

# EXCESS PROPERTY:

## A bill by Senator Mondale



# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93<sup>d</sup> CONGRESS, FIRST SESSION

Vol. 119

WASHINGTON, WEDNESDAY, FEBRUARY 21, 1973

No. 27

## Senate

By Mr. MONDALE (for himself, Mr. JAVITS, Mr. STAFFORD, Mr. PELL, Mr. KENNEDY, Mr. HARTKE, Mr. HUDDLESTON, Mr. INOUE, Mr. NELSON, Mr. BEALL, Mr. WILLIAMS, Mr. MCGOVERN, Mr. JACKSON, Mr. HUMPHREY, Mr. EAGLETON, and Mr. CHURCH):

S. 948. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees. Referred to the Committee on Government Operations.

### EXCESS PROPERTY

Mr. MONDALE. Mr. President, I would like at this time to inform my colleagues that I am introducing today a bill which would provide a permanent authorization for the excess property program for Federal grantees.

The bill is identical to S. 3882, which I introduced in August of last year. I believe that the need for this legislation is just as great now as it was several months ago.

Last August, I introduced S. 3882 in an attempt to prevent the General Services Administration from its announced intention of discontinuing the excess property program for grantees. On November 14, GSA announced in the Federal Register that the program—

Will continue unchanged and a study will be conducted and a determination made as to the desirability for modification of this policy.

I ask unanimous consent to have printed in the Record a copy of a letter from M. S. Meeker, Commissioner of the Federal Supply Service, informing me of GSA's decision.

There being no objection, the letter was ordered to be printed in the Record, as follows:

GENERAL SERVICES ADMINISTRATION,  
Washington, D.C., November 10, 1972.

HON. WALTER F. MONDALE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MONDALE: On June 1, 1972, the General Services Administration (GSA) published in the Federal Register a proposed amendment to the Federal Property Management Regulations (FPMR) which, if adopted, would discontinue the use of GSA sources of supply and services, including excess property, by Federal grantees. Interested parties were invited to comment on this proposal within 30 days. The deadline for comments was extended to July 31, 1972, to accommodate numerous requests for an extension.

Comments on the proposed amendment have been evaluated. Based on this evaluation it has been determined, in concert with the Office of Management and Budget, that the interests of the country would best be served by discontinuing this grantee program with respect to the use of GSA sources of supply and services. On the basis of this decision, an appropriate amendment to the FPMR is being published in the Federal Register on November 14, 1972. The policy on acquisition and use of excess property, however, will continue unchanged and a study will be conducted and a determination made as to the desirability for modification of this policy.

This study will also review the regulations governing the donation of surplus property for the purpose of extending those benefits to all grantees who may be authorized as eligible donees under the Federal Property Act. Cost-reimbursement type contractors may continue to be authorized to use GSA sources of supply pursuant to Subparts 1-5.5 and 1-5.9 of the Federal Procurement Regulations.

Your comments and suggestions have been of great help to us in reaching these decisions, and the personal interest you have shown is appreciated.

Sincerely,

M. S. MEEKER,  
Commissioner.

Mr. MONDALE. Mr. President, this administrative decision, however, does not guarantee that the colleges and universities, vocational schools, antipoverty programs and other Federal grantees will be able to continue to use the excess property program indefinitely. For example, in July, the Department of Health, Education, and Welfare unilaterally terminated its own program. Since then, HEW grantees have been prohibited from acquiring excess property.

I ask unanimous consent to insert in the Record at this time an exchange of correspondence between myself and HEW Secretary Elliot Richardson explaining the current position of the Department on excess property.

There being no objection, the letters were ordered to be printed in the Record, as follows:

NOVEMBER 15, 1972.

HON. ELLIOT L. RICHARDSON,  
Secretary, Department of Health, Education,  
and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I have been informed that yesterday the General Services Administration announced its decision to allow government policy on acquisition and use of excess property to "continue unchanged and a study will be continued and a determination made as to the desirability for modification of this policy".

In the interest of fair treatment of HEW grantees and of conformity of HEW with the government-wide policy on excess property, I strongly urge you to rescind your July 14 order terminating HEW's excess property program for grantees. Such a decision on your part would be responsive to the needs of educational institutions and other grantees for excess property as outlined by former Commissioner of Education, Sidney Marland; and to the thousands of letters received by members of Congress and the GSA urging continuation of the program.

Sincerely,

WALTER F. MONDALE.

WASHINGTON, D.C.,  
December 14, 1972.

HON. WALTER F. MONDALE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MONDALE: The Secretary has requested that I respond to your letter of November 15 in which you urged the rescission of the Department regulation that terminated on July 14, 1972 the eligibility of HEW grantees to acquire excess property by loan from the Federal Government.

Please be advised that the Secretary, as a result of an appeal by Commissioner of Edu-

cation, Dr. Sidney Marland, to rescind HEW's position on this matter, reviewed the current status of the Department's program regarding the loan of excess property to grantees. The Secretary on November 21, 1972 decided that the present policy would be continued until HEW completes its participation in the Interagency Study Group proposed by GSA, as outlined in 37 Federal Register 24113.

Please pardon our delay in responding, and let us know if we may be of further assistance to you.

Sincerely,

NORMAN B. HOUSTON,  
Deputy Assistant Secretary for Adminis-  
tration.

Mr. MONDALE. Mr. President, I hope that the bill I introduce today will be a vehicle for establishing a permanent authorization that will guarantee the continuation of this worthwhile program.

Because the question of the future of the excess property program is an extremely complex one, I would like at this time to recount the series of events which precipitated my introduction of the legislation.

First, I ask unanimous consent that a memorandum prepared for me by the Library of Congress be printed in the Record. It provides a clear, unprejudiced definition of the term "excess property"—which is often mistakenly confused with "surplus property"—and of the authority for the existing program.

There being no objection, the material was ordered to be printed in the Record, as follows:

### THE GSA PROGRAM ON EXCESS PROPERTY

1. The legislative basis for the GSA excess property program is the Federal Property and Administrative Services Act of 1949, as amended. Implementing instructions are delineated in the Federal Property Management Regulations. The salient features of the Federal Property and Administrative Services Act of 1949, are the following:

a. The Act makes a distinction between "excess property" and "surplus property". The former is any property under the control of a Federal agency which is no longer needed by that agency. Surplus property is any excess property not needed by any Federal agency, as determined by the Administrator of General Services.

b. The Administrator (GSA), to minimize expenditures for property, is given responsibility to prescribe policies and methods to promote the maximum utilization of excess property by Federal agencies. He makes provision for the transfer of excess property among Federal agencies. With the approval of the Directors, Office of Management and Budget, he prescribes the extent of reimbursement for such transfers.

c. Federal executive agencies are responsible for surveying the property under their control to determine which is excess, reporting such property to the Administrator, GSA, and disposing of such property to the Administrator, GSA, and disposing of such property as promptly as possible, in accordance with GSA regulations.

d. Generally speaking, when excess property becomes surplus property, the Administrator, GSA, exercises supervision and direction over its disposition. Any agency authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer—for cash, credit

or other property. Usually, disposals made or authorized by the Administrator are made after publicly advertising for bids. However, disposals may be negotiated under regulations prescribed by the Administrator, GSA. Among the conditions which permit negotiation are the following: because such action may be necessary for the public interest in an emergency, promotion of the public health, safety or national security, because bid prices after advertising are not reasonable.

e. The Administrator is authorized to donate surplus property without cost (except for care and handling), for use in any State for educational, public health or research purposes. For surplus property under the control of the Department of Defense, the Secretary, DOD, determines whether it is usable for educational purposes which are of special interest to the armed forces (e.g., military preparatory schools). If found usable, he allocates it for transfer by the Administrator, GSA, to State agencies for distribution. If not usable for military education, the surplus property may be examined by Department of Health, Education and Welfare of Civil Defense for possible utilization by these activities.

f. Determination as to whether surplus property is usable for education, health or research is made by the Secretary of HEW, who allocates such property on the basis of needs for transfer by GSA to the States for distribution. The Civil Defense Administrator takes similar action for surplus property determined to be useful for Civil Defense purposes.

h. The Administrator, GSA, is authorized to assign to the Secretary, HEW, for disposal, such surplus real property that HEW recommends as needed for education, health or research purposes.

h. The administrator, GSA, is authorized to assign to the Secretary of the Interior, for disposal, such surplus real property needed for use as public parks or recreation area.

Mr. MONDALE, Mr. President, on May 16, 1972, Frank Carlucci, Associate Director of the Office of Management and Budget, wrote a letter to Rod Kregar, Acting Administrator of the General Services Administration, calling on GSA to "discontinue all authorizations and practices which now permit the use of Federal sources of supply or services by Federal grantees including depots, stores, warehouses, contracts excess personal property or other such sources."

At this point, I ask unanimous consent to have printed in the Record the letter from Mr. Carlucci to Mr. Kregar.

There being no objection, the letter was ordered to be printed in the Record, as follows:

OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., May 16, 1972.

Hon. ROD KREGAR,  
Acting Administrator,  
General Services Administration,  
Washington, D.C.

DEAR MR. KREGAR: As you know, there has been increasing concern in the business community, the Congress and the executive branch regarding an authorization of the General Services Administration which permits Federal grantees to buy supplies and services directly from GSA and from other Federal sources of supply.

The provision at issue, as set forth in the Federal Property Management Regulations 41 CFR Sec. 101-33, authorizes other Government agencies to, in turn, authorize grantees of such agencies, to buy from GSA inventories and stores, and to order directly from manufacturers via Government contracts. Additionally, the authorization has been extended to the practice of allowing grantees to place orders with GSA regions or buying centers for direct purchase, and also allows grantees access to Federal sources of excess personal property.

The above authorizations are not consistent with the purpose of the Administration's policy of reliance on the private enterprise system and is particularly objectionable in this sense because the burden of GSA competition falls more heavily on small businesses throughout the country. To the extent that grantees are components of State or local governments, the authorizations are also not consistent with the intent of Congress as expressed in the Intergovernmental Cooperation Act and implementing regulations (Circular A-97) of OMB.

It is our conclusion, in view of the above, that GSA should discontinue all authorizations and practices which now permit the use of Federal sources of supply or services by Federal grantees.

I am requesting, therefore, that immediate steps be taken to propose an amendment to GSA regulations that would rescind all authorizations of GSA under which Federal grantees are permitted to use Federal sources of supply. The proposed regulation should, of course, be made available under OMB Circular No. A-85 for comment by State and local governments prior to issuance.

Upon issuance of the amendment, action should be taken to notify the agencies of the determination and request that they immediately advise their grantees that access to Federal sources, i.e., depots, stores, warehouses, contracts, excess personal property, or other such sources is no longer authorized. Appropriate action consistent with the above should also be taken with respect to existing arrangements and unfilled requisitions.

As you know, studies of the Commission on Government Procurement have extended to all phases of supply support and the Commission's final report may include recommendations concerning grantee use of Federal supply sources. We will, of course, review the above conclusion in the light of any such recommendation which the Commission may propose.

Your cooperation and assistance in accomplishing the foregoing will be appreciated. Should you have any questions regarding this matter, we would be happy to discuss it further.

Sincerely,

FRANK CARLUCCI,  
Associate Director.

Mr. MONDALE, Mr. President, in the Federal Register dated June 1, 1972, the following announcement appeared:

(General Services Administration—[41 CFR Parts 101-2, 101-33, 101-43])

USE OF GOVERNMENT SUPPLY SOURCES BY  
GRANTEES

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the General Services Administration (GSA) is considering the adoption of revised rules prohibiting the use of GSA and other Government sources of supply by recipients of Federal grants.

The Office of Management and Budget has directed GSA to propose discontinuance of the authorization permitting Federal grantees to use Federal supply sources. Therefore, appropriate amendments to the Federal Property Management Regulations to accomplish this have been developed. However, cost-reimbursement type contractors will continue to be permitted to use GSA supply sources under the provisions of Subparts 1-5.5 and 1-5.9 of the Federal Procurement Regulations.

This notice is published pursuant to section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Interested persons are invited to submit written data, views, or arguments regarding the proposed revision to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, within 30 days after the date of publication of this notice in the Federal Register.

Dated: May 31, 1972.

M. S. MEEKER,  
Commissioner.

I became aware of the appearance of this announcement more than a week later, when Minnesota grantees notified me that they stood to lose valuable and much-needed excess property if the rule change went into effect. Among the institutions and agencies in Minnesota alone which have since taken the trouble to inform me that they oppose the termination of the program are the following:

LIST OF INSTITUTIONS AND AGENCIES

Bemidji State College.  
Bi-County Community Action Council,  
Bemidji, Minn.  
Community Action Program, White Earth,  
Minn.  
Dakota County Area—Vocational-Technical School.  
Detroit Lakes Area Vocational-Technical School.  
Gustavus Adolphus College, University of  
Minnesota.  
Inter-County Community Council, Inc.,  
Erskine, Minn.  
Inter-County Community Council, Inc.,  
Oklee, Minn.  
Law offices of Legal Services Project, Case  
Lake, Minn.  
Legal Aid Society of Minneapolis.  
Mankato Area Vocational-Technical Institute.  
Meeker-Wright Community Action, Inc.,  
Waverly, Minn.  
Minnesota Private College Council.  
Minnesota State Advisory Council for Vocational Education.  
Northwest Community Action Council,  
Badger, Minn.  
Red Wing Public Schools.  
Rural Minnesota CEP and CO PO.  
St. Cloud State College.  
St. Mary's Junior College.  
South Central Community Action Council,  
Jackson, Minn.  
Southeastern Minnesota Citizens Action Council.  
Southeastern Vocational Center.  
Suburban Hennepin County Area Vocational-Technical School.  
Technical Education Center, Willmar State Junior College.

After learning of the intention of GSA to terminate the excess property program, I wrote the following letter to GSA requesting information about the impact of the proposed change.

The letter follows:

JUNE 15, 1972.

Mr. ROD KREGAR,  
Acting Administrator, General Services Administration, Washington, D.C.

DEAR MR. KREGAR: It has recently come to my attention that GSA is considering the adoption of revised rules prohibiting the use of GSA and other government sources of supply by recipients of Federal grants.

I am most distressed to hear that such a policy change is under consideration. It is apparent that a wide variety of institutions in Minnesota, including vocational and technical schools and the University, would be

adversely affected by the proposed change.

To my knowledge these institutions have received no explanation from GSA of the reasons for the proposed change. My staff has secured a copy of the letter from Frank Carlucci, Associate Director of the Office of Management and Budget, notifying you of the proposed change in regulations. This letter states that existing policy is not consistent with the purpose of the Administration policy of reliance on the private enterprise system and is particularly objectionable in this sense because the burden of GSA competition falls more heavily on small businesses throughout the country. This letter offers no documentation of the so-called "administration policy" referred to or any explanation as to what extent the present policy places a burden on small businesses throughout the country.

In addition, my staff has been unable to secure from your agency an explanation of the potential impact of the policy change either nationally or in Minnesota.

I am very concerned about the possible effects of a change in the regulation on the quality of educational and other human service programs in Minnesota. But it is impossible for me to address the substance of this issue without adequate information. For this reason, I request that complete answers to the following questions be forwarded to my office by the close of business on Thursday, June 20th:

1. Please list all Minnesota institutions which received excess property in FY 1971 and 1972, the value of the property acquired and which of these institutions would become ineligible under the proposed change.
2. Please indicate the dollar value of excess and surplus property received by each of the following types of institutions in each of the last five years:
  - (a) Minnesota institutions,
  - (b) Minnesota colleges and universities,
  - (c) Minnesota vocational and technical education institutions,
  - (d) all vocational education institutions nationally,
  - (e) all colleges and universities nationally.
3. Please list the dollar value of excess property disposed of throughout the United States in FY 1971 and 1972.
4. Please explain the difference between excess property and surplus property.
5. What agencies or other recipients will acquire or be eligible for acquisition of the excess property that would be unavailable to grantees under the proposed rule change? Please provide a general answer on the national situation and the specific list of eligible recipients in Minnesota.
6. Please explain in full "the Administration policy of reliance on the private enterprise system" with documentation of its origin and existence.
7. Please explain Mr. Carlucci's assertion that "the burden of GSA competition falls more heavily on small businesses throughout the country."

I am looking forward to your speedy reply.  
Sincerely,

WALTER F. MONDALE.

Despite the repeated attempts of my staff to receive answers to these questions from GSA, none had been received by my office on June 29. The deadline for comments to GSA was imminent and I feared that the program would be terminated before Congress even had the chance to express its interest and concern. For these reasons, on June 29, I introduced an amendment to the legislation authorizing continuation of the excess property and supply sources programs for grantees.

The Senate approved the amendment. At this point, I ask unanimous consent to have printed in the Record a copy of the letter received in my office from GSA—after the amendment had already been approved by the Senate. I hope you will take note of the failure of GSA to answer directly virtually all of the questions I had submitted.

There being no objection, the letter was ordered to be printed in the Record, as follows:

GENERAL SERVICES ADMINISTRATION,  
Washington, D.C., June 29, 1972.

Hon. WALTER F. MONDALE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MONDALE: Thank you for your letter concerning the proposal that the Federal Property Management Regulations (FPMR) be amended to discontinue the General Services Administration (GSA) grantee program.

Your interest is appreciated and we are answering your questions in the same order as in your letter.

1 & 2: The information required to answer these two questions is not available within GSA. Transfers of excess property are made to Federal agencies, some of which, in turn, make it available for use by their grantees and cost-reimbursement type contractors. After such property is transferred, the extent to which it is used within the acquiring agencies, either directly or by their grantees, is not known by GSA.

By way of information, with the expansion of Federal grant programs, several years ago certain agencies started acquiring excess property not only for direct use but also for use in Federal grant programs and on cost-reimbursement type contracts. The principal recipient agencies have been the Office of Economic Opportunity; National Science



Foundation, Office of Education, Department of Health, Education, and Welfare; Manpower Administration, Department of Labor; Department of Commerce; Defense Civil Preparedness Agency (former Office of Civil Defense); and, more recently, the Department of the Interior; Environmental Protection Agency; and the Law Enforcement Assistance Administration, Department of Justice. These agencies keep accountability records and information on the amount of property in the hands of their grantees and such information would be available only from them.

In the event the proposed regulation is issued, Federal grantees in the State of Minnesota will no longer be able to acquire excess property. While we do not have available the names of these grantees, they are generally involved in programs concerned with education, manpower training and development, community action, antipoverty, local police training, and civil defense.

With respect to surplus property, it is allocated among the States by the Department of Health, Education, and Welfare, and approved by the General Services Administration for transfer to the States for donation for education, public health, and civil defense purposes. By law, distribution to eligible donees within the States is made by an agency established by each State for that purpose. In Minnesota, that agency is under the direction of Mr. Harold W. Shattuck, Supervisor, Surplus Property Section, Department of Administration, 5420 Highway 8, Arden Hills, New Brighton, Minnesota 55112. Therefore, data on the amounts donated to specific donees within Minnesota would be available only from the State agency.

3. In terms of original acquisition cost, during FY 1971 \$751.2 million of excess property was transferred to other Federal agencies; for FY 1972 through May the amount was approximately \$858.0 million.

4. The term "excess property" means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof. While in excess status, this property is only available for use by the Federal Government.

The term "surplus property" means any excess property not required for the needs and discharge of the responsibilities of all Federal agencies, as determined by the Administrator of General Services. After being determined surplus, such property is made available first for donation to use within the States, after which any remainder is sold.

5. All agencies within the Federal Government which currently acquire excess property would continue to be eligible. However, the property would have to be acquired only for direct use or for use by their cost-reimbursement type contractors.

Since grantees would no longer be eligible, much of the excess property which Federal agencies acquire for such use would probably become surplus and donated for education, public health, and civil defense purposes. Consequently, grantees engaged in activities for other than those purposes would not be eligible for the donation of surplus property.

6 & 7: Since the quoted terms are extracted from the Office of Management and Budget letter of May 16, 1972, to GSA, we feel that OMB is better qualified to define their usage. Any such explanation should be obtained from the Office of Management and Budget.

Please let us know if we can be of further assistance.

Sincerely,

ROD KREGER,  
Acting Administrator.

