

RECIPIENT IMPACT STATEMENT

H.R. 30

CONGRESSMAN AUGUSTUS HAWKINS

MARCH, 1987

A bill to appropriate over 500 million of dollars for state welfare agencies to operate work programs for AFDC recipients.

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**Coalition of California Welfare Rights Organizations
1900 "K" Street, Suite 203, Sacramento, CA 95814- Telephone- 916-442-2901**

OVERVIEW

H.R. 30- Congressman Augustus Hawkins

H.R. 30 would amend those sections of the Social Security Act pertaining to the WIN and WIN Demonstration Program to establish federal guidelines and a federal mandate to the states to implement employment programs.

Those recipients and/or applicants for AFDC benefits who are presently required to register for work under current WIN provisions would be required to participate in the new program as a condition of eligibility.

Recipients and applicants already enrolled and acquiring needed employment skills in either a vocational training program or undergraduate educational programs would be allowed to postpone participation in the new program for as long as the education or training acquired "can reasonably be expected to lead to employment". The bill is unclear as to the method that will be used and who will decide the degree of training or education that "can be reasonably expected". It can be presumed that the decision will be made by a county welfare worker.

After registration, the participant's knowledge, skills, and aptitudes will be assessed; the participant will be informed, via "counseling", of the results of the assessment. The participant will be informed as to the various services, including supportive services that are available to him/her. The participant will then "select" one or more services.

At a minimum, the following services should be made available to the participant: (1) job search services; (2) educational programs, which include remedial education, basic literacy, English as a Second Language (ESL), General Education (GED) preparation; (3) training programs, which could include work-

fare and on-the-job training; and (4) supportive services which are necessary for the successful completion of the program, e.g., transportation and child care.

After six (6) months in a mandatory education, training or workfare assignment, the participant is then eligible to participate in subsidized employment. This on-site training will hopefully provide sufficient training to lead to unsubsidized employment.

Uncooperative participants and their families face stiff sanctions of reduced or zero benefits for a period not to exceed six (6) months. Sanctions are enforced only after the participants rights to due process has been observed. The due process requirements are found in the federal WIN conciliation provisions, state law and state administrative regulations.

HR 30 features the same catch-22 situation that the California workfare program contains. A recipient who lacks a child care provider is unable to accept full-time unsubsidized employment because a child care slot is not available. Nevertheless, that same person is required to participate in the program. If quality, affordable, and licensed child care were made available to AFDC recipients, this would enable them to find unsubsidized employment without the help of "WIN" or other similar expensive programs.

Transportation is another catch-22 problem. The same considerations generally apply to this problem as with the child care problem.

SECTION-BY-SECTION ANALYSIS

§430-Purpose of the Program

SUMMARY OF THE PROVISION

This section outlines the purpose of the program, i.e., to provide persons with services so they can become self-sufficient by obtaining employment.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

The basic problem that recipients face in some of these programs is that they are required to participate in various training and educational programs which train people in employment fields where there are no demands either for new employees or for replacement employees

Training people for non-existent jobs is like "closing the barn door after the horse has escaped". It is a waste of time and effort with little or no return of profit.

People must be trained in skills which are currently marketable.

POSITION

No position

RECOMMENDATION

None.

§ 431(a)- Program Goals

SUMMARY OF THE PROVISION

This section sets forth the reasons for the program. It would reduce the dependency on welfare and other public assistance programs; assist recipients in obtaining jobs; increase the family income and retain employment for a substantial period of time.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

We hope that this can be done. But in light of the high unemployment rate in the U.S.A. and the continued refusal of the government to enforce the Humphrey-Hawkins full-employment bill, we do not see this to be an achievable goal.

POSITION

Support

RECOMMENDATION

None

§431(b) through (d)- Criteria for Evaluation of the Program and Establishment of an Advisory Committee to Advise the Secretary to Develop the Evaluation Criteria

SUMMARY OF THE PROVISION

This section would require the Secretary to evaluate each state's program and give incentive payments to a state when it incorporates the goals in §431(a) and meets the performance standards.

