The 1996 Welfare Law: Key Elements and Reauthorization Issues Affecting Children

Mark H. Greenberg, Jodie Levin-Epstein, Rutledge Q. Hutson, Theodora J. Ooms, Rachel Schumacher, Vicki Turetsky, and David M. Engstrom

SUMMARY

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 changed the social policy landscape for children in many ways. It replaced the prior welfare program with block grants to the states entitled Temporary Assistance for Needy Families, and modified a broad array of other programs and initiatives affecting low-income children. This article describes the key themes dominating the debate over welfare reform in 1996, specifically:

- Increased state discretion in program design, leading to more variability in states' eligibility requirements and services provided to low-income families;
- More stringent work requirements even for parents of very young children;
- Time limits on the use of federal funds for cash assistance, and a strong focus on caseload reduction;
- Increased emphasis on parental responsibility, with stronger child support requirements; and
- Increased emphasis on reducing out-of-wedlock births, including bonuses to states with the largest reductions, and special requirements for unmarried teen parents who seek welfare.

Although child well-being received little attention during the congressional debates in 1996, the authors conclude with the hope that improving child outcomes and child well-being will emerge as a key theme when the law is reauthorized in 2002.

Mark H. Greenberg, J.D., is senior staff attorney at the Center for Law and Social Policy (CLASP), a nonprofit organization engaged in research, policy analysis, technical assistance, and advocacy on issues affecting low-income families.

Jodie Levin-Epstein is senior policy analyst at CLASP.

Rutledge Q. Hutson, J.D., M.P.H., is senior policy analyst at CLASP.

Theodora J. Ooms, M.S.W., is senior policy analyst and director of the Couples and Marriage Policy Resource Center at CLASP.

Rachel Schumacher, M.P.P., is a policy analyst at CLASP.

Vicki Turetsky, J.D., is senior staff attorney at CLASP.

David M. Engstrom, M.Sc., M.A., is a doctor of jurisprudence candidate at Stanford Law School in Stanford, California, and was formerly an intern at CLASP.
The enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 marked an extraordinary turning point in U.S. social policy. The legislation is probably best known for having repealed the Aid to Families with Dependent Children program and for providing states with block grants to design work-focused, time-limited welfare programs. However, the scope of the 1996 law was much more extensive. The law made major changes affecting a broad array of programs that provide services to low-income children, including child support enforcement, child care, Medicaid, food stamps, child welfare, and disability benefits. The law restricted services to immigrants and generally reduced federal protections for individuals while expanding state discretion and flexibility in numerous aspects of social policy. Also, the law prompted new and intensified discussions about out-of-wedlock births, fathers, and marriage and family formation.

Opinions about the motivating factors for the 1996 law differ sharply. Some emphasize the antagonism toward poor families, minority women, and immigrants, or credit presidential politics and the need to "do something" about welfare before the 1996 elections. In general, however, the debates did not focus on how best to reduce child poverty. Instead, the debates centered on:

- Promoting devolution;
- Reducing government spending;
- Requiring work and imposing time limits for families receiving welfare;
- Promoting parental responsibility;
- Restricting public benefits eligibility for legal immigrants; and
- Addressing out-of-wedlock births.

In 2002, these themes may be revisited as Congress, the states, and the public take stock of what has been accomplished since 1996. In 2002, Congress must reauthorize the block grants to states for Temporary Assistance for Needy Families (TANF). The law's four purposes are to:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End needy parents' dependence on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies; and
- Encourage the formation and maintenance of two-parent families.

Temporary Assistance for Needy Families

The 1996 law repealed Aid to Families with Dependent Children (AFDC), the principal program providing cash assistance to families with children, as well as several related programs, and replaced them with TANF block grants. Under AFDC, states were mandated to provide assistance to all eligible poor families, but had broad discretion in setting benefit levels. The federal government paid half or more of all program costs on an open-ended basis (that is, federal funding rose and fell with caseload levels). States also were required to provide work-related services and requirements for AFDC families, but these programs typically were not a central focus in state and local welfare administration. Such programs were often underfunded and affected a limited share of eligible families.

Under TANF, each state receives a block grant and has broad discretion in using the funds for programs that provide cash assistance for needy families, as well as for an array of other benefits and services that accomplish the purposes of the law. The law's four purposes are to:
Key features of TANF block grants are summarized in Box 1. In implementing TANF, states have generally developed programs that provide time-limited assistance and place a strong emphasis on work. In most states, parents receiving TANF—including parents of very young children—are required to participate in work-related activities, and all cash assistance can be terminated when parents violate a program rule or reach a time limit of 60 months or less. State programs generally emphasize rapid entry to the workforce and restrict education and training activities. Liberalized eligibility rules adopted by many states have expanded the availability of cash assistance for two-parent families and those entering employment. However, new restrictions were placed on federal assistance to certain groups, such as immigrants and teen parents.

As states implemented the 1996 law, there was an unprecedented decline in the nation’s welfare caseload. Implementation of TANF coincided with expanded employment opportunities in an extraordinarily strong economy and a number of policy changes that greatly increased returns from low-wage work (that is, an increase in the minimum wage, expansion of the earned income tax credit, and increases in child care spending and public health care coverage). The decline in the welfare caseload began before TANF was enacted, but accelerated afterward.
In early 1994, 5.1 million families were receiving AFDC assistance. By the time TANF was enacted, in August 1996, the number had fallen to 4.4 million families. By September 2000, only 2.2 million families were receiving ongoing assistance.\(^4\) Child poverty also fell during this period, from 22% in 1994 to 17% in 1999. However, the welfare caseload dropped much faster, and the share of poor children receiving assistance fell from 62% in 1994 to 40% in 1999.\(^5\)

Many families leaving welfare are still living in poverty. Studies consistently have found that about 60% of families leaving welfare are working, but often in low-paying jobs with no employer-provided benefits, and often without continued food stamp benefits or Medicaid coverage even when still eligible. (See the article by Zedlewski in this journal issue.) The other 40% of families leaving welfare are not working. Based on the limited information available, it appears that some—though

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**Box 1**

**Key Features of TANF Block Grants**

- **Essentially fixed funding levels from 1997 through 2002.** Federal block grant levels were set to reflect federal spending during the early 1990s for the programs that were repealed when TANF was enacted (referred to as "antecedent" programs). In addition, a maintenance-of-effort (MOE) requirement stipulates that, to avoid a fiscal penalty, a state must spend nonfederal dollars representing at least 80% (or, if the state meets TANF work participation rates, 75%) of the amount the state spent in 1994 on a set of AFDC-related programs.

- **Broad state discretion in use of TANF funds.** Unless otherwise prohibited, a state can spend TANF funds in any way reasonably calculated to accomplish any of the purposes of the law (or in any way permissible under the antecedent programs). A state may also transfer up to 30% of its TANF funds to programs under the child care and social services block grants.

- **Elimination of federal entitlements to assistance.** States determine which families are eligible for assistance, and are not required to provide assistance to any family or group of families (although federal law prohibits use of federal TANF funds to assist some categories of people, such as certain immigrants).

- **Work participation rate requirements.** A state risks a fiscal penalty unless a specified percentage of families receiving TANF assistance are participating in work or work-related activities. One rate is calculated for all families receiving assistance; a higher rate applies to two-parent families. To count toward participation rates, an individual must be involved in one or more of the listed work-related activities for a specified number of hours each week throughout the month. Education and training count toward the rates only to a very limited extent. A state's participation rate requirement can be reduced if the state's caseload has declined since 1995 for reasons other than changes in eligibility rules; this "caseload reduction credit" creates a strong incentive to reduce caseloads.

- **A time limit on federally funded TANF assistance.** States are prohibited from using federal TANF funds to provide assistance to a family for more than 60 months. However, a state may allow exceptions for up to 20% of its caseload, and may use MOE or other state funds to continue to provide assistance to others. In addition, the time limit does not apply to benefits and services that are not defined as "assistance," as noted below.

- **A distinction between “assistance” and “nonassistance.”** Key requirements (such as time limits, work requirements, and child support cooperation) apply only to families receiving "assistance." Assistance includes benefits designed to meet ongoing basic needs and support services for families who are not employed. Many important benefits provided to employed families, such as child care, transportation, refundable earned income tax credits, and work expense allowances, are not considered assistance.\(^a\)

not most—of these families are residing with partners or other adults, and many face multiple obstacles to employment. In some states, a significant share of case closures are due to sanctions or noncompliance with program requirements, such as failure to meet a work requirement, attend a meeting, or respond to a notice.6 Families whose cases are closed because of sanctions are likely to have a low education level, little or no work history, and more serious employment barriers.7

Concerns about families leaving welfare without employment have been heightened by findings that the poorest families have experienced a drop in income in recent years. Between 1995 and 1998, female-headed families generally experienced increases in disposable income, but the poorest 20% suffered a loss over this period, principally because of the sharp drop in receipt of various welfare-related benefits.8
Among families still receiving TANF assistance, many have serious barriers to employment, such as no recent work history and no high school diploma. About half report poor physical or mental health.9 Other barriers include illiteracy, substance abuse, domestic violence, and ill or disabled family members.

Nationally, as the welfare caseload declined and cash assistance expenditures fell, more funds became available for programs to help families address barriers to employment and for other state welfare-related activities.10 States were able to use TANF funds to serve poor families that left TANF or that never received TANF cash assistance, as well as those still on the rolls, and many states redirected TANF funds to child care and child welfare services.11 Some states used TANF funds to substitute for prior state spending, giving rise to disputes about the magnitude and significance of such supplantation.12

Some of the key questions likely to emerge during TANF reauthorization are summarized in Box 2.