Mr. MONDALE. Mr. President, the amendment approved by the Senate was considered by the conference committee on the OEO bill. It was not included in the conference report, because the parliamentarian of the House of Representatives ruled that the amendment was not germane to the bill.

Apparently because of the high public interest and the volume of mail being received in response to the request for comments, GSA extended the comment period until July 31. In the meantime, Secretary of Health, Education, and Welfare Elliot Richardson unilaterally terminated the HEW excess property program on July 14. I ask unanimous consent to have printed in the RECORD here a copy of the document stating that the HEW program has been terminated.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

MANUAL CIRCULAR—MATERIEL MANAGEMENT:  
USE OF EXCESS PROPERTY ON GRANTS

1. *Purpose.*—This circular provides Department policy regarding the use of excess personal property by grantees.

2. *Background.*—It has been determined that the use of excess personal property by grantees will be discontinued inasmuch as the majority of HEW grantees are eligible for donation of personal property under the Department's surplus property donation program.

3. *Policy.*—It is the policy of HEW that the use of excess personal property by grantees not be authorized. Section 103—43.320 of the HEW Materiel Management Manual is in the process of being revised to reflect this policy.

4. *Accountability.*—Federally-owned personal property presently in the possession of grantees will continue to be accounted for in accordance with current regulations.

5. *Effective Date.*—This circular is effective immediately.

On July 28, I and 22 other Senators signed and sent a letter to M. S. Meeker, Commissioner of the Federal Supply Service, expressing our concern about GSA's intention to terminate the excess property and supply source programs without providing adequate documentation of the reason for the decision and without providing a hearing to those who would be affected by the change. A copy of the letter follows:

JULY 28, 1972.

HON. M. S. MEEKER,  
Commissioner, Federal Supply Service, General Services Administration, Washington, D.C.

DEAR MR. MEEKER: Please consider this letter a formal response to GSA's solicitation of comments on the proposed "adoption of revised rules prohibiting the use of GSA and other Government sources of supply by recipients of Federal grants", which appeared in the Federal Register on June 1, 1972.

We are deeply concerned to learn that GSA is considering terminating the excess property and GSA supply source programs for grantees. We believe that these programs are of considerable importance in keeping down the cost of government-supported projects to the taxpayers; and in maintaining the quality of service offered by many of these programs.

We have further been concerned to observe that GSA has not provided the Congress with a comprehensive analysis of the pros and cons of these programs as they exist; and of the specific reasons for the proposal to terminate them.

Any decision on the future of the grantee programs should be made only after complete information on its implications has been developed and provided to Congress and to affected parties. Further, we believe that GSA should make a decision only after calling a public hearing and receiving testimony from those affected parties who wish to testify.

In addition, we believe that GSA should notify HEW—which has unilaterally terminated its own program even before the period for comments has expired—and other executive agencies that they should continue to operate their programs until a general policy decision has been made.

We thank you for your serious consideration of these points and urge that you immediately announce a date for a hearing and provide the Congress with the documentation required to fully understand the implications of the proposed rule change.

Sincerely,

Walter F. Mondale, George McGovern,  
Vance Hartke, Fred Harris, Philip A. Hart, Claiborne Pell, Thomas Eagleton, Clifford P. Case, Edward W. Brooke, Robert Stafford, William Proxmire, Mike Gravel, Harold E. Hughes, Daniel Inouye, Harrison Williams, Hubert H. Humphrey, Frank Church, Gaylord Nelson, John Tunney, Robert Taft, Jr., Nelson, John Tunney, Robert Taft, Jr., and Jacob Javits.

Mr. MONDALE. Mr. President, I ask unanimous consent that a copy of the bill I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 948

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 202 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483), is amended by adding at the end thereof the following new subsection:

"(1) Each executive agency shall furnish excess property to any grantee under a program established by law and for which funds are appropriated by the Congress if the head of that executive agency determines that the use of excess property by that grantee will (1) expand the ability of that grantee to carry out the purpose for which the grant was made, (2) result in a reduction in the cost to the Government of the grant, or (3) result in an enhancement in the product or benefit from the grant. Any determination under the preceding sentence shall be reduced to writing and furnished to the grantee involved. The Administrator shall prescribe regulations governing the use, maintenance, consumption, and redelivery to Government custody of excess property furnished to grantees under this subsection."

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WASHINGTON, WEDNESDAY, FEBRUARY 21, 1973

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S. 948. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees. Referred to the Committee on Government Operations.

### EXCESS PROPERTY

Mr. MONDALE. Mr. President, I would like at this time to inform my colleagues that I am introducing today a bill which would provide a permanent authorization for the excess property program for Federal grantees.

The bill is identical to S. 3882, which I introduced in August of last year. I believe that the need for this legislation is just as great now as it was several months ago.

Last August, I introduced S. 3882 in an attempt to prevent the General Services Administration from its announced intention of discontinuing the excess property program for grantees. On November 14, GSA announced in the Federal Register that the program—

Will continue unchanged and a study will be conducted and a determination made as to the desirability for modification of this policy.

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GENERAL SERVICES ADMINISTRATION,  
Washington, D.C., November 10, 1972.

HON. WALTER F. MONDALE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MONDALE: On June 1, 1972, the General Services Administration (GSA) published in the Federal Register a proposed amendment to the Federal Property Management Regulations (FPMR) which, if adopted, would discontinue the use of GSA sources of supply and services, including excess property, by Federal grantees. Interested parties were invited to comment on this proposal within 30 days. The deadline for comments was extended to July 31, 1972, to accommodate numerous requests for an extension.

Comments on the proposed amendment have been evaluated. Based on this evaluation it has been determined, in concert with the Office of Management and Budget, that the interests of the country would best be served by discontinuing this grantee program with respect to the use of GSA sources of supply and services. On the basis of this decision, an appropriate amendment to the FPMR is being published in the Federal Register on November 14, 1972. The policy on acquisition and use of excess property, however, will continue unchanged and a study will be conducted and a determination made as to the desirability for modification of this policy.

This study will also review the regulations governing the donation of surplus property for the purpose of extending those benefits to all grantees who may be authorized as eligible donees under the Federal Property Act. Cost-reimbursement type contractors may continue to be authorized to use GSA sources of supply pursuant to Subparts 1-5.5 and 1-5.9 of the Federal Procurement Regulations.

Your comments and suggestions have been of great help to us in reaching these decisions, and the personal interest you have shown is appreciated.

Sincerely,

M. S. MEEKER,  
Commissioner.

Mr. MONDALE. Mr. President, this administrative decision, however, does not guarantee that the colleges and universities, vocational schools, antipoverty programs and other Federal grantees will be able to continue to use the excess property program indefinitely. For example, in July, the Department of Health, Education, and Welfare unilaterally terminated its own program. Since then, HEW grantees have been prohibited from acquiring excess property.

I ask unanimous consent to insert in the Record at this time an exchange of correspondence between myself and HEW Secretary Elliot Richardson explaining the current position of the Department on excess property.

There being no objection, the letters were ordered to be printed in the Record, as follows:

NOVEMBER 15, 1972.

HON. ELLIOT L. RICHARDSON,  
Secretary, Department of Health, Education,  
and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I have been informed that yesterday the General Services Administration announced its decision to allow government policy on acquisition and use of excess property to "continue unchanged and a study will be continued and a determination made as to the desirability for modification of this policy".

In the interest of fair treatment of HEW grantees and of conformity of HEW with the government-wide policy on excess property, I strongly urge you to rescind your July 14 order terminating HEW's excess property program for grantees. Such a decision on your part would be respective to the needs of educational institutions and other grantees for excess property as outlined by former Commissioner of Education, Sidney Marland; and to the thousands of letters received by members of Congress and the GSA urging continuation of the program.

Sincerely,

WALTER F. MONDALE.

WASHINGTON, D.C.,  
December 14, 1972.

HON. WALTER F. MONDALE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MONDALE: The Secretary has requested that I respond to your letter of November 15 in which you urged the rescission of the Department regulation that terminated on July 14, 1972 the eligibility of HEW grantees to acquire excess property by loan from the Federal Government.

Please be advised that the Secretary, as a result of an appeal by Commissioner of Edu-

cation, Dr. Sidney Marland, to rescind HEW's position on this matter, reviewed the current status of the Department's program regarding the loan of excess property to grantees. The Secretary on November 21, 1972 decided that the present policy would be continued until HEW completes its participation in the Interagency Study Group proposed by GSA, as outlined in 37 Federal Register 24113.

Please pardon our delay in responding, and let us know if we may be of further assistance to you.

Sincerely,

NORMAN B. HOUSTON,  
Deputy Assistant Secretary for Administration.

Mr. MONDALE. Mr. President, I hope that the bill I introduce today will be a vehicle for establishing a permanent authorization that will guarantee the continuation of this worthwhile program.

Because the question of the future of the excess property program is an extremely complex one, I would like at this time to recount the series of events which precipitated my introduction of the legislation.

First, I ask unanimous consent that a memorandum prepared for me by the Library of Congress be printed in the Record. It provides a clear, unprejudiced definition of the term "excess property"—which is often mistakenly confused with "surplus property"—and of the authority for the existing program.

There being no objection, the material was ordered to be printed in the Record, as follows:

### THE GSA PROGRAM ON EXCESS PROPERTY

1. The legislative basis for the GSA excess property program is the Federal Property and Administrative Services Act of 1949, as amended. Implementing instructions are delineated in the Federal Property Management Regulations. The salient features of the Federal Property and Administrative Services Act of 1949, are the following:

a. The Act makes a distinction between "excess property" and "surplus property". The former is any property under the control of a Federal agency which is no longer needed by that agency. Surplus property is any excess property not needed by any Federal agency, as determined by the Administrator of General Services.

b. The Administrator (GSA), to minimize expenditures for property, is given responsibility to prescribe policies and methods to promote the maximum utilization of excess property by Federal agencies. He makes provision for the transfer of excess property among Federal agencies. With the approval of the Directors, Office of Management and Budget, he prescribes the extent of reimbursement for such transfers.

c. Federal executive agencies are responsible for surveying the property under their control to determine which is excess, reporting such property to the Administrator, GSA, and disposing of such property to the Administrator, GSA, and disposing of such property as promptly as possible, in accordance with GSA regulations.

d. Generally speaking, when excess property becomes surplus property, the Administrator, GSA, exercises supervision and direction over its disposition. Any agency authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer—for cash, credit



or other property. Usually, disposals made or authorized by the Administrator are made after publicly advertising for bids. However, disposals may be negotiated under regulations prescribed by the Administrator, GSA. Among the conditions which permit negotiation are the following: because such action may be necessary for the public interest in an emergency, promotion of the public health, safety or national security, because bid prices after advertising are not reasonable.

e. The Administrator is authorized to donate surplus property without cost (except for care and handling), for use in any State for educational, public health or research purposes. For surplus property under the control of the Department of Defense, the Secretary, DOD, determines whether it is usable for educational purposes which are of special interest to the armed forces (e.g., military preparatory schools). If found usable, he allocates it for transfer by the Administrator, GSA, to State agencies for distribution. If not usable for military education, the surplus property may be examined by Department of Health, Education and Welfare of Civil Defense for possible utilization by these activities.

f. Determination as to whether surplus property is usable for education, health or research is made by the Secretary of HEW, who allocates such property on the basis of needs for transfer by GSA to the States for distribution. The Civil Defense Administrator takes similar action for surplus property determined to be useful for Civil Defense purposes.

h. The Administrator, GSA, is authorized to assign to the Secretary, HEW, for disposal, such surplus real property that HEW recommends as needed for education, health or research purposes.

h. The Administrator, GSA, is authorized to assign to the Secretary of the Interior, for disposal, such surplus real property needed for use as public parks or recreation area.

Mr. MONDALE, Mr. President, on May 16, 1972, Frank Carlucci, Associate Director of the Office of Management and Budget, wrote a letter to Rod Kreger, Acting Administrator of the General Services Administration, calling on GSA to "discontinue all authorizations and practices which now permit the use of Federal sources of supply or services by Federal grantees including depots, stores, warehouses, contracts excess personal property or other such sources."

At this point, I ask unanimous consent to have printed in the Record the letter from Mr. Carlucci to Mr. Kreger.

There being no objection, the letter was ordered to be printed in the Record, as follows:

OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., May 16, 1972.

HON. ROD KREGER,  
Acting Administrator,  
General Services Administration,  
Washington, D.C.

DEAR MR. KREGER: As you know, there has been increasing concern in the business community, the Congress and the executive branch regarding an authorization of the General Services Administration which permits Federal grantees to buy supplies and services directly from GSA and from other Federal sources of supply.

The provision at issue, as set forth in the Federal Property Management Regulations 41 CFR Sec. 101-33, authorizes other Government agencies to, in turn, authorize grantees of such agencies, to buy from GSA inventories and stores, and to order directly from manufacturers via Government contracts. Additionally, the authorization has been extended to the practice of allowing grantees to place orders with GSA regions or buying centers for direct purchase, and also allows grantees access to Federal sources of excess personal property.

The above authorizations are not consistent with the purpose of the Administration's policy of reliance on the private enterprise system and is particularly objectionable in this sense because the burden of GSA competition falls more heavily on small businesses throughout the country. To the extent that grantees are components of State or local governments, the authorizations are also not consistent with the intent of Congress as expressed in the Intergovernmental Cooperation Act and implementing regulations (Circular A-97) of OMB.

It is our conclusion, in view of the above, that GSA should discontinue all authorizations and practices which now permit the use of Federal sources of supply or services by Federal grantees.

I am requesting, therefore, that immediate steps be taken to propose an amendment to GSA regulations that would rescind all authorizations of GSA under which Federal grantees are permitted to use Federal sources of supply. The proposed regulation should, of course, be made available under OMB Circular No. A-85 for comment by State and local governments prior to issuance.

Upon issuance of the amendment, action should be taken to notify the agencies of the determination and request that they immediately advise their grantees that access to Federal sources, i.e., depots, stores, warehouses, contracts, excess personal property, or other such sources is no longer authorized. Appropriate action consistent with the above should also be taken with respect to existing arrangements and unfilled requisitions.

As you know, studies of the Commission on Government Procurement have extended to all phases of supply support and the Commission's final report may include recommendations concerning grantee use of Federal supply sources. We will, of course, review the above conclusion in the light of any such recommendation which the Commission may propose.

Your cooperation and assistance in accomplishing the foregoing will be appreciated. Should you have any questions regarding this matter, we would be happy to discuss it further.

Sincerely,

FRANK CARLUCCI,  
Associate Director.

Mr. MONDALE, Mr. President, in the Federal Register dated June 1, 1972, the following announcement appeared:

(General Services Administration—[41 CFR Parts 101-2, 101-33, 101-43])

USE OF GOVERNMENT SUPPLY SOURCES BY  
GRANTEES

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the General Services Administration (GSA) is considering the adoption of revised rules prohibiting the use of GSA and other Government sources of supply by recipients of Federal grants.

The Office of Management and Budget has directed GSA to propose discontinuance of the authorization permitting Federal grantees to use Federal supply sources. Therefore, appropriate amendments to the Federal Property Management Regulations to accomplish this have been developed. However, cost-reimbursement type contractors will continue to be permitted to use GSA supply sources under the provisions of Subparts 1-5.5 and 1-5.9 of the Federal Procurement Regulations.

This notice is published pursuant to section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Interested persons are invited to submit written data, views, or arguments regarding the proposed revision to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, within 30 days after the date of publication of this notice in the Federal Register.

Dated: May 31, 1972.

M. S. MEEKER,  
Commissioner.

I became aware of the appearance of this announcement more than a week later, when Minnesota grantees notified me that they stood to lose valuable and much-needed excess property if the rule change went into effect. Among the institutions and agencies in Minnesota alone which have since taken the trouble to inform me that they oppose the termination of the program are the following:

LIST OF INSTITUTIONS AND AGENCIES  
Bemidji State College.  
Bi-County Community Action Council, Bemidji, Minn.  
Community Action Program, White Earth, Minn.  
Dakota County Area—Vocational-Technical School.  
Detroit Lakes Area Vocational-Technical School.  
Gustavus Adolphus College, University of Minnesota.  
Inter-County Community Council, Inc., Erskine, Minn.  
Inter-County Community Council, Inc., Oklee, Minn.  
Law offices of Legal Services Project, Case Lake, Minn.  
Legal Aid Society of Minneapolis.  
Mankato Area Vocational-Technical Institute.  
Meeker-Wright Community Action, Inc., Waverly, Minn.  
Minnesota Private College Council.  
Minnesota State Advisory Council for Vocational Education.  
Northwest Community Action Council, Badger, Minn.  
Red Wing Public Schools.  
Rural Minnesota CEP and CO PO.  
St. Cloud State College.  
St. Mary's Junior College.  
South Central Community Action Council, Jackson, Minn.  
Southeastern Minnesota Citizens Action Council.  
Southeastern Vocational Center.  
Suburban Hennepin County Area Vocational-Technical School.  
Technical Education Center, Willmar State Junior College.

After learning of the intention of GSA to terminate the excess property program, I wrote the following letter to GSA requesting information about the impact of the proposed change.

The letter follows:

JUNE 15, 1972.

MR. ROD KREGER,  
Acting Administrator, General Services Administration, Washington, D.C.

DEAR MR. KREGER: It has recently come to my attention that GSA is considering the adoption of revised rules prohibiting the use of GSA and other government sources of supply by recipients of Federal grants.

I am most distressed to hear that such a policy change is under consideration. It is apparent that a wide variety of institutions in Minnesota, including vocational and technical schools and the University, would be

adversely affected by the proposed change.

To my knowledge these institutions have received no explanation from GSA of the reasons for the proposed change. My staff has secured a copy of the letter from Frank Carlucci, Associate Director of the Office of Management and Budget, notifying you of the proposed change in regulations. This letter states that existing policy is not consistent with the purpose of the Administration policy of reliance on the private enterprise system and is particularly objectionable in this sense because the burden of GSA competition falls more heavily on small businesses throughout the country. This letter offers no documentation of the so-called "administration policy" referred to or any explanation as to what extent the present policy places a burden on small businesses throughout the country.

In addition, my staff has been unable to secure from your agency an explanation of the potential impact of the policy change either nationally or in Minnesota.

I am very concerned about the possible effects of a change in the regulation on the quality of educational and other human service programs in Minnesota. But it is impossible for me to address the substance of this issue without adequate information. For this reason, I request that complete answers to the following questions be forwarded to my office by the close of business on Thursday, June 20th:

1. Please list all Minnesota institutions which received excess property in FY 1971 and 1972, the value of the property acquired and which of these institutions would become ineligible under the proposed change.

2. Please indicate the dollar value of excess and surplus property received by each of the following types of institutions in each of the last five years:

(a) Minnesota institutions,  
(b) Minnesota colleges and universities,  
(c) Minnesota vocational and technical education institutions,  
(d) all vocational education institutions nationally,  
(e) all colleges and universities nationally.

3. Please list the dollar value of excess property disposed of throughout the United States in FY 1971 and 1972.

4. Please explain the difference between excess property and surplus property.

5. What agencies or other recipients will acquire or be eligible for acquisition of the excess property that would be unavailable to grantees under the proposed rule change? Please provide a general answer on the national situation and the specific list of eligible recipients in Minnesota.

6. Please explain in full "the Administration policy of reliance on the private enterprise system" with documentation of its origin and existence.

7. Please explain Mr. Carlucci's assertion that "the burden of GSA competition falls more heavily on small businesses throughout the country."

I am looking forward to your speedy reply. Sincerely,

WALTER F. MONDALE.

Despite the repeated attempts of my staff to receive answers to these questions from GSA, none had been received by my office on June 29. The deadline for comments to GSA was imminent and I feared that the program would be terminated before Congress even had the chance to express its interest and concern. For these reasons, on June 29, I introduced an amendment to the legislation authorizing continuation of the excess property and supply sources programs for grantees.

The Senate approved the amendment. At this point, I ask unanimous consent to have printed in the Record a copy of the letter received in my office from GSA—after the amendment had already been approved by the Senate. I hope you will take note of the failure of GSA to answer directly virtually all of the questions I had submitted.

There being no objection, the letter was ordered to be printed in the Record, as follows:

GENERAL SERVICES ADMINISTRATION,  
Washington, D.C., June 29, 1972.

