92d Congress
2d Session

CONFIDENTIAL COMMITTEE PRINT

21

STAFF DATA WITH RESPECT TO

ADDITIONAL ISSUES CONCERNING EMPLOYMENT PROGRAM AND WELFARE

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

MAY 31, 1972

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE
78-551 WASHINGTON : 1972

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A. HOURS WORKED AND WAGE OF GOVERNMENT EMPLOYEES UNDER EMPLOYMENT PROGRAM IF MINIMUM WAGE IS RAISED

The Committee has agreed that if the Federal minimum wage remains at $1.60 per hour, Government employees under the employment program will receive $1.20 an hour for up to 40 hours, a wage of $48 for a 40-hour week. This would provide an annual income of $2,400 for 2,000 hours worked, the same income level as that provided under H.R. 1 for a family of four. A woman with school-age children would not be required to be away from home during hours that the children are not in school (unless child care is provided), although she may be asked, in order to earn her wage, to provide after-school care to children other than her own during these hours.

Family heads in regular employment not covered by the minimum wage law, but paying at least $1.20 per hour, would receive a wage supplement equal to three-fourths of the difference between the wage paid by the employer and the minimum wage (currently $1.60 per hour). There would be no wage supplement once the employer paid the minimum wage of $1.60 per hour.

The House has passed a bill increasing the minimum wage to $2.00 and the Senate Labor and Public Welfare Committee has reported a bill raising the minimum wage to $2.20 an hour.

Staff suggestion.—It is recommended that if the minimum wage is raised to $2.00 or more, the salary for Government employment be raised to $1.50 an hour (three-fourths of an assumed $2.00 minimum wage), with maximum employment as a Government employee of 32 hours per week. The wage supplement for jobs not covered by the minimum wage would apply only to jobs in which the employer pays at least $1.50; the supplement would equal three-fourths of the difference between the wage paid by the employer and $2.00 per hour. No wage supplement would be applicable for earnings in excess of $2.00 per hour.

B. LIMITING ELIGIBILITY TO PARTICIPATE IN THE EMPLOYMENT PROGRAM

The Committee has already agreed that a head of a household would not be permitted to participate in the employment program as a $1.20 per hour Government employee if he or she—

1. is a substantially full-time student;
2. is a striker;
3. is receiving unemployment compensation;
4. is a single person or is a member of a couple with no child under age 18 (or under age 22 and attending school full-time); or
5. has left employment without good cause during the prior 60 days or (at the discretion of the administering agency) has been discharged for malicious misconduct within the prior six months.

In addition, a family would be ineligible if it has unearned income in excess of $300 monthly.

Limitation on participation if employed elsewhere.—The Committee has discussed the question of limiting an individual's eligibility to work for the Government at $1.20 per hour if he or she has other employment. A limitation based on earned income would have the disadvantage (as under the present welfare system) of discouraging outside work, encouraging failure to report outside earnings, and requiring some kind of policing mechanism to verify information supplied by participants. On the other hand, a limitation based on hours worked would avoid most of these difficulties.

Staff suggestion.—It is recommended that individuals with some regular employment (1) be guaranteed an opportunity to work a total of 40 hours a week, and (2) at the discretion of the local Federal Employment Corporation agency, that they be permitted (if work is available) to combine regular employment and Government employment up to a total of 60 hours weekly.

Overall income limitation.—If the Committee wishes to place an overall income limitation on eligibility to participate in the employment program as a Government employee at $1.20 an hour, it is recommended that this overall limit be set at $5,600, with total economic income counted rather than only income as defined under the Internal Revenue Code.

C. TAX CREDIT TO DEVELOP JOBS IN THE PRIVATE SECTOR

Under present law, an employer hiring a participant in the work incentive program is eligible for a tax credit as a way of developing employment opportunities in the private sector. The tax credit equals 20 percent of the employee's wages during the first 12 months of employment, with a recapture of the credit if the employer does not retain the employee for at least 1 year in addition (unless the employee voluntarily leaves or is terminated for good cause).

