

HB

840

Research Br. 3/8

FROM

UTAH FOUNDATION

Number 77-14
August 29, 1977

30 East First South, Suite 201
Salt Lake City, Utah 84111

UTAH 'WORK FOR WELFARE' PROGRAM IS ATTRACTING NATIONAL ATTENTION

Utah's prolonged skirmish with Federal welfare officials over the state's basic philosophy that recipients of public assistance should, when possible, work for what they get, appears to be going Utah's way.

The Work Experience and Training (WEAT) program which the state funded without Federal assistance for 18 months not only has received official approval (and financial support) from the U. S. Department of Health, Education, and Welfare, but also is attracting increasing attention across the nation. Some people feel that the newest welfare proposals of the Carter administration are very much in harmony with the philosophy of the Utah program.

A recent article in U. S. News and World rt focussed national attention on Utah's WEAT program, but state officials already knew of the widespread interest in this experiment. Inquiries, seeking details about the operation of the program and its results, have been received from more than a score of states across the country, and from such organizations as the Council of State Governments and the National Conference of State Legislatures.

The belief that able-bodied people should work has been deeply ingrained in Utah tradition from earliest pioneer days. Since the development of the huge Federal public assistance programs, there have been frequent conflicts between the Utah philosophy and that of Federal administrators, depending on what administration was in power in Washington at any given time.

As recently as ten years ago, Utah's desire to require able-bodied welfare recipients to work in return for their public assistance grants ran into stiff opposition from Federal officials. Utah transferred many persons from the rolls of Federally-assisted programs to the wholly-state-funded General Assistance programs, assuming full cost of support rather than sacrifice principle.

A major break came late in 1972, with the ruling of the U. S. Supreme Court in the case of

New York State vs. Dublino. The Court held, in essence, that states may require able-bodied welfare clients to work for their grants. Many states, including Utah, immediately began studying the Dublino decision to determine its practical effect on state welfare policy and programs.

In line with this development, Utah's 1974 Legislature included in its general appropriations bill a statement of legislative intent, to:

"Require that all employable welfare recipients---primarily adult males and mothers of school-age children---must report regularly and accept jobs or job training, or take part in a community work force. Refusal will mean loss of aid. Those recipients classified as unemployable shall be exempt. If this policy is not enforceable administratively, the Department of Social Services shall prepare legislation to implement such policy.

"The Department of Social Services is authorized to transfer funds between programs to implement such policy."

The department thereupon set about establishing what has become the Work Experience and Training (WEAT) program. It applies to the Federally-supported Aid to Families with Dependent Children (AFDC), largest of the government's public assistance programs, and to the state's own General Assistance program which is outside Federal regulation. The Aid to Families with Dependent Children program has its own Work Incentive (WIN) program designed to put welfare clients to work. This program, heavily criticized in its earlier years when it was strongly training-oriented, appears to be much more successful recently as the accent has been shifted to job-placement. In any event, the WEAT operation is careful to avoid interference with the Federal WIN program.

It is mandatory for adults seeking aid under AFDC to register for the Work Incentive (WIN) program unless they are automatically exempt from work requirements (e.g. those who are physically disqualified, mothers with children under six years of age). WIN registrants are appraised by a special team composed of people

ily Services Division, and are assigned to one of three categories: full-time work, "components" for client preparation, and "unassigned recipients" who are not considered readily employable.

The WEAT program deals only with those in the last-named status. This avoids direct conflict with the WIN program, but also, obviously, adds to the difficulties of the WEAT program by providing it with only the least work-qualified of the Aid to Families with Dependent Children clients.

The other limitation on the WEAT program comes from the prohibition against using welfare clients in private industry, in competition with the regular work force. This limits potential "sponsors" (employers) in the WEAT program to governmental agencies (Federal, state, and local) and to private non-profit institutions. The welfare--or "workfare", as they are coming to be known--workers are generally employed on needed sponsors' projects for which no funds are available to hire regular workers.

Those deemed eligible for the WEAT program are expected to work at least 24 hours (three 8-hour days) a week, leaving two days a week for seeking regular employment. If a client has a job interview on a scheduled WEAT work day, he or she is excused without penalty.

Some of those assigned to the WEAT program decline to participate, and the sanction specified in the statement of legislative intent is applied. Aid is withheld from those refusing to participate, but not from the dependent children in their families, who continue to be provided for through appropriate channels.

Some who start on the program fail to perform satisfactorily on the job and are dropped from the program and from adult assistance grants. "Satisfactory performance" does not relate to a level of technical skill or production quota, but only requires that the worker show up on the job regularly and make an honest effort.

Some people are removed from the program for reasons beyond their control, such as illness or long school vacations which require the presence of a parent in the home, for example.