HON. WALTER F. MONDALE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MONDALE: Thank you for your letter concerning the proposal that the Federal Property Management Regulations (FPMR) be amended to discontinue the General Services Administration (GSA) grantee program.

Your interest is appreciated and we are answering your questions in the same order as in your letter.

1 & 2: The information required to answer these two questions is not available within GSA. Transfers of excess property are made to Federal agencies, some of which, in turn, make it available for use by their grantees and cost-reimbursement type contractors. After such property is transferred, the extent to which it is used within the acquiring agencies, either directly or by their grantees, is not known by GSA.

By way of information, with the expansion of Federal grant programs, several years ago certain agencies started acquiring excess property not only for direct use but also for use in Federal grant programs and on cost-reimbursement type contracts. The principal recipient agencies have been the Office of Economic Opportunity; National Science

Foundation; Office of Education, Department of Health, Education, and Welfare; Manpower Administration, Department of Labor; Department of Commerce; Defense Civil Preparedness Agency (former Office of Civil Defense); and, more recently, the Department of the Interior; Environmental Protection Agency; and the Law Enforcement Assistance Administration, Department of Justice. These agencies keep accountability records and information on the amount of property in the hands of their grantees and such information would be available only from them.

In the event the proposed regulation is issued, Federal grantees in the State of Minnesota will no longer be able to acquire excess property. While we do not have available the names of these grantees, they are generally involved in programs concerned with education, manpower training and development, community action, antipoverty, local police training, and civil defense.

With respect to surplus property, it is allocated among the States by the Department of Health, Education, and Welfare, and approved by the General Services Administration for transfer to the States for donation for education, public health, and civil defense purposes. By law, distribution to eligible donees within the States is made by an agency established by each State for that purpose. In Minnesota, that agency is under the direction of Mr. Harold W. Shattuck, Supervisor, Surplus Property Section, Department of Administration, 6420 Highway 8, Arden Hills, New Brighton, Minnesota 55112. Therefore, data on the amounts donated to specific donees within Minnesota would be available only from the State agency.

3. In terms of original acquisition cost, during FY 1971 \$751.2 million of excess property was transferred to other Federal agencies; for FY 1972 through May the amount was approximately \$858.0 million.

4. The term "excess property" means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof. While in excess status, this property is only available for use by the Federal Government.

The term "surplus property" means any excess property not required for the needs and discharge of the responsibilities of all Federal agencies, as determined by the Administrator of General Services. After being determined surplus, such property is made available first for donation to use within the States, after which any remainder is sold.

5. All agencies within the Federal Government which currently acquire excess property would continue to be eligible. However, the property would have to be acquired only for direct use or for use by their cost-reimbursement type contractors.

Since grantees would no longer be eligible, much of the excess property which Federal agencies acquire for such use would probably become surplus and donated for education, public health, and civil defense purposes. Consequently, grantees engaged in activities for other than those purposes would not be eligible for the donation of surplus property.

6 & 7: Since the quoted terms are extracted from the Office of Management and Budget letter of May 16, 1972, to GSA, we feel that OMB is better qualified to define their usage. Any such explanation should be obtained from the Office of Management and Budget.

Please let us know if we can be of further assistance.

Sincerely,

ROD KREGER,  
Acting Administrator.

Mr. MONDALE. Mr. President, the amendment approved by the Senate was considered by the conference committee on the OEO bill. It was not included in the conference report, because the parliamentarian of the House of Representatives ruled that the amendment was not germane to the bill.

Apparently because of the high public interest and the volume of mail being received in response to the request for comments, GSA extended the comment period until July 31. In the meantime, Secretary of Health, Education, and Welfare Elliot Richardson unilaterally terminated the HEW excess property program on July 14. I ask unanimous consent to have printed in the RECORD here a copy of the document stating that the HEW program has been terminated.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

MANUAL CIRCULAR—MATERIEL MANAGEMENT:  
USE OF EXCESS PROPERTY ON GRANTS

1. *Purpose.*—This circular provides Department policy regarding the use of excess personal property by grantees.

2. *Background.*—It has been determined that the use of excess personal property by grantees will be discontinued inasmuch as the majority of HEW grantees are eligible for donation of personal property under the Department's surplus property donation program.

3. *Policy.*—It is the policy of HEW that the use of excess personal property by grantees not be authorized. Section 103—43.320 of the HEW Materiel Management Manual is in the process of being revised to reflect this policy.

4. *Accountability.*—Federally-owned personal property presently in the possession of grantees will continue to be accounted for in accordance with current regulations.

5. *Effective Date.*—This circular is effective immediately.

On July 28, I and 22 other Senators signed and sent a letter to M. S. Meeker, Commissioner of the Federal Supply Service, expressing our concern about GSA's intention to terminate the excess property and supply source programs without providing adequate documentation of the reason for the decision and without providing a hearing to those who would be affected by the change. A copy of the letter follows:

JULY 28, 1972.

Hon. M. S. MEEKER,  
Commissioner, Federal Supply Service, General Services Administration, Washington, D.C.

DEAR MR. MEEKER: Please consider this letter a formal response to GSA's solicitation of comments on the proposed "adoption of revised rules prohibiting the use of GSA and other Government sources of supply by recipients of Federal grants", which appeared in the Federal Register on June 1, 1972.

We are deeply concerned to learn that GSA is considering terminating the excess property and GSA supply source programs for grantees. We believe that these programs are of considerable importance in keeping down the cost of government-supported projects to the taxpayers; and in maintaining the quality of service offered by many of these programs.

We have further been concerned to observe that GSA has not provided the Congress with a comprehensive analysis of the pros and cons of these programs as they exist; and of the specific reasons for the proposal to terminate them.

Any decision on the future of the grantee programs should be made only after complete information on its implications has been developed and provided to Congress and to affected parties. Further, we believe that GSA should make a decision only after calling a public hearing and receiving testimony from those affected parties who wish to testify.

In addition, we believe that GSA should notify HEW—which has unilaterally terminated its own program even before the period for comments has expired—and other executive agencies that they should continue to operate their programs until a general policy decision has been made.

We thank you for your serious consideration of these points and urge that you immediately announce a date for a hearing and provide the Congress with the documentation required to fully understand the implications of the proposed rule change.

Sincerely,

Walter F. Mondale, George McGovern,  
Vance Hartke, Fred Harris, Philip A. Hart, Claiborne Pell, Thomas Eagleton, Clifford P. Case, Edward W. Brooke, Robert Stafford, William Proxmire, Mike Gravel, Harold E. Hughes, Daniel Inouye, Harrison Williams, Hubert H. Humphrey, Frank Church, Gaylord Nelson, John Tunney, Robert Taft, Jr., Nelson, John Tunney, Robert Taft, Jr., and Jacob Javits.

Mr. MONDALE. Mr. President, I ask unanimous consent that a copy of the bill I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 948

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 202 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483), is amended by adding at the end thereof the following new subsection:

"(1) Each executive agency shall furnish excess property to any grantee under a program established by law and for which funds are appropriated by the Congress if the head of that executive agency determines that the use of excess property by that grantee will (1) expand the ability of that grantee to carry out the purpose for which the grant was made, (2) result in a reduction in the cost to the Government of the grant, or (3) result in an enhancement in the product or benefit from the grant. Any determination under the preceding sentence shall be reduced to writing and furnished to the grantee involved. The Administrator shall prescribe regulations governing the use, maintenance, consumption, and redelivery to Government custody of excess property furnished to grantees under this subsection."





United States  
of America

# Congressional Record

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## Senate

### SOCIAL SERVICES CUTBACKS

Mr. MONDALE. Mr. President, on Thursday, February 15, the Department of Health, Education, and Welfare issued proposed new regulations for federally assisted programs in the areas of day care, aid to the elderly, mental retardation, juvenile delinquency and other social services. If implemented without change, these new proposals will do nothing less than cripple thousands of vital human service programs across the country. Their overall impact was perhaps best summarized by Allen Jensen, an official of the Council of State Governors, who described them as a smoke screen for cut-backs in programs that really benefit people.

#### PROTEST TO WEINBERGER

Based on some early reports of what these regulations might contain, I drafted a letter to Secretary Weinberger—which 46 Senators signed—stressing our grave concerns. For the benefit of the public and for the benefit of my colleagues, I shall ask unanimous consent that a copy of the letter we sent and of the proposed regulations be printed at the close of my remarks.

#### WEAKNESSES IN THE PROPOSAL

Mr. President, the regulations which were finally issued are even worse than the early reports suggested. While I have not yet completed a final analysis of all of these proposed changes—and I intend to speak again on this subject when my review is complete—just a cursory view reveals many of the serious weaknesses contained in these recommendations. Consider just a few.

First, these regulations seek to repeal existing provisions which permit the use of privately contributed funds—from charitable organizations such as the United Way of America—to make up the required local or state match in these cooperative Federal-State programs. As our letter indicated, this would seriously undermine our excellent existing private-public partnership approach to human problems. Former Health, Education and Welfare Secretary Elliott Richardson said that these kinds of cooperative efforts should be encouraged rather than discouraged, and I agree with him.

Second, these proposed regulations would repeal the current use of "in kind" contributions for the non-Federal match. Permitting the non-Federal match to include donated space, equipment or services is not only fair, it is essential to the continued operation of many existing programs.

Third, by limiting services for former welfare recipients to 3 months, and by barring aid to potential welfare recipients with incomes more than 1½ times the welfare level, these proposed regulations undercut our efforts to help individuals move from reliance on welfare benefits to a position of financial independence. Indeed, this highly restrictive new proposal appears to create just the kind of notch problem that the administration led us to believe it was concerned about removing. For example, under this new definition, former welfare recipients appear to be denied eligibility for day care just after that day care has permitted them to find employment and leave the welfare rolls. Unable to afford adequate care for their children, they are likely to be forced back on welfare. This is precisely the kind of mixed up incentive system which traps people in poverty. It works at cross purposes with a philosophy which I believe we all share.

Fourth, these proposals remain silent on the critical question of standards for federally assisted day care. By so doing, they raise serious questions about whether the Federal interagency day care standards—which establish minimal protections for children in federally assisted day care and which have been in effect for the last 5 years—will continue to apply. In the HEW press release describing these proposals—but nowhere in the proposals themselves—it was stated that revised Federal day care requirements are being considered, will be completed in the near future and will become effective. Whether this in fact will occur remains to be seen. And whether those proposed revisions will meet the legal requirements in the Economic Opportunity Act that any revised standards be no less comprehensive than existing day care standards—also remains unclear. Questions such as these involve such sensitive issues as adult-child ratios in day care are too important to be left in limbo.

Fifth, the restrictive list of permitted activities appears to exclude worthwhile existing programs, such as those engaged in the treatment of alcohol and drug-related problems.

Sixth, by requiring quarterly—and in some instances more frequent—reports on each person receiving aid, the new regulations threaten to drown the social services program in red tape.

#### NATIONAL IMPACT

As an excellent editorial in the Washington Post pointed out recently—

These regulations are a reversion, almost to the point of parody, to the worst traditions of an ingrown and paternalistic bureaucracy. . . . Boom days are ahead for the paper industry and for the legion of minor clerks who will crank the wheels inside this large new welfare machine. But for that part of the population which is poor, and may actually need help, the outlook is not so jolly.

And these regulations involve more than just a backward step into unnecessary bureaucracy and confusion. They also constitute an effort to cut back spending for desperately needed social programs by anywhere from \$600 million to \$1 billion. That same Washington Post editorial said it well:

As a budget device, the new regulations amount to impoundment by red tape. Although the authorization is \$2.5 billion, Mr. Nixon's budget provides only \$1.9 billion for next year. The Administration is clearly counting on the weight of the regulations to prevent the states from obtaining their full allotments.

The administration apparently has accurately assessed the extent to which these regulations will save money. On the basis of earlier, less restrictive draft regulations at least 25 Governors reported that their service programs would be seriously hurt.

Consider for a moment the specific kinds of services that these proposed regulations seek to eliminate. Governor Dale Bumpers of Arkansas recently described the impact of these proposals on his State:

To give you an example of the effect it would have on our mental retardation programs, when I was elected we had fewer than 20 community facilities caring for a little less than 400 children.

In the past year and a half . . . we have expanded that to 82 facilities caring for over 2,000 children.

Quite frankly, with the guidelines prohibiting the use of private funds and the further restrictions . . . we will probably wind up closing virtually every one of the new ones we have started in the past year and

a half.

Georgia Governor Jimmy Carter has reported similar problems. Apparently the repeal of authority to use privately contributed funds in Georgia will force the closing down of scores of federal-state programs, cause the loss of three thousand jobs, and put hundreds of individuals temporarily back on the welfare rolls.

And the philosophy behind these proposals runs absolutely counter to the administration's rhetoric about returning decisions to the state and local levels. A recent statement by the National League of Cities and the U.S. Conference of Mayors stated quite correctly that—

The proposals appear to run counter to over-all administration policy which aims toward decentralization, toward strengthening local government capacity and toward affording localities greater flexibility to utilize and adapt federal programs in accordance with local needs.

#### MINNESOTA IMPACT

In the State of Minnesota alone, these regulations would have a disastrous impact. Estimates indicate that human programs in Minnesota would lose \$20 to \$22 million as a result of these regulations. Some 13,000 adults and 24,000 children receive social services every month in Minnesota, and estimates suggest that these regulations could result in a reduction of over 50 percent in those currently being served. Specifically, it is estimated that these regulations would result in cutbacks of the following programs:

Two million dollars cut in day activities centers for retarded children;

One million, five hundred thousand dollars cut in detoxification centers;

Social services to the aged would be cut in half;

Other mental health services would lose \$1.3 million; and

A total of \$4 million would be cut from services in the area of alcohol and drug treatment, migrant day care, pilot city, legal assistance, corrections, and blind services.

Minnesota has some of the most sensitively run, highest quality day care programs in America—and they would be dealt a crippling blow by these proposed revisions.

Greg Coler, executive director of the Greater Minneapolis Day Care Association, estimates that 95 percent of the over \$2 million worth of day care provided by his organization would be lost if privately contributed funds could not be used as local match. And after sampling half of the 1,200 children his organization serves in day care programs, Mr. Coler reports that an estimated 60 percent would be ruled ineligible if these new regulations took effect.

Gary Winget, executive director of the Greater St. Paul Council for Coordinating Child Care provides similar documentation of the severe impact these regulations would have on programs in St. Paul. Mr. Winget estimates that under these proposals, Ramsey County would lose up to \$1.2 million in Federal and private day care programs annually, eliminate up to 528 children in low income and target area families from day care programs, and force an unknown number of working parents with marginal incomes off of employment and on to AFDC.

Finally, the highly successful HELP program at the University of Minnesota—through which 300 to 400 AFDC mothers and 400 to 500 other disadvantaged individuals are receiving college education—is seriously threatened. Forrest Harris, director of this excellent pro-



gram, reports that he has been informed by the State department of welfare that these new regulations may make it impossible to continue providing the books, tuition, child care, and transportation which makes it possible for these welfare recipients to continue their education.

#### MORE INFORMATION NEEDED

Preliminary analysis and reports such as these convince me that major revisions must be made in these proposed regulations. And Secretary Weinberger has indicated a willingness to listen to those of us who see the need for change. In his statement describing these proposals he said:

Out of this kind of dialogue we hope we can develop a set of regulations that will put most decision-making closer to the point where services are used and which will permit available resources to be used effectively for those who need them most.

I believe citizens throughout the country should respond to the Secretary's invitation. I urge everyone interested in this issue to write to both the Secretary and to me indicating their views on these proposals, their estimates of what it might mean to programs they are associated with, and their recommendation for change.

In order to further the public dialog the Secretary has called for, I ask unanimous consent that a number of newspaper articles be printed at this point in my remarks, along with the proposed regulations, the letter I mentioned earlier, and an excellent memorandum describing the impact of the proposed regulations, prepared by Miss Judy Assmus of the Washington Research Project Action Council.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

FEBRUARY 14, 1973.

HON. CASPAR WEINBERGER,  
Secretary of Health, Education, and Welfare,  
Washington, D.C.

DEAR MR. SECRETARY: We are extremely concerned about reports that forthcoming social service regulations may make fundamental changes in the operation of federally-assisted programs in the fields of day care, aid to the elderly, mental retardation and juvenile delinquency.

In particular, we would like to register our strong opposition to the reported administrative repeal of existing provisions which permit the use of privately contributed funds—from charitable organizations such as the United Way of America—to make up the required local or state match. This proposed change would seriously undermine the excellent, existing private-public partnership approach to human problems. These kinds of cooperative efforts should be encouraged rather than discouraged.

Such an extreme change in the existing social services program is unwarranted. Fears of an uncontrollable budget in this area were resolved by the \$2.5 billion ceiling on Title IV-A which the Congress adopted last year. And less extreme proposals for dealing with isolated examples of abuse have been offered by individuals such as former Secretary Richardson. We are attaching for your information a copy of a letter Secretary Richardson sent to Representative Wilbur Mills last October concerning this issue.

In addition, we would like to express our concern about other parts of the reported new regulations such as those which would repeal the current use of in-kind contributions for the non-federal match, deny day care eligibility to former welfare recipients just after this day care program has permitted them to find employment and leave the welfare rolls; and raise serious questions about whether the Federal Inter-agency Day Care Standards—which establish minimum protection for children in federally-assisted day care and which have been in effect for the past 5 years—will continue to apply.

We respectfully request that we be informed in advance about any proposed changes in areas such as these, and that if and when any changes are proposed they be available for public comment and later revision.

With warmest personal regards,

Sincerely,

Jacob K. Javits, Abraham Ribicoff, Adlai E. Stevenson III, Birch Bayh, Edward W. Brooke, Clifford P. Case, Alan Cranston, Thomas F. Eagleton.

Mike Gravel, Vance Hartke, William O. Hathaway, Harold E. Hughes, Edward M. Kennedy, Gale W. McGee, Thomas J. McIntyre.

Walter F. Mondale, Bob Packwood, James Abourezk, J. Glenn Beall, Jr., Clinton N. Burdick, Frank Church, Peter H. Dominick, J. W. Fulbright.

Philip A. Hart, Mark O. Hatfield, Walter D. Huddleston, Hubert H. Humphrey, Charles McC. Mathias, Jr., George McGovern, Lee Metcalf.

Frank E. Moss, Gaylord Nelson, Claiborne Pell, Jennings Randolph, Robert T. Stafford, Robert Taft, Jr., Harrison A. Williams, Jr., Joseph M. Montoya.

Edmund S. Muskie, Sam Nunn, Charles H. Percy, Richard S. Schweiker, Ted Stevens, John V. Tunney, Dick Clark, Stuart Symington.

#### STATEMENT BY CASPAR W. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE

The proposed regulations on social services we are issuing tomorrow attempt to bring some order out of what was promising to become a chaotic situation. It became apparent last year that without strong effort at the Federal level, expenditures by the States for social services would soar out of control. While expenditures for FY 1972 were \$1.71 billion, estimates for FY 1973 totalled \$4.65 billion and projections beyond that were even higher. One State projected FY 1973 expenditures 140 times more than their FY 1972 expenditures.

The Congress took one step in the Revenue Sharing Act to remedy the situation by placing a ceiling of \$2.5 billion on Federal expenditures for social services. It remains for the Department of Health, Education, and Welfare, working within the limitations imposed by the Congress, to provide for social services at the local level in the most efficient way possible. We believe our proposed regulations strengthen the role of State agencies in managing the program.

We are proposing elimination of requirements which are not based on legislative mandates or necessary for proper and efficient administration. We are also reducing overlap with other Federally-supported programs and specifically identifying for the first time the Federally recognized services for which Federal cost-sharing will be authorized.

We have formalized eligibility determination and redetermination at specific intervals and we have required that service plans for individuals and families be prepared and authorized in advance and reviewed periodically for need and effectiveness.

I emphasize that these are proposals only, submitted for public comment. We encourage comment from all interested and concerned individuals and organizations and will give each careful review and consideration.

We have already circulated these proposals to all States and many other concerned groups, and also to the Advisory Commission on Intergovernmental Relations.

Out of this kind of dialogue we hope we can develop a set of regulations that will put most decision-making closer to the point where services are used and which will permit available resources to be used effectively for those who need them most.