The identical provision is not practical for the employment program proposed here; enrollment in the program is so easy that it

would be a simple matter for employers to cycle employees of virtually any salary through the Corporation in order to obtain a tax credit. A more limited form of the tax credit approach could be retained, however, as a method of encouraging job creation in the private sector. The Committee might wish to consider these kinds of limitations:

1. The credit might apply only with respect to individuals who have been working for the Corporation for at least 3 months.
2. The credit might not be applicable with respect to more than 10 percent of all employees of the employer in any 1 year (though he would always be permitted to take the credit for at least one employee).
3. The credit would not be available in cases where an employee is discharged and replaced by another employee who formerly worked for the Corporation.
4. The credit might not exceed $800 in the case of any one employee (20 percent of $4,000, approximately the amount of annual earnings at $2 per hour).

It should be noted that the new provision in the tax law permitting parents with income of less than $18,000 to deduct the cost of household help should also aid to some extent in creating employment opportunities. The Committee may wish to consider increasing or removing this income limitation in order to create additional job opportunities for domestics.

D. ADMINISTRATION OF ELEMENTS OF THE EMPLOYMENT PROGRAM

Government employment and placement.—The Committee has decided that Government employment under the employment program would be administered by a new agency (whether called a Federal Employment Corporation or something else) whose goals would be (1) to improve the quality of life of the children of participating families, (2) to place participants in unsubsidized or subsidized regular employment, and (3) until this is possible, to serve as temporary employer of participants with the objective of preparing participants for and placing them in regular employment at the earliest possible time.

On the national level, the Corporation would be headed by a 3-man board appointed by the President with the advice and consent of the Senate. Liaison with other agencies would be maintained through an inter agency committee, and a 15-member national advisory committee (with representatives from industry, organized labor, State and local government, nonprofit employers, social service organizations, minority groups, etc.) would make policy recommendations to the board.

The actual operations of the Corporation would be locally based, with the bulk of the local employees being persons who are currently participating or who were former participants in the employment program. On the local level, the Corporation would be organized along

the same lines as the national office. Coordination with other local service agencies, local government, and local employers, labor organizations, etc., and their cooperation would be critical to the success of local operations.

The local Corporation office would hire individuals applying to participate, would develop employability plans for participants, attempt to expand job opportunities in the community, arrange for child care and other supportive services needed for persons to participate, and operate programs utilizing participants which are designed to improve the quality of life for the children of participants in the employment program.

Ten percent work bonus and wage supplement payments.—It is recommended that the 10 percent work bonus program be administered by the Internal Revenue Service and that the wage supplements for persons working in jobs not covered by the minimum wage be administered by the local employment service offices. Such an assignment of administrative responsibilities would take advantage of the relationships and information already obtained by these agencies, and would have the advantage of not dealing with individuals administratively through the Federal workfare agency if they are not Government employees.

In any case, it is suggested that the 10-percent work bonus be administered by the Internal Revenue Service since it will involve payments to several million people who have never been associated with the welfare system.

E. CHILDREN OF MOTHERS REFUSING TO PARTICIPATE IN THE EMPLOYMENT PROGRAM

Present law.—The Federal statute provides that if a welfare recipient refuses without good cause to participate in the Work Incentive Program or refuses an offer of employment, the person making the refusal may no longer be considered a part of the family for welfare purposes. Thus for example a family consisting of a mother with three children would receive a welfare payment as a three-member family (rather than as a four-member family) if the mother refused work or training. However, for a period of 60 days a State may continue payment to the mother if during this period she receives counseling or other services aimed at persuading her to participate in work and training. Protective payments may be made on the childrens' behalf to another individual who is interested in or concerned with the welfare of the children.

H.R. 1.—The House bill would reduce a family's welfare payment by $800 if the family head refuses to register or to accept work or training.

Employment program.—Under the Committee's employment program, about 40 percent of the present AFDC families would have to

obtain their basic source of income from employment. One criticism that has been leveled against the Committee approach is that children would be cut off from any source of income if a mother is no longer eligible for welfare and does not find a regular job or choose to participate in the employment program. Although it is assumed that this will happen only in a small number of cases, the criticism has strong emotional appeal.