**Family Formation**

Before the 1996 law was enacted, no federal program expressly sought to promote marriage, but the issues surrounding family formation have gained increasing public attention as the incidence of children living in divorced, never-married, and teen parent households has grown. The proportion of children living with only one parent has more than doubled in the past 30 years, from 12% in 1970 to 27% in 1998.13 In the 1960s and 1970s, most of the growth in single-parent families was caused by increases in divorce, but in the next two decades nearly all the growth was driven by increases in out-of-wedlock childbearing.14 Although fewer than 4% of all births were to unmarried women and adolescents in 1940, 33% of all births were outside of marriage by 1999.15 (See the article by McLanahan and Carlson in this journal issue.)

Marital status and teen pregnancy became key issues in the debates that led to the 1996 law. Inspired by conservative authors such as Charles Murray, who described illegitimacy as “the single worst social problem of our time,”16 some welfare critics viewed cash assistance as “enabling” poor women to have children out of wedlock and sought to limit or eliminate assistance as a means of reducing nonmarital births. Proposals were introduced to prohibit states from providing assistance for children born out of wedlock to teen parents and for children born to families receiving welfare. Although these proposals were eventually dropped, states were free to adopt such policies under the block grant structure,17 and several other provisions related to family formation were successfully incorporated into the law.18 In fact, three of the four purposes of TANF refer to family formation: promoting marriage, reducing out-of-wedlock pregnancies, and encouraging the formation and maintenance of two-parent families. Further, states were given broad flexibility to determine program rules and the range of TANF services to be provided. As a further incentive for states to develop effective programs in these areas, the law established state bonuses for reductions in out-of-wedlock births, and mandated restrictions for minor parents receiving TANF.

Since 1996, the majority of states have made some effort to pursue these family formation goals.19 Many states are using TANF funds to prevent out-of-wedlock births, focusing primarily on teen pregnancy prevention, and most states have taken policy measures to strengthen two-parent families. Highlights of activities and progress toward implementing these provisions of the law are summarized below.

**Promoting Marriage**

Although marriage rates have declined and divorce rates have increased dramatically over the last 40 years, polls show that most Americans continue to prize and value marriage as an important life goal.20 Yet a great deal of uncertainty surrounds the appropriate role of government with respect to marriage.21 To date, states have taken few steps to address this purpose of TANF directly, although various strategies have been suggest-
ed. As of mid-2000, only two states had adopted specific strategies to strengthen marriage: Oklahoma had launched a multisector initiative using $10 million in TANF funds to strengthen marriages, and Arizona had committed $1.6 million for marriage education and other activities related to abstinence promotion. No research is available to date concerning the relative efficacy of these efforts. At the same time, new studies suggest that well-established programs whose primary purposes are to enhance economic security or to provide other kinds of family support—such as child support enforcement, family planning, and expanded Medicaid—may effectively, although indirectly, promote marriage and reduce nonmarital childbearing. Nevertheless, congressional interest in enacting legislation specifically focused on promoting marriage appears to be growing.

Reducing Out-of-Wedlock Pregnancies

Various provisions were included in the 1996 law to support states' efforts to reduce out-of-wedlock pregnancies, especially among teens. First, the law required the U.S. Department of Health and Human Services (DHHS) to establish a strategy for preventing nonmarital teen pregnancies and to assure that at least 25% of U.S. communities had teen pregnancy prevention programs in place by January 1, 1997. States could spend TANF funds on teen pregnancy prevention and family planning services, with few restrictions. As of 2000, at least 34 states had tapped some TANF funds for such projects, ranging from after-school programs to peer education to media campaigns.

Second, the law allocated nearly $440 million in combined federal and state funds over five years for a specific type of abstinence education. The funds are available for curricula that teach, in part, that “sexual activity outside the context of marriage is likely to have harmful psychological effects,” and that abstinence is the only appropriate option outside of marriage, regardless of age. Programs are not to provide information on how to use contraception. As of 1999, at least five states passed laws applying the abstinence-unless-married criteria to all sexuality education programs in the state. In 2000, Congress authorized additional funds of $50 million, and in 2001, added another $10 million, for implementation of such programs. Third, several provisions in TANF focused specifically on unmarried minor parents, even though the number of teen parents in the TANF caseload is quite small. With limited exceptions, the law prohibits states from providing federal TANF assistance to unmarried minor, custodial parents who do not participate in school or training and who do not live in an adult-supervised setting. As states have implemented these provisions, anecdotal evidence from one local study suggests that confusion has been widespread and that local caseworkers have inappropriately diverted teen parents—minors as well as those who are older—from receiving TANF.

Some recent trends are encouraging. For example, the teen birth rate has declined significantly since 1991. However, much of this decline occurred before welfare reform. Relatively little research has examined the impact of efforts implemented since reform to reduce out-of-wedlock pregnancies. Rigorous evaluation studies of programs that teach only abstinence are scarce, and it is not yet known whether and which 1996 abstinence education programs might be effective. A federal evaluation of the 1996 abstinence programs is under way, with interim results due in early 2003. With respect to provisions involving minor teen parents, some studies indicate that, under some circumstances, the school requirement (often called “Learnfare”) can improve a teen parent’s enrollment, grade completion, and chances of receiving a high school equivalency diploma, but that the requirement appears to have no impact on teen parent fertility. There has been virtually no research on the impact of the minor parent living-arrangement rule.

Strengthening Two-Parent Families

Most states used the new flexibility under TANF to drop the stricter eligibility requirements for two-parent families that had existed under AFDC. As of 1999, 33 states were treating two-parent (married or unmarried) families the same as single-parent families when determining eligibility. At the same time, under the 1996 law, states are required to meet a higher work participation rate for two-parent families receiving assistance than for single-parent families. Many states viewed the higher rate as a disincentive to assisting two-parent families in their TANF programs, and at least 14 states established state-funded programs for two-parent fami-
Two-parent families remain a very small proportion of the caseload (around 5%), and eligible two-parent families have very low participation rates in TANF, food stamps, and Medicaid.

**State Bonuses**

Two bonuses have been adopted to promote family formation goals. An award of $100 million annually is available for up to five states that have the highest reduction in their out-of-wedlock birth ratio and that also have reduced their abortion rate. The formula is based on the share of nonmarital births among women of all incomes and ages within the state (not just TANF recipients). In addition, up to $200 million annually is available to states to reward high performance in several categories, including, beginning in 2002, up to $10 million a year to be divided between 10 states in the new category of family formation and stability. The bonus will be awarded based on increases in the per-
Welfare reform has affected the child support program in both direct and indirect ways. ... Between 1995 and 2000, collection rates increased from 19% to 42%.

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percentage of all children (not just low-income children) living in married-couple families.

It is unclear, however, whether the TANF bonus structure has motivated states to address family formation issues. In three of the five states awarded the “illegitimacy bonus,” state officials indicated that they undertook no special activity to win the bonus. The bonus category of family formation was added only recently, so it is too early to tell if it will motivate states to focus on marriage promotion.

Among those concerned about the impact and effectiveness of family formation initiatives, key questions likely to be raised during reauthorization will focus on marriage, minor parents, the two-parent family participation rate, and state bonuses, as summarized in Box 3.

Child Support

Child support can provide a significant income source for low-income families and reduce child poverty. It also can help increase a single mother’s labor force participation, stabilize and supplement low-wage earnings, link families to private and public health care coverage, and reinforce paternal involvement. However, many TANF families cannot count on child support as a steady source of income when their welfare benefits end.

Child support is collected for only 44% of families that have left welfare, and for just 25% of families that are on welfare. In part, this is because most states do not provide adequate child support services to the families in their caseloads, despite marked improvements (discussed further below). It is also because TANF families often involve never-married parents, who are the most difficult to serve. Thus, poor children whose parents never married are the least likely to receive child support. Finally, it is because many fathers of poor children are themselves poor and have limited ability to pay. (See the article by McLanahan and Carlson in this journal issue.)

Nearly two-thirds of all child support cases in the country are processed through the public child support program, one of the largest human services programs reaching low-income mothers, fathers, and children. Changes to the child support program under the 1996 law, and subsequently under the Child Support Performance Incentive Act of 1998, were intended to increase mothers’ and fathers’ cooperation in establishing paternity and support orders, and increase child support collections. Major provisions under these laws:

- Linked federal and state databases to improve matching of child support orders with information on newly hired employees and quarterly wages, and other data sources;
- Expanded states’ authority to order genetic tests, subpoena information, adjust orders, order income withholding, suspend licenses, secure and seize assets, report to credit bureaus, conduct quarterly bank matches, and enforce interstate cases;
- Required that birth certificates include the father’s name only if paternity is formally acknowledged under hospital-based procedures;
- Tightened cooperation rules to require at least a 25% sanction (up to 100% by state option) on TANF assistance for failure to comply with child support enforcement efforts, and extended cooperation rules to Medicaid and foster care programs (and food stamp programs by state option);
- Changed support assignment and distribution rules to allow families that have left welfare to keep more child support, but eliminated the requirement that gave the first $50 of support collected to current TANF families; and
- Established new performance incentives and reporting requirements.