Those who do stay with the program are making a remarkable record, and this is what has created the growing national interest in WEAT.

The published account in U. S. News and World Report noted that in the six-month period

sors of WEAT (projects on which they worked, 210 found other full-time employment, and an additional 109 working mothers found enough income-producing work to reduce the amount of public assistance required to support their families.

In the first six months of 1977, this record was improved:

Twenty-four persons were hired by sponsors for whom they had been working; the number finding other full-time employment jumped to 323 (a 48% increase); and the number of working mothers who earned enough to reduce their public assistance grants went up 16% to 125. An additional 108 WEAT participants were reclassified, due to improvement in their employability rating, and were moved into WIN components.

WEAT program sponsors are located at more than 300 sites throughout the state, and efforts are made to place program participants with sponsors close to their place of residence. Only rarely is it necessary to excuse a welfare client from participation in the WEAT program because there is no work project in his or her area of residence. A travel allowance may be provided a program participant when justified.

Reaction of sponsors to the program varies, as might be expected, but is described by state welfare officials as "generally good, sometimes enthusiastic." Letters received from sponsors appear to bear this out. The Utah Department of Transportation wrote in March, 1977, that work done for its District 2 maintenance section under the WEAT program since July, 1975, represents a savings in labor cost of more than \$87,000 or the equivalent of six full-time regular employees.

The size of the WEAT program is limited by its very nature and it cannot by itself be expected to make a direct substantial reduction in the total cost of public assistance. Nevertheless, significant savings are effected, and the moral effects of the program--both on individual participants and on the attitude of the public toward the welfare program--may be more significant in the long run. It is noteworthy that the Utah head of the Welfare Rights organization has expressed approval of the WEAT approach.

Utah officials feel the program vindicates their basic belief that such a "workfare" program is legal as well as philosophically sound. It now appears that the Utah experiment may prove to be a landmark in the development of U. S. public assistance policy and procedure.

POSITION PAPER

HOUSE BILL NO. 840

"An Act relating to work requirements for recipients of public assistance".

This Bill would develop a new mechanism to require those persons receiving AFDC, General Relief, and General Relief Medical who are not exempt under 45.U.S.C. 602(19)(A)(i), (ii), (iv-vi) to work for no compensation in positions developed in the non-profit sector.

This Department has considered the following in review of the Bill:

1. Federal law prohibits the denying of AFDC benefits on the basis of work requirements for situations other than those outlined in the WIN and Unemployed Father's programs. This Bill is, therefore, inconsistent with existing federal law, and enactment could jeopardize the State's receipt of federal monies for public assistance.
2. State demonstration projects authorized under the Social Security Amendments of 1977, Section 404 are required to compensate the participants for the work performed at an amount equal to the local prevailing hourly wage, up to the total amount of their welfare benefits. Based on the current minimum wage for State employees and the present average monthly AFDC grant amount, participants would be working only 12 hours a week, not 24.
3. There are no provisions for adequate support services to assist welfare recipients when on the unremunerated position. Should the State not pay or reimburse employment-related expenses, additional fiscal hardships would be imposed on an already strained family budget. Should individuals on partial grants be included in the legislation, their assistance payments would be greatly diluted if expenses are not defrayed by a public agency.
4. Due to the fact there are not provisions for in-depth screening of recipients once the basic work eligibility has been determined, there is concern that marginally employable individuals will be assigned duties which are inconsistent with their abilities. The resulting situation would be unfair to both the employer and assistance recipient. It is this negative spinoff that led one national study to conclude: "Work-for-relief efforts (merely working off one's relief payments in a makeshift job) are costly, inefficient, and resented by work supervisors as well as participants." ("The Work Incentive Program and Related Experiences", R&D Monograph 49, 1977).
5. Assuming all necessary employment functions are performed by the Department of Labor, the following administrative considerations arise:

A) if enacted for General Relief, General Relief Medical and AFDC recipients in Anchorage, Fairbanks, Juneau, Ketchikan and Sitka, the costs incurred by the Division of Public Assistance would reasonably include one eligibility worker in Fairbanks and Juneau, and 1.5 workers in Anchorage. The additional staff would determine monthly work registration status, and coordinate with the Department of Labor on each eligible recipient's work requirements;

B) as recipients are served only for one month at a time, computer linkage with DOL would be essential to administration;

C) because adjudicable issues may arise, provisions must be made for hearing procedures.

Because of the above mentioned reasons, the Department questions whether the enactment of this bill would benefit either the Alaskan taxpayer or public assistance recipient.