A possible approach.—The Committee may wish to consider an approach based in part on present law. Under this approach, in a case of potential child abuse or neglect comes to the attention of welfare officials, a family could receive welfare benefits for up to 2 months if the mother is provided counseling and other services aimed at persuading her to participate in the employment program. Following this, the mother would either have to be found to be incapacitated under the Federal definition (that is, unable to engage in substantial gainful employment), with mandatory referral to a vocational rehabilitation agency; or, if she is not found to be incapacitated, the State could arrange for protective payments to a third party to provide for the needs of the children.

F. PUERTO RICO

There are special problems in applying the guaranteed job opportunity program to Puerto Rico: First, while the Federal minimum wage law applies in the Commonwealth, there is a special provision under which about half the workforce that would otherwise be subject to the $1.60 wage is subject to a variety of lower rates set by industry committees, ranging from about 60 cents to $1.60. Second, the average per capita income on the island is substantially lower than that on the mainland, so that providing the same type of guarantee might have a substantially adverse effect on the economy. Third, the island has an extremely high rate of unemployment, over 12 percent.

All three factors make a wage supplement program particularly difficult to implement and the Committee may wish to consider not having a wage supplement in Puerto Rico. It is suggested that the guaranteed job should carry an income substantially less than that for the mainland—based on 75 percent of the lowest industry committee rate applicable to a significant percentage of the population under today's wages, this would represent about $0.50 per hour if employed by the Government.

There is no special difficulty in applying the 10 percent work bonus to Puerto Rico.

G. SEASONAL EMPLOYMENT

The Committee has asked the staff to look into the possibility of limiting eligibility of persons seasonally employed.

Staff suggestion.—Unless a means test and earnings on an annual basis are used, it would be impossible to control the factor of seasonal earnings. The value of such tests must be weighed against the cost of administering such a program and the question of whether any means test is compatible with a workfare approach. In view of this, it is recommended that seasonal employment not limit participation in Government jobs.

2. Welfare Programs

A. WELFARE PAYMENTS FOR RENT

Present law.—In determining eligibility for and the amount of assistance given to a needy family or aged, blind, or disabled individual, a State establishes a needs standard. This standard includes an allowance for rent; some States provide a flat amount for rent in their needs standard, while other States establish a needs standard for items other than rent and then make an allowance for the actual rent paid (up to some limit).

Treatment of Public Housing Bonus.—In 1971 a provision was included in a bill extending the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages (Public Law 92–213, approved December 22, 1971). The amendment which became section 9 of the Public Law in effect amends the welfare law to prevent any welfare agency from reducing welfare payments if there is a reduction in the cost of public housing rent for welfare recipients.

Committee discussion.—In its earlier discussion of the treatment of rent, the Committee agreed to repeal the welfare amendment in Public Law 92–213 in accord with the principle that a welfare agency should not pay more than the actual cost of rent in its allowance for shelter needs. The Committee also asked the staff to look into the matter of making vendor payments to landlords for the cost of shelter; the New York State Inspector General has stated that substantial savings could result if payment was made directly from the welfare agency to the public housing agency in the case of recipients living in public housing.

Staff suggestion.—If the Committee wishes to consider permitting vendor payments for rent under the welfare program, it is recommended that:

1. States be permitted to make vendor payments to public housing agencies on behalf of welfare recipients living in public housing; and
2. The welfare agency be permitted to make a vendor payment for rent directly to a landlord provided that (a) the welfare

recipient had failed to make rent payments for two consecutive months, and (b) the landlord agrees to accept the amount actually allowed by the State to the recipient for shelter as total payment for the rent.

B. PROTECTIVE PAYMENTS

The Committee discussed making protective payments mandatory if an AFDC mother is a minor.

Elements of consideration.—The major concern of the Congress in providing for protective payments is to insure that welfare payments to families are used for the benefit of the needy children in the family. In some cases, an AFDC mother under age 18 will not be competent to handle the welfare payment she receives, and it will be desirable to make a protective payment for the sake of the child; however, there appears to be no reason to presume in the statute that mothers under 18 will not use the funds for the child's benefit.

Section 405 of the Social Security Act provides that when the welfare agency has reason to believe that the AFDC payments are not used in the best interest of the child, it "may" provide counseling and guidance services so that the mother will use the payments in the best interests of the child. This failing, the agency "may" resort to protective payments to a third party who will use the funds for the best interest of the child.