Welfare reform has affected the child support program in both direct and indirect ways. Increased automation, expanded paternity establishment procedures, new database matching, and expanded federal tax offsets have helped states improve program performance markedly since reform. Between 1995 and 2000, collection rates increased from 19% to 42%. At the same
time, welfare reform indirectly impacts the child support program in a number of important ways due to the program’s fiscal structure, the complex interface with TANF, a new focus on low-income fathers, and concerns about domestic violence.

The Fiscal Structure of the Program
The child support program originally was designed to reimburse federal and state welfare costs. When families apply for welfare assistance, they are required to cooperate with the child support program and assign (or relinquish) their rights to child support to the state. For the most part, any “assigned” child support collections that are received are shared between the state and the federal government as reimbursement for welfare benefits, and are used by virtually all states to help pay for child support or TANF program costs. But today, only about 20% of the child support caseload is comprised of families receiving TANF. As welfare caseloads have declined, most families being served by the child support program are working families with incomes below 250% of poverty who have left welfare or never received welfare. This change has prompted a reexamination of the child support program’s dual and often conflicting goals of promoting family self-sufficiency and of recovering welfare costs, and of the difficulties, for both families and states, stemming from existing assignment and distribution policies.

From the family’s perspective, once child support rights have been relinquished, it makes little financial difference to the family whether the noncustodial parent pays child support because the government retains nearly all the payment. Not surprisingly, therefore, less child support is collected for families receiving welfare than for equally poor families not receiving welfare. To encourage increased child support collections for families receiving welfare and to strengthen child support as a long-term income supplement for working families, the rules were revised in 1996, allowing families to keep more child support once they leave welfare. However, local child support programs have found the distribution rules to be complicated and costly to administer. A demonstration project in Wisconsin that allowed all support collected to be passed through to TANF families has shown some positive results, however. Early results indicate that noncustodial parents in TANF families are more likely to establish paternity and pay support under these circumstances, and families participating in the project experience several other positive outcomes as well.

From the state’s perspective, the decline in TANF caseloads has resulted in fewer child support collections for families receiving TANF and, thus, declining government revenues to support program operations. About two-thirds of states use their share of welfare collections to help meet their TANF/ maintenance-of-effort (MOE) obligation (see Box 1), but the remaining one-third use it to pay their share of child support program costs. In response to shrinking revenues, a number of states have begun to consider how to refinance their programs, and DHHS has engaged stakeholders in a national consultation process to examine how welfare collections and program costs should be distributed among families, the federal government, and states. Whether states should be allowed to use TANF funds to help pay for child support–related activities is also under consideration.

Complex Interface with TANF
Welfare reform also has affected the child support program’s intake mechanisms. As TANF-funded components increasingly are operated by multiple state and local agencies and private organizations, the TANF and child support interface has become more complex. Moreover, an increasing number of families are entering the child support system through programs such as Medicaid, food stamps, and foster care, instead of TANF. Discussion has emerged about whether the child support program should replace TANF as a “hub,” interacting more closely with family members, developing case management capacity, and developing links with other public means-tested and community-based programs, including private and public health care coverage for children who would otherwise be uninsured.

New Focus on Low-Income Fathers
Welfare reform has prompted a new focus within the child support program on low-income fathers. For example, some states have implemented initiatives to enhance low-income noncustodial fathers’ ability to pay support by allowing them to participate in welfare-to-work programs. Working in partnership with local child support agencies, these programs generally provide a range of services to help low-income fathers, including: (1) job readiness, job search, and postem-
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Employment services to help them find and keep employment; (2) case management services to help them negotiate the child support system; and (3) curriculum-based peer support groups and mediation to improve their parenting and relationship skills. In addition, discussion about how to improve the child support system has been broadened to include impacts on paternal involvement and child well-being. In particular, more attention has been focused on how federal and state child support policies might affect marriage, cohabitation, and “fragile families.” (For further discussion of this topic, see the article by McLanahan and Carlson in this journal issue.)

Concerns about Domestic Violence

Concerns have been raised about whether tightened cooperation requirements, coupled with expanded databases and more aggressive paternity establishment and enforcement procedures, will increase the risk of domestic violence for women in the child support caseload. Although recent research indicates that most domestic violence victims decide to actively pursue child support if safety and confidentiality issues are addressed, concerns remain about the number of TANF families sanctioned for child support noncooperation, and the extension of child support cooperation requirements to other programs and benefits. At the same time, early findings from the Wisconsin demonstration suggest that passing through support payments to families may reduce family conflict around child support.

In sum, the 1996 law had important direct and indirect impacts on the child support program and the families it serves. Policy issues related to the fiscal interaction between the child support program and TANF, as well as the role of child support in the broader agenda for working families, are likely to be a key part of the reauthorization discussions, as summarized in Box 4.

Child Care

Before the 1996 welfare law, multiple federal funding streams for child care existed, each with its own policies and procedures. Three federal–state matching child care funding streams provided child care for AFDC families in work programs or approved education and training programs, for families leaving AFDC due to employment, and for working families considered “at risk” of relying on AFDC without help in paying child care...

Box 4

Potential Child Support-Related Reauthorization Issues

(1) Should the fiscal structure of the child support enforcement program be changed? One set of issues involves whether and how the child support program can shift from a fiscal structure that supports cost recovery to one that supports family self-sufficiency. A second set of issues concerns whether and how to decouple the existing funding links between the child support and TANF programs. These links include the revenue-sharing formula for retained welfare collections, and the use of retained welfare collections to fund TANF-related MOE expenditures. There is increasing political support to eliminate the TANF assignment requirement and distribute all collected support to families. In addition, there may be interest in reexamining the federal funding structure.

(2) How should the child support program relate to the broader working families agenda? The increasingly complicated ways families enter the child support system, and the difficulty in linking nonwelfare families to child support services (as well as other public supports), are focusing more attention on child support outreach and intake procedures and interagency coordination. Should the child support program develop as a “hub,” linking families with food stamp programs, employment programs, responsible fatherhood programs, domestic violence programs, and even health insurance programs? How should child support relate to low-income fathers and “fragile families”? Should the program assume an explicit role in supporting paternal involvement and family formation?
Provisions included in the final welfare reform law consolidated child care funding into a single new funding stream, ... increased funding levels, ... [and] provided for state flexibility to determine most matters affecting families' access to subsidies.

costs. In addition, the Child Care and Development Block Grant provided federal funds to states, with no state matching requirements, for child care for low-income families in work or education and training programs, and for initiatives to enhance child care quality.

During the 1996 debates, interest arose in reducing the fragmentation and complexity that resulted from these four separate funding streams. In addition, concerns were raised about the potential impact of TANF work requirements on the need for child care, the funding level that would be necessary to assure access, and the tension between quantity of children served and quality of care. Provisions included in the final welfare reform law:

- Consolidated child care funding into a single new funding stream, referred to as the Child Care and Development Fund (CCDF) in federal regulations, to provide a basic funding level to all states and a capped amount of additional matching funds to states that maintained their prior spending levels;

- Increased funding levels above anticipated spending under prior law, and allowed states to spend TANF funds directly for child care and to transfer up to 30% of TANF funds to the CCDF;

- Repealed guarantees to child care that had been provided under AFDC for families in approved activities and families in their first year leaving AFDC due to employment, but allowed states the option of providing such guarantees and setting maximum income eligibility levels up to 85% of a state's median income;

- Provided for state flexibility to determine most matters affecting families' access to child care subsidies, such as how much to pay child care providers, how much to ask parents to pay toward the cost of child care, and how stringent the health and safety standards should be for providers who may care for subsidized children;

- Prohibited states from sanctioning single custodial TANF parents with children under age six when child care was unavailable (although this provision does not stop the 60-month federal time limit); and

- Required states to spend at least 4% of their CCDF funds on measures to improve child care quality.

Since 1996, use of federal and state funds for child care has increased significantly, but with large variations in child care policies among the states on key issues affecting access to child assistance. According to the most recent data from the U.S. Department of Health and Human Services Child Care Bureau, federal and state spending on child care totaled $8.0 billion in 2000.63 Spending under CCDF (including funds from prior-year CCDF allocations and those transferred from TANF) totaled $7.0 billion, more than double 1996 expenditures under the previous child care funding streams.64 In addition, the Child Care Bureau reported direct TANF spending on child care of $1.0 billion in 2000, but other research indicates that states more likely spent about $1.5 billion in direct TANF funds, plus another $873 million in state TANF MOE funds, on child care.65 As a result of TANF transfers to CCDF and direct TANF expenditures on child care, states' reliance on TANF funds for child care has increased.

Through transfers and direct expenditures combined, states redirected TANF funds totaling $3.9 billion to child care in 2000, more than the entire federal portion of the CCDF allocation. Moreover, states' spending on initiatives to improve the quality of child care also has increased beyond the required 4% setaside, reaching 6.1% of total federal and state CCDF expenditures in fiscal year 2000.63 To increase the supply of high-quality infants and toddler child care specifically, Congress has earmarked $50 million to $100 million in CCDF funds annually beginning in 1998.

The increased funding for child care has resulted in more families and children receiving child care subsidies. The number of children receiving CCDF subsi-
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dies increased from an estimated 1.0 million in 1996 to 1.8 million in 1999. However, many eligible families still are not receiving child care subsidies, and at least 17 states have waiting lists. One review found that in most of the states studied, less than one-third of the families that left welfare and were working were receiving child care subsidies. Other research has found that administrative hurdles make accessing and maintaining subsidy assistance a challenge for families that are also trying to maintain employment. (See the article by Fuller and colleagues in this journal issue.)