The Secretary will also be required to set up an advisory committee to develop the performance standards. The committee will be composed of state agency representatives, State job training coordinating councils, labor organizations, educational agencies, and organizations representing eligible participants.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

The four (4) evaluation criteria set forth in §431(a) are not objective. The first calls for reducing dependency on welfare and other public assistance programs. This goal has generally been achieved through withholding aid from families for up to six (6) months. Prior to this bill, states had no incentive to sanction recipients. With this section, states would have a financial incentive to sanction AFDC recipients, because it would enhance dollars for workfare bureaucrats.

POSITION

Support if amended.

RECOMMENDATION

Amend §431(c) to read:

" (c) In determining the extent to which reduced dependency on welfare and other public assistance has been achieved, savings obtained from reduced welfare grants or from closed cases, or both, shall be taken into account, provided such reduction of grants or case closures were due to obtaining employment as a direct consequence of their participation in such programs." (The underlined language represent the proposed changes).

§ 432- Allocation of funds

SUMMARY OF THE PROVISION

This provision provides that 95% of the funds shall be allocated to the states who have submitted an approved plan.

The remaining 5% of the funds can be used for technical assistance and planning activities.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

The major problem with this section is that it does not specify the percentage amount of money which will be used for program administration, the percentage amount which will be used for services and the percentage amount which will be used for supportive services.

Experience has shown that most of the money will be used for administrative expenses and very little will be used for training and supportive services.

POSITION

Support, if amended.

RECOMMENDATION

Limit administrative expenses to 50% of the allocated funds and provide that at least 25% of the funds shall be used for supportive services, such as child care and transportation.

§433(a) and (b)- State Designation of State Agency to Operate the Program

SUMMARY OF THE PROVISION

This section provides that each State shall submit a state plan. The state plan shall designate either the state welfare agency or the state employment agency to be the single state agency responsible for the operation of the program.

This designation shall be based upon a determination as to which agency has the greater capacity for administering the overall program direction designed to meet the employment and training needs of eligible participants of WIN Program.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

This section would allow the state, with little justification, to appoint the state welfare agency as the single state agency to operate the WIN program.

Appointing the "welfare department" to develop employment opportunities when an employment development agency already exists for that very purpose is duplicative. Moreover, it could lead to a double standard where employers in need of cheap labor will call the welfare department, while employers with better paying jobs will call the State employment agency.

POSITION

No position.

RECOMMENDATION

We recommend that the State employment agency be responsible for the operation of the program.

§433(c)- State County Plan Assurances

This section outlines the various assurances that the state plan must contain. They are:

- (1) Identifying the State agency which will be the single state agency responsible for the administration of the program;
- (2) Describing the services that will be provided and the methods and priorities to be used in the allocation of services;
- (3) Stating that the state plan should be coordinated with the JTPA program;
- (4) Identifying resources needed to meet the federal matching requirements;
- (5) Naming the procedures that the state will use to select service providers;
- (6) Providing assurances that the services given to recipients do not duplicate existing services;
- (7) Providing assurances that the funds available under this part will not be used, directly or indirectly, to support any mandatory workfare program;
- (8) Describing the services to be provided in the various parts of the state;
- (9) Stating assurances that supportive services, such as child care for children will be provided "during such times as their parents are participating in activities" of this program; and
- (10) Providing other information that the Secretary may request.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

This detailed information would assist AFDC recipients in knowing what services they will be available through the program.

The only problem is that child care services are limited to the time period that the participant is in the program.

The state is not required to make an initial determination as to whether the parent requires child care assistance prior to the parent participating in the program.

This bill is self-defeating. The goal of this bill is to assist recipients in obtaining full-time employment. Yet, without child care funding, recipients cannot maintain full-time employment. Therefore, funding expensive educational and training programs without providing adequate child care squanders money and other limited resources.

The more efficient solution would be to require the state agency to determine whether the parent has child care available to him or her should he/she find fulltime employment prior to being enrolled in the program.

The following is an actual example of a complaint by a WIN client. Mrs. S. was told to report to WIN. She did so. She was told that she had to do a 13-week job search assignment as a condition of eligibility for AFDC.