Staff suggestion.—It is recommended that section 405 be modified to require rather than permit States to take action when AFDC payments are not being used for the best interests of the child.

C. FAMILIES WHERE THERE IS A CONTINUING PARENT-CHILD RELATIONSHIP

Present law.—Under present law, Aid to Families with Dependent Children is available to children who have been deprived of parental support by reason of the "continued absence from the home" of a parent. The so-called "man-in-the-house" or "substitute father" statutes of the States were attempts to define the term "parent" under the Aid to Families with Dependent Children program for eligibility purposes. The State statutes have been varied, some emphasizing cohabitation with the mother as being determinative of the parental relation, while others have required indications of a positive relationship of the man with the child.

On June 17, 1968, the Supreme Court ruled that a State could not consider a child ineligible for Aid to Families with Dependent Children when there was a substitute father with no legal obligation to support the child. The Court decision was based on its interpretation of congressional intent as expressed in the Social Security Act and its legislative history. The decision stated: "We believe Congress intended the term 'parent' in section 406(a) of the Act * * * to include only those persons with a legal duty of support."

The implication of this decision, as made clear by subsequent cases, was that a State could not deny Aid to Families with Dependent Children even in the situation where there was a stepfather with substantial income.

Finance Committee action in 1970.—In an amendment to the 1970 Social Security bill, the Committee took the approach that a legal obligation to support was too narrow a base upon which to determine eligibility and income accountability for a welfare program for families. The Committee instead felt that the determination whether a man is a "parent" within the meaning of this term in section 406 of the Social Security Act should depend on the total evaluation of his relationship with the child, with the following being positive indications of the existence of such a parental relationship:

(1) The individual and the child are frequently seen together in public;

(2) The individual is the parent of a half-brother or half-sister of the child;

(3) The individual exercises parental control over the child;

(4) The individual makes substantial gifts to the child or to members of his family;

(5) The individual claims the child as a dependent for income tax purposes;

(6) The individual arranges for the care of the child when his mother is ill or absent from the home;

(7) The individual assumes responsibility for the child when there occurs in the child's life a crisis such as illness or detention by public authorities;

(8) The individual is listed as the parent or guardian of the child in school records which are designed to indicate the identity of the parents or guardians of children;

(9) The individual makes frequent visits to the place of residence of the child; and

(10) The individual gives or uses as his address the address of such place of residence in dealing with his employer, his creditors, postal authorities, other public authorities, or others with whom he may have dealings, relationships, or obligations.

The Committee amendment specifically stated that "such a relationship between an adult individual and a child may be determined to exist in any case only after an evaluation of the [above] factors * * * *as well as any evidence which may refute any inference supported by evidence related to such factors.*" (Emphasis added.)

Under the Committee provision, the use of this provision would have been optional with the States. If a State affirmatively exercised its

option, however, it had to comply with this statutory method in determining the child-father relationship.

Staff suggestion.—It is recommended that the Committee again approve the amendment it approved in 1970, making clear, however, that any natural parent or stepparent would meet these criteria.

3. Evaluation of Programs Under the Social Security Act (Ribicoff Amendment No. 954)

The Department of Health, Education, and Welfare has frequently contracted with outside firms and organizations to evaluate programs under the Social Security Act. A list of some of the evaluations being carried out in 1971 appears on Table 1.

Of those evaluations for which reports have been seen by the staff, some seem to be worthwhile, while others have resulted in no contribution to the sum of human knowledge. It is not unusual for a private counseling firm to receive an evaluation contract which is then assigned to a low-ranking analyst who must spend months just learning the area well enough to begin any kind of evaluative analysis. In addition, since the firm doing the evaluating is dependent upon the Federal agency for funds, it is rarely critical of the agency which is the source of its funds.

Ribicoff Amendment No. 954.—Senator Ribicoff has introduced an amendment assigning to the General Accounting Office the basic role of evaluating programs under the Social Security Act. In addition, the amendment would not permit any Federal agency to enter into a contract to evaluate any program under the Social Security Act (if an expenditure of more than $25,000 is involved) unless the Comptroller General approves the study in advance. His approval would be conditioned on his determination that:

(a) The conduct of such study or evaluation of such program is justified;

(b) The department or agency cannot effectively conduct the study or evaluation through utilization of regular full-time employees; and

(c) The study or evaluation will not be duplicative of any study or evaluation which is being conducted, or will be conducted within the next twelve months, by the General Accounting Office.