State child care subsidy policies vary according to state priorities and resources. Although most states have made investments in child care subsidy programs since 1996, a comparison of state child care policies in 1995 and 2000 suggests some areas of concern. For example, researchers found that although most states have increased their income eligibility limits, these limits have declined as a percentage of state median income. In addition, though some states lowered the copayment charged to families with a child in care, the copayment amount rose as a percentage of income for some families. Also, most states still prioritize TANF and post-TANF families over other low-income working families, although the overall proportion of families receiving child care subsidies and not receiving

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Box 5

Potential Child Care-Related Reauthorization Issues

(1) Should there be a significant increase in CCDF funding? Demand for child care assistance has grown, as approximately one million additional single women have entered the workforce. Although federal and state spending on child care has expanded significantly, many states still have waiting lists for subsidies, and state policy choices are constrained by resource limitations. In considering this issue, Congress is likely to review current law regarding use of TANF for child care.

(2) Are families aware of their eligibility for subsidies, and are they able to access the subsidy system? Some attention may focus on whether families who are working and qualify for CCDF assistance are aware of their eligibility. Of particular concern are families who have moved into the labor force from TANF, and other low-income working families. Questions have also been raised about how administrative rules and procedures, including eligibility certification periods, may limit access to, and maintenance of, child care subsidies.

(3) Is the supply of child care providers sufficient to support parent choice of care, especially for specific populations? One of the purposes of the CCDF is to enable families to exercise choice in care, but this requires a full array of options. Concerns may be raised about the supply of high-quality child care for infants and toddlers, sick and disabled children, children in low-income areas, and children whose parents have nontraditional work schedules.

(4) Are current provisions on payments to providers adequate to attract enough qualified child care workers? As turnover increases in the child care field, and child care providers face growing difficulty in hiring and retaining staff, discussion may arise concerning the need to increase the compensation rates for child care workers. Current guidelines that rely on the market to set rates are likely to be reconsidered, along with other strategies used by some states to increase child care worker compensation directly.

(5) Should promotion of child development be a central goal of the CCDF? Concerns about school readiness among young children in child care have led to questions about whether the current quality set-aside is sufficient and whether current strategies to enhance child care quality are adequate.

(6) Do protections for TANF families need to be strengthened? Questions may be raised about whether single-parent TANF recipients with children under age six are aware of the protections provided by TANF, and whether families who lack necessary child care are being sanctioned in violation of federal law.
TANF has grown.\textsuperscript{71} Finally, more than half the states pay child care providers at rates that are lower than the rate federal regulations suggest would be considered sufficient to provide equal access to child care.\textsuperscript{72}

Child care policy and funding issues are likely to be important in the reauthorization debate. As outlined in Box 5, key issues include funding levels, program goals, parent awareness, and choice of child care providers.

**Medicaid**

Medicaid is the principal federal–state program providing health care coverage for low-income children and their parents. Most Medicaid expenditures are for elderly and disabled individuals, but about two-thirds of Medicaid recipients are children or parents of children. Although states are not required to participate in Medicaid, all states do participate because the federal government pays half or more of the costs of Medicaid benefits for eligible persons.\textsuperscript{73}

During the debates about the 1996 welfare law, the Republican leadership originally proposed that Medicaid be converted into a block grant to states. The proposal faced strong opposition and was ultimately dropped, but the final legislation did make several significant changes to the Medicaid program. First, the 1996 law banned most future legal immigrants from receiving federally funded Medicaid assistance for five years after coming to the United States, with an exception for emergency services. (For a more detailed discussion of these provisions, see the Immigrants section later in this article.) Second, the law delinked Medicaid from welfare cash assistance.\textsuperscript{74} AFDC recipients were automatically eligible for Medicaid, and families leaving AFDC due to employment could qualify for up to a year of transitional Medicaid coverage. But in shifting from AFDC to a block grant, policymakers recognized that such automatic eligibility would be problematic under the new law. Because states would have the discretion to determine who is eligible for TANF and for how long, tying Medicaid eligibility to TANF receipt could result in inappropriate contractions or unintended expansions of Medicaid coverage. To resolve the issue, Congress created a new Medicaid eligibility category known as Section 1931.

Under Section 1931, family members may qualify for Medicaid by satisfying the income, resource, and family composition rules that applied in the state's AFDC program on July 16, 1996, regardless of whether the family is receiving TANF assistance. A family losing Medicaid eligibility under Section 1931 due to employment may qualify for up to a year of transitional Medicaid assistance. Section 1931 also gives states the option of making their income and resource eligibility rules more liberal and extending Section 1931 coverage to low-income two-parent families.\textsuperscript{75}

Despite these provisions, Medicaid enrollment for parents and children declined during initial implementation of the 1996 law. Between 1995 and 1997, enrollment of nondisabled, nonelderly adults dropped by 11% and enrollment of nondisabled children dropped by 3%.\textsuperscript{76} One key factor contributing to the drop in Medicaid enrollment was confusion among both families and welfare workers about the new eligibility rules. A Kaiser Commission study found that misperceptions and confusion about Medicaid eligibility kept many families from enrolling.\textsuperscript{77} Other researchers have documented failures to accurately apply Medicaid eligibility rules for new applicants and families leaving welfare.\textsuperscript{78,79} As a result, some families erroneously concluded that they were ineligible, failed to complete the application process, had their applications mistakenly denied, or had their assistance wrongly terminated.\textsuperscript{80}

Beginning in June 1998, however, Medicaid enrollment began to climb in some states, particularly among families, children, and pregnant women.\textsuperscript{81,82} This was due, in part, to improved practices for linking families with Medicaid in some states, and to increased oversight at the federal level.\textsuperscript{83} Enactment of the State Children's Health Insurance Plan (SCHIP) in 1997 also contributed to increased Medicaid enrollment. SCHIP provides federal funds for state health coverage for children in families with incomes above the Medicaid cutoff, either through new programs or expanded Medicaid eligibility.\textsuperscript{84} In addition to expanding eligibility, SCHIP prompted many states to simplify the application process for children's Medicaid coverage, which also contributed to higher participation rates.

Although the overall number of children with health insurance grew between 1998 and 1999, poor chil-
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Box 6

Potential Medicaid-Related Reauthorization Issues

(1) How can the interaction between TANF and Medicaid be improved? Proposals are likely to be introduced to help ensure that families seeking TANF assistance are made aware of Medicaid and are able to apply for coverage, regardless of the disposition of their request for TANF. Discussions will also likely focus on the decline in Medicaid coverage when families leave TANF and how to increase continuing coverage for eligible families.

(2) How should transitional Medicaid be structured? Discussions are likely to focus on addressing the complexity of transitional Medicaid, the reporting requirements for participating families, and the restrictive eligibility conditions.

(3) Should family Medicaid coverage be expanded? Recent expansions in children’s health insurance coverage have meant that children often qualify for Medicaid when their parents do not. States can opt to expand parental coverage, but lawmakers will likely also look at whether additional federal options, incentives, or mandates should be implemented to promote expanded family coverage.

Food Stamps

The food stamp program is the principal federal food assistance program, and provides a critical supplement to family income for poor households. Most food stamp recipients are children, and nearly 80% of food stamp benefits go to households with children. In 2000, the average household with children that received food stamps had a gross monthly income averaging $727, and received a monthly food stamp benefit averaging $234. The federal government pays the full cost of the benefits and shares program administrative costs with the states.

During congressional debates on the 1996 welfare law, the Republican leadership proposed that the food stamp program and a set of other federal nutrition programs be repealed, and that their funding be consolidated into food assistance block grants to states. As was the case with Medicaid, however, the proposal faced strong opposition and was dropped. Nevertheless, curtailments in food stamp program eligibility and benefits ultimately represented about half the spending reductions originally projected under the 1996 law.

Key changes in the food stamp program:

- Restricted food stamp eligibility for able-bodied adults without children to no more than 3 months in a 36-month period, with exceptions for individuals working or in a work activity for at least 20 hours a week;
- Made most legal immigrants ineligible for food stamps (as discussed in greater detail in the later section on immigrants);
- Restricted eligibility and reduced benefit levels by changing eligibility rules related to household deductions and income, and by removing provisions that had adjusted food stamp benefits to reflect inflation; and
- Provided that a household’s food stamp benefits could not increase if a family’s TANF assistance was
reduced due to a sanction, and allowed states to impose food stamp sanctions against individuals who violated TANF rules.

Similar to trends in welfare receipt, food stamp program participation began to decline in 1994, and the drop accelerated significantly after enactment of the 1996 law. Between March 1994 and March 2001, participation dropped from 28 million to about 17 million persons, a decline of 39%.91 The decline in children’s participation was especially sharp, falling from 86% of eligible children in 1994 to 69% in 1998, with over three-quarters of the decline coming after 1996.92 As noted in a 1999 report from the U.S. General Accounting Office, “there is a growing gap between the number of children living in poverty…and the number of children receiving food stamp assistance.”93

Moreover, an analysis by the U.S. Department of Agriculture concluded that most of the decline in the food stamp caseload between 1994 and 1999 was because of a drop in participation by eligible adults and children, not because fewer families were eligible.94 Only a small portion (8%) was due to provisions of the 1996 law that restricted food stamp eligibility. About one-third of the decline (35%) occurred because household income and assets grew during the economic expansion. The bulk of the decline (56%) was due to fewer eligible individuals participating in the program. A sharp drop in participation occurred among eligible citizen children residing with noncitizens (from 80% to 46%). Participation also dropped among families leaving welfare, even though most of these families continued to be eligible financially,95 and many still reported food insecurity and shortages.96 Participation dropped for individuals with earnings and those without earnings. Program administrative practices, confusion, lack of awareness, and individual choices all appeared to play a role in declining participation rates.97,98

The food stamp program is scheduled for reauthorization in 2002, as is TANF. Food stamp reauthorization discussions have mainly focused on ways to increase participation among eligible households, and on the need for simplification and for improvements in quality control procedures, as summarized in Box 7. Another concern is whether to restore food stamp benefits for legal immigrants, an issue discussed in greater detail in the later section on Immigrants.