After looking for work for about a week, she found a job. She called her WIN worker, and told her that she had found a job. She also told her WIN worker that she did not have child care and that without child care she could not take the job. Her worker referred her to the local child care resource center. They told her that they have a long waiting list for child care. When she called her worker, her worker told her that she did not have to take the job and she would not be sanctioned (refusal to accept employment due to lack of child care is considered good cause).

She then asked her worker: " What do I do tomorrow?" Her worker responded: "You continue to look for work until your job search period is over".

Mrs. S. was confused and she asked: "Why do I continue looking for employment, when I've already found one job and had to turn it down." Good question. There is no logical answer. I raised this issue with the state workfare operators. Their response was that clients have to do the required number of weeks of job search, even if they have no child care when a job is offered.

This bill would not remedy this situation.

POSITION

Support, if amended.

RECOMMENDATION

The state agency shall make a determination that the participant has actual child care available. This determination shall be verified by the state agency, when the participant obtains full-time employment during customary hours of employment for that community.

Proposed language for legislation:

On page 14, between line 2 and 3 insert:

" No person shall be required to participate without receiving necessary child care services. For the purposes of this section "necessary child care services" shall mean that each participant shall be given a certificate of licensed child care entitlement. Such certificate shall specify the location that the participant can obtain child care services at any time they need it. This shall mean anytime the participant is offered a job or the participant has a need for child care they shall be able to obtain child care services from the location specified on their child care certificate."

§433(d)(e) and (f)- State Plan Approval Process

SUMMARY OF THE PROVISION

This section provides that the state plan shall be published and a public hearing shall be conducted 30 days prior to submitting the plan to the Secretary.

The Secretary shall either approve or disapprove the state plan within 45 days after receiving it.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

This process allows the community to voice its recommendations and concerns, which has not been true for prior Win-Demo plans.

The bill can promote more meaningful community participation in the planning process. During normal Win Demo hearings, members of the committee merely listen to the views of the poor without actually considering the recommendations. This practice will only be stopped by a federal mandate stating that the views of the poor shall be considered.

POSITION

Support.

RECOMMENDATION

Require that the plan incorporate the concerns expressed at the public hearings and actions taken thereon in the state plan.

§434- Matching Requirement

SUMMARY OF THE PROVISION

This section sets forth the state matching amounts for federal funds.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

None.

POSITION

Support.

RECOMMENDATION

None.

§435- Allocation of Services

SUMMARY OF THE PROVISION

This section provides that each eligible participant shall first be evaluated during the intake process. During the intake process, the state agency shall review the participant's work history, educational background and other skills. The participant will be told of the various available services under this program. Each "...eligible participant will then select one or more of the services..."

Six months after program registration, if the participant is not participating in one of the components, the state agency shall contact the participant and offer the participant the right to select among one of the available components.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

This section is a major breakthrough in that for the first time the selection of the component would not be made by the workfare officials. Welfare recipients would be encouraged to select the component in which they want to participate.

This is the first step towards actual independence. Most work programs only pretend to promote independence for welfare recipients. Are we to believe that the state workfare officials teach clients independence by telling them what, where, when, and how to act. It is our view that the best way to overcome "welfare dependency" is by allowing welfare recipients to learn independence by actual practice; namely, by allowing the participant to select his/her program component.

Although the intent of this section in allowing recipients to select a component is very clear, it is always subject to manipulation by state workfare officials.

A classic example of this is the food stamp program when the operators denied food stamps to households who do not have an address. Although the federal regulations were extremely clear, homeless persons were still denied food stamps because they did not have an address. Congress had to pass another law in 1985 to insure that the state food stamp administrators did what the law required them to do.

Workfare officials resent giving any power to welfare recipients. This is the major reason why they want a mandatory program.

To insure that the state workfare officials are not allowed to subvert the intent of this law, it would be better that the participant be allowed to select the component without the interference of the workfare officials as to which component should be selected.

Moreover, in workfare programs, the participants are told that they have to cooperate with the workfare officials or face severe workfare sanctions. Thus, most recipients would select the component which was suggested by the workfare officials.