#### HEW NEWS RELEASE, THURSDAY, FEBRUARY 15, 1973

The Department of Health, Education, and Welfare today proposed new rules concerning Federally-supported social services which allow States to concentrate services on population groups most in need of them, and give States more options in determining services to be provided.

The proposal relates to Congressional passage last October of the Revenue Sharing Act, which places an annual limit of \$2.5 billion on Federal matching funds to the States for social services under Titles IV and XVI of the Social Security Act. With the exception of child care, family planning, foster care, mental retardation activities, and alcoholism and drug prevention programs, at least 90 percent of such funds must be for services to welfare recipients or applicants. Each State's allotment is based on its population in relation to the national population.

The proposed new regulations also define services eligible for Federal cost sharing, and set new limitations on the use of Federal funds for services to people not on Federal-State welfare rolls.

The regulations are designed to permit States to manage more effectively available social services resources within constraints of the new law. Certain services formerly mandated by regulation become optional, giving the States more flexibility in choosing what services they wish to provide welfare families and individuals. However, family planning, protective, and foster care services for children would continue to be Federally required. The regulations also give increased emphasis to services that help people on welfare move toward self-sufficiency and employment.

Most Federally recognized services would continue to receive 75 percent Federal cost-sharing, with States providing the other 25 percent of costs.

Prior to the congressionally-imposed ceiling on Federal funds, social services had experienced a rapid cost escalation. In fiscal year 1970, \$522 million in Federal funds was spent to match social services provided by States. By fiscal year 1972, Federal expenditures had grown to \$1.71 billion, and estimates last August by States for Federal matching for FY 1973 totalled \$4.65 billion. Following passage of the new law, the States estimated a Federal spending level of \$2.2 billion in FY 1973, since approximately half the States will not spend up to their allotted ceiling.

The proposal spells out the services and activities that are Federally recognized and for which Federal sharing will be autho-

rized. Expenditures that some States are including currently as social services would be excluded. Disallowed costs would include those for subsistence and health care (except diagnostic)—now matched for eligibles under Medicaid. States will not be able to provide services on a group basis. The current practice allows persons with relatively high incomes to receive services because they live in target areas such as Model Cities.

The proposal defines individuals eligible for services as those on State welfare rolls or those who are likely to become welfare recipients within six months, and those who have been welfare recipients within the past three months. One of the criticisms of the current rules is that individuals can be provided services if they might be expected to become welfare recipients in the forthcoming five-year period.

The proposal eliminates Federal matching for funds privately donated to States. All monies used as the States' share in gaining a Federal match must be from public appropriations.

Services required by the proposal for eligible families with dependent children (AFDC) are:

Family Planning, including medical supplies and services.

Foster care services for children.

Protective services for children, to prevent neglect or abuse. Optional services for AFDC families are:

Day care services, when related to the parent's gaining employment.

Educational services, limited to helping a family member secure educational training (but not paying for that training).

Employment services (other than the Work Incentive Program) which will help a person get a job.

Health-related services, limited to helping the person or family find needed health care, but not paying for the actual care or medical service.

Homemaker service, aimed at helping the family stay together, when no one in the family is able to provide the necessary house-keeping and home management services.

Home management training services, which teach the head of family how to manage a household, prepare food and rear children.

Housing improvement services, aimed at helping the family obtain or retain adequate housing (not to include costs of moving, renting, buying or repairing).

Transportation services to make possible travel to and from community facilities and resources where needed services are available.

Optional services for eligible aged, blind and disabled clients are:

Day care services for adults.

Household chore services.

Educational services (help to secure educational training but not to cover cost of the training).

Employment services.

Family planning services, except supplies and medical services.

Foster care for adults.

Health-related services which help persons to gain medical care but which is paid for under other programs.

Home delivered or group hot meals.

Home management instruction, Homemaker services.

Housing improvement services, but not to include payment for repairs or moving.

Protective services for adults.

Special services for the blind, including mobility and self-care training.

Transportation services helping a person get to and from needed community facilities.

The proposed regulations do not refer to Federal standards for day care outside the child's home. Revised Federal day care requirements, which are equally comprehensive but more clearly defined and enforceable than the 1968 requirements now in effect, are currently under intensive review. The revised requirements will be completed in the near future, and will become effective as soon as final clearance and approval procedures are completed.

Interested parties have 30 days from the date of publication in the Federal Register in which to suggest changes in the proposed regulations. Comments should be sent to the Administrator, Social and Rehabilitation Service, DHEW, 330 C Street, S.W., Washington, D.C. Comments will be available for inspection on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m., in Room 5119, Mary E. Switzer Memorial Building (formerly HEW South Building), Area Code: 202 963-7361.

#### NOTICE OF PROPOSED RULE MAKING

(Department of Health, Education, and Welfare, Social and Rehabilitation Service (45 CFR Parts 220, 221, 222 and 226), Service programs for families and children and for aged, blind, or disabled individuals: Titles I, IV (Parts A and B), X, XIV, and XVI of the Social Security Act)

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The amendments in general revise, combine and transfer to a new Part 221 the regulations for the Family Services and Adult Services programs (in Parts 220 and 222) and purchase of services (in Part 226). The revisions eliminate several administrative requirements; reduce the number of required services—in recognition of the limitation on



**FEDERAL ALLOCATIONS FOR SOCIAL SERVICES**

	Revenue Sharing Act, sec. III	Total used in fiscal year 1972 <sup>1</sup>	August 1972 estimates by States for fiscal year 1973	November 1972 estimates by States for fiscal year 1973 <sup>2</sup>		Revenue Sharing Act, sec. III	Total used in fiscal year 1972 <sup>1</sup>	August 1972 estimates by States for fiscal year 1973	November 1972 estimates by States for fiscal year 1973 <sup>2</sup>
<b>Total</b>	<b>\$2,500,000,000</b>	<b>\$1,684,626,297</b>	<b>\$4,647,729,000</b>	<b>\$2,151,312,004</b>					
Alabama	42,140,000	11,697,990	135,000,000	41,900,000	Kansas	\$27,109,000	\$6,210,788	\$7,414,000	\$7,789,000
Alaska	3,901,750	4,208,286	18,971,000	5,746,000	Kentucky	39,607,000	12,709,163	30,024,000	30,024,000
Arizona	23,351,250	2,748,375	6,304,000	2,751,000	Louisiana	44,661,250	29,505,717	34,875,000	36,894,000
Arkansas	23,747,250	3,273,092	8,750,000	10,500,000	Maine	12,354,000	6,536,643	6,665,000	9,131,000
California	245,733,250	198,627,102	272,999,000	245,733,250	Maryland	48,695,250	20,946,731	415,721,000	46,512,000
Colorado	28,297,500	18,908,219	29,782,000	24,097,000	Massachusetts	69,477,000	23,035,756	95,952,000	69,477,000
Connecticut	37,001,750	9,399,607	22,912,000	37,001,750	Michigan	109,035,000	28,039,828	108,912,000	108,500,000
Delaware	6,783,250	12,456,577	26,361,000	7,556,758	Minnesota	46,774,250	26,587,809	72,375,000	46,774,250
District of Columbia	8,980,250	10,479,067	20,520,000	9,714,983	Mississippi	27,169,000	1,833,678	269,393,000	27,100,000
Florida	87,149,500	42,708,788	113,572,000	87,127,000	Missouri	57,063,250	12,839,259	16,910,000	15,923,000
Georgia	56,667,000	32,415,041	206,472,000	57,524,260	Montana	8,632,000	2,959,094	3,270,000	3,270,000
Hawaii	9,712,500	847,787	2,588,000	2,588,000	Nebraska	18,308,750	7,352,176	12,564,000	12,564,000
Idaho	9,076,250	1,544,330	24,871,000	8,500,000	Nevada	6,327,000	1,616,274	1,980,000	1,980,000
Illinois	135,076,500	188,381,187	211,603,000	136,830,502	New Hampshire	9,256,500	2,824,174	4,857,000	4,857,000
Indiana	63,522,250	6,532,771	14,775,000	14,775,000	New Jersey	88,446,250	36,930,431	415,944,000	86,810,000
Iowa	34,612,500	9,536,046	12,809,000	13,500,000	New Mexico	12,786,000	3,680,005	32,404,000	12,786,000
North Dakota	\$7,587,500	\$3,325,453	\$3,957,000	\$3,957,000	New York	220,497,250	588,929,342	854,850,000	220,497,250
Ohio	129,457,750	19,517,429	92,050,000	92,050,000	North Carolina	62,597,750	19,470,389	50,904,000	49,635,000
Oklahoma	31,623,000	14,060,341	48,496,000	31,623,000	Texas	\$139,854,750	\$53,500,629	\$179,468,000	\$136,601,000
Oregon	26,196,500	25,297,779	25,153,000	26,196,500	Utah	13,518,500	4,084,438	5,250,000	5,250,000
Pennsylvania	143,180,250	51,293,723	106,469,000	100,323,000	Vermont	5,546,750	2,433,568	2,599,000	2,599,000
Rhode Island	11,621,500	6,623,499	15,802,000	11,621,500	Virginia	57,195,250	16,762,983	31,954,000	32,344,000
South Carolina	31,995,250	6,031,298	176,224,000	37,308,236	Washington	41,335,750	34,308,934	90,571,000	49,937,015
South Dakota	8,152,000	2,377,347	2,929,000	2,929,000	West Virginia	21,382,250	7,373,914	16,771,000	16,035,000
Tennessee	48,395,000	13,835,427	227,625,000	48,395,000	Wisconsin	54,265,750	37,937,301	58,500,000	54,265,750
					Wyoming	4,142,000	590,692	608,000	608,000

<sup>1</sup> Adjusted to include Federal auditor corrections and claims from previous year; other adjustments not reflected in State data make national total \$1,710,000,000. State Expenditures for Public Assistance Programs . . . prepared by the Office of Financial Management, SRS.

<sup>2</sup> Lesser of estimate or allocated share of \$2,500,000,000 which has been adjusted for certain States on the basis of 1st quarter expenditure levels in accordance with sec. 403 of the Social Security Amendments of 1972.

Federal funds available for service expenditures—and increase the number of optional services; specify the goals to which services must be directed; clarify the State agency's responsibility for determination and redetermination of eligibility for services; shorten the period of eligibility for former and potential recipients; amend the provisions on Federal financial participation to add the limitations imposed by recent legislation and to clarify the proper scope of Federal funding; and require written agreements for purchases of services.

The proposed regulations do not affect current provisions in Part 220 applicable to the work incentive program (WIN) and to child welfare services (CWS). Amendments to those portions of Part 220 will be published separately.

It is the intent of the Department to maintain in the final regulations the effective dates that are specified throughout the proposed amendments.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Washington, D.C. 20201 within a period of 30 days from the date of publication of this Notice in the Federal Register. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street, S.W., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-963-7361).

Dated February 12, 1973.

P. J. RUTLEDGE,  
Acting Administrator, Social and  
Rehabilitation Service.

Approved: February 13, 1973.

/s/ CASPAR W. WEINBERGER,  
Secretary.

Chapter II, Title 45 of the Code of Federal Regulations is amended as follows:

(1) Part 220 is revoked, except for sections 220.35, 220.36, and 220.61(g) (relating to the WIN program under title IV-A of the Social Security Act), and sections 220.40, 220.49, 220.55, 220.56, 220.62, and 220.65(b), and Subpart D (relating to the CWS program under title IV-B of the Act). The content of the revoked provisions is revised and transferred to a new Part 221, which, to the extent indicated therein, shall be applicable to the WIN and CWS programs under such Part 220.

(2) Parts 222 and 226 are revoked, and their content is revised and transferred to the new Part 221.

(3) Part 221 is added to Chapter II to read as follows:

Part 221—Service Programs for Families and Children and for Aged, Blind, or Disabled Individuals: Titles I, IV (Parts A and B), X, XIV, and XVI of the Social Security Act.

**SUBPART A—REQUIREMENTS FOR SERVICE PROGRAM**

- Sec.
- 221.1 General.
- 221.2 Organization and administration.
- 221.3 Relationship to and use of other agencies.
- 221.4 Freedom to accept services.
- 221.5 Statutory requirements for services.
- 221.6 Services to additional families and individuals.
- 221.7 Determination and redetermination of eligibility for services.
- 221.8 Individual service plan.
- 221.9 Definitions of services.
- 221.30 Purchase of services.

**SUBPART B—FEDERAL FINANCIAL PARTICIPATION**

- Titles I, IV-A, X, XIV and XVI
- 221.51 General.
- 221.52 Expenditures for which Federal financial participation is available.
- 221.53 Expenditures for which Federal financial participation is not available.
- 221.54 Rates and amounts of Federal financial participation.
- 221.55 Limitations on total amount of Federal funds payable to States for services.

221.56 Rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands, and Guam.

Titles I, IV-A, IV-B, X, XIV, and XVI

221.61 Public sources of State's share.

221.62 Private sources of State's share.

Authority: The provisions of this Part 221 issued under section 1102 49 Stat. 647 (42 U.S.C. 1302).

Federal financial participation is available for expenditures under the State plan approved under title I, IV-A, IV-B, X, XIV, or XVI of the Act with respect to the administration of service programs under the State plan. The service programs under these titles are hereinafter referred to as: Family Services (title IV-A), WIN Support Services (title IV-A), Child Welfare Services (title IV-B), and Adult Services (titles I, X, XIV, and XVI). Expenditures subject to Federal financial participation are those made for services provided to families, children, and individuals who have been determined to be eligible, and for related expenditures, which are found by the Secretary to be necessary for the proper and efficient administration of the State plan.

The basic rate of Federal financial participation for Family Services and Adult Services under this part is 75 percent provided that the State plan meets all the applicable requirements of this part and is approved by the Social and Rehabilitation Service. Under title IV-A, effective July 1, 1972, the rates are 50 percent for emergency assistance in the form of services, and 90 percent for WIN Support Services, and effective January 1, 1973, the rate is 90 percent for the offering, arranging, and furnishing, directly or on a contract basis, of family planning services and supplies.

Total Federal financial participation for Family Services and Adult Services provided by the 50 States and the District of Columbia may not exceed \$2,500,000,000 for any fiscal year, allotted to the States on the basis of their population. No more than 10 percent of the Federal funds payable to a State under its allotment may be paid with respect to its service expenditures for individuals who are not current applicants for or recipients of financial assistance under the State's approved plans, except for services in certain exempt classifications.

Rates and amounts of Federal financial participation for Puerto Rico, Guam, and the Virgin Islands are subject to different rules.

**SUBPART A—REQUIREMENTS FOR SERVICE PROGRAMS**

§ 221.1 General.

The State plan with respect to programs of Family Services, WIN Support Services, Child Welfare Services, and Adult Services must contain provisions committing the State to meet the requirements of this subpart.

§ 221.2 Organization and administration.

(a) *Single organizational unit.*

(1) There must be a single organizational unit, within the single State agency, at the State level and also at the local level, which is responsible for the furnishing of services by agency staff under title IV, parts A and B. Responsibility for furnishing specific services also furnished to clients under other public assistance plans (e.g., homemaker service) may be located elsewhere within the agency, provided that this does not tend to create differences in the quality of services for AFDC and CWS cases. (This requirement does not apply to States where the title IV-A and title IV-B programs were administered by separate agencies on January 2, 1968.)

(2) Such unit must be under the direction of its chief officer who, at the State level, is not the head of the State agency.

(b) *Advisory committee on day care services.* An advisory committee on day care services for children must be established at the State level to advise the State agency on the general policy involved in the provision of day care services under the title IV-A and title IV-B programs. The committee shall include among its members representatives of other State agencies concerned

with day care or services related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations or groups concerned with the provision of day care.

(c) *Grievance system.* There must be a system through which recipients may present grievances about the operation of the service program.

(d) *Program implementation.* The State plan must provide for State level service staff to carry responsibility for:

(1) Planning the content of the service programs, and establishing and interpreting service policies;

(2) Program supervision of local agencies to assure that they are meeting plan requirements and State policies, and that funds are being appropriately and effectively used; and

(3) Monitoring and evaluation of the service programs.

(e) *Provision of services.* The State plan must specify how the services will be provided and, in the case of provision by other public agencies, identify the agency and the service to be provided.

§ 221.3 Relationship to and use of other agencies.

There must be maximum utilization of and coordination with other public and voluntary agencies providing similar or related services which are available without additional cost.

§ 221.4 Freedom to accept services.

Families and individuals must be free to accept or reject services. Acceptance of a service shall not be a prerequisite for the receipt of any other services or aid under the plan, except for the conditions related to the Work Incentive Program or other work program under a State plan approved by the Service.

§ 221.5 Statutory requirements for services.

(a) In order to carry out the statutory requirements under the Act with respect to Family Services and Adult Services programs, and in order to be eligible for 75 percent Federal financial participation in the costs of providing services, including the determination of eligibility for services, the State must, under the Family Services program, provide to each appropriate member of the AFDC assistance unit the mandatory services and those optional services the State elects to include in the State plan, and must, under the Adult Services program, provide to each appropriate applicant for or recipient of financial assistance under the State plan at least one of the defined services which the State elects to include in the State plan.

(b)(1) For the Family Services program, the mandatory services are family planning services, foster care services for children, and protective services for children. The optional services are day care services for children, educational services, employment services (non-WIN), health-related services, homemaker services, home management and other functional educational services, housing improvement services, and transportation services.

(2) For the Adult Services program, the defined services are chore services, day care services for adults, educational services, employment services, family planning services, foster care services for adults, health-related services, home delivered or congregate meals, homemaker services, home management and other functional educational services, housing improvement services, protective services for adults, special services for the blind, and transportation services.

§ 221.6 Services to additional families and individuals.

(a) If a State elects to provide services for additional groups of families or individuals, the State plan must identify such groups and specify the services to be made available to each group.

(b) If a service or an element of service is not included for recipients of financial assistance under the State plan, it may not be included for any other group.

(c) The State may elect to provide services to all or to reasonably classified subgroups of the following:



(1) Families and children who are current applicants for financial assistance under title IV-A.

(2) Families and individuals who have been applicants for or recipients of financial assistance under the State plan within the previous three months, but only to the extent necessary to complete provision of services initiated before withdrawal or denial of the application or termination of financial assistance.

(3) Families and individuals who are likely to become applicants for or recipients of financial assistance under the State plan within six months, i.e., those who:

(i) Do not have income exceeding 133 1/3 % of the State's financial assistance payment level under the State's approved plan; and

(ii) Do not have resources that exceed permissible levels for such financial assistance; and

(iii) In the case of eligibility under title IV-A, have a specific problem or problems which are susceptible to correction or amelioration through provision of services and which will lead to dependence on financial assistance under title IV-A within six months if not corrected or ameliorated; and

(iv) In the case of eligibility under title I, X, XIV or XVI, have a specific problem or problems which are susceptible to correction or amelioration through provision of services and which will lead to dependence on financial assistance under such title, or medical assistance, within six months if not corrected or ameliorated; and who are

(a) At least sixty-four and one-half years of age for linkage to title I, or title XVI with respect to the aged;

(b) Experiencing serious, progressive deterioration of sight that, as substantiated by medical opinion, is likely to reach the level of the State agency's definition of blindness within six months, for linkage to title X, or title XVI with respect to the blind; or

(c) At least seventeen and one-half years of age and, according to professional opinion, are experiencing a physical or mental condition which is likely to result within six months in permanent and total disability, for linkage to title XIV, or title XVI with respect to the disabled.

(4) Aged, blind, or disabled persons who are likely to become applicants for or recipients of financial assistance under the State plan within six months as evidenced by the fact that they are currently eligible for medical assistance as medically needy individuals under the State's title XIX plan.

#### § 221.7 Determination and redetermination of eligibility for services.

(a) The State agency must make a determination that each family and individual is eligible for Family Services or Adult Services prior to the provision of services under the State plan.

(1) In the case of current applicants for or recipients of financial assistance under the State plan, this determination must take the form of verification by the organizational unit responsible for development of individual service plans with the organizational unit responsible for determination of eligibility for financial assistance that the family or individual has submitted an application for assistance which has not been withdrawn or denied or that the family or individual is currently receiving financial assistance. This verification must identify each individual whose needs are taken into account in the application or the determination of the amount of financial assistance.