Staff suggestion.—It is recommended that Ribicoff Amendment No. 954 be approved.

TABLE 1.—EXAMPLES OF EVALUATIONS OF PROGRAMS UNDER THE SOCIAL SECURITY ACT BEING CONDUCTED IN 1971

Project title	Grantee	Project period	Total funds	Social Security Act titles
Social Security Administration Studies				
1. Evaluation of Incentive Reimbursement Experiment Conducted by the Commission for Administrative Services in Hospitals (Southern California Blue Cross).	Hospital Research and Education Trust and the University of California.	June 1, 1970–July 1, 1973	$169,069	XVIII.
2. Evaluation of the Incentive Reimbursement Experiment Conducted by the Connecticut Hospital Association.	Yale University	July 1, 1969–Apr. 30, 1973	77,473	XVIII.
3. Evaluation of Incentive Reimbursement Experiment Conducted by the Insurance Plan of Greater New York.	Harvard College	Jan. 1, 1970–Dec. 31, 1973	458,104	XVIII.
Health Services and Mental Health Administration Studies				
4. An Assessment of Child Health Care Delivery and Organization.	Minnesota Systems Research, Inc.	July 1, 1966–Undetermined	1,415,082	V.
5. Evaluation Studies on Maternal and Infant Care Projects.	University of Maryland, Baltimore.	June 1, 1961–June 30, 1973	1,218,719	V.
6. Influence of Medi-Cal on Outcome of Delivery.	Edwin H. Jackson	Jan. 1, 1970–June 30, 1972	59,752	XIX.
7. Systems Analysis of Pediatrician Efficiency.	Robert E. Cooke, Neil H. Sims	July 1, 1967–June 30, 1972	857,962	V.
8. Evaluation of Infant Group Care in New York City.	Mark Golden	Feb. 1, 1971–Dec. 31, 1976	500,000	V.
9. Evaluation of Health Services for Foster Children.	Florence Kavaler	May 1, 1971–Apr. 30, 1974	300,000	IVB, V.
Social and Rehabilitation Service Studies				
10. "HEW Day Care Center"	Thiokol Chemical Corp	June 1, 1970–June 30, 1973	165,000	IVB.
11. "A Monitoring System for Family and Child Care Services".	University of Georgia	June 30, 1969–June 30, 1973	543,000	IVA, B.

12. Evaluation of Quality Control in Public Assistance.	Westad, Inc	June 1970–October 1971	103,500	I, IV, X, XIV, XVI.
13. Earnings Exemption Incentive Study	National Analysts	April 1969–April 1971	261,600	I, IV, X, XIV, XVI.
14. Evaluation of the Social Work Education Program (Sec. 707).	Datagraphics, Inc	April 1970–February 1971	95,562	VII.
15. Medicaid Utilization Reporting System.	Scientific Resources	June 1970–March 1971	199,400	XIX.
16. Design of an Information and Display System for Evaluating Child Care Services.	AVCO	June 1971–June 1972	147,373	IVA, B.
17. Social Services Effectiveness Study	Booz-Allen	June 1971–June 1972	213,000	I, IV, X, XIV, XVI.
18. Compliance Monitoring System for Social Service Programs.	University of Georgia	June 1971–September 1972	300,000	I, IV, X, XIV, XVI.
19. Cost Analyses of Social Services	Touche-Ross	June 1971–May 1972	243,000	I, IV, X, XIV, XVI.
20. Pretest of Government Social Services.	State of Virginia, Human Resources Planning.	June 1970–June 1971	50,000	I, IV, X, XIV, XVI.
21. Purchase of Social Services by States	Booz-Allen	June 1970–June 1971	51,100	I, IV, X, XIV, XVI.
22. Study of Community Development Activity in the Social Service System.	National Association for Community Development.	June 1970–June 1971	50,000	I, IV, X, XIV, XVI.
23. Study of Cost and Output of Graduate Social Work Education and An Exploratory Study for the Deans' Committee of the Western Interstate Commission on Higher Education.	Cooper & Co	May 8, 1969–Nov. 20, 1970	105,086	VII.
24. Study of Organizational Climate and Structure on Social and Rehabilitation Workers and Work Performance.	Manpower Science Services, Inc	June 30, 1970–Apr. 30, 1972	78,917	VII.
25. Assessment of Title VII, Section 707 Program.	Synetics Corp	May 1, 1970–Apr. 30, 1972	105,385	VII.
26. Earnings Exemption Study	National Analysts, Inc	Apr. 16, 1969–Oct. 31, 1971	379,600	I, IV, X, XIV, XVI.
27. DSSH-Kaiser Health Plan Evaluation Project.	Department of Social Services and Housing, Honolulu.	July 1, 1971–Dec. 31, 1972	144,511	XIX.
Department of Labor Studies				
28. Supportive Services in Four Manpower Programs.	Camil Association	June 1971–July 1972	178,000	IVC.
29. Longitudinal Study in WIN	Auerbach	July 1969–July 1972	1,500,000	IVC.
30. The Development of Guidelines for Referral of AFDC Recipients to WIN and Related Manpower Programs.	Institute for Interdisciplinary Studies.	June 1969–June 1972	691,000	IVC.

