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STAFF DATA WITH RESPECT TO H.R. 1

ITEMS FOR COMMITTEE CONSIDERATION

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

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(II)

CONTENTS

H.R. 1: ITEMS FOR COMMITTEE CONSIDERATION

1. SOCIAL SECURITY CASH BENEFITS

Permitting Policemen and Firemen To Terminate Social Security Coverage

Senator Tunney has introduced an amendment (printed Amendment No. 1239) which would permit State and local policemen and firemen to withdraw from social security without affecting the coverage of other public employees who are members of the same coverage group.

The amendment would also open the way to reinstatement of those employees whose coverage has already been terminated as a result of action initiated by policemen or firemen.

The Social Security Administration has no objection to the amendment.

2. MEDICARE AND MEDICAID

Assuring That Low-Income Aged, Blind and Disabled Persons Are Eligible for Medicaid Coverage if Their Medical Expenses Reduce Their Income to the Medicaid Eligibility Level

Present Law

Under present law, a State which extends eligibility for Medicaid to medically indigent persons (persons whose income is too high for them to receive welfare benefits, but low enough so that they need assistance in meeting medical costs) must extend Medicaid coverage to any aged, blind or disabled person whose medical expenses reduce his income to the Medicaid eligibility level.

For example, if a State provides cash welfare payments to an aged couple with income of less than $2,000 and provides Medicaid eligibility to aged couples with incomes below $2,400, then any aged couple with income of $2,600 would become eligible for Medicaid once their medical expenses exceeded $200.

However, in States where only cash assistance recipients are eligible for Medicaid, States are not required to extend eligibility to low-income aged, blind and disabled persons whose medical expenses reduce their income to the welfare eligibility level.

Problem

In States which extend Medicaid eligibility only to aged, blind and disabled persons who are welfare recipients, a social security benefit increase which makes an individual no longer eligible for welfare may also terminate his eligibility for Medicaid. The principal Medicaid benefit loss for aged persons in such cases relates to care in skilled nursing homes, intermediate care facilities, and mental hospitals, since their other health care financing items are generally met through Medicare.

Provision in H.R. 1

It was apparently the intent of the Ways and Means Committee to require States to extend Medicaid coverage to low-income aged, blind and disabled persons whose medical expenses reduce their income to the Medicaid eligibility level. However, the pertinent provision in H.R. 1 is not clearly drafted and the Department of Health, Education, and Welfare feels that the language in the bill does not provide a sufficiently clear mandate for the Department to be able to require States to extend Medicaid coverage in this way. The Department estimates that such a provision would increase the Federal share of Medicaid costs by about $265 million.

If the committee wishes to require States to extend Medicaid coverage to aged, blind and disabled persons if their medical expenses reduce their income to the Medicaid eligibility level, it is suggested that the provision of H.R. 1 be redrafted to make clear this intent.

Preventing Paying for Medical Care Under the Cash Welfare Programs

Present Law

The Social Security Amendments of 1965 consolidated the medical assistance portions of the various welfare programs into a new title XIX (Medicaid). The amendments contained a provision essential to this consolidation (section 121 (b)) to the effect that after a State adopted a Medicaid program or after December 31, 1969 Federal matching would not be available under the cash assistance titles for "aid or assistance in the form of medical or any other type of remedial care . . ."

Problem

The Department has interpreted the 1965 provision to prohibit only *vendor* payments for medical or remedial care under the cash assistance programs (that is, payments to the provider of care). This leaves the States with two possible methods of purchasing medical care for recipients; the Medicaid vendor payment to providers or the inclusion of the cost of the medical service in the cash welfare payment to the recipient. If States were to use the latter method on a large scale, the result would be to frustrate the congressional objective in the enactment of Medicaid which was to provide federally matched health care under that one program with its health care standards.

Heretofore, States have had little incentive to use the cash grant method of payment in lieu of a Medicaid vendor payment, although there is some evidence that a few States have used the cash grant device to avoid application of Medicaid standards to some substandard nursing homes and intermediate care facilities. With the improvement of enforcement of skilled nursing facility standards now underway, and with the development and enforcement of Federal standards for intermediate care facilities, this occasional and scattered practice of paying for medical care through the cash grant programs could become a large and widespread problem. If a significant number of substandard skilled nursing facilities or intermediate care facilities wished to avoid the burden of correcting their deficiencies, they could simply withdraw from the Medicaid program and virtually force

the State agency to continue the support of the patients in the homes by adding the cost of care to the patients' monthly welfare payments.