Child Welfare

The nation’s child welfare system is comprised of 30 to 40 separate programs designed to protect children from abuse and neglect. The major programs are described in Box 8. Taken together, these programs provide services
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Box 8

The Array of Major Child Welfare Programs

- The Child Welfare Services program and the Promoting Safe and Stable Families program provide a broad range of services, including prevention of abuse and neglect, family support, time-limited reunification, and adoption support. Funds for the Child Welfare Services program are discretionary, whereas funds for the Promoting Safe and Stable Families program are an entitlement, but the funding streams for both programs are capped, generally with a federal matching rate of 75%.

- The Foster Care Maintenance program reimburses states for a portion of the foster care costs of certain children. Children are entitled to federal foster care maintenance payments if they meet the prior AFDC eligibility criteria at the time they are removed from their homes either by a voluntary placement agreement or by court order, and if they are under the care and responsibility of a state welfare agency. Federal reimbursement for the program is open-ended, with states receiving their Medicaid matching rate for each eligible child. The federal government also reimburses 75% of training expenditures and 50% of administrative costs.

- The Adoption Assistance program provides financial assistance to adoptive parents on behalf of certain children with special needs, defined as a child whose condition makes it unlikely that he or she will be placed for adoption without financial assistance. The adoptive parents are entitled to payments for certain nonrecurrent adoption expenses, and, if the child meets the 1996 AFDC or current Supplemental Security Income criteria, the state may provide the parents with ongoing payments. As with foster care, the federal government reimburses states at their Medicaid matching rate for each eligible child, as well as 75% of training expenditures and 50% of administrative costs.

- The Independent Living program helps adolescents transition from foster care to living on their own. The program is a capped entitlement to states, with a federal matching rate of 80%.

- The Child Abuse Prevention and Treatment Act provides federal funding and guidelines for reporting and investigating abuse and neglect. The act also funds innovative research and demonstration projects and community-based family resource centers.

- Other federal programs supporting various child welfare services include the Social Services Block Grant (commonly referred to as Title XX), Medicaid, and the TANF block grants.

Historically, the child welfare system connected with the AFDC program in several ways. First, research indicates that child maltreatment is highly correlated with poverty, and the majority of children entering the foster care system have come from families receiving welfare assistance. Second, families in the two systems often face many of the same challenges: substance abuse, mental or physical health problems, and domestic violence, as well as poverty. Finally, both the child welfare system and the cash welfare assistance program support many children who are being cared for by grandparents and other relatives.

During the welfare reform debates in 1996, one controversial proposal called for the consolidation of several major child welfare programs into a block grant. The proposal was defeated, however, and the legislation made few direct changes to child welfare programs.

- Required the continuation of state foster care maintenance and adoption assistance programs;
Many aspects of TANF could indirectly impact the child welfare system by affecting the risk of maltreatment, the funding available for services, and the supports provided to kin caregivers.

- Tied eligibility criteria to AFDC standards in effect on July 16, 1996.
- Required states to consider giving preference to kin when placing a child outside the home, provided the relative meets state child protection standards; and
- Permitted states to use TANF funds for a broad range of child welfare services.

At the same time, however, many aspects of TANF could indirectly impact the child welfare system by affecting the risk of maltreatment, the funding available for services, and the supports provided to kin caregivers. Each of these areas is discussed below.

Risk of Maltreatment
TANF could increase or decrease the risk of child maltreatment. The more stringent work, sanction, and time limit requirements under TANF, as well as the decline in disposable income some families may experience as they move from welfare to work, could cause material hardship and stress, leading to an increased risk of abuse or neglect. In addition, lack of adequate child care for families required to work may result in children being left home alone, which could be defined as neglect, depending on the age of the children. Alternatively, TANF may result in increased employment, leading to increased income and self-esteem, and in turn decreased risk of child maltreatment.

Currently, the data are inconclusive about which of these possible influences may result from the implementation of TANF. On the one hand, in 1999 the incidence of substantiated child maltreatment decreased for the sixth year in a row. On the other hand, the estimated number of children in foster care grew from 483,000 in 1995 to 568,000 in 1999, and several research studies raise concerns that TANF could be detrimental to child welfare. Two studies looking at AFDC caseload data found that sanctions and work combined in ways that were associated with increased involvement with child protective services and longer stays in foster care. Another study examining state-level data found that as cash assistance benefit levels decreased, neglect and out-of-home care increased. The study also found that as the share of working single mothers increased, so did the rates of neglect. In an evaluation of Delaware’s AFDC waiver program, families that participated in the program (with features similar to TANF requirements) were found to have higher rates of child neglect than did those in the control group. Finally, though not identifying overall impacts on maltreatment rates, case studies of child welfare agencies in 12 states noted that reports of lack of supervision had increased under TANF, as had the number of families surrendering their children to child welfare agencies or delaying reunification of children already in care. The findings from these studies do not provide conclusive evidence that TANF provisions are leading to increased child maltreatment, but they do raise red flags about potential problems for some families.

Funding for Services
TANF may also impact child welfare by increasing or decreasing the funding available for services. The 1996 law changed the structure of two significant funding streams, potentially reducing the amount of federal dollars spent on child welfare. The Emergency Assistance program, which accounted for 13% of 1996 federal child welfare dollars, was repealed and consolidated into the TANF block grant; and funding for the Social Services Block Grant (Title XX), which had accounted for 16% of 1996 federal child welfare dollars, was reduced. At the same time, however, the 1996 law allows states to use TANF funds for certain child welfare services.

Many states are spending their TANF and maintenance-of-effort (MOE) funds to provide services that could be characterized as child welfare services, such as nonmedical substance abuse treatment, home visiting programs, parenting education classes, and subsidized guardianship. Sometimes these services are offered to families receiving TANF cash assistance, sometimes to families in the child welfare system, and
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sometimes more broadly to families in need. One illustration of a restructuring of funding and services can be found in El Paso County, Colorado, where the local government decided to unite its TANF and child welfare programs, treating TANF as the primary prevention program for child welfare and treating child welfare as an antipoverty program.113 (See the appendix following the article by Chase-Lansdale and Pittman in this journal issue for a more detailed description of the El Paso County program.)

Some policymakers are concerned that states may be spending too many TANF dollars on child welfare services and not enough on other supports for low-income families. Others are concerned that TANF child welfare spending may be merely replacing state funds with federal funds. In addition, some child advocates are concerned that states may be using TANF and MOE funds for child welfare services without adhering to procedural safeguards mandated by Congress for child welfare programs. At this point, state-reported TANF financial data indicate only broad categories of spending and do not specify how much states are spending on child welfare, or the types of services provided.

Supports for Kin Caregivers
It is also unclear whether changes under TANF are increasing or decreasing the supports available for the growing number of children living with grandparents or other relatives. In 2000, more than 2.1 million children were living with relatives with no parent present.114 Many relatives care for these children without specific federal or state assistance, but significant numbers of kin caregivers rely on TANF or child welfare services.

In 1999, approximately 500,000 children who received TANF lived in households headed by relatives. Recognizing the unique needs of these kin caregivers, some states have developed special provisions or programs for them.115 In most states’ TANF pro-

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Box 9

Potential Child Welfare-Related Reauthorization Issues

(1) Should the child welfare system be more integrated with TANF? Many families being served by child welfare and TANF have similar needs, and often move between the two systems. Recognizing these connections, policymakers are likely to consider whether and how to better coordinate and integrate services to these families. For example, what are the best ways to address substance abuse, domestic violence, mental and physical disorders, literacy deficits, and other barriers to both employment and adequate parenting? What structures are needed to facilitate better cooperation between the two systems? What, if any, safeguards are needed to protect families when these two systems join forces?

(2) Should the fiscal structure of the child welfare system be changed? Are more incentives needed for providing prevention and reunification services? With states spending TANF and MOE funds on a variety of child welfare services, questions about the best way to finance the child welfare system will likely arise during TANF reauthorization. Many child welfare specialists are concerned that federal funding for foster care is open-ended, whereas federal funding for prevention and reunification services is limited. They argue that these funding policies encourage out-of-home placements and discourage states from developing the capacity to provide services that might make many out-of-home placements unnecessary.

(3) To what extent should federal assistance be used to support children living with kin? Currently, kin may be able to receive support when caring for relative children through TANF or the child welfare system, depending on the circumstances. Each system has different requirements and different levels of assistance. What level of support is appropriate? What types of supports do kin caregivers need? What types of supports do the children need?
grams, however, relatives must adhere to the same requirements as parents. Relative caregivers who meet the state's income criteria may choose to receive a TANF grant for themselves and the children, but they are then subject to the federal time limit and to work and participation requirements. These requirements do not apply if relatives receive a “child-only” TANF grant, which is based solely on the child’s needs and income.116 However, such grants are generally smaller than those received when the relative is included, and may be insufficient to allow the relative to provide adequate care for the child. Nonetheless, more than four-fifths of the children living with kin who received any TANF assistance in 1999 received child-only grants.