In summary, the Department is of the opinion that this measure may very well be a positive feature to install in the Alaska Public Assistance programs. However, the uncertainty of the Department's federal funding for the AFDC program, coupled with the above expressed concerns surrounding potential negative impacts which might result if this measure were enacted at this time, prompts the Department to conclude that any final action on this measure in the 1978 Legislative Session would be premature. Accordingly, the Department recommends that House Bill No. 840 be redirected as an expression of legislative concern in this area, and a directive to the Department of Health & Social Services to submit a complete analysis of this workfare concept, to include a definite recommendation whether to adopt such a provision, to the appropriate committee chairman of the Alaska Legislature during the first six weeks of the 1979 legislative session.

Recommended by:

Richard R. Wilson

Richard R. Wilson, Director
Division of Public Assistance

4-20-78

Date

Approved by:

Helen D. Beirne
Helen D. Beirne, Commissioner

Department of Health & Social Services

4-20-78

Date

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3830

LEGISLATIVE AFFAIRS AGENCY

April 21, 1978

Utah "Workfare" Program (Work Experience and Training Program - WEAT)

Prepared by: Donna Rogers, Research Analyst
For: House HESS Committee

Purpose: To find work and provide training and on-the-job work experience for certain AFDC and General Assistance recipients who have not been offered training or work experience through the AFDC WIN (Work Incentive) program.

Brief History: The WIN program, due to federal reimbursement formulas, was finding jobs only for those AFDC mandatory registrants who already had marketable job skills. Persons who were not readily employable were not receiving training. The Utah legislature in '74 stated its intent that a requirement be established that "all employable welfare recipients-- primarily adult males and mothers of school age children--must report regularly and accept jobs or job training or take part in a community work force. Refusal will mean loss of aid." Proposals were submitted to the Department of Health, Education, and Welfare to gain federal approval of the resultant Utah WEAT program. Federal officials expressed concerns over the mandatory nature of the program and its penalty provisions. It was also unclear if federal authority to participate financially in a non-WIN work program even existed. The Utah proposal was redesigned and tentatively approved in 1976 with the understanding that clearer national policies could at any time cause recession of the approval. The proposal was approved as being necessary for the efficient administration of the AFDC program, due to WEAT's emphasis on training for future employment.

Who Must Register for WEAT

- a) All persons required by federal law to register for the WIN program who are not in an assigned WIN training or work experience program and are in a WEAT project area, or
- b) non-disabled persons (under age 60) who have no pre-school children and who are on General Assistance, and
- c) are working less than 20 hours per week.

Required Performance

- a) If assigned a WEAT position, the individual must work an average of 24 hours (three days) per week, or 96 hours per month.
- b) Two days each week are set aside for job search or training activities.

Excused Time

- a) A WIN assignment for training or employment excuses a person from WEAT.
- b) Illness as verified by a physician's statement.
- c) Time spent in job interviews set up by Job Service.

Penalties

- a) Failure to perform 96 hours per month without an acceptable excuse will result in the individual being removed from assistance (dependent children will not be removed from assistance).
- b) The individual will lose work expense training allowance of \$25 per month.

Other Requirements

- a) The individual will not be paid for work performed but will be reimbursed for work-related expenses (transportation, meals, etc.) at a rate of \$25 per month.
- b) Acceptance of a WEAT position is an eligibility requirement of AFDC or General Assistance for mandatory registrants.

Employer Duties

- a) The employer must provide all supplies and equipment.
- b) The job must meet health and safety standards.
- c) The employer must provide workman's compensation coverage.
- d) The employer must be either a government agency or a non-profit agency.
- e) The jobs offered must not displace regularly employed persons or strikers.
- f) The employer is responsible for supervision and training.

State Duties and Services

- a) The state will provide child care, if necessary, within funding limits.
- b) The state will provide a work expenses allowance (\$25 per month).
- c) The state, through already existing channels (Vocational Education, WIN, Job Service), will provide rehabilitation and job search services.
- d) The state will give advance notice of intent to impose a penalty and allow for appeals.
- e) There are 320 WEAT projects available for individuals throughout the state, each tailored to the local community's resources.
- f) Little state additional staff funding has been needed as existing community service and eligibility staffs are used.
- g) State coordinates closely and shares information with WIN, Job Service, and Vocational Rehabilitation.

Successes

Success depends on:

- a) The local job sponsor's willingness to work closely with the welfare client and the sponsor's realization of the educational, work experience, and social limitations the individual client has.
- b) The availability of child care.
- c) The availability of time and the aggressiveness of local eligibility worker staff to find local job sponsors, visit the job sites, refer clients, and coordinate with other existing programs.
- d) Adequate staffing.

