti-family.

RECOMMENDATION

Sanctions should be imposed as long as the participant refuses to participate or cooperate. Once the participant informs the state agency that they are willing to cooperate or participate, then the sanctions shall stop immediately and they shall be eligible for aid from the date they indicated their willingness to cooperate or participate. If the participant does this more than twice in a given a month, the sanction shall apply for that month.

Transferring the Program Administration to the State Welfare Agencies- OPPOSE

SUMMARY OF THE PROVISION

The bill would transfer the administration of the Employment Program for AFDC recipients from the Department of Labor to the Department of Health and Human Services.

ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT

The Department of Labor (DOL) and the State Employment Agency (SEA) have always been the entities responsible for operating employment program for AFDC recipients. The state welfare agency is the "welfare department" which issues benefits to eligible families. The SEA is the "jobs department", where AFDC recipients get jobs.

The "welfare department" serves welfare recipients. The "jobs department" serves poor people, middle class people and highly paid people as well.

With the separation of welfare recipients from the "jobs department", a clear message is sent to employers. If you want cheap labor, call the welfare department. If you don't want welfare recipients, call the SEA.

RECOMMENDATION

The program should be operated by DOL and SEA. The State welfare agency should only be responsible for registration for the employment programs and for conducting administrative hearings.

State Welfare Agency Responsibility- §416(a)(2)- OPPOSE

SUMMARY OF THE PROPOSED SECTION

This section provides that the state welfare agency (SWA) shall assist applicants and recipients in finding gainful employment and obtaining training and education which may be necessary to enable them to perform such employment.

ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT

So far this sounds good. This is merely the goal of the program. It states that the state welfare agency will "assist" AFDC applicants or recipients with training and education to find employment.

A reasonable person would assume that this means the program operators would ask applicants or recipients what kind of "assistance" do they need and the welfare agency would provide such assistance.

Unfortunately the "reasonable person" concept has never been applicable to the welfare system.

In reality, the way workfare programs are structured is that the workfare program operators decide what is needed. The welfare recipients either accept these decisions face severe sanctions. This is how workfare operates in the real world. When state and local welfare agencies are handed "flexibility" to operate the program any way they choose, the results are predictable. The same mechanisms which operated under the banner of state's rights' in the field of civil RIGHTS legislation are operative in this case as well. Local politics, local prejudices, and pecuniary interests become the determining factors. Legislative intent and lofty preamble language is forgotten and poor children continue to pay the price.

RECOMMENDATION

This section should be amended to allow applicants or recipients to have total "flexibility" in deciding how they are going to navigate towards "self-sufficiency". The state welfare agencies shall have the total flexibility to respond to the options chosen by AFDC recipients exercising such flexibility.

Strict federal limits placed on the freedom of states to give power over recipients lives to program operators are vital to the viability of any proposed legislation, as is strict oversight at federal and congressional levels.

**SUMMARY OF THE PROVISION**

This section provides that all AFDC applicants or recipients who are required to register for work under current law would register at the time they apply for AFDC benefits, rather than being referred to the employment service agency to register for work.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This section is the only provision of the entire bill which would be beneficial to welfare recipients.

Under the current process, recipients apply with the welfare agency, and then have to travel to the employment agency to register for work.

This results in needless expenditure of transportation expenses for recipients.

**RECOMMENDATION**

None.

Assessment of the Employment Capability of AFDC Applicants or Recipients- §416(b)(2)  
**OPPOSE**

**SUMMARY OF THE PROVISION**

This section provides that upon application the state welfare agency shall assess the applicants' or recipients' employment capabilities.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This section requires the state welfare agency to conduct an assessment. The section fails to specify how long this assessment will take.

In California the proponents of the workfare program have stated that a three week job search period would be necessary to determine whether or not an applicant or recipient is ready for immediate employment.

Thus under this language, state agencies can require all AFDC applicants to conduct an extensive job search as a part of this assessment. The statute does not state who would do the assessment, the welfare agency or the AFDC applicant/recipient.

**RECOMMENDATION**

The statute should be amended to state:

*" require the applicant or recipient to do a written self assessment indicating what kind of work the participant wants to do, and whether the participant believes that he or she needs education or training to achieve such an employment goal. The assessment of the participant shall be accepted unless the state agency has substantial evidence demonstrating that the participants' assessment is incorrect. If the state agency determines that there is evidence demonstrating that the participants' self assessment is incorrect, the state agency shall mail a Notice of Action setting forth the agency's determination. The participant shall have the right to contest this decision through a fair hearing as provided in section 402(a)(4)."*

"In-Depth Counseling for Participant 416(b)(3)- OPPOSE

**SUMMARY OF THE PROVISION**

This section provides for "in-depth counseling" to determine if the participant can find employment or is need of training or education.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

(b)(3) is very similar to (b)(2) with the only difference that in (b)(2) the state agency is required to do an assessment. In (b)(3) the state agency has to do "in-depth" counseling.