Relative caregivers can also seek assistance from the formal child welfare system and receive a foster care maintenance payment.117 Many advocates argue that such a result is not good for children in some cases, because the child welfare system can be intrusive, and the level of supervision and oversight the system provides is unnecessary for many kin caregivers. In addition, some relatives may not be able to turn to the child welfare system. This option is available only when children are at risk of abuse or neglect, and not all relatives are caring for kin under these circumstances. Moreover, some relatives will not meet state licensing standards for a foster care placement, such as the square footage requirements for their homes.

As the 107th Congress considers TANF reauthorization, child welfare issues are likely to be considered as well. Questions about how to finance the child welfare system and improve coordination with TANF will likely be discussed, as summarized in Box 9.

Under the new definition of childhood disability, an estimated 100,000 children lost their eligibility for SSI.

Supplemental Security Income

The Supplemental Security Income (SSI) program, administered by the Social Security Administration (SSA), provides income assistance to low-income people who are elderly, blind, or disabled, including children. In 1990, a Supreme Court decision (Sullivan v. Zebley) held that SSA’s test for determining whether children were “disabled” (and thereby entitled to SSI assistance) was unlawfully restrictive. Following this decision, the number of children in the program grew dramatically, from approximately 300,000 in 1989 to about 1 million in 1996.118 As the numbers swelled, the program came under attack. A series of press and television stories alleged that children were being “coached” to misbehave in order to get “crazy checks.”119

Although subsequent investigation revealed no evidence of widespread abuse of the program,120 Congress took up the issue during the welfare reform debates in 1996. Disagreements arose concerning the criteria for determining children’s eligibility for SSI, the meaning of “disabled,” and the degree of impairment necessary to justify assistance. Consequently, the 1996 law made a number of changes to SSI. Specifically, the law:

- Modified the definition of childhood disability, requiring that a child have an impairment that results in “marked and severe functional limitations” in order to be eligible for SSI benefits;
- Required that SSA use the new definition to redetermine the eligibility of children already receiving benefits, if it might lead to termination of their benefits;
- Eliminated the “medical improvement” test for 18-year-olds (which had allowed children to continue to receive benefits after age 18 unless their condition had medically improved to the extent that they were no longer disabled), and instead required that SSA use the adult criteria for disability to redetermine eligibility for children turning 18.

Under the new definition of childhood disability, an estimated 100,000 children lost their eligibility for SSI.121 In 1997, SSA issued interim regulations interpreting the phrase “marked and severe functional limitations.”122 Many critics contended that this interpretation was unduly restrictive. Indeed, when SSA issued the regulations, several U.S. senators who were instrumental in drafting the SSI provisions of the 1996 law sent a letter to the president claiming that this interpretation was inconsistent with their intent.123
In September 2000, SSA issued revised final regulations. Although the basic interpretation of “marked and severe functional limitations” did not change, some advocates saw the regulations as an improvement, because they simplified and clarified the process for determining childhood disability. Also, some are encouraged that SSA has undertaken a project with the American Association of University-Affiliated Programs to examine ways they might improve the evaluation of childhood disability claims. Advocates are hopeful that the process of determining disability in children will continue to improve as the project progresses.

In addition to questions about the definition of childhood disability, another concern is that adolescents who should continue to receive benefits are losing them. SSA data indicate that between 1997 and 2000, just over 90,000 adolescents (nearly half the SSI recipients who went through eligibility redeterminations at age 18) lost their eligibility for SSI benefits. However, the number of adolescents who are expected to remain ineligible once all appeals processes are exhausted is expected to drop to about 70,000. Also, the proportion of adolescents losing their benefits appears to have decreased each year since 1997.

As adolescents lose SSI eligibility, many also lose access to medical care through Medicaid. Advocates for disabled teens argue that applying adult eligibility requirements to children turning 18 creates an unfair burden because the adult criteria are based partially on work histories, which most teen SSI recipients do not have. Advocates are also concerned that eliminating the medical improvement test for 18-year-olds treats them like new applicants, with no transition period as provided in other programs.

Although the 1996 law amended the SSI program, it is not clear whether SSI will be part of the discussions about TANF reauthorization. No part of the SSI program requires reauthorization. Nonetheless, key issues concerning children and SSI that may surface as TANF legislation is considered are summarized in Box 10.

### Box 10

**Potential SSI-Related Reauthorization Issues**

1. **Are poor children with severe disabilities receiving SSI benefits as intended?** Although advocates consider the revised regulations to be improved, some believe the Social Security Administration’s interpretation of the definition of childhood disability is too restrictive. As a result, the 2002 discussion could include an assessment of whether the current test of childhood disability is too stringent, precluding benefits for children Congress intended to cover.

2. **Should the medical improvement test for 18-year-olds be reinstated?** Some advocates argue that adolescents should lose coverage only when their condition has improved to the extent that they are no longer disabled. As a result, the 2002 discussions could include attempts to reinstate the medical improvement test for 18-year-olds.

3. **Should 18-year-olds be provided transitional assistance?** If the 2002 debates focus on issues related to helping people with various challenges move toward greater independence, discussion may arise about the need to provide disabled children with some type of transitional assistance if they no longer qualify under the adult criteria now imposed when they turn 18.

4. **Should Medicaid coverage be extended to all children with impairments, regardless of eligibility for SSI?** Although many children with impairments may qualify for Medicaid based on their families’ incomes, a number will be barred from coverage because their families’ incomes exceed the state’s income requirements. Expanding coverage to all children with disabilities would provide increased access to the services and treatment children may need to maximize their medical and functional improvement.
Immigrant eligibility for public assistance programs as laid out in the 1996 law is a complicated patchwork of federal eligibility rules, state discretionary choices, and statutory exceptions.

Immigrants

Before the 1996 welfare reform law was enacted, legal immigrants and their children were generally eligible for public benefits under the same terms as citizens, and states did not have discretion to develop their own rules for determining immigrants' eligibility for public assistance. During the 1996 debates, however, immigrant provisions became a focus of discussion, driven by both policy and fiscal concerns. The policy dispute centered on whether immigrants' access to public benefits should be curtailed in order to discourage people from immigrating to the United States just to gain access to public benefits. The fiscal issue was driven largely by congressional interest in reducing government spending. Nearly half of the law's projected savings were attributable to the provisions making most legal immigrants ineligible for public benefits.

Key provisions of the law:

- Distinguished between “qualified” and “not qualified” (though often legal) immigrants, and between persons who entered the United States before and after enactment of the 1996 law, in determining eligibility;
- Banned “not qualified” immigrants from TANF and Medicaid assistance (except for emergency Medicaid services), and generally made “qualified” immigrants ineligible for these programs for five years after coming to the United States, after which eligibility is a state option;
- Made most legal immigrants—both “qualified” and “not qualified”—ineligible for food stamps and SSI until they attained citizenship;
- Made undocumented immigrants and other “not qualified” immigrants ineligible for most state and local public benefits, but allowed states to develop their own policies concerning the eligibility of “qualified” immigrants; and
- Allowed exceptions to these requirements only for refugees, asylees, persons granted withholding of removal during their first five years (subsequently extended to seven years) in the United States, immigrants who meet the 40-quarter work history test, and current and former military personnel and their spouses and dependents.

Current Provisions

Since 1996, Congress has restored eligibility for limited categories of immigrants, though most legal immigrants remain ineligible for food stamps and almost all immigrants entering the country after enactment of the 1996 law are ineligible for a wide array of federal benefits during their first five years in the United States.

TANF and Medicaid

Nearly every state opted to provide Medicaid and TANF assistance to all preenactment qualified legal immigrants. However, with limited exceptions, legal immigrants entering the United States on or after the date the law took effect are ineligible for federally funded TANF assistance and Medicaid for five years. States can choose to make these new immigrants ineligible for TANF and Medicaid beyond the first five years, but most states have not elected to do so.

Food Stamps

Of the 1.4 million legal immigrants receiving food stamps in 1996, an estimated 940,000 recipients lost eligibility when the law was implemented. In 1998, Congress enacted a limited restoration primarily benefiting immigrant children, the elderly, and people with disabilities. This restoration affected only about 250,000 recipients. Thus, among immigrants living in the United States when the law was enacted, more than two-thirds of those who lost eligibility remain ineligible. Among those entering the United States after the law was enacted, nearly all are ineligible for food stamps until they attain citizenship.

SSI

The 1996 law, as enacted, would have resulted in an estimated 580,000 elderly and disabled immigrants losing
their eligibility for SSI in 1997. Before the terminations were due to take effect, Congress acted to retain benefits for most elderly and disabled immigrants who were residing in the United States when the law was enacted, reversing about half of the projected savings from restriction of immigrant benefits. With limited exceptions, however, immigrants entering the United States after the 1996 law was enacted are ineligible for SSI.

**States’ Response**
Some states have responded to federal restrictions on immigrant benefits by establishing state-funded substitute programs, but these programs have not filled the gap left from the loss of federal assistance. An Urban Institute study found that, as of May 1999, more than half (28) of all states had created at least one substitute program for immigrants who lost their eligibility for federal assistance under TANF, Medicaid, food stamps, or SSI. Many states with substitute programs did not extend benefits to all legal immigrants who lost federal eligibility, however, or to postenactment immigrants during their five-year federal ineligibility period. Moreover, participation rates in these substitute programs remain low.