(2) In the case of families or individuals who are found eligible for service on the basis that they are likely to become applicants for or recipients of financial assistance under the State plan, this determination must be based on evidence that the conditions of eligibility have been met, and must identify the specific problems which, if not corrected or ameliorated, will lead to dependence on such financial assistance or, in the case of the aged, blind or disabled, on medical assistance.

(b) The State agency must make a redetermination of eligibility of each family and individual receiving service at the following intervals:

(1) Quarterly for families and individuals whose eligibility is based on their status as current applicants for or recipients of financial assistance. (This redetermination may be accomplished by comparison of financial assistance payrolls or eligibility listings with service eligibility listings.)

(2) Within 30 days of the date that the status of the family or individual as a current applicant for or recipient of financial assistance is terminated.

(3) Within six months of the date of the original determination of eligibility and of any subsequent redetermination of eligibility for families and individuals whose eligibility is based on the determination that they are likely to become applicants for or recipients of financial assistance.

(4) Within three months of the effective date of this regulation for families and individuals receiving service on the basis that they are former applicants for or recipients of financial assistance.

#### § 221.8. Individual service plan.

(a) An individual service plan must be developed and maintained on a current basis by agency staff for each family and individual receiving service under the State's title I,

IV-A, X, XIV or XVI plan. No service, other than emergency assistance in the form of services under the title I-A plan, may be provided under the State plan until it has been incorporated in the individual service plan and a service may be provided only to the extent and for the duration specified in the service plan. The service plan must relate all services provided to the specific goals to be achieved by the service program. It must also indicate the target dates for goal achievement and the extent and duration of the provision of each service. For the purposes of this part, the specific goals to be achieved are limited to:

(1) Self-support goal: To achieve and maintain the feasible level of employment and economic self-sufficiency. (Not applicable to the aged under the Adult Services program.)

(2) Self-sufficiency goal: To achieve and maintain personal independence, self-determination and security, including, for children, the achievement of potential for eventual independent living.

(b) The service plan must be reviewed as often as necessary to insure that only appropriate services are provided to recipients but in any event once every six months. At the time of each review the need for and effectiveness of all services must be reassessed and progress toward achievement of goals must be evaluated and recorded.

(c) Service plans for families and individuals who are determined to be eligible for service on the basis that they are likely to become applicants for or recipients of financial assistance under the title I, IV-A, X, XIV or XVI plan may include only services which are necessary to correct or ameliorate the specific problems which will lead to dependence on such financial assistance or medical assistance to aged, blind or disabled persons under the title XIX plan, as identified at the time of eligibility determination or redetermination.

(d) Whenever the provider of services specified in the service plan is not located within the organizational unit responsible for the maintenance of the service plan, there must be a written authorization for the provision of the service which specifies the service to be provided and the individuals to whom it will be provided. No authorization for the provision of service may cover a period longer than six months but authorizations for additional periods may be made subject to the review requirement in paragraph (b) of this section. No provision of service may be authorized at cost to the State agency if it is available without cost to the State agency.

(e) Efforts to enable individuals and families to clarify their need for services, to identify and make choices of appropriate services, and to use services effectively (i.e., supportive counseling) are assumed as an integral part of development and maintenance of the individual service plan.

#### § 221.9 Definition of services.

(a) This section contains definitions of all mandatory and optional service under the Family Service program and the defined services under the Adult Services program (see §§ 221.5 and 221.6 of this chapter).

(b) (1) *Chore services.* This means the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home when, because of frailty or other conditions, he is unable to perform such tasks himself and they do not require the services of a trained homemaker or other specialist.

(2) *Day care services for adults.* This means personal care during the day in a protective setting approved by the State or local agency.

(3) *Day care services for children.* This means care of a child for a portion of the day, but less than 24 hours, in his own home by a responsible person, or outside his home in a family day care home, group day care home, or day care center. Such care must be for the purpose of enabling the caretaker relatives to participate in employment, training, or receipt of needed services, where no other member of the child's family is able to provide adequate care and supervision. In-home care must meet State agency standards that, as a minimum, include requirements with respect to: the responsible person's age, physical and emotional health, and capacity and available time to care properly for children; minimum and maximum hours to be allowed per 24-hour day for such care; maximum number of children that may be cared for in the home at any one time; and proper feeding and health care of the children. Day care facilities used for the care of children must be licensed by the State or approved as meeting the standards for such licensing.

(4) *Educational services.* This means helping individuals to secure educational training most appropriate to their capacities, from available community resources at no cost to the agency.

(5) *Employment services (non-WIN under title IV-A and for the blind or disabled).* This means enabling appropriate individuals to secure paid employment or training leading to such employment, through vocational, educational, social and psychological diagnostic assessments to determine potential for job-training or employment; and through helping them to obtain education or training at no cost to the agency.

#### (6) Family planning services.

(1) For Family Services this means social, educational, and medical services to enable appropriate individuals (including minors who can be considered to be sexually active) to limit voluntarily the family size or space the children, and to prevent or reduce the incidence of births out of wedlock. Such services include printed materials, group discussions and individual interviews which provide information about and discussion of family planning; medical contraceptive services and supplies; and help in utilizing medical and educational resources available in the community. Such services must be offered and be provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting them.

(ii) For Adult Services this means social and educational services, and help in securing medical services, to enable individuals to limit voluntarily the family size or space the children, and to prevent or reduce the incidence of births out-of-wedlock. Such services include printed materials, group discussions and individual interviews which provide information about and discussion of family planning; and help in utilizing medical and educational resources available in the community.

(7) *Foster care services for adults.* This means placement of an individual in a substitute home which is suitable to his needs, supervision of such home, and periodic review of the placement, at least annually, to determine its continued appropriateness. Foster care services do not include activities of the home in providing care or supervision of the individual during the period of his placement in the home.

(8) *Foster care services for children.* This means placement of a child in a foster family home, or appropriate group care facility, as a result of a judicial determination to the effect that continuation of care in the child's own home would be contrary to the welfare of such child; services needed by such child while awaiting placement; supervision of the care of such child in foster care and of the foster care home or facility, to assure appropriate care; counseling with the parent or other responsible relative to improve home conditions and enable such child to return to his own home or the home of another relative, as soon as feasible; and periodic review of the placement to determine its continuing appropriateness. Foster care services do not include activities of the foster care home or facility in providing care or supervision of the child during the period of placement of the child in the home or facility. A foster care home or facility used for care of children must be licensed by the State in which it is situated or have been approved, by the agency of such State responsible for licensing homes or facilities of this type, as meeting the standards established for such licensing.

(9) *Health-related services.* This means helping individuals and families to identify health needs and to secure diagnostic, preventive, remedial, ameliorative, child health screening, and other needed health services available under Medicaid, Medicare, maternal and child health programs, handicapped children's programs or other agency health services programs and from other public or private agencies or providers of health services; planning, as appropriate, with the individual, his relatives or others, and health providers to help assure continuity of treatment and carrying out of health recommendations; and helping such individual to secure admission to medical institutions and other health-related facilities.

(10) *Home delivered or congregate meals.* This means the preparation and delivery of hot meals to an individual in his home or in a central dining facility as necessary to prevent institutionalization or malnutrition.

#### (11) Homemaker services.

(i) For Family Services this means care of individuals in their own homes, and helping individual caretaker relatives to achieve adequate household and family management, through the services of a trained and supervised homemaker.

(ii) For Adult Services this means care of individuals in their own homes, and helping individuals in maintaining, strengthening, and safeguarding their functioning in the home, through the services of a trained and supervised homemaker.

(12) *Home management and other functional educational services.* This means formal or informal instruction and training in management of household budgets, maintenance and care of the home, preparation of food, nutrition, consumer education, child rearing, and health maintenance.

(13) *Housing improvement services.* This means helping families and individuals to obtain or retain adequate housing. Housing and relocation costs, including construction, renovation or repair, moving of families or individuals, rent, deposits, and home purchase, may not be claimed as service costs.

(14) *Protective services for adults.* This means identifying and helping to correct hazardous living conditions or situations of an individual who is unable to protect or care for himself.

(15) *Protective services for children.* This means responding to instances, and substantiating the evidence, of neglect, abuse or exploitation of a child; helping parents recognize the causes thereof and strengthening (through arrangement of one or more of the services included in the State plan) parental ability to provide acceptable care; or if that



is not possible, bringing the situation to the attention of appropriate courts or law enforcement agencies, and furnishing relevant data.

(16) *Special services for the blind.* This means helping to alleviate the handicapping effects of blindness through: training in mobility, personal care, home management, and communication skills; special aids and appliances; special counseling for caretakers of blind children and adults; and help in securing talking book machines.

(17) *Transportation services.* This means making it possible for an individual to travel to and from community facilities and resources, as part of a service plan.

§ 221.30 Purchase of services.

(a) A State plan under title I, IV-A, X, XIV or XVI of the Act, which authorizes the provision of services by purchase from other State or local public agencies, from nonprofit or proprietary private agencies or organizations, or from individuals, must with respect to services which are purchased:

(1) Include a description of the scope and types of services which may be purchased under the State plan;

(2) Provide that the State or local agency will negotiate a written purchase of services agreement with each public or private agency or organization in accordance with requirements prescribed by SRS. Effective April 1, 1973, all purchased services must be provided under agreements which meet the requirements of this paragraph. A written agreement or written instructions which meet the requirements of this paragraph must also be executed or issued by the single State or local agency where services are provided under the plan directly by the State or local agency in respect to activities added by reorganization of administrative structure, redesignation of the State or local agency, or otherwise, occurring after February 15, 1973, or are provided by any public agency as to which a waiver of the single State agency requirement pursuant to section 204 of the Intergovernmental Cooperation Act is granted after February 15, 1973. These written purchase of service agreements and other written agreements or instructions are subject to prior review and approval by the SRS Regional Office, to the extent prescribed in, and in accordance with, instructions issued by SRS;

(3) Provide that services will be purchased only if such services are not available without cost;

(4) Provide that purchase of services from individuals will be documented as to type, cost, and quantity. If an individual acts as an agent for other providers, he must enter into a formal purchase of services agreement with the State or local agency in accordance with subparagraph (2) of this paragraph;

(5) Provide that overall planning for purchase of services, and monitoring and evaluation of purchased services, must be done directly by staff of the State or local agency;

(6) Provide that the State or local agency will determine the eligibility of individuals for services and will authorize the types of services to be provided to each individual and specify the duration of the provision of such services to each individual;

(7) Assure that the sources from which services are purchased are licensed or otherwise meet State and Federal standards;

(8)(i) Provide for the establishment of rates of payment for such services which do not exceed the amounts reasonable and necessary to assure quality of service, and in the case of services purchased from other public agencies, are in accordance with the cost reasonably assignable to such services;

(ii) Describe the methods used in establishing and maintaining such rates; and

(iii) Indicate that information to support such rates of payment will be maintained in accessible form; and

(9) Provide that, where payment for services is made to the recipient for payment to the vendor, the State or local agency will specify to the recipient the type, cost, quantity, and the vendor of the service, and the agency will establish procedures to insure proper delivery of the service to, and payment by, the recipient.

(b) In the case of services provided, by purchase, as emergency assistance to needy families with children under title IV-A, the State plan may provide for an exception from the requirements in paragraph (a) (2), (4), (7), and (8) of this section, but only to the extent and for the period necessary to deal with the emergency situation.

(c) All other requirements governing the State plan are applicable to the purchase of services, including:

(1) General provisions such as those relating to single State agency, grievances, safeguarding of information, civil rights, and financial control and reporting requirements; and

(2) Specific provisions as to the programs of services such as those on required services, State-wideness, maximum utilization of other agencies providing services, and relating services to defined goals.

#### SUBPART B—FEDERAL FINANCIAL PARTICIPATION

##### Titles I, IV-A, X, XIV and XVI

§ 221.51 General.

Federal financial participation is available for expenditures under the State plan which are:

(a) Found by the Secretary to be necessary

for the proper and efficient administration of the State plan;

(b)(1) For services under the State plan provided in accordance with the individual service plan to families and individuals included under the State plan who have been determined (and redetermined) to be eligible pursuant to the provisions of this part;

(2) For other activities which are essential to the management and support of such services;

(3) For emergency assistance in the form of services to needy families with children (see § 233.120 of this chapter); and

(c) Identified and allocated in accordance with SRS instructions and OMB Circular A-87.

§ 221.52 Expenditures for which Federal financial participation is available.

Federal financial participation is available in expenditures for:

(a) Salary, fringe benefits, and travel costs of staff engaged in carrying out service work or service-related work;

(b) Costs of related expenses, such as equipment, furniture, supplies, communications, and office space;

(c) Costs of services purchased in accordance with this part;

(d) Costs of State advisory committees on day care services for children, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(e) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(f) Cost to the agency for the use of volunteers;

(g) Costs of operation of agency facilities used solely for the provision of services, except that appropriate distribution of costs is necessary when other agencies also use such facilities in carrying out their functions, as might be the case in comprehensive neighborhood service centers;

(h) Costs of administrative support activities furnished by other public agencies or other units within the single State agency which are allocated to the service programs in accordance with an approved cost allocation plan or an approved indirect cost rate as provided in OMB Circular A-87;

(i) With prior approval by SRS, costs of technical assistance, surveys, and studies, performed by other public agencies, private organizations, or individuals to assist the agency in developing, planning, monitoring, and evaluating the services program when such assistance is not available without cost;

(j) Costs of advice and consultation furnished by experts for the purpose of assisting staff in diagnosis and in developing individual service plans;

(k) Costs of emergency assistance in the form of services under title IV-A;

(l) Costs incurred on behalf of an individual under title I, X, XIV or XVI for securing guardianship or commitment (e.g., court costs, attorney's fees and guardianship or other costs attendant on securing professional services);

(m) Costs of public liability and other insurance protection; and

(n) Other costs, upon approval by SRS.

§ 221.53 Expenditures for which Federal financial participation is not available.

Federal financial participation is not available under this part in expenditures for:

(a) Carrying out any assistance payments functions, including the assistance payments share of costs of planning and implementing the separation of services from assistance payments;

(b) Activities which are not related to services provided by agency staff or volunteers, by arrangement with other agencies, organizations, or individuals, at no cost to the service program, or by purchase;

(c) Purchased services which are not secured in accordance with this part;

(d) Construction and major renovations;

(e) Vendor payments for foster care (they are assistance payments);

(f) Issuance of licenses or the enforcement of licensing standards;

(g) Education programs and services that are normally provided by the regular school system;

(h) Housing and relocation costs, including construction, renovation or repair, moving of families or individuals, rent, deposits, and home purchase;

(i) Medical, mental health, or remedial care or services, except when they are:

(1) Part of the family planning services under title IV-A, including medical services or supplies for family planning purposes;

(2) Medical examinations for persons caring for children under agency auspices, and are not otherwise available; or

(3) For medical (including psychiatric) diagnostic assessments necessary to the development of a service plan for an individual;

(j) Subsistence and other maintenance assistance items even when such items are components of a comprehensive program of a service facility;

(k) Transportation which is provided under the State's title XIX plan;

(1) Effective January 1, 1974, costs of employment services (non-WIN under title IV-A provided to persons who are eligible to par-

ticipate in WIN under title IV-C of the Act, unless the WIN program has not been initiated in the local jurisdiction; and

(m) Others costs not approved by SRS.

§ 221.54 Rates and amounts of Federal financial participation.

(a) *Federal financial participation at the 75% rate.*

(1) For States with a State plan approved as meeting the requirements of Subpart A of this part, and that have in operation an approved separated service system in accordance with § 205.102 of this chapter, Federal financial participation at the rate of 75% is available for all matchable direct costs of the separated service system, plus all indirect costs which have been allocated in accordance with an approved cost allocation plan and with the requirements of OMB Circular A-87.

(2) For States with a State plan approved as meeting the requirements of Subpart A of this part, but that do not have in operation an approved separated service system in accordance with § 205.102 of this chapter, the rate of Federal financial participation is governed by the regulations in Parts 220 and 222 of this chapter as in effect on January 1, 1972, for all matchable direct costs of the services program, plus all indirect costs which have been allocated in accordance with an approved cost allocation plan and with the requirements of OMB Circular A-87.

(b) *Federal financial participation for purchased services.*

(1) Federal financial participation is available in expenditures for purchase of services under the State plan to the extent that payment for purchased services is in accordance with rates of payment established by the State which do not exceed the amounts reasonable and necessary to assure quality of service and, in the case of services purchased from other public agencies, the cost reasonably assignable to such services, provided the services are purchased in accordance with the requirements of this part.

(2) Services which may be purchased with Federal financial participation are those for which Federal financial participation is otherwise available under title I, IV-A, X, XIV, or XVI of the Act and which are included under the approved State plan, except as limited by the provisions of subparagraph (3) of this paragraph.

(3) Effective March 1, 1973, Federal financial participation is available for a new purchase of services from another public agency only for services beyond those represented by fiscal year 1972 expenditures of the provider agency (or its predecessors) for the type of service and the type of persons covered by the agreement. A new purchase of service from another public agency is any purchase of services other than a purchase for the type of service and the type of persons covered by an agreement that was validly subject to Federal financial participation under title I, IV-A, X, XIV, or XVI prior to February 16, 1973.

Example: The welfare agency makes an agreement for purchase of services from another public agency. In the year ended June 30, 1972, there was no purchase arrangement, and such other agency expended \$100,000 in non-Federal funds in furnishing the type of services to the type of persons covered by the agreement. In the year ending June 30, 1974, Federal financial participation will be available only to the extent that the expenditures of such other agency for these purposes from non-Federal sources are expended. If the total expenditures are \$100,000 or less, there will be no Federal payments. If the total expenditures are over \$100,000, Federal financial participation will be available only in the excess over \$100,000. Thus, if total expenditures are \$200,000, the Federal share at 75 percent of expansion would be \$75,000. For a new purchase in the period February 16 through June 30, 1973, for the purpose of computing the Federal financial participation for the remainder of the fiscal year ending June 30, 1973, the total fiscal year 1972 expenditures of \$100,000 are prorated. Thus, if the new purchase went into effect on April 1, 1973, Federal financial participation for the April-June 1973 quarter would be available only in the excess over \$25,000 for that quarter.

(4) The provisions of subparagraph (3) of this paragraph also apply to services provided, directly or through purchase, by:

(i) any public agency as to which a waiver of the single State agency requirement pursuant to section 204 of the Intergovernmental Cooperation Act is granted after February 15, 1973, or

(ii) the State or local agency, as to activities added by reorganization of administrative structure, redesignation of the State or local agency, or otherwise, occurring after February 15, 1973.

§ 221.55 Limitations on total amount of Federal funds payable to States for services.

(a) The amount of Federal funds payable to the fifty States and the District of Columbia under titles I, IV-A, X, XIV, and XVI for any fiscal year (commencing with the fiscal year beginning July 1, 1972) with respect to expenditures made after June 30, 1972 (see paragraph (b) of this section) for services (other than WIN Support Services, and emergency assistance in the form of services, under title IV-A) is subject to



the following limitations:

(1) The total amount of Federal funds paid to the State under all of the titles for any fiscal year with respect to expenditures made for such services shall not exceed the State's allotment, as determined under paragraph (c) of this section; and

(2) The amounts of Federal funds paid to the State under all of the titles for any fiscal year with respect to expenditures made for such services shall not exceed the limits pertaining to the types of individuals served, as specified under paragraph (d) of this section.

Notwithstanding the provisions of paragraphs (c)(1) and (d) of this section, a State's allotment for the fiscal year commencing July 1, 1972, shall consist of the sum of:

(i) an amount not to exceed \$50 million payable to the State with respect to the total expenditures incurred, for the calendar quarter beginning July 1, 1972, for matchable costs of services of the type to which the allotment provisions apply, and

(ii) an amount equal to three-fourths of the State's allotment as determined in accordance with paragraphs (c)(1) and (d) of this section.

However, no State's allotment for such fiscal year shall be less than it would otherwise be under the provisions of paragraphs (c)(1) and (d) of this section.

(b) For purposes of this section, expenditures for services are ordinarily considered to be incurred on the date on which the cash transactions occur or the date to which allocated in accordance with OMB Circular A-87 and cost allocation procedures prescribed by SRS. In the case of local administration, the date of expenditure by the local agency governs. In the case of purchase of services from another public agency, the date of expenditure by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures, only upon justification by the State to the Administrator and approval by him. In reviewing State requests for approval, the Administrator will consider generally applicable State law, consistency of State practice, particularly in relation to periods prior to July 1, 1972, and other factors relevant to the purposes of this section.