Problems

- a) Lack of available child care funds to meet the needs of the increasing numbers of voluntary registrants for WEAT. Currently funding comes from Title XX (Social Services) and WIN funding. Ceilings in these programs limit available child care.
- b) Increasing work requirements on local eligibility staff limit the time available for active development of WEAT jobs. Utah had developed some computer data printouts which ease coordin-

ation of WIN and WEAT programs, but to more effectively pursue the goals of these programs, some additional eligibility staff in major areas of the state may be needed.

- c) Federal officials feel the current approval of WEAT for the AFDC program is on such shaky grounds that the state may be found non-compliant with federal requirements once national policies are clarified. They thus have recently urged Utah to place the WEAT program under WIN. Utah officials are concerned that the federal WIN program requirements may significantly diminish the effectiveness of the WEAT program.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 21, 1978

SUBJECT: Utah's Work Experience and Training Program

TO: House HESS Committee

FROM: Donna Rogers *DR*
Research Analyst

Attached please find a brief report outlining Utah's Work Experience and Training Program.

If you have questions on this material, please do not hesitate to contact me at 465-4917.

DR:jm

Attachment

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
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April 21, 1978

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
REGION X
ARCADE PLAZA BUILDING
1321 SECOND AVENUE
SEATTLE, WASHINGTON 98101

SOCIAL SECURITY ADMINISTRATION
OFFICE OF THE REGIONAL
COMMISSIONER

TESTIMONY REGARDING ALASKA HOUSE BILL NO. 840
MARCH 16, 1978

ALASKA HOUSE BILL NO. 840 WOULD ESTABLISH WORK REQUIREMENTS FOR RECIPIENTS OF PUBLIC ASSISTANCE. INCLUDED AMONG THESE RECIPIENTS WOULD BE CERTAIN PERSONS WHO ARE RECIPIENTS OF BENEFITS UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT, KNOWN COMMONLY AS AID FOR FAMILIES WITH DEPENDENT CHILDREN OR AFDC.

WORK REQUIREMENTS IN RELATION TO THE RECEIPT OF ASSISTANCE UNDER THE FEDERALLY AIDED AFDC PROGRAMS HAVE BECOME A MATTER OF CONSIDERABLE PUBLIC INTEREST.

THE WORK ETHIC IS WELL ESTABLISHED AS A PART OF OUR NATIONAL LIFE. THE NEED AND WISH TO BE ECONOMICALLY PRODUCTIVE MAKES UNEMPLOYMENT A MAJOR PROBLEM IN TODAY'S SOCIETY. IT IS NOT ONLY THOSE WHO ARE POORLY EQUIPPED WHO HAVE DIFFICULTY IN FINDING EMPLOYMENT, MANY WHO ARE WELL EDUCATED AND TRAINED WITH VARIOUS SKILLS ARE ALSO FINDING THEMSELVES IN THE LINES TO CLAIM UNEMPLOYMENT COMPENSATION BENEFITS AND ON THE WELFARE ROLLS FOR VARYING LENGTHS OF TIME. IN ADDITION THERE ARE THE YOUNG PEOPLE WHO ARE SEEKING FOR THE FIRST TIME TO ENTER THE LABOR MARKET WHO ARE UNABLE TO FIND WORK AND THUS SEEK WELFARE AID.

THERE ARE NO DATA TO ESTABLISH THAT PERSONS SEEKING OR RECEIVING WELFARE AID ARE ANY LESS ANXIOUS TO WORK THAN ARE OTHER PERSONS.

WORK REQUIREMENTS UNDER FEDERAL LAW AND REGULATIONS

TITLE IV-A OF THE SOCIAL SECURITY ACT IMPOSES TWO DIFFERENT SETS OF PENALTIES, ONE FOR UNEMPLOYED FATHERS AND ANOTHER FOR ALL OTHER PRESUMED EMPLOYABLES UNDER THE WIN PROGRAM, FOR REFUSING TO REGISTER FOR EMPLOYMENT, REFUSING BONA FIDE OFFERS OF EMPLOYMENT OR TERMINATING WORK WITHOUT GOOD CAUSE.

THE AID FOR FAMILIES OF DEPENDENT CHILDREN UNEMPLOYED FATHERS PROGRAM (AFDC-UF) IS AN OPTIONAL PROGRAM AND ONE IN WHICH THE STATE OF ALASKA HAS DECLINED TO PARTICIPATE.

UNDER SECTION 407(b)(1) OF THE ACT AND 45 CFR 233.100(a)(5) THE ENTIRE FAMILY OF AN UNEMPLOYED FATHER MAY NOT RECEIVE AFDC IF THE FATHER HAS WITHOUT GOOD CAUSE, WITHIN A 30 DAY PERIOD, REFUSED A BONA FIDE OFFER OF EMPLOYMENT OR TRAINING FOR EMPLOYMENT.

