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ANALYSIS OF PUBLIC WELFARE PROVISIONS of HR 12080

The public welfare provisions of H.R. 12080 are intended, according to the House Ways and Means Committee Report (House Report #544), to reduce welfare rolls by encouraging self-support and by reducing the incidence of illegitimacy. The Bill is a marked departure from the Administration Bill, H.R. 5710, which began a modest move toward implementing the recommendations of the 1966 Public Welfare Advisory Council, "Having the Power, We Have the Duty."*

The major provisions of H.R. 12080 can be divided into the following areas:

WORK PROVISIONS

In order to receive federal matching funds for AFDC, state agencies (1) must require that out-of-school youth over 16 and all adults in AFDC families register for employment and accept any bona fide offer of work that they are able to "engage in," even if wages fall below legal minimums; (2) must investigate the employability of every individual in the AFDC caseload at least once yearly; (3) must provide community work and training programs (Section 409 of the Social Security Act, as amended in 1962) throughout the state; and (4) must require that out-of-school youth and adults in AFDC families participate in such work and training programs when employment is not available.

> Penalties for refusal to work or engage in training programs without due cause: (1) AFDC payments may be denied or suspended; or (2) payments may continue in behalf of children only (i.e. no payments to adults) if (a) they are paid to an "interested party" who will assure that money is spent only in behalf of children; or (b) they are converted to vendor rather than cash payments. Some experts interpret the Bill to mean that "refusal to work" is synonymous with child neglect, and that juvenile courts might be pressured to use this as the sole reason for a finding of neglect, which in turn, would result in the child's removal from home. This is not what the Bill says, but experience with public assistance laws and regulations shows that they are exploited in some jurisdictions to control families through threat of separation.

* The major recommendations of the Advisory Council Report: (1) extend aid to all needy persons, irrespective of family composition, employment, etc. through one program; (2) set a national standard of assistance, adjusted only to reflect regional variations in consumer price indexes; (3) establish a legally enforceable right to certain basic social services; (4) finance the program by establishing a reasonable and equitable state share yearly, and meeting all other costs through federal funds.

Safeguards: (1) for the first time, HEW has responsibility for defining when an adult "is available" for employment, i.e. HEW must set standards (e.g. health, child care arrangements, etc.) for determining who is employable; (2) day care for children must be assured for employed AFDC mothers or those in training programs. (Federal standards for day care are provided). (3) 30 day emergency assistance can be provided when assistance is denied.

Relevant facts: A number of states require that assistance be denied or discontinued whenever employment is available, and some others deny aid to employable people whether or not work is available in the area. These provisions are particularly geared toward seasonal labor. The practive of encouraging AFDC mothers to work is widespread, and aid has always been denied in some jurisdictions when welfare workers consider the adult caretaker of children employable. Experience to date with work and training programs provides evidence that many older AFDC youth and adults are not readily employable (about 80 percent), and that to make labor force participation feasible, considerable dental, medical and social services, basic education, and job training are necessary. Day care is in very short supply in the U. S., and it is unlikely that such services can be organized sufficiently promptly to protect children if mothers are quickly forced into work or training. One important chronic reason for high relief rolls is the scarcity of unskilled jobs, so it is possible that H. R. 12080 can only accomplish its self-support goals if the federal government also embarks on a full employment policy, a public works program, or their equivalent. Only 12 states now have statewide community work and training programs, and there is evidence that many states will have difficulty organizing effective statewide programs quickly.

ILLEGITIMACY

H. R. 12080 intends to reduce the incidence of illegitimacy by (1) reducing the coverage of absent parent families by AFDC (see p.5 for detailed discussion); (2) encouraging the removal of children from neglectful homes (illegitimacy is cited as particular evidence of neglect; (3) extending the circumstances in which foster home care can be reimbursed from federal funds, and increasing federal matching rates; and (4) requiring states to provide statewide family planning services to be brought to the attention of all AFDC mothers or mothers likely to become eligible for AFDC.

Safeguards: Mothers are not to be forced to accept family planning.

Relevant facts: The proportion of illegitimate children receiving AFDC is estimated at about 20 percent and has increased in recent years, from 14 percent in 1959. All states have protective statutes in which neglect is defined to include promiscuity and other immoral behavior of parents. Courts have insisted, typically, that a finding of neglect rests upon tangible evidence of gross neglect, and seldom view out-of-wedlock births as sufficient alone. Foster home care is expensive, and at present states pay most of the cost. They have long urged federal participation in these costs. At present, only 26 states have AFDC-foster care programs, covering only 7,900 children. Longitudinal studies show that when families are broken up by the removal of children or the imprisonment of parents for neglect, the majority do not reunite, partially because of the scarcity of social workers to help in the process. The majority of illegitimate children are supported privately, and there is no factual evidence that treating AFDC children as a special group could reduce the overall incidence of illegitimacy; nor is there any evidence that threatening to deny aid or to remove children, or carrying out the threat, reduces the incidence of illegitimacy.