Proposal

The staff and the Department suggest inclusion of an amendment precluding Federal matching for that portion of any money payment which is related to institutional medical, remedial or other care which is (or could be) included under the Medicaid program.

Coverage of Drugs Under Medicare: Inclusion of Three Additional Therapeutic Categories

Committee Amendment

The committee-approved outpatient drugs benefit covers drugs which are (a) necessary in the treatment of chronic diseases of the elderly, and (b) generally subject to use only by those with specified chronic illnesses.

Problem

In originally presenting to the committee the common chronic conditions of the elderly and the list of drugs which was specific to the treatment of those diseases, the staff utilized material from the HEW Task Force on Prescription Drugs, developing what was originally an illustrative list of conditions and therapeutic categories of drugs used in the treatment of these conditions. Because of the desire to construct a "tight" drugs benefit, the committee agreed that rather than include illustrative therapeutic categories in the law, covered categories should be specified. The list, however, did not contain three categories of drugs which, although less commonly used than the others, do meet the general criteria for inclusion as a therapeutic category: that is to say they are necessary in the treatment of chronic conditions of the elderly, and they are not generally subject to use by others.

Staff Suggestion

The staff suggests adding anti-Parkinsonism agents, anticonvulsants (except for Phenobarbital) and cholinesterase inhibitors to the list of covered drug categories. These drugs are used in the treatment of Parkinsonism, Epilepsy and Myasthenia Gravis.

These three categories of drugs are relatively infrequently used and although their cost to the individual patient can be high, the cost of adding them to the covered drug categories would not change the overall cost estimate for the amendment.

3. AID TO THE AGED, BLIND, AND DISABLED

Additional Penalty for Supplying Drugs to Addicts

The committee has agreed to make drug addicts ineligible to receive welfare payments under aid to the aged, blind and disabled or under Aid to Families with Dependent Children. Instead, a separate program of care and treatment for drug addicts would be established under a new title XV of the Social Security Act.

Staff Suggestion

The committee may wish to consider adding a provision to penalize persons who supply drugs to addicts receiving treatment and care under the new program established by the committee bill. Specifically,

the committee may wish to provide that any person convicted, found guilty, pleading guilty, or pleading *nolo contendere* to a charge of obtaining, providing, or procuring drugs for the use of any person who is, was, or may be receiving services or payments under the new title XV of the Social Security Act would, in addition to any other penalties provided by law, have an obligation to the Federal Government in an amount equal to the cost of services and payments made to the addict under title XV. The obligation would be collected in the same way as the child support obligation created under Aid to Families with Dependent Children in the committee bill.

4. WELFARE AND WORKFARE

Limiting Federal Funds for Social Services

Committee Action on H.R. 1

In its action on H.R. 1, the committee agreed to limit social services expenditures in three ways:

1. *Social services defined.*—The committee bill lists the specific social services for which Federal matching will be available.

2. *Limit on funds for social services.*—Under the committee bill, all child care and family planning services would continue to be matched on an open-ended basis, and child welfare services would continue to be a separate Federal grant program. With these exceptions, Federal funds for all other social services in both the adult and AFDC categories would be limited to not more than $1 billion annually beginning in fiscal year 1973. The Federal funds appropriated for social services would be allocated among the States on the basis of total State population. Any funds which were allotted but not used by one State could be reallotted among the other States.

3. *Federal matching percentage.*—The committee bill would replace the present open-ended 75 percent matching for social services with a program of grants to States for social services. Under the committee amendment, Federal matching for social services beginning January 1973, would be the same as Federal matching for Medicaid (which ranges from 50 percent to 83 percent, depending on State per capita income), with two differences: (a) Federal matching would not exceed 75 percent, and (b) for the 12 months of calendar year 1973, the Federal matching percent would not be below 65 percent even if the Medicaid matching rate is below 65 percent.

In addition to these limitations, the committee agreed to make it optional with each State whether or not the administration of social services would be separate from the administration of cash assistance.

Committee Amendment to Revenue Sharing Bill

In its action on the revenue sharing bill, the committee adopted a different approach to limiting social services. Under the committee amendment, open-ended 75 percent Federal matching would continue to be available only for child care and family planning services; not more than 12½ percent of all Federal funds for these two services could go to any one State. Child care services covered by this provision would be limited to those needed to enable a member of the

family to work, take job training or provide necessary supervision for a child whose mother is dead or incapacitated. Federal matching would also be available for services to participants in the Work Incentive Program, as under present law. Generally, these would be the only services receiving any Federal funds under the welfare titles of the Social Security Act.