These two sections seem to be duplicative.

We have concerns about (b)(3) similar to those we have about (b)(2).

**RECOMMENDATION**

Repeal (b)(3) and merely add that participants are entitled to receive counseling if they request such counseling in writing.

Counseling is very expensive. AFDC applicants or recipients should not be forced to sit through counseling which they don't want. To do so would waste taxpayers dollars.

Programs That May Be Available to AFDC Applicants or Recipients Through a Contract Between the State Welfare Agency and the Operators of the Programs- §416(b)(4) OPPOSE

**SUMMARY OF THE PROVISION**

This section requires that state welfare agencies enter into a contract with the administrators of the WIN program, WIN-DEMO program, Community Work Experience Program (also known as workfare), Work demonstration programs under §1115, JTPA, Job Search, Vocational Education and any other state, local or private state program which would further the goal of self-sufficiency.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This section provides state welfare agencies with an array of program to require AFDC recipients to participate. Many of these program provide no protections for AFDC recipients. Examples of such programs is the WIN-DEMO program, §1115 programs and the new category of "any other program" in this bill.

This "any other" category is the most dangerous one. Under this program welfare recipients can be used to pick cotton for farmers in the summer. Learning how to pick cotton can some day help that person find a job some place, that is provided the farmers fail find any more AFDC recipients to pick their cotton to work off their welfare checks.

**RECOMMENDATION**

There is no need for a contract between the state welfare agency and the various programs that exist on the book today. These programs do not discriminate and are available to AFDC recipients. All the state welfare agency has to do is to inform the participant of the available programs and allow the participant to select the program he or she wishes to participate in.

## Development of an Employability Plan §416(b)(5) OPPOSE

### SUMMARY OF THE PROVISION

This sections provides that the state agency will develop an employability plan for the AFDC recipient in concert with the administrators of the various programs mentioned in §416(b)(4).

### ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT

The primary problem with this section is that the employment plan for recipients to become self-sufficient is developed by the workfare program providers, rather than by the participant.

The participant will not be the person deciding how to embark upon the path towards self-sufficiency. This decision will be made by the workfare operators.

If the program is to be successful, and if the participants are to feel that this is a program to help them, rather than a punishment program, then it is imperative that the participants have the primary role in the development of the employability plan. The state agency's role should be that of a facilitator, assisting the participant to develop a plan which the participant perceives as his/her own plan, i.e. a plan in which the participant has a sense of ownership- not a sense of something imposed by an impersonal bureaucracy.

### RECOMMENDATION

This section should be amended to read:

*"develop an employability plan for each such applicant or recipient. The applicant or recipient shall be provided with various services available for the employability plan. Based on the availability of such services the participant shall develop his or her own employability plan and submit it to the state welfare agency. The state welfare agency may reject the participants proposed employability plan, provided the state agency has substantial evidence that the plan would not be successful. The state agency's rejection of the participants' proposed employability plan shall be in writing and it shall outline all of the evidence that the agency relied on for such such rejection. The participant may appeal such rejection through section 402(a)(4)."*

**SUMMARY OF THE PROVISION**

This section provides that the state welfare agency will assign each participant to one or more of the programs set forth in section 416(b)(4).

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This section allows the state agency to decide which program or programs the participant will be required to participate in. There is no right for the participant to **choose** the program he or she may want to participate in. Moreover, many of these programs are multi-component programs.

Participants should be given the right to choose the component of the program that they want to participate in consistent with the employability plan that he or she developed. This will enhance the participants' self esteem and enhance the probability of successfully achieving self-sufficiency.

**RECOMMENDATION**

Amend this section to allow the participant to choose the component of one of the programs that he or she wishes to participate in, provided it is consistent with the employability plan.

State Authority to Take Any or All Action Not Inconsistent With Program Objectives  
§416(b)(7) OPPOSE

**SUMMARY OF THE PROVISION**

This section allows states to operate this program in any fashion they want, as long as such operation is not inconsistent with the program objectives.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This section eliminates any "client protections" embodied in the law. Under this section state can ignore any or all protections, as long as the result of ignoring such protections is not inconsistent with the objectives of the program.

For example, the objective of the program is to "assist applicants for and recipients of Aid to Families with Dependent Children in finding gainful employment and in obtaining any training and education which may be necessary to enable them to perform such employment.." Given this objective, states may decide that they can require AFDC recipients with children under the age of 6 to participate in the program. Such participation would be consistent with the objectives of the program, although they are exempt from mandatory participation in other sections of the law.

**RECOMMENDATION**

This section should be repealed. States already have too much flexibility. What is really needed is to give more flexibility to participants, to assist them in becoming self-sufficient.