**Low Participation by Eligible Immigrant Children**
The receipt of public benefits by immigrant children was low even before welfare reform, and has fallen even lower as a result of restrictions on benefits and the decline in participation among immigrant families. In fact, since 1994, participation rates among eligible immigrants have declined across all benefit programs. After the 1996 law was enacted, participation rates continued to drop, even though the need among the children of immigrants is well documented, and most of these children are themselves U.S. citizens. For example, a recent study found that 37% of children of immigrants live in families that worry about or have difficulty obtaining food, compared with 27% of children of nonimmigrants, and that 22% of children of immigrants do not have health insurance, compared with 10% of children of nonimmigrants.

The evidence suggests that the decline in participation among eligible immigrants reflects a variety of fears. For example, many eligible immigrants fear that if they receive benefits, they may be considered a “public charge,” which disqualifies them from spon-

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**Box 11**

**Potential Immigrant-Related Reauthorization Issues**

1. **Should legal immigrants have their eligibility for public benefits restored?** Efforts to restore immigrant eligibility for public benefits have continued in each Congress since enactment of the 1996 law, and no doubt further efforts toward this goal will be made.

2. **Should special efforts be made to increase access for citizen children in mixed-status households?** There may be greater attention paid to the areas of federal policy in which ambiguity may be having an unintended chilling effect on receipt of public benefits by eligible children who live with ineligible parents and guardians.

3. **Are new policies needed to address language barriers for immigrants and other limited-English speaking families?** Concerns have been raised about the adequacy of programs to improve the foreign language skills of service workers, and depending on local progress, the issue may be revisited during reauthorization. Also, within the TANF program, some caseworkers have raised concerns about restrictions on immigrants’ participation in English as a Second Language (ESL) programs as a “countable” activity toward a state’s required work participation rate. Some argue that to help non-English-speaking families move toward self-sufficiency, greater efforts must be made to assess English literacy needs and provide access to programs that address those needs.
soring relatives who may want to immigrate, or that they may be investigated by the Immigration and Naturalization Service (INS).145 In mid-1999, INS clarified that getting Medicaid would not affect public charge status under most circumstances,146 but it is not yet clear whether this clarification has improved program participation.

Another key reason for low participation rates is that many immigrant households have mixed status—that is, they include members who are citizens and noncitizens, “qualified” and “not qualified,” eligible and ineligible.147 As a result, a substantial number of children who are citizens and fully eligible for federal and state public assistance may not be receiving needed benefits because they live with a noncitizen parent or grandparent who is ineligible for various assistance programs under the 1996 law. According to the U.S. Department of Agriculture, for example, participation in the food stamp program by citizen children in families headed by a noncitizen dropped by 75% between 1994 and 1998.148

Language barriers can make it even more difficult to understand the complex rules of the welfare system, further exacerbating immigrant families’ confusion about eligibility.149 Although an executive order issued in August 2000 sought to address concerns about linguistic barriers to programs for non-English speakers,150 it remains to be seen whether the guidance is implemented locally in ways that ensure meaningful access to programs. A number of organizations whose members would implement the guidance, such as the American Medical Association, opposed the order because of its purported cost, and a bill that would prohibit its implementation was introduced in Congress in March 2001.151

In 2002, lawmakers will likely examine current policy concerning public benefits for immigrants. Key questions that may be raised are summarized in Box 11.

**Conclusion**

The landscape of social policies and programs serving low-income children has changed dramatically since enactment of the 1996 law. The dominant themes in 1996 included reducing spending, promoting devo-

The 2002 congressional debates surrounding the reauthorization of federal welfare reform are likely to be an extraordinarily important time for discussions of national poverty policy and family policy. It will be a time to acknowledge where progress has and has not been made, and to look for improvements for the future. For each specific program, discussions will center on cost, performance, effectiveness, and incentives for governments and individuals. Across programs, lawmakers will focus on how government can better assist working poor families; what the next steps should be in the national dialogue about mar-
The 1996 Welfare Law

1. The programs that were repealed and whose funding was folded into the TANF block grant were the AFDC program, the Job Opportunities and Basic Skills Training (JOBS) program, and the Emergency Assistance program.


9. In 1997, some 48% of families receiving assistance indicated that either their general health or mental health was poor. See Loprest, P., and Zedlewski, S. Current and former welfare recipients: How do they differ? Washington, DC: Urban Institute, 1999.


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ENDNOTES


23. Oklahoma's $10 million is available for a range of activities including public education, training of state employees to offer relationship skills workshops, improving data and research, and working with faith-based groups and community leaders.


25. For example, the Fathers Count bill, introduced in 1999, awarded grants to community-based organizations that, among other activities, promoted marriage as a means of ensuring responsible, involved fatherhood. This bill passed the House overwhelmingly in 2000, but stalled in the Senate and was reintroduced in 2001.


28. See note 26, PRWORA, title IX, section 912. The program is administered through the Maternal Child Health Services Block Grant.


30. Congress approved $20 million for fiscal year 2001 and a total of $40 million for fiscal year 2002, under Special Projects of Regional and National Significance; Community-Based Abstinence Education Project Grants.

31. In 1999, teen parents accounted for about 4% of all adults in the caseload, and another 0.4% of all children. See note 3. The teen parent status is “unknown” for a significant percentage of the caseload—5.2% of the children and 0.5% of adults, or nearly 287,000 teen recipients.

32. See note 26, PRWORA, title I, section 103, 110 Stat. 2135–37. The law also called for the U.S. Department of Justice to study the link between statutory rape and teen pregnancy, and to educate state and local criminal law enforcement officials on statutory rape prevention and prosecution (title IX, section 906). Because these provisions did not come with funding, however, communities have done little to implement such programs.


36. The evaluation of California's "learnfare" program suggests that teen mothers who are married or have steady boyfriends are at greater risk of a subsequent birth. See note 35, Mauldon, et al.


38. The percentage is not known exactly, because 15 states have separate two-parent programs and do not report their data to the federal government. See note 31, U.S. Department of Health and Human Services, table 10:7.


43. For poor, single female-headed families that receive child support, it is the second largest component of family income after earnings, amounting to 26% of the family’s budget, or $2,000 per year. (Other components include earnings at 38%, cash assistance at 20%, and other income at 16%) See Sorensen, E., and Zibman, C. To what extent do children benefit from child support? New information from the National Survey of America’s Families. Focus (2000) 21:34-37.


45. Poor families eligible for child support are significantly more likely to receive it if they have participated in the child support program. Sorensen, E., and Hapern A. Child support enforcement is working better than we think. Washington, DC: Urban Institute, 2000. See also note 41, Garfinkel and Hainz.

46. Although 40% of children with a nonresident parent are living below the poverty level, 23% of nonresident fathers are poor. See Sorensen, E., and Zibman, C. A look at poor dads who don’t pay child support. Washington, DC: Urban Institute, 2000.


49. States must meet five performance measures and have reliable data to qualify for federal incentive payments, and these payments must be reinvested in child support-related activities. New penalty, audit, and reporting requirements also were enacted. See Roberts, P., and Turetsky, V. New federal child support legislation: Computer penalties, incentive payments, medical support, and other topics, Washington, DC: Center for Law and Social Policy, July 28, 1998.

50. Among families with a support order already in place, collection rates increased from 34% to 68% between 1995 and 2000. See note 44, U.S. Department of Health and Human Services, as well as preceding annual reports.

51. Under AFDC, states were required to “pass through” the first $50 of support to families receiving assistance, and the costs were shared between federal and state governments. When TANF was enacted, the pass-through requirement was repealed. States were allowed to continue the practice, but with no federal cost sharing, and less than half of the states have opted to do so. See Turetsky, V. What if all the money came home? Washington, DC: Center for Law and Social Policy, June 2000; and Roberts, P. State policy re-pass-through and disregard of current month’s child support collected for families receiving TANF-funded cash assistance. Washington, DC: Center for Law and Social Policy, January 1999.

52. See note 46, Sorensen and Zibman, p. 3; and Sorensen, E. Low-income families and child support: Latest evidence from the National Survey of America’s Families. Washington, DC: Urban Institute, 2000, figure 1.

53. Program administrators say the rules have contributed to computer systems delays, increased staff and training costs, difficulties in redirecting support payments to former TANF families, confusion among parents, and audit problems.


56. The federal government reimburses states 66% of their program costs through an open-ended entitlement funding stream, and states fund their matching share of costs with some combination of state general or special funds, assigned welfare collections, and federal incentive payments. See Fishman, M., Dybdal, K., and Tapogna, J. State financing of child support enforcement programs. Final report to Washington, DC: U.S. Department of Health and Human Services, September 1999.


59. For example, attention has been focused on informal support, imputing income when setting orders, arrearages, and welfare cost recovery policies. For a discussion of these issues, see Turetsky, V. Realistic child support policies for low income fathers. Washington, DC: Center for Law and Social Policy, March 2000.


61. The law also permits states to set lower state income eligibility levels and to make age and income exceptions for children in protective services.


64. Calculations based on figures from U.S. Department of Health...


72. To encourage certain types of providers to participate in the system, however, more than 20 states have implemented differential reimbursement rates. For example, some states pay higher rates for nationally accredited programs or programs that serve children during nontraditional hours or that serve children with special needs. See note 70, Blank, Behr, and Schuman.

73. For a brief overview of the Medicaid program and populations served, see http://hcfa.hhs.gov/pubforms/actuary/ormedmed/default.htm; and http://hcfa.hhs.gov/stats/hstats09/blustat09.htm, tables 11, 26, and 34.