RECOMMENDATION

Amend §435(a)(2) to read:

"Each eligible participant shall be mailed a document outlining all of the services including supportive services available under section 436. The participant shall select one of the services available under section 436 and return the document to the state agency within 10 working days. If such service is not available, then participant shall be placed on component waiting list."

We understand that the American Public Welfare Association (APWA) and other workfare administrator organizations have indicated their opposition to this concept because they are concerned that some clients may be illiterate and they would not be able to complete the form. It is our position that such concerns are **hypocritical**. These concerns are only expressed to mask the true objective of keeping the welfare recipient dependent on them.

APWA and other welfare-administrator organizations representing welfare program-operators have required that all welfare recipients be mailed a monthly income report. This income report has to be completed and returned to the welfare worker within 10 days. If the AFDC recipient fails to complete and return it, then the entire family will have their livelihood, AFDC benefits abruptly terminated, even if the AFDC recipient is illiterate.

Based on this, we believe such concerns expressed by APWA are self-serving and unrealistic.

§436(a) - Types of Services that State Shall Provide to Eligible Participants

This section sets forth the various available services to participants of the WIN program. Included is an array of services, such as, job search services, educational programs (e.g., basic and remedial education, literacy training, bilingual education, and preparation for obtaining a certificate of high school equivalency), necessary supportive services, institutional job-skills training, work experience, programs developing work habits which facilitate obtaining and retaining employment, and on-the-job training.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

We are delighted that AFDC recipients are provided with such a wide range of choices.

We are disappointed however, that educational services go no further than obtaining a high school equivalency certificate.

With all of the programs that the House Education and Labor Committee authorizes, it seems logical that welfare recipients should have an opportunity to embark upon the road of higher education in order to become self-sufficient. This is especially true when considering that a post-secondary education is now required in order to obtain employment other than minimum wage employment.

POSITION

Support, if amended.

RECOMMENDATION

Add post-secondary education as one of the services that the participant can select.

§436(b)to end- Program Components and Education.

SUMMARY OF THE PROVISION

This section provides that in addition to the various services set forth in §436(a), the state agency may also provide "transitional employment" services.

Supportive services, such as child care and transportation, may be provided for a maximum of six months to the participant after entering unsubsidized employment.

Any person attending an accredited post-secondary institution shall be allowed to complete this education, provided that the training can reasonably be expected to lead to employment and the participant is making satisfactory progress in the program.

Any person completing his or her participation in any component shall not be required to participate in the same or similar component.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

This section recognizes for the first time that AFDC recipients should be allowed to complete a program which they have started.

We have witnessed many AFDC recipients who started college while their children were under the age of six years. When their youngest child reached the age of six, the welfare worker forced them to drop out of their educational program. AFDC recipients are then saddled with student loans which can exceed thousands of dollars which the recipient/student has to repay even though the "government" refused to allow them to complete their education.

This section contains one big loophole. This section requires that the participant prove that he/she can reasonably be expected to find employment as a result of completing such education. Most states will implement this caveat by requiring that the participant provide verification from an employer that he or she is guaranteed a job upon completion of the educational program. Failure to provide such verification constitutes confirmation that he or she cannot reasonably be expected to obtain employment.

In the SSI Disability Program, there is a standard to determine whether the disabled person can find gainful employment. H.R. 4986 should adopt the SSI disability standard as the criteria for determining what job a person can reasonably be expected to obtain upon completion of his or her college or training program.

Subsection (e) is designed to stop recycling clients through the program, but it is very limited. This section only prohibits the state agency from requiring a participant to repeat the "same or a similar component."

This loose language produces another large loophole which allows the state to recycle recipients through the various components of the program.

POSITION

Support, if amended.

RECOMMENDATION

1. Subsection (d) should be amended to read:

"(d) An individual who currently attends an accredited post-secondary institution or a training program shall be deemed to be satisfactorily participating under this provision and need not participate in any other program activity."

OR

"(d) An individual who currently attends an accredited post-secondary educational institution shall be deemed to be participating satisfactorily under this section. The individual would not be forced to participate in any other component. This bill would use the same employment standards as provided in the disability section of the Supplemental Security Income Act.