(c)(1) For each fiscal year (commencing with the fiscal year beginning July 1, 1972) each State shall be allotted an amount which bears the same ratio to \$2,500,000,000 as the population of such State bears to the population of all the States.

(2) The allotment for each State will be promulgated for each fiscal year by the Secretary between July 1 and August 31 of the calendar year immediately preceding such fiscal year on the basis of the population of each State and of all of the States as determined from the most recent satisfactory data available from the Department of Commerce at such time.

(d) Not more than 10% of the Federal funds shall be paid with respect to expenditures in providing services to individuals (eligible for services) who are not recipients of aid or assistance under State plans approved under such titles, or applicants for such aid or assistance, except that this limitation does not apply to the following services:

(1) Services provided to meet the needs of a child for personal care, protection, and supervision (as defined under day care services for children) but only in the case of a child where the provision of such services is needed in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child;

(2) Family planning services;

(3) Any services included in the approved State plan that are provided to an individual diagnosed as mentally retarded by a State mental retardation clinic or other agency or organization recognized by the State agency as competent to make such diagnoses, or by a licensed physician, but only if such services are needed as part of an individual service plan for such individual by reason of his condition of being mentally retarded;

(4) Any services included in the approved State plan provided to an individual who has been diagnosed by a licensed physician as a drug addict or alcoholic, but only if such services are needed by such individual under an individual service plan as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

(5) Foster care services for children when needed by a child under an individual service plan because he is under foster care.

**§ 221.56 Rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands and Guam.**

(a) For Puerto Rico, the Virgin Islands and Guam, the basic rate for Federal financial participation for Family Services and WIN Support Services under title IV-A is 60%. However, effective July 1, 1972, the rate is 50% for emergency assistance in the form of services.

(b) For family planning services and for WIN Support Services, the total amount of Federal funds that may be paid for any fiscal year shall not exceed \$2,000,000 for Puerto Rico, \$65,000 for the Virgin Islands, and \$90,000 for Guam. Other services are subject to the overall payment limitations for financial assistance and services under titles I, IV-A, X, XIV, and XVI, as specified in section 1108(a) of the Social Security Act.

(c) The rates and amounts of Federal financial participation set forth in § 221.54 (a) and (b) of this chapter apply to Puerto Rico, the Virgin Islands and Guam, except that the 60% rate of Federal financial participation is substituted as may be appropriate. The limitation in Federal payments in § 221.55 of this chapter does not apply.

**Titles I, IV-A, IV-B X, XIV, and XVI**  
**§ 221.61 Public sources of State's share.**

(a) Public funds, other than those derived from private resources, used by the State or local agency for its services programs may be considered as the State's share in claiming Federal reimbursement where such funds are:

(1) Appropriated directly to the State or local agency; or

(2) Funds of another public agency which are:

(i) Transferred to the State or local agency and are under its administrative control; or

(ii) Certified by the contributing public agency as representing current expenditures for services to persons eligible under the State agency's services programs, subject to all other limitations of this part.

Funds from another public agency may be used to purchase services from the contributing public agency, in accordance with the regulations in this part on purchase of services.

(b) Public funds by the State or local agency for its services programs may not be considered as the State's share in claim-funds are:

(1) Federal funds, unless authorized by Federal law to be used to match other Federal funds;

(2) Used to match other Federal funds; or

(3) Used to purchase services which are available without cost.

In respect to purchase of services from another public agency, see also § 221.54(b) of this chapter with respect to rates and amounts of Federal financial participation.  
**§ 221.62 Private sources of State's share.**

Donated private funds or in-kind contributions may not be considered as the State's share in claiming Federal reimbursement.

[From the Washington Post, Feb. 16, 1973]

#### HEW DEFENDS NEW CUTBACK RULES

(By Austin Scott)

Proposed new rules for federal social service programs—which drew anguish protests from day care, welfare and senior citizen groups—represent an attempt to prune back as painlessly as possible, Health, Education and Welfare Department officials said yesterday.

But an hour after HEW Secretary Caspar Weinberger met with reporters to explain the new rules, a group of 46 senators including 13 Republicans, sent him a letter opposing them.

"Such an extreme change in the existing social services program is unwarranted," their letter said.

Led by Sen. Walter F. Mondale (D-Minn.), the group was particularly opposed to one new rule that knocks out the three federal dollars now available for every dollar of private contributions to run mental health centers, prison rehabilitation and other social services programs.

"This proposed change would seriously undermine the excellent private-public partnership approach to human problems that now exists," the senators told Weinberger. "These kinds of cooperative efforts would be encouraged rather than discouraged."

The debate is a continuation of one that started last fall, when HEW then-Secretary Elliot Richardson wrote to President Nixon saying a runaway social services program was threatening to bankrupt the federal treasury.

Operating with few rules, almost no monitoring, and wholesale abuses, particularly in large states like California, Illinois and New York, the program threatened to drain \$6 billion from the federal treasury in 1973.

"I was convinced someone was paving roads with it, but we never could find that," Weinberger said.

Late last year, Congress clamped a \$2.5 billion ceiling on the program.

Weinberger argued at the news briefing that HEW was trying to shape the most coherent program possible within the limits Congress set, an approach that resulted in cutting many options from states and local groups.

"The thing that really bothered us was the unfocused nature of it," said Weinberger. "We had no idea who these were really benefiting."

"Now we want to be very specific about what the funds are to be for," added Philip Rutledge, acting administrator of the Social and Rehabilitation Service Administration. "We are saying since there is a ceiling and

states have to be more careful, we are trying to give them more of an option."

Weinberger commented on a number of the options lost:

Five-year-old federal standards on the maximum numbers of children that can be cared for in day care centers by each adult have been thrown out.

HEW spent two years and better than half a million dollars devising a set of "Model Day Care Codes" which Rutledge said might be approved by the time the new rules take effect, perhaps as early as April 15.

The model codes would be advisory, not binding, and recommend double the number of children per adult over the old federal standards.

Day Care groups have argued that allows more "warehousing," with less attention to each child's needs.

The federal matching of private donations is gone, although matching for state and local government money remains.

"Some substantial abuses had grown up, or at least were quite possible," Weinberger said.

The private groups which got federal matching money to run their own programs were not supervised by the government, Weinberger said.

A lot of services for welfare families, the blind and the aged states now must provide will become optional, depending on state preferences.

There was a very broad opening for states to provide services to people who may not have been in need at all," Weinberger said.

Block certification, which allowed people to take part in a program because they lived in a designated area, is out.

Weinberger said it allowed too many people who didn't need the programs to take part in them anyway.

There is no re-allocation formula, which would allow money unspent by one state to go to another state. This was prohibited by Congress, Weinberger said.

"I hope they're (the new rules) going to cut back on the things that don't benefit the people that most need them," he said. "... With limited resources, it seems very desirable for that money to go to those most in need." He emphasized that the rules issued today are not necessarily in final form. "We don't have a closed mind on anything here," he said.

[From the New York Times, Feb. 16, 1973]

#### NIXON AIDES SEEKING TO CUT STATE SOCIAL PROGRAMS BY \$800 MILLION

(By Richard D. Lyons)

WASHINGTON, February 15.—The Nixon Administration moved today to narrow such state social programs as day care and health and employment services and cut Federal outlays for them by \$800-million in the fiscal year 1974.

The states had sought almost \$6-billion in Federal aid for their social service programs for next year. Congress had imposed a \$2.5-billion ceiling but the Administration now proposes spending only \$1.8-billion in Federal funds, down from \$2.6-billion in the current fiscal year.

Caspar W. Weinberger, Secretary of Health, Education, and Welfare, said that the Administration's move, in the form of proposed changes in rules for the services, had been made to eliminate abuses in which states had received social service grants and then applied the funds to other uses.

He said that some of the "horror stories" included "the making of documentary films" and the payment of salaries for prison guards from social service funds.

"I was convinced that some of the states were paving roads with the money," he told a news briefing.

Administration officials have complained in recent months that many states have been making a run at the Federal Treasury by seeking Federal payment for many services that had previously been paid for with state funds.

New York, for example, received \$88-million from the Federal Government for social services in the fiscal year 1971, with the amount soaring to \$588-million last year, according to Federal statistics. The amount Albany had sought for the fiscal year 1973 was \$854-million, but the state will receive only \$220-million for the fiscal years 1973 and 1974.

New Jersey received \$20-million in the fiscal year 1971, had asked for \$415-million for the fiscal year 1973 but will receive only \$86-million for the current and next fiscal year.

The H.E.W. move came in the form of proposals by the Department's Social and Rehabilitation Services to set new guidelines for what services could be funded with Federal money and who would receive them.

#### SENATORS ATTACK PROPOSALS

The proposed changes in regulations, which will be printed in the Federal Register tomorrow and could go into effect with some amendments in about two months, were immediately attacked by 46 Senators, including 13 Republicans.

The Senators said in a statement that the changes "would seriously undermine the excellent private-public partnership approach to human problems that now exists."

"These kinds of cooperative efforts should be encouraged rather than discouraged" the statement said.



The Senators took particular exception to a proposed change that would forbid the use of private funds to be included as part of the state or municipality's matching funds.

At present, a private agency may donate, for example, \$100,000 to a day care center. The city or state could then apply to the Federal Government for \$300,000 from Federal matching funds for the day care center, since the matching formula has been \$3 in Federal money for every \$1 in local money.

[From the Washington Post, Feb. 18, 1973]  
THE SOCIAL SERVICES FUND

Things are never quite what they seem, in the long struggle over the federal Social Services fund. The public has fallen under an impression that Mr. Nixon is drastically cutting federal outlays on social welfare, and rapidly returning broad discretion to the states. Neither half of that impression happens to be true, in the case of the massive Social Services fund, but it suits the purposes of neither the administration nor its critics to say so out loud. In fact, the Social Services fund has evolved into a careless and unintentional kind of revenue-sharing. The administration's desperate attempts to control it have nothing to do with the ideological warfare over the Great Society. To the contrary, they offer a highly instructive premonition of the troubles that President Nixon may have with his further experiments in revenue sharing.

The Social Services fund has had a bizarre history. An obscure item in the budgets of the 1960's, it offered states three-fourths of the cost of certain services to help people get off, or keep off, welfare. The fund ran to \$366 million a year when Mr. Nixon took office. But then the California state government perceived that, if viewed with imagination (and sympathy), half the state's budget might be considered to be social services. The federal fund started to shoot up in 1970, with 40 per cent of it going that year to one state—California, where a Republican governor was running for re-election and did not care to raise taxes. Then New York began to see the potential in this interesting fund. From state to state, word spread. Congress had never put a limit on the fund. The Treasury was obliged to pay three-fourths of the cost of any state or local program that met the definitions set by the Department of Health, Education and Welfare. HEW's definitions turned out to be strangely loose and inviting. The Social Services fund paid out \$800 million in fiscal 1971, and \$1.9 billion in 1972. The states' applications shot upward as they grew increasingly audacious in shifting large parts of their routine budgets onto the federal Treasury.

At the beginning of last year, the administration originally budgeted only \$1.2 billion for this fund in fiscal 1973. But the states' demands totaled twice as much by last May, and by June they came to \$5 billion. HEW urgently warned the White House, but the White House told the department to keep quiet and do nothing. The President, it might be recalled, was then running for re-election and wanted no trouble with governors. Later in the summer Jodie Allen, an economist at the Urban Institute, published the figures. In a flurry of embarrassment the President and Congress hastily agreed to place a limit of \$2.5 billion a year on the fund.

The current stage of the controversy began last week when HEW brought out new regulations for the Social Services fund. These regulations are a reversion, almost to the point of parody, to the worst traditions of an ingrown and paternalistic bureaucracy. A state can extend services to an individual person, under this program, only after a social worker has drawn up a "service plan" for that person, proving his eligibility, listing what services he is to receive, showing how they will lead to "goals" and setting "target dates for goal achievement." And it all has to be reviewed every six months. Boom days are ahead for the paper industry and for the legion of minor clerks who will crank the wheels inside this large new welfare machine. But for that part of the population which is poor, and may actually need help the outlook is not so jolly.

As a budget device, the new regulations amount to impoundment by red tape. Although the authorization is \$2.5 billion, Mr. Nixon's budget provides only \$1.9 billion for it next year. The administration is clearly counting on the weight of the regulations to prevent the states from obtaining their full allotments.

One sad and revealing provision in the regulations prohibits states from using private funds, donated to voluntary social agencies as matching money in this program. In his first term, Mr. Nixon talked much about the crucial role of the volunteer in American society. Apparently the idea also is fading.

The collision between the states and the Nixon administration over the Social Services funds has nothing to do with the New Deal or the 1960s. The fund took off upward under the Nixon administration, which deliberately exploited it as revenue-sharing to certain key states. It then flew out of control altogether. Now the administration is trying to recapture it by drawing up regu-

lations of a density and detail calculated to discourage states from using it. The next question is whether this melancholy experience does not foreshadow the mistakes still to be made in President Nixon's other revenue-sharing ventures.

[From the Washington Post, Feb. 12, 1973]  
CUTBACKS PLANNED IN SOCIAL SERVICES  
(By Austin Scott)

The Nixon administration is preparing to make major changes in the way the federal government supports programs in day care, aid to the elderly, mental retardation, juvenile delinquency, and other social services.

Although new social services regulations aren't scheduled to be announced by the Department of Health, Education and Welfare for another week or so, some affected groups have obtained copies and are gearing up for a fight.

Rep. Bella Abzug (D-N.Y.), a vocal supporter of day-care centers, denounced the new proposals as "unconscionable," and said she will call for congressional hearings into their effect on day care. Arkansas Gov. Dale Bumpers said parts of them are "patently absurd."

While the proposed new regulations would change the ground rules for federal aid to a number of important social services programs, most of the comment so far has been aimed at their effect on day care.

As written now, they would eliminate existing mandatory federal child care standards, and end the \$3 in matching money that the federal government gives for every \$1 private contributions. However, they would permit the government to continue matching, 3 for 1, state and local funds.

That end to the federal matching of private money applies to all the programs, not just day care, and it is what Bumpers termed "patently absurd."

"To give you an example of the effect it would have on our mental retardation program," he said, "when I was elected [in 1970] we had fewer than 20 community facilities caring for a little less than 400 children."

"In the past year and a half . . . we have expanded that to 82 facilities caring for over 2,000 children."

"Quite frankly, with the guidelines prohibiting the use of private funds and the further restrictions . . . we will probably wind up closing virtually every one of the new ones we have started in the past year and a half."

"It's such a bad law I can't conceive of it standing," he said. "I have heard they expect to save \$1 billion. My guess would be they'll save \$2 billion with the guidelines as they are now."

Among the changes in the proposed regulations are:

Quarterly recertification of applicants for some programs, instead of the yearly recertification.

Tightening day-care eligibility requirements. Current rules allow day care for children who have been on welfare within the past two years, or are prospects for welfare in the next five years. The new ones change those figures to three months and six months, respectively.

Elimination of the "special need" category, allowing services for the handicapped regardless of income.

Elimination of federal money for code enforcement, to make sure state standards are being enforced.

Setting of a maximum income figure for day-care eligibility that in some states works out to below the poverty level for a family of four.

HEW officials point to their plans to increase the amount of money spent on day care, and the number of children covered.

Federal budget estimates show one portion of the government's support for day care jumping from an estimated \$82 million under the Work Incentive Program in Fiscal 1973, to \$204 million in Fiscal 1974 which will begin July 1.

Some child-care groups, however, are convinced the dropping of federal standards will mean more "warehousing" of children with little attention paid to their education or other needs.

The new regulations drop all reference to existing federal interagency regulations about the ratio of children to adults at day-care centers.

Instead, a set of HEW Model Day Care Codes, currently on Secretary Caspar Weinberger's desk, recommends approximately twice as many children per adult as the standards now in effect.

The opening pages of the Model Day Care Codes indicate they are to be used as guidelines for states to draw up their own codes, but are not requirements.

"It's all a matter of money," said the source who gave a copy of the proposed regulations to The Washington Post, and who asked not to be identified.

The key thing to remember is that most experts say the child-to-staff ratio accounts for 75 per cent of all the costs. They were spending \$800 million for day care at the end of fiscal 1972. If you double the child-to-staff ratio, as they're proposing, that's a saving of \$300 million.

"These regulations are unconscionable,"

said Rep. Abzug. "They effectively shut out children from middle income families from federally assisted day care, and they will substantially reduce the number of senior citizens eligible for vitally needed services."

An advance copy of the proposed regulations was floated by the Council of State Governments in November for that group's reaction.

"We are quite sure that the states will have major objections to the denial of the use of private funds for matching," said Allen Jensen, a special assistant on human resources to the group.

"They feel this is a way to have community involvement and community participation in delivering these services."

Jensen estimated that private donations along with the three federal dollars that can now be given for each private dollar, supply about \$55 million worth of day-care services around the country.

The private money comes from many sources, including charitable organizations such as United Way, and even bake sales or garage sales conducted by the day-care centers.

Along with eliminating such federal fund matching, the new proposals also eliminate federal matching for the value of "in-kind contributions," such as when furniture or a building are donated.

A number of experts are saying that politics is playing a heavy role in the federal matching section of the new regulations.

They point out that the government's proposed policy is opposite the position taken by former HEW Secretary Elliot L. Richardson when he said to several members of the House last summer that he supported federal matching for private donations.

The proposed policy, however, does go along with a directive from the Senate Finance Committee, which said during last year's debate over welfare reform that this kind of matching should be stopped.

There are predictions that federal matching for private money will be reinstated before the regulations become final, and the administration will make its real fight over the elimination of federal standards, and a new ban it proposes to place on transferring social services money to other state programs.

"It's a foolish (HEW) Secretary who ignores a directive from the Senate Finance Committee," said one source. "but they'll be able to say they tried, and the real money is saved in other places."

"They certainly tighten up everything all along the line in terms of eligibility, definitions, and range of authority," said Elizabeth Wickenden, professor of urban affairs at the City University of New York.

"The two most severe restrictions in them are the direct result of Senate Finance Committee instructions to the Secretary . . . All of this I think is quite consistent with the current philosophy of the administration. They have on one hand loosened up insofar as the state decision-making is concerned . . . And on the other hand they've tightened eligibility on who can get the service."

HEW ISSUES NEW SOCIAL SERVICE REGULATIONS—OPPONENTS PREPARE TO PUSH FOR MODIFICATION

HEW last week claimed its proposed new regulations for Federally funded day care and other social services will give states more options, but others viewed them as hard-line and restrictive.

The regulations issued Friday will "allow states to concentrate services on population groups most in need of them" and "give states more options in determining services to be provided," according to an HEW news release.

Some social welfare leaders, in and out of Congress, disagreed and prepared to challenge the proposed rules published in the *Federal Register* Feb. 16.

The HEW news release description of the regulations was termed "a smokescreen" by Allen Jensen, special assistant to the Council of State Governments.

"In fact," said Jensen, "the regulations put far more restrictions on services than the current regulations do."

On the basis of earlier, less restrictive draft rules, Jensen said at least 25 governors had told him their service programs would be seriously hurt.

Mary Keyserling, former director of the Labor Department Women's Bureau, said the regulations would be "most devastating" to the working poor with incomes between \$4,000 and \$6,000. The new rules on income eligibility would mean that "just when they work their way out of poverty, they are not eligible for services," she said.

Bipartisan efforts are being taken in Congress to change the regulations.

The rules were published for 30-day comment without significant change from the version summarized in *DCCD Reports Extra Edition*, Feb. 12. Under the regulations:

Eligibility for services is limited almost exclusively to current recipients of, or applicants for, welfare assistance.

Private donated funds and in-kind contributions from private sources are prohibited from being used as a state's share to obtain Federal matching money.

Tight restrictions are placed on the purchase of services from other agencies.



Most day care may be provided only if it will enable a parent to work. Day care as a protective or child welfare service, or in certain instances like the absence or incapacity of a child's mother, may also be provided to eligibles.

In-home day care must meet state standards and out-of-home care must be licensed by the state, but the regulations eliminate a requirement in current regulations that out-of-home day care comply with Federal Interagency Day Care Requirements.