80. See note 77, Perry, et al., p. 6.


83. In April 2000, based on evidence that a number of states had failed to correctly determine continued Medicaid eligibility for families leaving TANF, the Health Care Financing Administration (HCFA) directed all states to review their case closures and reinstate families whose Medicaid assistance had been terminated erroneously. In addition, because children who receive SSI are generally eligible for Medicaid, HCFA also directed all states to obtain a list of children who had lost SSI and to ensure that they were enrolled in Medicaid. See State Medicaid Directors Letter, April 7, 2000, Available online at http://wwwqa.hcfa.gov/medicaid/smd40700.htm.
84. For a brief overview of the SCHIP program, see http://www.hhs.gov/news/press/2001pres/01fschip.html.

85. See note 81, Ellis and Smith, p. 6.

86. See note 82, Guyer, pp. 1-2.


88. See note 87, U.S. Department of Agriculture, table 1.

89. For a general overview of food stamp program structure and rules, see http://www.fns.usda.gov/fsp/ MENU/about/about.htm. For a more detailed discussion, see Food Research and Action Center. FRAC’S guide to the Food Stamp program. 10th ed. Washington, DC: FRAC., 1999.

90. The original Congressional Budget Office projections estimated that $27.7 billion, or about half the original projected spending reductions from the 1996 law, would be attributable to reductions in food stamp program eligibility and benefits, including restrictions on immigrant eligibility. Center on Budget and Policy Priorities. The depth of the food stamp cuts in the final welfare bill. Washington, DC: CBPP, August 14, 1996.


98. In early 1999, the Department of Agriculture wrote to all states stressing the importance of complying with food stamp protections in determining food stamp eligibility and benefits when evaluating TANF applications and closing TANF cases. See http://www.fns.usda.gov/fsp.


100. Although the connection between poverty and maltreatment is not fully understood, the risk of abuse or neglect is 22 times greater for children living in families with annual incomes below $15,000 than for children living in families with incomes greater than $30,000. Sedlak, A.J., and Broadhurst, D.D. Third national incidence study of child abuse and neglect: Final report. Washington, DC: U.S. Department of Health and Human Services, 1996, pp. 5-1 to 5-8. Also, though less than 3% of children receiving AFDC during the study period moved into foster care, nearly 60% of children in foster care came from families that were, or recently had been, receiving AFDC. See Chapin Hall Center for Children, University of Chicago. Dynamics of children’s movement among the AFDC, Medicaid and foster care programs prior to welfare reform: 1995-1996. Washington, DC: U.S. Department of Health and Human Services, March 2000.

101. As per the technical corrections in the Balanced Budget Act of 1997, Public Law 105-133.

102. Since the law was enacted, the poorest single-mother families have experienced a decrease in disposable income. See note 8, Primus, et al.

103. The 1996 law prohibits states from sanctioning single custodial parents for failure to comply with work requirements if the parent demonstrates that she or he is unable to obtain needed child care for a child under age six, but it is not clear if TANF recipients are aware of this exception. They may believe that they risk losing cash assistance if they do not comply with the work requirements. In addition, the exception does not apply to lack of child care for children age 6 or older—yet a number of states include failure to supervise children up to the age of 10 or 12 within the definition of “neglect.”


110. Geen, R., Waters Boots, S., and Tumin, K. The cost of protecting...

For example, under the 1996 law, states may transfer part of their TANF funds to Title XX, subject to certain limits. Specifically, no more than 10% can be transferred to Title XX for services to children and their families whose income is below 200% of poverty.


Although child-only cases are a steadily increasing share of the TANF caseload, representing nearly 30% of the TANF caseload in 1999, this is largely because other types of cases are declining more rapidly. In addition, children living with relatives make up only a small fraction of the child-only cases. The majority of these cases involve children living with parents who, for a variety of reasons, are ineligible for TANF assistance. See note 3, U.S. Department of Health and Human Services.


U.S. House of Representatives, Committee on Ways and Means. 1998 green book: Background material and data on programs within the jurisdiction of the Committee on Ways and Means. Washington, DC: U.S. Government Printing Office, 1998, p. 298. In addition to a new assessment tool (the Individualized Functional Assessment, or IFA) to determine childhood disability under the Zeblay decision, other factors contributed significantly to the increased caseload, including: (1) creation of an outreach program; (2) expansion of the category of mental disorders considered disabling; and (3) the recession of the early 1990s, which is thought to have resulted in more children meeting the income criteria of the SSI program. See M. ashaw, J. L., Perrin, J. M., and Ren, V., eds. Restructuring the SSI disability program for children and adoptions Report of the Committee on Childhood Disability of the Disability Policy Panel. Washington, DC: National Academy of Social Insurance, 1996.

For an overview of this coverage, see Georges, C. A media crusade gone haywire. Forbes MediaCritic (September 1995) 3:1, 66–71.


The letter says, “...a large percentage of [the children expected to] lose assistance based on the SSA’s definition of disability will be disabled children who are truly in need of assistance...The SSA is proposing to define ‘marked and severe’ as meaning listings levels severity or any equivalent level of severity. Congress never intended and did not require this level of severity.” Senators Kent Conrad, Edward Kennedy, John D. Rockefeller IV, Max Baucus, Christopher Dodd, John Chafee, Tom Harkin, James Jeffords, Patrick Leahy, and Tom Daschle. Letter to President William J. Clinton, dated April 14, 1997.

See the Code of Federal Regulations, Title 20: Employees’ benefits, Chapter 11, Social Security Administration. Part 404: Federal old-age, survivors and disability insurance; and 416: Supplemental security income for the aged, blind, and disabled.


The total number of redeterminations for the years 1997 through 2000 was 191,049. Of those, 90,899 (48%) were initially ceased. On reconsideration or appeal a number of these cessations were continued so that, by the close of 2000, the number of cessations was 74,066 or 39% of the initial redeterminations. However 6,653 of the cases were still pending, so the final cessation rates could be lower, as low as 35% The office of Chief Actuary at SSA estimates, based on past experience and trends, that the final cessation rate for these years will likely be about 37% Author’s personal conversation.

About 80% of SSI recipients are automatically eligible for Medicaid because of their eligibility for SSI. See note 105, U.S. House of Representatives, Committee on Ways and Means, p. 225. Thus, unless these teens meet other Medicaid eligibility criteria, they will lose their coverage.

For example, under the Individuals with Disabilities Education Act (IDEA), adolescents are permitted to receive special education services until age 22. In addition, under the federal foster care program, Congress recently made changes to help children transition to independent living, rather than simply cutting off support at age 18.

Much of the congressional concern stemmed from the fact that noncitizens use public benefits at higher levels than citizens. For further discussion of this topic, see note 118, U.S. House of Representatives, Committee on Ways and Means, Appendix J. Recent analysis notes that noncitizen households tend to have lower household income and more children than citizen households have. When controlling for poverty and number of children, however, noncitizens actually use public benefits at levels equal to or lower than those of citizens See Fix, M., and Paseo, J.S. Trends in noncitizens’ and citizens’ use of public benefits fol-
Provisions were enacted to retain benefits for “qualified” immigrants who were receiving SSI when the 1996 law was enacted, and to allow benefits for new applicants who were residing in the United States when the law was enacted. However, the income and resources of an immigrant’s sponsor are counted as the immigrant’s when making eligibility determinations. See note 132, Zimmermann and Tumlin, p. 27. The sponsor’s affidavit of support is legally enforceable and remains in effect until the sponsored immigrant attains citizenship or accumulates 40 qualifying quarters of work. See U.S. General Accounting Office. Welfare reform: Many states continue some federal or state benefits for immigrants. GAO/HEHS-98-132. Washington, DC: GAO, 1998, pp. 6-7.


Only Alabama opted not to provide TANF and only Wyoming elected to deny nonemergency Medicaid to preenactment immigrants. See note 132, Zimmermann and Tumlin, p. 60, table 25.


Provisions were enacted to retain benefits for “qualified” immigrants who were receiving SSI when the 1996 law was enacted, and to allow benefits for new applicants who were residing in the United States when the law was enacted and who were (or subsequently became) disabled. A further modification continued SSI for “not qualified” immigrants who were residing in the United States and receiving SSI at the time of enactment, but unlike “qualified” immigrants, “not qualified” immigrants who subsequently become elderly or disabled will not qualify for SSI, even if they were residing in the U.S. when the law was enacted.


See note 132, Zimmermann and Tumlin, pp. 22-23.

See note 121, U.S. General Accounting Office, p. 16.


Cited in note 143, Fix and Passel, p. 2.


Under Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” Issued August 11, 2000, all federal agencies were directed to take “reasonable steps to ensure meaningful access to their programs and activities by [limited English proficient] persons,” based on the fact that not serving this population because of their inability to speak English may be a violation of Title VI of the Civil Rights Act. In response, the Department of Health and Human Services (and other federal agencies) issued guidance to help address the hurdles people not fluent in English were encountering when trying to obtain services. Such help may include providing interpreters, translations, and other assistance as needed. See Federal Register (August 30, 2000) 65(169):52,762-74.

The bill, H.R. 969, was introduced on March 8, 2001, in the U.S. House of Representatives to nullify Executive Order 13166 and to prohibit use of funds under any provision of law to promulgate or enforce any executive order that creates an entitlement to services provided in any language other than English. The bill was referred to a House subcommittee on March 15, 2001, and as of December 2001 no further action had been taken.