I MENTIONED THE SANCTION PROVIDED UNDER THE AFDC-UF PROGRAM TO ILLUSTRATE THAT FEDERAL LAW DOES REQUIRE EMPLOYABLE FATHERS TO ACTIVELY SEEK EMPLOYMENT AS A CONDITION OF RECEIPT OF BENEFITS. ALASKA HOUSE BILL 840 WOULD NOT AFFECT THE TREATMENT OF EMPLOYABLE MALES INSOFAR AS RECEIPT OF FEDERALLY MATCHED WELFARE BENEFITS IS CONCERNED BECAUSE THE STATE HAS NOT ELECTED TO ASSIST THEM UNDER ANY CONDITIONS. HOWEVER, ALASKA HAS BEEN PROVIDING VENDOR PAYMENTS TO THIS GROUP SINCE OCTOBER, 1977 WHEN THE GENERAL RELIEF PROGRAM WAS CHANGED DUE TO COMPLAINTS BY LEGAL AID. I UNDERSTAND THAT THESE PAYMENTS WILL BE TERMINATED SHORTLY.

UNDER SECTION 402(a)(19)(F) THE NEEDS OF ANY INDIVIDUAL WHO FAILS TO PARTICIPATE IN THE WIN PROGRAM OR TO HAVE REFUSED EMPLOYMENT WITHOUT GOOD CAUSE ARE NOT TO BE TAKEN INTO ACCOUNT IN DETERMINING THE NEED OF THE FAMILY AND THE AMOUNT OF THE AFDC ASSISTANCE PAYMENT; ASSISTANCE MUST BE FURNISHED TO THE OTHER ELIGIBLE MEMBERS IN THE FORM OF PROTECTIVE OR VENDOR PAYMENTS TO OTHER THAN THE REFUSING MEMBER. IF AN INDIVIDUAL WHO IS A RELATIVE OTHER THAN THE UNEMPLOYED FATHER RECEIVING AFDC REFUSES WITHOUT GOOD CAUSE TO PARTICIPATE IN THE WORK INCENTIVE PROGRAM OR TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT IN WHICH HE IS ABLE TO ENGAGE, HIS NEEDS ARE REMOVED FROM THE AMOUNT OF ASSISTANCE OTHERWISE PROVIDED AND AFDC IS PROVIDED TO THE REST OF THE ASSISTANCE UNIT IN THE FORM OF PROTECTIVE OR VENDOR PAYMENTS OR AS FOSTER CARE. (45 CFR 234.60 AND 233.110).

IF SUCH INDIVIDUAL WHO REFUSES IS THE ONLY CHILD IN THE FAMILY, AFDC ASSISTANCE IS DENIED TO THE ENTIRE FAMILY. (45 CFR 224.51(a)(2))

THIS DENIAL OF AID TO THE REFUSING REGISTRANT IS NOT APPLIED DURING THE 60 DAYS IN WHICH THE INDIVIDUAL OBJECTS TO RECEIVE COUNSELING OR OTHER SERVICES BUT AFDC ASSISTANCE IS PAID AS A PROTECTIVE OR VENDOR PAYMENT. (45 CFR 224.51(b))

HOWEVER, IF AN UNEMPLOYED FATHER FAILS TO REGISTER FOR WIN AND IS NOT EXEMPT FROM WIN REGISTRATION, THE ENTIRE FAMILY IS INELIGIBLE FOR AFDC (SECTION 407(b)(2)(C) OF THE ACT).

THE LAW SPECIFIES THAT EVERY INDIVIDUAL, AS A CONDITION OF ELIGIBILITY FOR AID UNDER THE AFDC PROGRAM MUST REGISTER FOR MANPOWER SERVICES, TRAINING, AND EMPLOYMENT, AS PROVIDED BY REGULATIONS OF THE SECRETARY OF LABOR UNLESS SUCH INDIVIDUAL IS:

A CHILD WHO IS UNDER AGE 16 OR ATTENDING SCHOOL FULL TIME;

A PERSON WHO IS ILL, INCAPACITATED, OR OF ADVANCED AGE;

A PERSON SO REMOTE FROM A WORK INCENTIVE PROGRAM THAT HIS EFFECTIVE PARTICIPATION IS PRECLUDED;

A PERSON WHOSE PRESENCE IN THE HOME IS REQUIRED BECAUSE OF ILLNESS OR INCAPACITY OF ANOTHER MEMBER OF THE HOUSEHOLD;

A MOTHER OR OTHER RELATIVE OF A CHILD UNDER THE AGE OF 6 WHO IS CARING FOR THE CHILD; OR

A MOTHER OR OTHER FEMALE CARETAKER OF A CHILD IF THE FATHER OR ANOTHER ADULT MALE RELATIVE IS IN THE HOME AND NOT EXCLUDED FROM THE PROGRAM.