AFDC-UP (UNEMPLOYED PARENTS PROGRAM)

H.R. 12080 establishes a federal definition of "unemployed parent", which was previously the province of states. It includes only fathers, requires a significant attachment to the labor force, imposes a waiting period of 30 days before unemployed fathers could apply for assistance for their families, and excludes all families receiving unemployment compensation.

Relevant facts: This definition would cause a cut-back in the caseload of all 22 state AFDC-UP programs now in existence. At present AFDC covers only about 1/5 of the families below the poverty line of $3,400 for an urban family of four. The 1966 Public Welfare Advisory Council Report suggested expanding coverage to all needy families, irrespective of employment. H. R. 5710, the Administration Bill recommended merely that AFDC-UP be made permanent.

NON-SUPPORT PROVISIONS

H.R. 12080 requires that state agencies organize and implement programs to establish paternity of illegitimate children and secure support from their fathers, and implement programs to secure support from fathers of abandoned children in whose behalf an AFDC grant is sought or given. To this end, federal public welfare funds are to be used to match the costs of necessary law enforcement and court services.

Relevant facts: States have previously been required to notify law enforcement officials whenever aid was requested in behalf of an abandoned child. Previously, public welfare funds have not been available to match the costs of law enforcement agencies or courts, nor has HEW felt it proper for public welfare agencies to take over law enforcement responsibilities. However, welfare workers have always been responsible for verifying and investigating the ability of relatives to support families applying for or receiving AFDC, and this task commonly preoccupies a large share of the workers' time. Vigorous law enforcement does increase support payments; it also discourages families from applying for public aid; and it puts an additional emotional strain on families already severely pressured from many directions.

WORK INCENTIVES

H.R. 12080 requires that all states disregard all earnings of AFDC youth under 16 years of age, part-time earnings of school youth between 16 and 21, and the first $30, as well as 1/3 of the remaining portion of monthly earnings of adults, whenever agencies are determining the size of the grant for eligible families.

Relevant facts: Both the ESEA (Elementary and Secondary Education Act) and the EOA provide that for persons engaged in projects funded under those Acts, and also receiving public assistance, the first $85 plus one-half of the excess over $85 monthly shall be disregarded for purposes of determining eligibility for public assistance. H.R. 5710 provided for "disregarding" $50 monthly of the earnings of children and adults, subject to a family maximum of $150 monthly. Even with this more generous amount, there is an incentive for AFDC families to engage in ESEA or EOA projects rather than to enter the regular labor force.

Incentives of this type have proven effective in enabling and encouraging employment. The disregarding of earned income provision in H.R. 12080 is applicable only to persons who already are receiving assistance. Thus, applicants who went to work before applying for assistance have all of their income and resources taken into account, while families who have a member who goes to work from the assistance rolls have their earned income disregarded in the stated amounts. It is, therefore likely, that the provisions could discourage work among potential applicants for AFDC, thus serving to increase the caseload in two ways.

SOCIAL SERVICES

H.R. 12080 transfers child welfare services in behalf of AFDC families or families likely to need AFDC from Title V to Title IV of the Social Security Act, and requires that state agencies establish family planning and day care programs, as well as other services intended to enhance the capacity for self-support and to reduce the incidence of illegitimacy. Until July 1, 1969, the Bill increases federal matching rates for such services from 75 to 85 percent. Services may be organized by public welfare or purchased from voluntary and other agencies, and still receive federal matching.

Advantages: While cost accounting problems will be legion, transferring such services to Title IV (when they are provided to AFDC families or those likely to need AFDC) greatly increases federal funds for statewide social services, since Title IV grants-in-aid are open-ended and have more generous matching features. However, this change will result in more services only if states are willing and able to raise their share of the cost initially, and since H.R. 12080 imposes other financial burdens on the states, they may not locate funds for this purpose. Purchase of services has the potential for bringing a much wider scope of quality services to very poor families, assuming states can afford to meet the initial cost.

Dangers: Associating social services and financial aid increases the likelihood that services will be used to control families, force them into the labor market, etc. rather in the wide variety of constructive ways they are intended for. In August 1967 HEW announced a reorganization which separated assistance payments from social services in line with the conviction of many experts that mixing the two harmed and limited both. The Advisory Council Report recommended that all people have a legally enforceable right to receive certain basic social services. The Report was moot on the question of purchase of services. However, the Council contemplated that services would be organized on a community-wide basis, rather than for AFDC or other poor families as might well occur under H.R. 12080.

CEILING ON ABSENT PARENT SEGMENT OF AFDC CASELOAD

H.R. 12080 prohibits the use of federal matching funds in behalf of absent parent families* in excess of the number in state AFDC caseloads as of January 1967, except as the increased caseload reflects the increased general population in states. States would still be required to assist all eligible families, but when the number exceeded the ceiling, federal matching would no longer be available.