4. Problems With the Implementation of the Talmadge Amendment to the Work Incentive Program

The Committee has received several communications from State officials who are worried about Labor-HEW plans for implementation of the Talmadge Amendment. One Federal official is quoted by them to the effect that "the Talmadge Amendment can be used to advance the overall goals and strategy of the federalization elements of H.R. 1." Although the staff has not had the opportunity to study in depth the voluminous manuals prepared by HEW and the Department of Labor, there seems to be some substance in such a conclusion. This is also borne out by communications from State officials.

1. Appropriations request.—Although the Talmadge amendments go into effect in just one month, the appropriations request for the WIN program for fiscal 1973 has not yet been transmitted to the Appropriations Committee. It is our understanding that the request was sent many months ago by the Department of Labor to the Office of Management and Budget. Mr. Shultz, at the confirmation hearing, stated that he would try to find out what had happened to the request.

A similar situation occurred in 1968 when the WIN request was delayed by the Executive. Later, the Labor Department stated that one of the reasons for the slow start of WIN was Congressional failure to appropriate funds promptly.

Obviously, the States can do little planning as to the nature and extent of their WIN programs without knowledge of the Administration's budget request. Moreover, although the Talmadge amendment requires that one-third of the Labor Department expenditures for WIN go to OJT and public service employment, such a requirement seems not to have been emphasized to the States in their budget planning. The New Mexico Employment Service, for instance, continues to give priority to the purchase of institutional training and adult education—the precise situation the Talmadge amendment was attempting to avoid.

2. Pilot project for H.R. 1.—Several States have complained to the Committee that the Talmadge amendments are being used as a pilot project for the implementation of the Administration's H.R. 1 income maintenance and manpower proposals.

Last year, the Auerbach Corporation had noted that essential Labor Department staff was being used for "welfare reform" planning and that this was hurting WIN. Now it appears that the Talmadge Amendment, which did not alter in the slightest the hearing process for determining good cause for failing to accept employment or participate in training, is being used as the vehicle for doing away with the State unemployment compensation referees and replacing them with Federal hearing examiners. This intent was clearly expressed in an early draft of the Labor Department manual which stated:

"The Talmadge Amendments to the Social Security Act provide an opportunity for moving in an orderly manner towards the federalized adjudication system which will be required by the proposed Welfare Reform Act (H.R. 1)." (Section 9364(1) of DOL WIN Handbook)

3. Joint planning by welfare and manpower agencies.—The cornerstone of the Talmadge Amendment is the idea that a successful WIN

program is dependent upon joint planning and the mutual cooperative efforts of the labor and welfare bureaucracies. Preliminary indications from the States are that unless strong leadership is exerted, the Talmadge Amendment may, in the words of one State official, result only "in considerable increased administrative work, tremendous amounts of paper shuffling, and little placement."