INDIVIDUALS WHO HAVE BEEN DETERMINED TO BE EXEMPT FROM REGISTRATION ON THE BASIS OF INCAPACITY ARE REFERRED TO THE APPROPRIATE STATE VOCATIONAL REHABILITATION AGENCY.

A MOTHER OR OTHER RELATIVE OF A CHILD UNDER THE AGE OF 6, WHO IS CARING FOR THE CHILD, IS ADVISED OF HER OPTION TO REGISTER IF SHE SO DESIRES, AND OF THE FACT THAT CHILD CARE WILL BE PROVIDED IF NEEDED. OTHER EXEMPTED INDIVIDUALS MAY REGISTER, SUBJECT TO ACCEPTANCE OF SUCH REGISTRATION BY THE SECRETARY OF LABOR.

WORK RELIEF PRECLUDED UNDER FEDERALLY AIDED ASSISTANCE PROGRAMS

QUESTIONS HAVE ALSO BEEN RAISED BY STATES AS TO WHETHER A CHILD, OTHERWISE ELIGIBLE FOR AFDC, OR THE ENTIRE UNIT COULD, UNDER FEDERAL POLICIES BE DENIED AID IF AN APPLICANT OR RECIPIENT REFUSED TO "WORK OUT" IN PROJECTS OR WORK RELIEF PROGRAMS, THE ASSISTANCE TO WHICH HE WAS OTHERWISE ENTITLED UNDER TITLE IV-A OF THE ACT.

SUCH A STATE PLAN PROVISION IS CLEARLY PROHIBITED UNDER 45 CFR 233.140 WHICH SPECIFIES THAT:

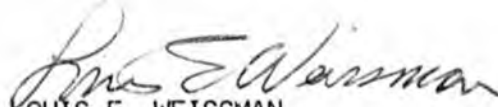
"FEDERAL FINANCIAL PARTICIPATION WILL NOT BE AVAILABLE IN EXPENDITURES MADE IN THE FORM OF PAYMENTS FOR WORK PERFORMED IN ANY MONTH AFTER JUNE 1968, EXCEPT UNDER THE WORK INCENTIVE PROGRAM AUTHORIZED BY TITLE IV, PART C OF THE SOCIAL SECURITY ACT, OR UNDER THE WORK EXPERIENCE AND TRAINING PROGRAMS AUTHORIZED BY TITLE V OF THE ECONOMIC OPPORTUNITY ACT."

ABSENT CONGRESSIONAL AUTHORITY TO THE CONTRARY, A NEEDY AND OTHERWISE ELIGIBLE CHILD AND HIS NEEDY CARETAKER RELATIVE MUST RECEIVE ASSISTANCE UNDER TITLE IV-A OF THE ACT TO WHICH HE IS OTHERWISE ENTITLED. THIS VIEW IS CONSISTENT WITH THE UNITED STATES SUPREME COURT DECISION IN THE CASE OF TOWNSEND v. SWANK. (404 U.S. 282)

WORK RELIEF REFERS TO ANY SYSTEM IN WHICH AN INDIVIDUAL IS ASSIGNED TO WORK-OFF THE ASSISTANCE GIVEN, OR TO WORK WITHOUT PAY AS A CONDITION OF

ENACTMENT OF ALASKA HOUSE BILL NO. 84) AS IT IS NOW WRITTEN WOULD BE INCONSISTENT WITH THE SOCIAL SECURITY ACT AND FEDERAL REGULATIONS. ENACTMENT OF THIS PROPOSED BILL WOULD RESULT IN A COMPLIANCE ISSUE WITH THE STATE OF ALASKA'S PUBLIC WELFARE DIVISION AND COULD PLACE THE FEDERAL FINANCIAL PARTICIPATION DOLLARS AT RISK.