Requiring Applicants and Recipients to Participate in the Program §416(c)(1)- OPPOSE

SUMMARY OF THE PROVISION

This section provides that all **applicants** and recipients will be required to participate in this program.

ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT

This section requires that all applicants be required to participate in this program. In the AFDC program state welfare agencies are allowed to take up to 45 days, (and in some cases they take more time) to approve the AFDC application.

Most persons who apply for AFDC do so because of the absence of the father. The typical situation is where the husband rather suddenly for any of various reasons leaves/deserts the family. Mother and children are left without any income. Mother tries to find a job with no success. Next mother borrows money from friends and relatives. She also tries to find another male provider for her children. If all of these efforts are unsuccessful, as the last resort she applies for AFDC.

By this time she and her family are in dire need of assistance. Under this provision she will be told that she now has to join and participate in the WORC program. On the 45th day or soon thereafter she may receive her first AFDC check and be able to buy food for her little ones for the first time in a month or more. Prior to that they were surviving through handouts, church food baskets, and soup kitchens.

All the time the mother is performing her mandatory WORC requirements she is worrying about where her children's next meal is going to come from, how she is going to pay the rent and utilities?

In many cases before the 45 days is up, the mother may be found not to be participating in good faith, because she had other things on her mind. And off course the WORC program requires that one think only about the WORC program. Thus it is possible that this mother can be sanctioned for failure to participate in the WORC program even before she receives an AFDC check.

RECOMMENDATION

Only recipients should be required to participate in the program. Moreover, if the recipient is having problems meeting the needs of his or her children, then "good cause" should be to make and the family should not be sanctioned.

**SUMMARY OF THE PROVISION**

This section provides that participants will be provided "... with such child care and transportation, and such other assistance not inconsistent with the law, as may be necessary or appropriate to achieve the objectives stated in subsection (a)(2)".

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This section not only fails to mandate that participants receive supportive services, but it also fails to provide for a way for the participant to declare his or her need for such services.

In San Diego County, a workfare participant came home from her workfare assignment to find that her children had been taken away by the welfare department child protective service workers, because she had left them home without somebody to watch them while she was doing her workfare duty to work off her welfare check.

Most recipient do not receive the supportive services they need. Even when they ask for such services, the state welfare agency will deny the request for such services. **One women was raped when she was hitchhiking to her workfare site.**

It is very important that recipients be provided with a form wherein they can state exactly what supportive services they need and want. The statement of the recipient should be accepted, unless the state agency has substantial evidence to show that the request for such services are not needed and with the appeal rights under section 402(a)(4).

**RECOMMENDATION**

The law this section should be changed to require that the county mail out a notice to each participant seeking information as to what type of supportive services he or she needs and wants. The statement of the recipient should be accepted, unless the state agency has substantial evidence to show that the request for such services are not needed and with the appeal rights under section 402(a)(4).

**Federal Financial Participation- §416(e) NO POSITION**

This section provides that prior to the fiscal year of 1987, the federal government would provide 70% of the program costs and it would be an open-ended appropriation.

For fiscal year 1987 and thereafter, the federal financial participation will increase to 75% for those states who meet their performance standards.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

The California workfare program has just begun. Counties are already asking for astronomical amounts of funds.

From the recipients point of view, it does not matter how much funds state agencies receive for the administration of the program, as long as an adequate amount is set aside for child care, transportation and other supportive services.

Generally states will use most of the funds for administration and very little funds are used for supportive services. Moreover, states and local welfare agencies have mastered the art of directing their administrative expenses towards a program which has a higher federal financial participation to enhance the amount of federal dollars they can receive from the federal government.

**RECOMMENDATION**

Amend this section to require that a certain percentage of the funds as determined by the Secretary be used for supportive services. The determination of the standard amount should be developed by reviewing the experience in Massachusetts;

OR

amend to provide that supportive services will be subject 75% federal financial participation and all other costs will have the same federal sharing as in other public assistance programs.

**Indefinite Extension of WIN Demonstration Program- §445 OPPOSE**

**SUMMARY OF THE PROVISION**

This section would remove the deadline for submission of a WIN- DEMO program to HHS.

Current law limits the WIN-DEMO program to a three (3) year period. This amendment would allow a WIN-DEMO program to go on forever.

**ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT**

This program was authorized in 1981 and allowed state states several months to submit their plans to operate the program. Since then the deadline for submission of a plan has been extended twice. The last one was for June 30,1984.

In recent testimony the General Accounting Office testified that HHS has failed to keep adequate data to evaluate the various WIN-DEMO programs being operated by states through the country. .

The WIN-DEMO program allows states to disregard various "client protections" embodied in current law. This has made the program more desirable for states that wish to operate a punitive program, which is what majority of these programs are. These programs save money primarily through the severe sanctions that they are allowed to impose upon families whose principal wage earner allegedly failed to participate or cooperate.