Pointing to the continuing lack of joint effort at the national level are the two separate, but voluminous, manuals prepared by the Department of Labor and by the Department of HEW, respectively. The question can be legitimately asked as to why the Executive Branch is incapable of producing one document for use of all persons working on the WIN program. Moreover, we have been informed that the two manuals are inconsistent in various respects and sometimes reflect differing philosophical approaches. One example of this is in the highly crucial area of the "certification" of welfare recipients to WIN. The Committee, in passing the Talmadge Amendment, had been concerned about the situation where in some States there have been mass "paper" referrals to non-existing training slots while in other States the manpower agencies could not get enough referrals of recipients from the welfare agencies. To remedy one problem, the Talmadge Amendment provided that there could not be paper referrals and that the people referred would have to have the day care and other supportive services that were necessary to put them to work or in training. To rectify the other problem of the old law, the Talmadge Amendment imposed a penalty of reduced Federal matching for States that did not certify 15 percent of their welfare registrants to WIN.

Admittedly in order to carry out these provisions properly, a high degree of cooperation and coordination between the agencies is necessary. The Labor Department manual, however, makes it quite clear that the manpower agencies will be calling the shots as to who will need to be "certified." Thus, it appears that the welfare agency may be in danger of loss of Federal matching because of failure of the manpower agency to call for "certified registrants." The HEW manual states plaintively:

> 54.4 *The Request for Certification Services.*—Because of the strong requirement in the legislation to have all training services related to actual labor market conditions, and to have manpower services provided to individuals in accordance with their employability potential, the decision on whom to enroll has been vested in the local representative of the Secretary of Labor. Though this means that the WIN program sponsor will have the right of determining by name who will be called for the appraisal interview and who will be certified, nothing in this provision will be interpreted as precluding a joint decision on all actions taken with respect to both appraisal and certification.

On the other hand, the Labor Department's interpretation of a joint effort is illustrated by the following statement: "The appraisal interview will be conducted jointly by WIN staff with the participation *when possible* of [welfare] staff." (Emphasis added.)

In enacting the Talmadge Amendment it was clear that the Congress was not interested in merely paper implementation and believed that real progress in improving the program was urgently needed.

4. Questionable interpretations of tye Talmadge Amendment

(a) Registration.—The Talmadge Amendment provides that "every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual" falls within one of the six specified statutory exemptions.

The Executive has interpreted this provision so that registration will be made by the welfare agency without any referral of the recipient to the employment office where some determination could be made as to the registrant's employability. The welfare agency then bundles up these forms and sends them to the manpower agency, but the registrant remains unseen by job placement personnel. Apart from the question of the apparent disregard for the intent of Congress, this paper shuffling seems to delay for a considerable period of time the ability of the employment service to put a job-ready individual to work. Before the employment office will see these registrants, they will have to go through a separate appraisal and certification process.

The staff has also been informed that although the law provides no such exemption, Federal officials have stated that no placement or training efforts will be taken with respect to individuals who have been on welfare for more than 2 years.

(b) *Loss of Federal matching.*—Section 403(c) of the act clearly provides that after June 30, 1973, the Federal share of AFDC will be reduced unless 15 percent of the average number of individuals required to register are certified for employment or training. Despite this clear language, we have been informed that Federal officials have stated that they do not intend to enforce the 15 percent requirement until after July 1, 1974. It might be noted that this date is 6 months beyond the date the Administration proposes to extend welfare benefits to new families under H.R. 1.

(c) *Ratio of OJT to public service employment positions.*—In an attempt to remedy two major deficiencies in the WIN program: (1) the lack of employment-based training; and, (2) the lack of jobs after training is completed, the Talmadge amendment provided that one-third of expenditures be for OJT and public service employment. The Labor Department's manual has gone further, however, and has established a policy administratively that there be two man-year OJT positions for every one man-year public service employment position in every State WIN manpower agency contract. The question has arisen as to whether this is an arbitrary Administration decision which should be left to the States on the basis of their own particular labor market conditions. Although OJT slots in the private sector are undoubtedly of the highest priority under the Talmadge amendments, there may be jurisdictions where the inflexible application of this provision may make it difficult for them to meet the one-third requirement.

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