For the period between July and December 1972, the committee adopted a special transitional provision which will benefit those States which now have somewhat larger social service programs by permitting them to maintain their programs at the present level until the end of December 1972. Specifically, for the last 6 months of calendar year 1972, the State government is to receive (other than for child care and family planning services) the higher of (a) its share of $500 million distributed among States on the basis of urbanized population, or (b) 75 percent of the cost of providing social services between July and December 1972, excluding the cost of any new social services provided after August 9, 1972, and also excluding the cost of any expansion of on-going programs after August 9, 1972.

Staff Suggestion

The committee may wish to consider modifying the social services provision of H.R. 1 in view of the committee amendment to the revenue sharing bill.

Welfare Benefits for Strikers

The committee bill excludes from eligibility to participate in the guaranteed employment program any individual who is a striker. This qualification does not apply to any employee who is (1) not participating or directly interested in the labor dispute, and (2) does not belong to a group of workers any of whom are participating in or financing or directly interested in the dispute. The disqualification also would not apply to employees of suppliers or other related businesses which are forced to shut down or lay off work because of a labor dispute in which they are not directly involved.

Under the committee block grant approach to Aid to Families with Dependent Children, the committee felt it unnecessary to preclude benefits to strikers under AFDC.

If the committee wishes to reconsider the matter, it may wish to consider amending present law, even before the workfare program goes into effect, to preclude Federal participation in any welfare payments to the families of strikers. In addition, the Federal Work grant could be reduced by the amount of AFDC payments made by the State to strikers and their families.

Providing Welfare Payments for Certain Members of an AFDC Household

Present Law

Under present law, a State agency may include within the household of a child receiving AFDC "any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid" (section 402 (a)(7)).

Staff Suggestion

It is recommended that in recasting the AFDC statute, welfare not be extended to any member of the household who is not (1) a relative of the child or (2) a brother or sister of the child and under age 18 (or under 21 and attending school full time).

Permitting States To Require Periodic Reapplication for Welfare Benefits

Present Law

Under present regulations of the Department of Health, Education, and Welfare, States are supposed to redetermine the eligibility of each AFDC case at least once every 6 months. However, this is largely pro forma requirement, handled routinely by mail.

H.R. 1

Under the Family Assistance program established by H.R. 1, every family which has received benefits for 24 consecutive months would have to reapply and be eligible for benefits at the time of reapplication in order to continue receiving benefits.

Staff Suggestion

It is recommended that States be permitted to require reapplication for Aid to Families with Dependent Children, if they so wish, once every 2 years (or less frequently).

Puerto Rico, Guam and the Virgin Islands

Present Law

Under present law, Puerto Rico, Guam, and the Virgin Islands do not qualify for the same open-ended type of welfare funding applicable to the 50 States and the District of Columbia. The Social Security Act (section 1108) contains specific dollar limitations on the amount of Federal funding which may be provided for welfare payments and social services in these jurisdictions, as shown in the table below:

	Puerto Rico	Guam	Virgin Islands
Cash welfare payments and social services	$24,000,000	$1,100,000	$800,000
Family planning and services to participants in the Work Incentive Program	2,000,000	90,000	65,000
Total	26,000,000	1,190,000	865,000

Staff Suggestion

If the committee does not wish to increase the limit on Federal welfare funds for Puerto Rico, Guam, and the Virgin Islands, it is recommended that these jurisdictions be exempted from the provision in the program of aid to the aged, blind and disabled requiring minimum payment levels.

Correcting an Inconsistency in Workfare Eligibility Requirements

Unearned Income of Participants in the Guaranteed Employment Program

In its earlier action on H.R. 1, the committee decided to permit family heads to participate in the guaranteed employment program if the family has unearned income of less than $300 per month ($3,600 on an annual basis). The committee also decided that no family head could participate in the guaranteed employment program if family income exceeds $5,600 a year. Since a participant may earn $2,400 annually under the guaranteed employment program, the $300 per month limit on unearned income is inconsistent with the overall limit of $5,600 on family income.

Staff Suggestion

It is recommended that the limit on unearned income be set at $250 per month ($3,000 on an annual basis) in order for a family head to be eligible to participate in the guaranteed family program.

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