Relevant facts: Every year more children are being raised by mothers alone, so this segment of child population is growing more rapidly than the child population, generally, or the general population. See Mollie Orshansky, SOCIAL SECURITY BULLETIN, April 1966. Cutting off federal matching shifts the expense of supporting new eligible families to the states as soon as ceilings are exceeded (which most are by now). Unless states can promptly appropriate additional funds, two adaptations are inevitable: states will reduce their standards of need (the cut-off point that separates needy from other families) so that present funds can cover the rising caseload, or accomplish the same result by decreasing the percentage of the standard actually paid to families; secondly, they will take steps to restrict eligibility in order to reduce families of all types in the caseload, e.g. instead of following former federal leadership by extending AFDC to school youth up to 21 years of age, they may well reduce age. Since the intent of AFDC is to support very poor families so that children can remain in school, and have a reasonable chance of securing the food, clothes, lodging, and other necessities of life that they need to grow into productive, effective adults, any shift in federal financing that limits the program without providing equivalent alternatives must be viewed in the long-range context. H.R. 12080 provides that states can shift some general assistance cases to AFDC, but statistically this number will be insignificant as compared with the effect of the ceiling on absent parent families. H.R. 12080 is unlike most SSA amendments in providing no relief to states in terms of higher federal matching for assistance payments, and since payments are low ($36.95 per person monthly), and living costs rise, states must also make adjustments in this area unless they are to fall even further behind the inadequate levels of payment now existing.

While federal matching in H.R. 12080 improves remarkably in some service areas and includes others for the first time in the open-ended AFDC reimbursement formulae, as well as covering additional children from general assistance and foster home situations, thus freeing some state funds, the new requirements will force many states to spend money for purposes they have hitherto neglected. They may be tempted to lower standards of need or to pay lower percentages of their standards unless they are among the fortunate few where decreases in child population can be anticipated.

*An "absent parent family" may be a family in which the father is deceased or disabled. Such families would not and do not normally produce additional children eligible for assistance. In the main, therefore, this provision is directed toward illigitimate children and the term, in this sense, becomes a legal euphemism.

To prevent this possibility, H.R. 12080 would have to include provisions to prohibit states from lowering standards of need or the percentages of their standards actually paid to families, and require that they maintain at least the present ratio of the standard to some given cost of living index.

Freezing the absent father caseload will discourage states from extending age limits in AFDC for school children up to 21 years of age, providing services to more "potentially dependent" families, or otherwise following federal leadership in widening eligibility. Conversely, it may encourage them to restrict eligibility.

Over the years federal leadership and the concern of the U.S. Congress have resulted in extending eligibility for assistance and services, so that family breakdown, continued dependence, and other social ills would not be encouraged by AFDC. Although some states were well in advance and others followed promptly, many lag in adopting possible extensions.

Whenever definitions or other provisions cut across the entire caseload, and a ceiling is placed on the most populous type of family in the caseload, the ceiling itself will act as a strong deterrent to extending the program. Age, exemptions of earned income, services to "potentially dependent" families all fall into this category as do other provisions. Each would serve, if adopted, to increase all types of families in the caseload. Indeed, so far as exemptions of part of earned income are concerned, it seems inherently illogical to add a requirement that cannot help but increase the caseload and to fix a ceiling on that caseload simultaneously. But even with the optional extensions, presumably Congress felt these were desirable preventive steps and wished states to follow its leadership. Since most states will now have exceeded the January 1967 ceiling, they may shortly be thinking of restricting, not extending, elibility. If this happens, the caseload may soon include few older youth, and alternative national programs will have to be devised to assist youth in securing the very educational and employment preparation that H.R. 12080 so emphasizes.

It should be pointed out that there is no magic in recipient rates as of January 1967. AFDC has always covered only a fraction of very poor children in the U.S. Nor is there any magic in the numbers of children in the AFDC caseload by reason of their dependency or family composition. Some states made great effort to relieve childhood poverty whatever its cause; others did not; some managed to be quite

selective, preferring certain types of families to others. A state like Mississippi with its high recipient rates will suffer less with the "freeze". But children in Georgia, Arkansas, South Carolina, and Texas, for instance, where recipient rates are low and the incidence of childhood poverty high, will suffer remarkably.

On September 30, 1966 only Arkansas among the above states had extended eligibility to children up to 21 in the event that they were in certain types of schools. The states on that date that had no immediate plan or capacity to implement either the 1964 or 1965 federal age extensions for school youth included Alaska, Arizona, Connecticut, Delaware, Florida, Georgia, Kansas, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, Oregon, Puerto Rico, South Carolina, and Texas. Since such children comprise the largest share of AFDC caseloads, the amount of money involved will be very large.