THANK YOU,



LOUIS E. WEISSMAN
ACTING ASSISTANT REGIONAL COMMISSIONER
OFFICE OF FAMILY ASSISTANCE

- . APPROPRIATE HEALTH AND SAFETY STANDARDS AND TRAINING CONDITIONS MUST BE MADE
- . THE PROJECT MUST NOT RESULT IN DISPLACEMENT OF EMPLOYED WORKERS
- . COMPENSATION FOR WORK IS SPECIFIED AT AN HOURLY WAGE EQUAL TO THE LOCAL PREVAILING WORK WAGE
- . WORK CONDITIONS MUST BE REASONABLE
- . WORKMEN'S COMPENSATION MUST BE PROVIDED

(DEMONSTRATION PROJECTS MUST NOT LAST LONGER THAN TWO YEARS AND ALL MUST BE TERMINATED NOT LATER THAN SEPTEMBER 30, 1978)

THE FACT THAT THE CONGRESS FELT COMPELLED TO BROADEN SECTION 1115 OF THE ACT TO PERMIT WORK PROGRAMS SUCH AS THOSE UNDER DISCUSSION HERE IS CONSISTENT WITH THE CURRENT DEPARTMENTAL POSITION THAT SUCH PROGRAMS ARE INCONSISTENT WITH THE PROVISIONS OF THE SOCIAL SECURITY ACT ABSENT ANY OTHER SPECIFIC LEGISLATIVE AUTHORITY.

THE ONLY PROVISIONS IN FEDERAL LAW OR REGULATIONS WHEREBY A STATE MAY DENY AFDC TO INDIVIDUALS OR TO CHILDREN, ON THE BASIS OF WORK REQUIREMENTS, ARE THOSE CONTAINED IN SECTION 407 (b) (1) OF THE ACT AND 45CFR 233.100 (a) (5) PERTAINING TO THE UNEMPLOYED FATHER AND IN SECTION 402 (a) (19) (F) OF THE ACT AND 45CFR 224.21(b), 224.51(a) (1) AND 233.110 PERTAINING TO THE PROVISION OF FOSTER CARE FOR OTHER INDIVIDUALS UNDER THE WIN PROGRAM.

IN 1974 HEW PUBLISHED A REVOCATION OF §233.140 OF THE REGULATIONS; HOWEVER THIS REVOCATION WAS CHALLENGED IN A SUIT BROUGHT BY RECIPIENTS ORGANIZATIONS (NWRO v. DWIGHT) AND, THE REGULATION WAS REINSTATED.

STATE-ONLY WORK REQUIREMENTS

DURING THE PAST YEAR THERE WERE NUMEROUS INQUIRIES AS TO WHETHER, IN THE ABSENCE OF FEDERAL LAW, STATES COULD IMPOSE THEIR OWN WORK REQUIREMENTS AS A CONDITION OF RECEIVING AID UNDER TITLE IV-A IN ADDITION TO THESE PROVIDED IN THE ACT AS DESCRIBED ABOVE. THE ONLY ADDITIONAL INDIVIDUALS NOT COVERED UNDER CURRENT LAWS AND REGULATIONS WOULD BE RECIPIENTS IN NON-WIN AREAS. THE POSITION OF HEW TO DATE HAS BEEN THAT IN THE ABSENCE OF LEGISLATIVE AUTHORITY THE DEPARTMENT WOULD NOT ISSUE A POLICY TO SUPPORT STATE-ONLY WORK REQUIREMENTS.

CONGRESS ENACTED, AS A PART OF P.L. 95-216, THE SOCIAL SECURITY AMENDMENTS OF 1977, SECTION 404 ENTITLED STATE DEMONSTRATION PROJECTS. THIS SECTION AMENDS AND EXPANDS SECTION 1115 OF THE SOCIAL SECURITY ACT WHICH RELATES TO DEMONSTRATION PROJECTS. UNDER THIS AUTHORITY THE SECRETARY OF HEW COULD WAIVE CERTAIN STATUTORY REQUIREMENTS AND PERMIT NOT MORE THAN THREE DEMONSTRATION PROJECTS PER STATE. THESE PROJECTS COULD PROVIDE FOR PUBLIC SERVICE EMPLOYMENT. THERE ARE CERTAIN RESTRICTIONS CONNECTED WITH THIS AUTHORITY:

- A. NOT MORE THAN ONE SUCH PROJECT COULD BE CONDUCTED ON A STATEWISE BASIS.
- B. WITH RESPECT TO PUBLIC SERVICE EMPLOYMENT -

BOARD, FEBRUARY 26, 1936, BD. DOCUMENT NO. 73, 45 CFR 233.140. THE VIEW WAS BASED ON ITS CONCLUSION THAT A REQUIREMENT THAT AN INDIVIDUAL ACCEPT OTHERWISE UNRENUMERATED WORK AS A CONDITION OF ELIGIBILITY FOR AID IS, IN FACT, A REQUIREMENT THAT THE INDIVIDUAL "EARN" THE FAMILY'S ASSISTANCE BY WORK SO THAT THE WELFARE PAYMENT IS ACTUALLY COMPENSATION FOR SERVICES RENDERED AND NOT AID WITHIN THE MEANING OF U.S.C. § 506(b).