This would insure that participants would be allowed to complete the education or training that they have started. For many, this is the first step towards being a responsible and independent person. When government disallows a person to finish what they have begun, how can they expect a person to become responsible and independent?

2. The second major problem is in subsection (e) which limits the prohibition for the recycling of participants through the program "to the same or a similar program".

We support a program which allows the participant to select a component and participate therein. Once the participant has completed the component, then he/she should be finished with the program, unless the participant wishes to voluntarily participate in another component program.

§437- Transitional Employment

SUMMARY OF THE PROVISION

This section provides that any participant who has participated in any of the services for a period of six months shall be entitled to receive transitional employment (for wages) for a period not to exceed one year with either public or private nonprofit employers.

ANALYSIS OF THE PROVISION AND RECIPIENT IMPACT STATEMENT

We are delighted that welfare recipients will be able to get a job that actually provides a paycheck and not merely a welfare check.

There is concern that local government may abuse this program in order to acquire free labor. After the year is terminated, the recipient may be forced to return to AFDC.

POSITION

Support.

RECOMMENDATION

We would suggest that public agencies only be allowed to participate in this program if they can guarantee that the participant will have full-time employment upon completion of the program.

§438- Conciliation Prior to Termination

SUMMARY OF THE PROVISION

This section provides that before a participant is found to have failed to cooperate or participate in the program without good cause, he or she shall be given a notice of intent that the county plans to make such determination.

When the first failure to cooperate without good cause occurs, there shall be no final determination prior to the individual having an opportunity to discuss the reasons for the lack of cooperation and to propose options with the goal of continuing in the program under this part.

ANALYSIS OF THE SECTION AND RECIPIENT IMPACT STATEMENT

This section codifies existing WIN Handbook requirements of conciliation prior to making the final determination that the participant has failed to cooperate or participate in the program.

Conciliation, as currently provided in the WIN program, has not been very effective. There are many reasons for this:

1. Clients are not notified that conciliation would resolve the problem and could avoid being sanctioned.

2. The notice does not specify what the problem(s) were and what specific action(s) the participant must take to achieve conciliation.

3. Participants are forced to accept the conciliation plan offered by the State agency and have no opportunity to offer their own conciliation plan.

4. There is no requirement that the notice must explain what constitutes "good cause".

5. There is no requirement that the notice inform the participant where they can obtain legal assistance in negotiating a conciliation agreement with the state agency.

6. There is no requirement that the state agency inform the participant that they have successfully completed the conciliation plan.

Many states use the conciliation process as a means of placing participants on "probation". For example a participant fails to keep one appointment. The proposed conciliation plan is that the participant shall keep all appointments and do all things that the State agency tells them to do. If they fail to keep an appointment, even with good cause, they are sanctioned because they violated their "probation". This type of state agency abuse can break up a family and cause irreparable harm to the children of the family.

The purpose of the AFDC program is to provide assistance to children. Many state welfare agencies act that the purpose of the AFDC program is to punish the children for what their parents do, which most people call. "child abuse".

RECOMMENDATION

Amend §438(a) to read:

(a) Prior to a determination pursuant to section 402(a)(19)(F) that an

individual has refused to participate under this part without good cause, the State agency shall exhaust all efforts towards conciliatory resolution of the dispute before a final determination is made in a first instance. The state agency shall inform the individual, in writing, the following: (a) What constitutes "good cause" when notifying the individual that an issue exists concerning his or her refusal to cooperate or participate. (b) The notice shall clearly specify the action(s) that resulted in the unresolved issue. (c) A proposed conciliation plan, which shall be directly related to the issue(s) for which the notice of intended deregistration is going to be issued. (d) Inclusion of the names and addresses of the local legal aid and welfare rights office, if any, who can assist the individual with conciliation. The purpose of this effort is to encourage the participant to continue in the program under this part.

The conciliation efforts shall last no more than 30 days. If the individual refuses to meet the conditions of the conciliation plan without good cause, the state agency may terminate the plan earlier. Upon meeting the agreed conciliation plan, the state agency shall inform the participant of his or her successful completion of the plan in writing."