In what appears to be a sudden Administration shift, not evident in the regulations, HEW is expected to require out-of-home day care to meet a revised version of the Federal Interagency Day Care Requirements.

DCCD Reports learned that, at the last minute, a paragraph was added to the HEW news release on the regulations saying revised day care Requirements will be issued soon.

The addition, absent from earlier drafts of the news release, is believed to have been prepared to ward off Congressional opposition to the lack of Federal Requirements.

The revised Requirements, written primarily by HEW's Office of Child Development, have been stalled in the Office of Management and Budget since last August. They were expected to die there.

These revised Requirements, which the news release describes as equally comprehensive but more clearly defined and enforceable than the 1968 Requirements now in effect, would require, according to the most recent draft available, one care giver for every seven children ages 3 to 4½ and one care giver for every 10 children ages 4 to 6½. Current requirements stipulate a ratio of one adult for every five children ages 3 to 4 and one adult for every seven children ages 4 to 6.

Some states contend ratios in current Requirements are too stringent and costly for them to meet, but some child welfare specialists maintain that low child-staff ratios are necessary to prevent damage to children.

On the proposed new regulations, 43 Senators, led by Sens. Walter Mondale, D-Minn., and Jacob Javits (R-N.Y.), wrote to HEW Secretary Casper Weinberger to protect the cutoff of private funds and to express concern over restrictions, eligibility and lack of Federal Requirements.

The signers include 13 Republicans, among them such usually stalwart members as Sens. Peter Dominick (Colo.) and J. Glenn Beall, Jr. (Md.).

Rep. Bella Abzug called the regulations disastrous, and said they would lead to warehousing of children. She has called on House Education and Labor Chairman Carl Perkins to hold public hearings on their effect on day care.

HEW and the Office of Management and Budget, which had a strong hand in writing the regulations, said that they are necessary to curb abuses in the programs and to focus on programs and people who would benefit the most.

"We cannot allow states to finance their whole state governments with this money," said one OMB source. "It's time to dig in on this program and go off in a better direction the next time."

The proposed regulations are expected to have these effects:

Arkansas Gov. Dale Bumpers was quoted as saying that approximately 60 of his state's 82 mental retardation centers for children would be closed down.

The prohibition against donated funds would cut out about \$55 million in funds for day care now used as state match.

A staff assistant to Georgia McMurray, Commissioner of New York City's Agency for Child Development, estimates that more than half of the 33,000 children in Agency programs would not be eligible for Federal reimbursement under the regulations. "In many cases," she said, "without day care the others will have to go back on welfare, costing the city two and one-half times what day care costs."

She said the administrative costs and time involved in determining and redetermining eligibility are "prohibitive."

One Pennsylvania state source said that of the 14,000 children in IV-A day care in the state, only 2,000 would be eligible.

DCCD Reports Extra Edition (Feb 12) presented a look at the new regulations. Additional requirements include:

Federal reimbursement is not available for subsistence assistance and other maintenance assistance items even when they are part of a comprehensive program of a day care facility.

There is no mention of community planning, information referral, staffing and training and mobilization—terms under which 4-C organizations have been funded in the past. HEW staff who worked on the regulations said that these and other services not specifically mentioned could be reimbursed only if a state could show they were necessary for the "proper and efficient administration of programs and with HEW approval."

Reimbursement for most health-related services would be restricted to placement, and would not cover the cost of providing services.

Homemaker service is defined as "care of individuals in their own homes and helping individual caretaker relatives to achieve adequate household and family management..."

State day care advisory committees are required, but local advisory panels are no longer required and there is no requirement that parents sit on state committees.

Services may be purchased from other agencies only if they are not available without cost.

Comments on the regulations may be made for 30 days. They should be sent to the Administrator, Social and Rehabilitation Service, Department of Health, Education and Welfare, 330 C St. SW., Washington, D.C. 20201.

#### SOCIAL SERVICES

Inserted into this NLC Washington is a special piece on social services. Because of the present uncertainty of the final federal regulations affecting federal reimbursement for social services, the following information regarding the various types of social services or social services for a recipient group is not to be interpreted as official federal description of social services activities which can be funded under the Social Security Act.

Specifically designed for use at the NLC social services seminars, the piece explains and illustrates some of the services that have been funded by social services authorizations of the Social Security Act. Since HEW is still drafting changes in these social service regulations, it is not yet known exactly what services can be funded under the federal social services programs in the future and which will be mandatory and which optional.

#### THE \$2.5 BILLION CEILING ESTABLISHED

The Social Services program authorizations were changed by amendments to the Social Security Act included in the revenue sharing bill and the Social Security and Welfare Bill (HR 1) enacted in 1972. The program was changed by establishing a limit of \$2.5 billion federal matching funds for social services available to States according to a formula based on population instead of open-ended appropriations.

#### GOAL-ORIENTED SERVICES

Titles I, X, XIV, XVI, and part A of Title IV of the Social Security Act authorize federal matching payments to states for providing social services to applicants for welfare, present, former and potential welfare recipients. These social services are generally defined in the Act as follows:

For families with dependent children they are: "Services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence. [Section 406(d)]

For the aged, blind and disabled, they are any services which "help them to attain or retain capability for self-support or self-care" and services "likely to prevent or reduce dependency." [Section 1063]

HEW has drafted proposed regulations intended to increase the public accountability for social services by establishing planning and reporting requirements to create a goal-oriented social service system which has as its mission reducing the barriers to attaining and maintaining maximum capability for self-support, self-care and personal independence for recipients of social services.

#### KINDS OF SOCIAL SERVICES

Child care and family planning services, foster care for children, treatment of drug addicts and alcoholics, and services for the mentally retarded would continue to be available, as under present law, for applicants for and "present, former and potential welfare recipients." Further descriptions of these categories are given in the following pages:

Family Planning.....	2
Foster Care for Children.....	3
Child Care.....	4
Treatment for Mentally Retarded.....	5
Treatment for Alcoholism and Drug Addiction.....	6

At least 90 percent of the federal funds spent for social services other than those above must be used for social services for individuals who are applicants for or recipients of welfare cash assistance and no more than 10 percent for "former and potential welfare recipients. Examples of these social services are given in the following pages. They might be:

Transportation service.....	6
Meals on Wheels and Senior Centers.....	7
Health-related services.....	8
Legal Services.....	8
Housing Improvement.....	9
Protective Services for Adults.....	9
Home Management Service.....	10
Employment Services (NON-WIN).....	10
Day Care for Adults.....	11
Foster Care for Adults.....	11
Protective Services for Children.....	12
Homemaker Services.....	12

Funds for social services related to the WIN program are authorized in addition to the \$2.5 billion ceiling and at a federal matching rate of 90 percent. Approximately \$200 million is expected to be available in fiscal year 1973 for social services under the WIN program.

#### FAMILY PLANNING

Mrs. H. was only 30 years old. Yet she looked—and felt—much older. Mrs. H. had

had 11 pregnancies during her 30 years. Four of the children had died. Her husband was an auto worker, had been laid-off and the family was on welfare.

"I had never heard of family planning until my last baby was delivered," Mrs. H. told a caseworker. "They told me about it at the hospital. Now we don't have to worry all the time and my mother doesn't have to worry about me having more babies."

Mrs. H. is now taking steps to avoid having more children. She has profited from advice and referrals of the local social service agency.

#### Description of service

The problem of unplanned and unwanted child bearing among low income families and individuals has received increasing recognition over the past five years. The relationship between high fertility and economic dependency, poor maternal and child health and family planning services in public programs.

#### Mandatory Service

Under Title IV-A of the Social Security Act, state welfare departments must offer family planning services to current, former and potential AFDC recipients and these services must now be "provided promptly (directly or under arrangements with others)." A penalty will be imposed for failure to offer and provide services to applicants and current recipients of AFDC. H.R. 1 authorizes 90 percent federal matching for Title IV-A family planning services (in contrast to 75 percent federal matching for other services). Under Title XIX, all States with Medicaid programs are now required to include family planning services and supplies as one of the basic medical services available to all persons covered by the program. The federal matching rate for family planning under Medicaid has also been raised to 90 percent.

Family planning services include medical and social services, medical examination, diagnosis and prescription, laboratory tests, contraceptive drugs and supplies, group and individual instruction, and follow-up. Subsidized programs enable low income persons, i.e., those who are not able to afford the services of a private physician, to have access to fertility control services.

#### Population Service

The population in need of subsidized family planning services is diverse. It includes welfare recipients, other poor groups, the "near poor" who have marginal or fluctuating incomes. These are the people who may slip into and remain in serious economic dependency through unplanned and unwanted child bearing.

#### How services are provided

In the private sector these services are provided mostly by private physicians in their offices. In the public sector family planning services are usually organized in a clinic setting which may be associated with a hospital, health department, or neighborhood health facility, or which may be free standing. In these clinics the services of physicians, nurses, social workers and paraprofessionals are combined for the most efficient and effective use of professional time. Such organized family planning services are financed generously through private donations, federal projects grants, and to some extent state and local medical assistance and social services programs.

#### Gaps in Services Network

There remain large gaps in the service delivery network. Fully one-half of all U.S. counties are without family planning services of any kind and many established programs are inadequate to meet the need.

#### FOSTER CARE FOR CHILDREN

Judy is a ten-year-old who was born with clubbed hands and feet and alimentary abnormalities. Her mother is divorced and living on AFDC. There was no facility for remedial treatment for Judy in her rural area so she was placed in a stable foster home in a large city with excellent medical and rehabilitative facilities.

Judy has lived in the foster home for ten years, regularly going back home to spend vacations with her family. Surgery, therapy and training have given Judy use of her hands and she is able to walk.

Current plans are to return Judy to her natural family for good by next summer. She will still have to make occasional trips to a nearby city for continuing treatment and therapy, however.

Judy and her family both profited from the foster home experience. If she had been left in the home, Judy would have had no future. This family has been assisted so that they can manage the job of adequately caring for their child.

#### Description of service

The breaking up of a home is not a pleasant thing. Many of the social services work to keep the home unit together; foster care separates the home unit. There are some cases, however, in which the child is better off separated from a family. Whether the separation is due to ignorance or simple neglect, abuse, abandonment, illness or emergency, the service should be available to children. The intent is that children where parents are not capable or willing to properly care for them are given substitute home environments.



### Foster care elements

Foster care provides care for a temporary or extended period in an agency-supervised home for children whose parents are unable to care for them adequately because of social, emotional or health problems of children and/or parents and who can benefit from family life experiences. Elements of the program include: 1) exploration to determine appropriate service, development of a plan for service, and preparation for placement; 2) work in behalf of or directly with children during placement (including provision of the essentials of daily living, such as shelter, meals, clothing, arrangements for education, recreation, religion, medical-dental care; child care, e.g., service payments for foster parents; social work and other treatment services, such as psychiatry, psychology, special education; 3) work with parents while child is in placement; 4) postplacement activities during readjustment period; 5) foster family home recruitment, study, and development.

#### How services are provided

Foster care may be provided by a state agency or purchased through a private agency which can provide services for individual or children with special needs that the public agency cannot adequately provide for. It is the responsibility of the state department of public welfare to give leadership in planning, establishing and maintaining adequate foster family care services throughout the State, under both public and voluntary auspices.

#### State Responsibility

The State provides direct services, is responsible for licensing of agencies, and licensing of foster homes and the promotion of standards of foster family care service throughout the State through the development of requirements for licensing of agencies, consultation to all child welfare agencies in accordance with the needs of the individual agencies and skilled supervision to child welfare units directly under the administrative control of the state department.

#### CHILD CARE

Mr. T. came home from Viet Nam paralyzed. Doctors said he would never walk again. Mr. T. had a wife and six children to support. And there seemed to be no way.

The couple requested day care services of the state agency so that Mr. T. could transport her husband, who was paralyzed and in a wheel chair for therapy several times a week.

With extensive physiotherapy, Mr. T. improved and is now able to walk with crutches.

Mr. T. worked in the day care center as an assistant teacher for about four months while her youngest daughter was enrolled. She then enrolled in a medical technician course and has subsequently accepted a position in the field.

Today Mr. T. is on his feet. Thanks to the day care cure, so is his family.

#### Description of service

Day care is a very special service for children who must have supplementary care during part of the 24-hour day by adults other than their parents. They need this care because, for some reason, their parents are unable to provide care and supervision on a full-time basis. These parents do retain responsibility for their families, but need to delegate a part of this responsibility to others. Day care, thus, is a service that keeps children in their own homes and promotes the stable functioning of their families.

#### Individual Treatment

Since day care is a part-time substitute for parents in their responsibility for child rearing, the distinguishing feature must be a degree of excellence surpassing all other daytime programs for children. In whatever setting the care is provided—a center, the home of a neighbor, in the child's own home, or in a family day care home—the measure of excellence will be revealed by the degree to which the child is treated as an individual and the extent to which the care he receives meets his particular needs.

#### "Provides Needs of a Child"

The new social services amendments to the Social Security Act defined child care services as those "provided to meet the needs of a child for personal care, protection and supervision, but only in the case of a child where the provision of such services is needed (A) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (B) because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child."

The draft regulations state that "child care services mean care of a child for a portion of the day, but less than 24-hours in his own home by a responsible person, or outside his home in a family day care home, group day care home or day care center. . . ."

#### Elements of the Program

Among the elements that child care service programs are:

1) exploration to determine most suitable arrangements for the child and parents; 2) work in behalf of or directly with children in

day care (including provision of facilities and the essentials of daily living, as required); a daily program of care and educational activities; health supervision; transportation; work with family day care mothers; 3) work with parents, to help them make best use of day care and to cope with problems in child development and rearing; 4) family day care home recruitment, home-finding, and development (and licensing).

All child care services must meet the requirements of the 1968 Federal Interagency Day Care Requirements which apply to all federally aided child care programs.

#### How services are provided

State and local social services agency personnel may directly provide these services but in many cases contracts for such services with other public, private non-profit or private agencies may be involved.

#### TREATMENT FOR MENTALLY RETARDED

Eight-year-old Gay spent most of the first six years of her life in an institution crib. She never learned to walk too well and childhood games and toys were not part of her world.

A retarded child, Gay was placed in a state institution when she was a baby because her parents could not care for her. But two years ago a couple took Gay into their home and started raising her with the same individual love and attention their other seven children have received through the years.

Now Gay not only walks, but runs and plays with other children in the neighborhood. She attends a special education class and has a remarkable memory, according to her foster parents.

#### Description of service

Most of the state plans serving the mentally retarded are ultimately designed to bring the individual out of the institution, to have him contribute to his own support, and to reduce the drain on state and federal dollars for his maintenance.

#### Examples of Programs

Examples of programs for the mentally retarded include:

One State is developing a broad continuum of community services—group homes, diagnosis and evaluation centers, day care and work activity centers, and transportation.

Eight family resource centers for the retarded have been developed in another State. The specific aims of the centers are to: (1) coordinate intake, referral, placement, and follow-up services for all retarded persons in the catchment area; (2) provide comprehensive client and family supportive services necessary to prevent institutionalization and insure successful community adjustment—including client and family counseling and guidance, homemakers services, etc.; (3) coordinate residential placements in both specialized facilities as well as in other community living arrangements (apartments, boarding homes, foster care, etc.); (4) provide recreational opportunities and other social group services to retarded children and adults; and (5) coordinate a program of community supervision and guidance of retarded children and adults by volunteer citizens (the so-called Citizen Advocacy Program). In addition, the family resource centers are purchasing direct services (developmental day care, adult developmental services, etc.) from community agencies and thus acting as area-wide agencies for supervising continuity of services. State matching funds are provided by the State Office of Mental Retardation.

#### How services are provided

In recent years, contractual agreements have been developed between state public welfare and mental retardation agencies either by administrative action or a combination of administrative and legislative action. Generally, these contracts have been for the provision of community services to retarded children through Titles IV-A and/or the delivery of services to retarded adults through XIV and XVI of the Social Security Act. The state divisions responsible for MR services often supervises the program and furnishes the matching funds either directly through appropriated funds or indirectly through local public and private sources.

#### TREATMENT FOR ALCOHOLISM AND DRUG ADDICTION

Mrs. H. was the mother of five healthy children. Her husband had abandoned her. She spent much of her time in the depths of depression and she drank excessively. The family's problems did not go unnoticed. A neighbor referred the family to the community "Office on Problem Drinking."

Within 24 hours of referral, a caseworker from the county welfare department arranged for the children to receive medical care they urgently needed. The community mental health center indicated that the alcoholic mother needed treatment. The mother was admitted to the state hospital chemical dependency treatment unit. To help keep the family intact, homemaker services were provided so that the children received care and supervision while their mother was hospitalized.

Now Mrs. H. has been discharged and continues to remain sober and is able to care for her own children.

#### Description of service

Treatment of alcohol and drug addicted persons requires a complex of service in order to rehabilitate them and bring them to their maximum level of self-sufficiency. Such services might include (but are not limited to):

- Information and referral services.
- Early detection and evaluation.
- Crisis intervention services.
- Therapeutic treatment including:
  - Counseling: individual, group and family.
  - Therapy: individual and/or group.
  - Activity therapies.
- Personal care including:
  - Foster care.
  - Day care.
  - Care in small group homes.

Transitional services in facilities such as rehabilitation units and halfway houses which offer comprehensive services.

Assistance in receiving vocational and educational rehabilitative services.

Community follow-up services including ongoing supportive services for the individual and family.

#### How services are provided

Current applicants or recipients of financial assistance.

Previous applicants or recipients of assistance during the last six months.

Persons likely to become recipients or applicants of assistance.

Medically or economically needy persons as defined in the State plan.

Proposed regulations state that:

The individual must have been diagnosed by a licensed physician as an alcoholic or drug addict;

Social services provided must be needed as part of an individual service plan for an active treatment program.

The state welfare agency may provide the services directly or through contracts with other state and local agencies such as the state alcoholism or drug agency, the department of mental health, community agencies or other.

#### TRANSPORTATION SERVICES

80-year-old Mrs. J. had heard of the programs at the community center for the aged. She wanted very much to go but it was too far to walk and she simply could not squeeze the money from her small monthly pension.

Then she heard of the local Senior Citizens Mobile Service. The service provided transportation to 1,606 different seniors. Appointments for trips were scheduled a day ahead and the central office was able to communicate with the van driver by two-way radio, allowing last-minute change and emergencies to be handled.

Mrs. J. simply made plans to go to the center twice a week and made reservations with the driver. "I feel 10 years younger," she told a center worker recently. "and I've made so many friends."

#### Description of service

Lack of means to move around a community can isolate a healthy and physically mobile person as completely as if she were bedridden. Most older people don't drive. Taxis are too expensive for many of them. Public transportation either does not exist or is extremely difficult for them to use. It, too, grows more expensive every day.

As a result, many people do not use available social services or facilities because they cannot reach them. Transportation may be needed related to child care programs.

#### Shopping Difficulty

Small neighborhood shops, easy to reach on foot, have disappeared in many communities. Today's supermarkets are often located at distances too great for many older people to reach by walking, particularly with heavy packages to carry home. And so nutrition suffers.

Financial problems may reach an unnecessary crisis when people have no way to get to a social security or public assistance office.

#### Escort

Some older people need an escort on trips either because of physical frailty or, in some areas, because they are afraid—with reason—to venture out alone.

The handicapped children and adults need transportation service.

#### MEALS ON WHEELS AND SENIOR CENTERS

Mrs. S. Lived alone. She had a son and a daughter with a total of five grandchildren but all lived on the other side of the country. When Mrs. S. was referred to the caseworker, she was low in spirits and impoverished. She simply did not have the energy to shop and prepare meals for herself. And she was too proud to ask others for help.

She didn't have to swallow her pride to participate in the local Meals on Wheels program for needy-elderly shut-ins. Meals of meat and vegetables, potatoes or noodles, salad, fruit or jello, bread and butter, milk and dessert were prepared in the cafeteria of an Alcoholism Treatment Program. The meals are delivered to Mrs. S.'s home at the cost of only 35 cents a meal. Mrs. S. also learned from the case worker that she can catch a mini-bus to a local high school where hot lunches are served every school day for 20 cents. Mrs. S. really prefers to ride to the school, according to the case worker. That way, she gets to see her newly-made friends who also eat there.