THE CORRECTNESS OF THIS INTERPRETATION OF THE STATUTE WAS CONFIRMED BY THE 1962 ENACTMENT OF 42 U.S.C. §609, THE COMMUNITY WORK AND TRAINING PROGRAM, WHICH PROVIDED SPECIFIC AUTHORIZATION FOR THE ESTABLISHMENT OF WORK RELIEF TYPE PROGRAMS IN AFDC UNTIL ITS REPEAL IN 1968 BECAUSE OF CONGRESSIONAL DISSATISFACTION WITH THE PROGRAM. UPON THIS REPEAL HEW PROMULGATED THE STILL EFFECTIVE 45 CFR 233.140 TO REESTABLISH ITS PRE-1962 RULE. SUBSEQUENT LEGISLATIVE PROPOSALS TO REINSTATE 42 U.S.C. §609 WERE REJECTED.

THIS POSITION WAS REAFFIRMED BY HEW IN 1971, WHEN BOTH CALIFORNIA AND NEW YORK PROPOSED WORK RELIEF PROGRAMS FOR AFDC RECIPIENTS AND WERE ADVISED THAT FEDERAL FUNDING WOULD NOT BE AVAILABLE IF THEIR REGULAR AFDC PLAN REQUIRED RECIPIENTS TO ACCEPT ASSIGNMENT TO WORK RELIEF. THE ONLY EXCEPTION HAS BEEN THE APPROVAL OF PLACEMENTS FOR NOT TO EXCEED 13 WEEKS UNDER THE WIN PROGRAM, ON THE GROUNDS THAT WHERE THE INDIVIDUAL HAD HAD VERY MINIMAL ATTACHMENT TO THE LABOR MARKET, ONE COULD CONSIDER "EXPOSURE TO WORK" TO BE A FORM OF TRAINING. SEE WIN HANDBOOK, CHAPTER SIX, PAGE 5, PARAGRAPH E.

RECEIVING SUCH NEEDS-RELATED CASH ASSISTANCE FOR HER OR HIS FAMILY. IT INCLUDES SYSTEMS IN WHICH THE AFDC ASSISTANCE IS SPECIFICALLY CHARACTERIZED AS PAYMENT FOR THE WORK, SYSTEMS IN WHICH HOURS OF WORK REQUIRED ARE DETERMINED BY ASSIGNING AN HOURLY VALUE TO THE WORK PERFORMED AND DETERMINING THE NUMBER OF HOURS THUS NEEDED TO "WORK OFF" THE PAYMENT, AND SYSTEMS IN WHICH ACCEPTANCE OF THE OTHERWISE UPaid WORK IS SIMPLY A CONDITION OF ELIGIBILITY FOR ASSISTANCE. IT IS UNCLEAR AS TO WHETHER THE INTENT OF ALASKA HOUSE BILL 840 IS TO LIMIT ELIGIBILITY AT INTAKE OR TO DENY AN ALREADY DETERMINED ELIGIBLE RECIPIENT UPON REFUSAL TO WORK FOR NO COMPENSATION. SUCH A DISTINCTION HOWEVER IS MOOT. SUCH WORK RELIEF CREATES A CLASS OF WORKERS WHO PERFORM WORK WITH NEITHER THE STATUS NOR THE BENEFITS GENERALLY ACCEPTED AS THE RIGHT OF EMPLOYEES. FOR EXAMPLE, AS NON-EMPLOYEES THEY ARE EXCLUDED FROM COLLECTIVE BARGAINING, FROM PENSION SYSTEMS, AND THEY CANNOT QUALIFY FOR PROMOTION. IN ADDITION, GENERALLY THE FAMILY SUFFERS AN OUT-OF-POCKET LOSS SINCE THEY CONTINUE TO RECEIVE ONLY THE AMOUNT OF THEIR REGULAR AFDC ASSISTANCE WITHOUT AN INCREMENT TO ACCOUNT FOR THE EXPENSES INCURRED AS A RESULT OF PARTICIPATION IN THE WORK RELIEF ASSIGNMENT.

FROM THE INITIAL ENACTMENT OF THE PUBLIC ASSISTANCE PROGRAMS IN 1935 HEW HAS TAKEN THE POSITION THAT REQUIRING AN INDIVIDUAL TO ACCEPT ASSIGNMENT TO A WORK RELIEF PROJECT, I.E., TO WORK OFF, OR WORK FOR, ASSISTANCE PROVIDED FOR IN TITLE IV-A OF THE ACT IS INCONSISTENT WITH THE BASIC REQUIREMENT THAT AFDC PAYMENTS BE UNRESTRICTED MONEY PAYMENTS, 42 U.S.C. §606(b). THIS PORTION IS REFLECTED IN THE MINUTES OF THE SOCIAL SECURITY