#### Description of service

Persons with disabilities of old age and poverty suffer numerous difficulties, including physical and social isolation, poor health, lack of money, inaccessibility of services, lack of transportation, difficulty in shopping for food and other necessities, poor dietary habits, excess leisure time, feeling of uselessness and not being wanted.

The Meals on Wheels, the Congregate Feeding Programs and programs to encourage community participation are services aimed at reducing these problems.

#### How services are provided

Programs such as these are provided by many different kinds of organizations: official or voluntary health and welfare agencies, non-profit and profit. Increasingly the more common form of service delivery is the multifunctional senior citizen program which is under (religious and non-sectarian) private auspices and along with support from fees and United Funds receives funding through government grants and contracts.

Under the current proposed regulations to the Social Security Act relating to home delivered and congregate meals payment will be made for service that covers preparation and delivery (but not the cost of the food) of at least one hot meal daily to an individual in his home or in a central dining facility. The regulations also provide for payment for recreational and leisure time services to the aging, and to encourage their participation as volunteers in community agencies and organizations.

#### HEALTH-RELATED SERVICES

Mr. K., age 80, Austrian-born and financially independent, has lived alone all his life and has no known relatives. He was referred to the project by a local ophthalmologist who found Mr. K.'s blood pressure so high a stroke was feared. The doctor wanted immediate hospital placement to reduce the blood pressure to avoid a stroke and prepare Mr. K. for cataract surgery.

Not knowing this man or his immediate needs, the caseworker and homemaker went together to discuss the doctor's recommendation. After some discussion, Mr. K. agreed to enter the hospital and the team members assisted him in preparation for and admission to the hospital, including transportation.

Visits were continued regularly to cement the relationship with the client. After the blood pressure decreased he had cataract surgery and was placed in a nursing home. The caseworker assisted him in enrolling for social security medical benefits so he will have this resource to cover a prostatectomy.

#### Description of service

Many who are receiving public aid have chronic disease and disability, and because of these conditions have special health needs. The health care system generally does not work very well for many people, particularly the disadvantaged, disabled and elderly. Physician house calls and other home health care is almost non-existent. Barriers to health care are created by a person's lack of knowledge of where to go, lack of transportation, long waits in physicians offices and clinics, and impersonal care.

Health-related services call for personalized attention, regular and frequent contacts by a social worker, a paraprofessional or a volunteer under professional supervision. A person is helped to get proper health care, to follow the prescribed health regimen, and to make use of community facilities that will help maintain independent functioning. It requires continuing liaison with physicians and nurses to facilitate mutual patient planning, work with the patient to overcome medical ignorance and lack of proper use of health care, securing of transportation and escort service for patients who otherwise could not get to health care and, generally, supplying much needed personalized attention and help.

#### How services are provided

Service is provided on an outreach basis—to people in their own homes usually upon the initiative of the agency. Such service is a basic responsibility of case work staff of a department of public welfare, shared with the vocational rehabilitation and aid to blind programs. Private organizations, such as visiting nurse associations and senior citizen services have proved effective in providing these supportive services for health care.

#### LEGAL SERVICES

Mrs. H., 79, lives alone in a crowded apartment. She has three children who do not live close to her and another son, now deceased. Her son's will specified that under certain circumstances Mrs. H. was to receive a monthly sum of money. But funds had never been released to her.

Her eligibility worker had discussed the legal problems with her and initiated some correspondence to attorneys with little result. The agency's legal consultant was then informed and initiated correspondence to the court. A hearing was scheduled; however, the matter was settled out of court prior to that time. Since the monthly payment was less than the amount mentioned in the will, the agency's legal consultant was again called in. Upon his recommendation the

amount offered was accepted for the client, with the stipulation that the amount could be changed if, at a later date, her living expenses and circumstances changed.

Arrangements have been made for the checks to be sent to Mrs. H.'s local bank where she will report to sign the check and have money deposited to her checking account.

#### Description of service

While each legal service agency is properly unique in order to reflect the particular needs of its community, in general they provide legal counseling and representation to individuals and groups across a broad spectrum of legal problems in order to assure that the rights of individuals are protected. The major eligibility exclusions are those cases that are fee-generating, matters in which the State or community has an obligation to furnish counsel to the indigent, and those persons who exceed the financial standards. Some examples of cases that a legal service office might have are counsel and representation in landlord/tenant issues, in actions concerning public agencies, in consumer issues, in divorce and family matters, and in commitment procedures.

The great majority of problems brought to legal services offices involve domestic relations, economic difficulties and property matters.

#### How services are provided

While local sponsorship of a legal services program is a decision made locally, clearly the endorsement of the local bar association is an essential ingredient for success. While not a legal requirement, the contribution of some local funds is a useful device to insure local support. Some examples of sponsorship are model cities agencies, multi-county agencies (in rural areas), legal aid societies (usually supported by United Funds and/or local funds), tenants organizations, county or city government, and private, not for profit agencies developed especially for this purpose.

#### HOUSING IMPROVEMENT SERVICES

Mrs. B. is a 50-year-old woman who has had a long history of mental problems. She has always been in a protective environment, either voluntarily or involuntarily. She has a difficult problem in relating to people and; therefore, was referred to the State Social Service Staff.

By working with the Housing Specialist, funded with social service funds, the staff was able to encourage and effectively have Mrs. B. participate in new social situations as elementary as apartment hunting and contacting real estate agents. They were able to locate a standard apartment which pleased Mrs. B. Since she has rented this apartment, furniture was given to her. She is very happy that her home is now totally "her own." As Mrs. B. was never in a living situation where she was responsible for utilities, etc., Social Service is working on the basic budgeting techniques and household management.

Mrs. B. is quite willing to accept her new responsibilities; and with continued work with her, the agency is certain that she soon will be able to become independent in household management.

#### Description of service

An estimated one-third of public assistance payments is spent for housing by low-income families. In contrast, the proportion of income most families spend for shelter ranges from 12 to 17 percent. A large number of poor families including public assistance recipients live in substandard private housing. The ability to overcome the barriers of lack of knowledge of housing assistance available through other public programs, improving relationships between landlords and tenants and encouragements to report housing code violations are major factors in improving housing services to these families.

#### Elements of Service

Housing improvement services include helping individuals locate quality housing at an acceptable price and securing assistance in home maintenance and minor repairs. It also involves attempts at improvement of landlord-tenant relations including explanation to the tenants of their responsibilities and staff reporting and encouraging families to report housing code violations.

#### How services are provided

State and local public welfare agencies can use social services funds to employ housing specialists and housing aides who have had special training or experience in housing.

#### PROTECTIVE SERVICES FOR ADULTS

The P's lived in an old dilapidated two-room house with a tar paper covering on the outside. There was no telephone. The nearest neighbor was one and one-half miles away. Mrs. P. had multiple sclerosis and stomach ulcers. She was blind in one eye. She got around by rocking a short-legged kitchen chair in such a way as to walk it across the floor. She is a recipient of AND (Aid to the Disabled) and receives \$34 per month. Her husband was employed by a farmer who provides him with free rent in the shack in which they live. Mr. P. also worked for the farmer for such income in kind as milk and

eggs. It seems that his employer had managed to keep Mr. P. in debt to him for many, many months. Upon referral, the county welfare caseworker stated that Mr. and Mrs. P. were mentally retarded, socially retarded, and had poor judgment in managing their affairs, especially financially.

The case aide and homemaker helped the P's move into a four-room modern house with a carpet, refrigerator, a lawn, and the modern conveniences.

They arranged for Mrs. P. to have a complete medical work-up at the hospital. As a result of conferences with the Adult Services Field Supervisor, the home care provision was used in meeting Mrs. P.'s needs. Effective September 1, 1968, Mr. and Mrs. P. will begin receiving \$180 per month to provide for care in the recipients' own home rather than in a nursing home.

The caseworker and the homemaker are cooperating in a project to teach Mr. P. how to keep the house and take care of Mrs. P. whose multiple sclerosis is not improved.

#### Description of service

Adults, particularly elderly adults, can need protective services just as much as children. The kinds of service are not identical although often similar, but the need can be as urgent for an older person as for a child. Protective services means the systematic use of social, health and legal services and resources for and on behalf of seriously impaired adults, persons who are abused, isolated or exploited and who have no persons ready, willing or able to assist them.

#### How services are provided

Since protective services covers a broad range of services for the elderly, including housing, health, and mental health services to obtain other community resources, finance assistance and homemaker services, the opportunities for providers are equally broad. The program may be run essentially from one office which contracts with other agencies. The program may be one that provides a combination of purchase of service and direct provision.

#### HOME MANAGEMENT SERVICES

Mrs. M. is an attractive, pleasant 35-year-old woman with 11 children who is separated from her husband. She has been on public assistance for almost 2 years and was recently referred to the Social Service Unit for help, with her household management, child care problems as well as finding her a decent home. A Social Service Caseworker became actively involved with the family and helped to organize the household. The fact that a worker was visiting at least once or twice a week to see what help was needed was very supportive for Mrs. M. She felt someone cared and made a greater effort to find adequate housing and kept her present house in order. The children were given specific chores of their own including cleaning and child care. With the help of the Field Staff Mrs. M. was able to find an 8-room house that she could afford and that was in good condition. The Social Service Caseworker got beds, furniture and a refrigerator for the family. She said she couldn't thank us enough for what we have done and that surely "the good Lord" and the Relocation Agency was watching over her.

She is now employed and can manage to continue working because her house is in order.

#### Description of service

Disorganization in family life is closely associated with conditions of poverty, disadvantage and neglect. It is likely to be transmitted from one generation to another. Service which provides help in home management can be a first step in breaking the cycle of poverty. The service calls for a combination of social service and family education.

#### Improves Understanding

A mother is helped to improve capability in preparing nutritious meals, in maintaining a clean and comfortable home, in family relationships and child-rearing. Where there is a father in the home, both mother and father are helped in understanding money management and in sharing the discipline and supervision of children. Otherwise, a single parent is supported and strengthened to give the children a good home.

Individually and in groups the heads of families are helped to cope with the everyday problems of living: home maintenance, consumer knowledge, health care, family relationships (parent-child, teen-age problems, etc.) and community participation.

#### How services are provided

This kind of service is provided by a variety of governmental and private organizations including family service agencies, mental health centers, neighborhood and multi-service centers, Department of Agriculture and university extension services.

#### EMPLOYMENT SERVICES—NON-WIN

Mrs. W., a young woman with a 5-year-old son, was living in temporary housing at the time of her referral to Social Service.

With the help of a caseworker, arrangements were made for Mrs. W. and her son to move into public housing. Mrs. W. paid for the moving expenses out of her own money.

Once moved, Mrs. W. was assisted by the caseworker by being referred to several employment programs. One referral resulted in



her being able to obtain a part-time job in the dietary department of a local hospital.

Mrs. W. now manages her own life and has no current need for social services, or for public assistance.

#### Description of service

Many effective job programs have been those that rehabilitate the physically handicapped. Recent legislation and administrative action have encouraged similar efforts for those who are socially and economically disadvantaged, and mentally handicapped. To place into jobs recipients of Aid to Families and Dependent Children (AFDC), Congress established under the 1967 Social Security Amendments the Work Incentive (WIN) Program.

The current proposed regulations for social services under the Social Security Act allow for payment for employment service that is not part of WIN to enable "appropriate individuals to secure paid employment or training leading to such employment, through vocational, educational, social and psychological assessments to determine potential for job training or employment"; also, there is allowance for "vocational rehabilitation service (other than medical or subsistence items) as defined in the Vocational Rehabilitation Act, when provided pursuant to an agreement with the State agency administering the vocational rehabilitation program." It provides, also for vocational education and training where the Work Incentive Program has not been initiated in a local jurisdiction or is inadequate in size and scope to meet the needs of the appropriate individuals."

#### How services are provided

The principal agencies providing these services are the welfare department, the vocational rehabilitation agency and the employment service, and with the potential for coordinating their work with other organizations through the Cooperative Area Manpower System (CAMPS).

#### DAY CARE FOR ADULTS

Mr. R. had almost forgotten what it was like to smile. It had been a rough life, especially since his wife of 43 years died five years ago. He then moved into a drab apartment in the inner-city. There was nowhere to go, nothing to do. Then Mr. R. was introduced to a senior center that opened up near his home. He was, in his words, "born again."

Dancing and singing in the center's brightly colored, cheerful activity hall thrusts him into a lifestyle that is "like heaven" Mr. R. even took up the violin again—a hobby that once brought joy to his wife. Now he brings joy to others at the center.

#### Description of service

This is a program for impaired adults (such as the aging, handicapped and mentally ill) to enable them to remain with their families rather than be placed full-time in an institution.

Day Care programs can range from day care centers that provide association and activity with others today hospitals offering diagnostic and treatment services too complex to bring into the patient's home.

#### Social program

A day care center is primarily a social program for the frail, moderately handicapped or slightly confused older person who needs care during the day, either because he lives alone or to relieve his family and thereby keep him at home. A day hospital is a health care program for a disabled or an ill-aged person who can be treated for part of each day rather than full-time admission to a hospital.

The type of auspices and the staffing will vary depending upon whether the social or the health component is dominant. In the former the staffing and service will be similar to a neighborhood center and the latter like a hospital.

#### FOSTER CARE SERVICES FOR ADULTS

Many aged, disabled and handicapped persons are not bedridden but need help in the daily routine of living. These people, generally, prefer living with a private family in home-like surroundings and take pride in living outside institutions. Foster care tends to preserve a sense of independence in the aged and handicapped adult.

The basic service is homefinding and supervision after placement to:

(a) locate suitable families; (b) interest each in making a place in their family for an aging or disabled person; and (c) match each foster home (in terms of background of interests, temperament, personality, type, etc.) with a person to be provided foster care. The placement then is supported by special services as needed such as caseworkers, paraprofessional case aides, homemakers and volunteer friendly visitors. The coordinator of these services and the main source of counseling help to both the foster family and the adult-in-care is the caseworker.

#### How services are provided

Generally foster care for adults is a direct service of a welfare department to provide alternatives of care to recipients. This service may be provided also by a private organization specializing in services to the aging.

#### PROTECTIVE SERVICES FOR CHILDREN

Gail was 23-years-old at the time of referral. Her infant son had a broken arm and bruises around his face and head. Gail had taken her three-month-old son to the neighborhood clinic where the doctor admitted him to the local general hospital. The hospital personnel referred mother and child to the department's Child Protection Program. The child was placed in a temporary foster home. Gail began having regular sessions with the department's psychiatric consultant. She visited her child in the foster home. Each visit was a little longer, intervals were shortened. Her son was in the foster home 10 months. When he was returned home, a department homemaker was assigned to help Gail with his care and the housework. The Community Service Aide, Homemaker, Child Protection Social Worker and Supervisor were all available to Gail 24-hours per day by phone and to visit her if needed. The child protection social worker counseled Gail for two years. There has been no problem with child abuse in that time.

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#### Description of service

Protective services are casework services initiated by the social work agency in situations where children are neglected, abused, exploited, or permitted to live under demoralizing conditions by their parents or others responsible for their care.

In providing protective services, the agency accepts complaints or referrals from individuals, other social agencies, schools, and law enforcement officials, etc.

Usually someone other than the parent brings children who are neglected or abused to the attention of the child welfare agency. It may be some other agency, public or private, a doctor, a hospital, or a citizen concerned about a child locked in an empty room for 2 days, beaten with the buckle end of a belt, or left cold and unfed to wander in the streets.

Child welfare services can strengthen some families in which these children are found. If the troubled family is discovered early enough these services may prevent many of the social ills that follow when children are deprived of care and protection.

#### How services are provided

Protective services for children are usually provided by the state or county welfare program.

#### HOMEMAKER SERVICES

Following the birth of their third child, Mrs. E. developed phlebitis in her left leg and became very depressed as her mother had died with a "blood clot" after childbirth. Because of her depression, Mrs. E. was transferred to the hospital psychiatric unit. The psychiatrist discharge plan called for homemaker-home health aide service until Mrs. E's physical and mental health improved permitting her to resume care of her family.

A homemaker-home health aide, working as a member of the care team and under the supervision of a social worker, was assigned to take care of the children, Mrs. E. and their home. Mr. E., who had been away from his job for three weeks during the family crisis, was then able to return to work.

After a few weeks at home Mrs. E. was able to resume care for her children and home so that homemaker-home health aid service was no longer needed.

#### Description of service

Homemaker services involve care of individuals in their own homes and helping individual caretaker relatives to overcome specific barriers to achievement of optimum household and family management through services of a trained and supervised homemaker.

The service also helps maintain children in their home.

#### How services are provided

Providers of the homemaker service include visiting nurse associations and other home health agencies, local welfare departments, and other family and child welfare service organizations under various auspices. Some provide homemaker service as their only service; others provide it for just one age group or problem group as for the aged, children or the sick.

Many States contract with private homemaker services to provide the services. Under this system, a service purchased for a client from another agency will be treated no differently than an agency-provided service, but the purchase mechanism itself will be closely controlled by federal officials.

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Program Director, Council of State Governments, 1150 17th Street, N.W., Washington, D.C. 20036.

#### PROPOSED NEW SOCIAL SERVICES REGULATIONS, PUBLISHED FEBRUARY 16, 1973

On February 16, HEW published its proposed new regulations for social services. Interested parties have until March 19 to submit comments, after which HEW may make changes before putting the new regulations into effect.

The new regulations would seriously affect the quality and quantity of services currently being provided, and would drastically re-

duce the number of children and families eligible for such services.

The following is a summary of some of the most obvious and serious changes in the regulations.

#### 1. Eligibility for Services:

(a) *Definition of Past and Potential Recipients* (Sec. 221.6(c))—Past recipients of AFDC may receive services if they were applicants or recipients within the previous three months, and if they are completing services provided while they were applicants or recipients. (Current regulations make eligible anyone who was a recipient or applicant within the previous two years.) Potential recipients are eligible if they are likely to be dependent within six months—i.e., if their income is not more than 1/2 higher than the state's AFDC payment, if there are no family resources exceeding permissible levels for AFDC, and if the services to be provided will correct problems which otherwise would lead to dependence. (Current regulations make eligible anyone likely to be a recipient within five years, and states have the authority to set their own maximum income levels for eligibility as a potential recipient.)

(b) *Individual Eligibility*—Section 221.8 would end the current authority for group eligibility for services (e.g., any resident of a model cities area, or an OEO-designated poverty area, regardless of individual economic need). The new regulations require a specific individual service plan for each family and individual. Only services included in the individual plan can be provided, for a specified period of time, and those services must relate to one of two specific goals—self-support or self-sufficiency. Service plans must be reviewed at least once every six months "to insure only appropriate services are provided."

(c) *Redetermination of Eligibility*—Section 221.7 requires frequent (to the point of harassment) redetermination of eligibility for services:

Once every three months for current recipients,

For past recipients, within 30 days of the time they go off the rolls,

For potential recipients, at least once every 6 months.

Within three months of the effective date of the regulations for all former recipients currently receiving services.

2. *Mandatory and Optional Services*—Section 221.5(b) lists only three mandatory services which states must provide to current applicants and recipients—family planning, foster care services, and protective care services (in case of neglect, abuse or exploitation of children). All other services which are currently mandatory become optional under the new Section 221.5—child care services related to work or training, non-WIN employment services, education services, health-related services, homemaker services, home management and other functional educational services, housing improvement services, and transportation services related to a service plan. Other services, which are optional now under the current regulations, are completely eliminated—such as, child care which is not work-related, other education and training services, and legal services.

3. *Day Care* (Sec. 221.9(a)(3))—States are no longer required to provide day care as a mandatory service, but may include it in the state plan as an optional service. However, it must be care necessary to enable a member of the child's family to work or accept training, and only in cases where there is no one else in the family to care for the child. The new draft eliminates the requirements in current regulations that care be "suitable" for the child, that parents be involved in the choice of care and agree to the type of care provided, and that states develop alternative sources of care. It eliminates the current provision that care outside the home must be provided in facilities that meet the Federal Interagency Day Care Requirements, but says only that such facilities must meet state or local licensing requirements. It also eliminates the requirement that in-home care be "reasonably in accord" with standards of the Child Welfare League of America and the National Council for Homemaker Services.

4. *Advisory Committees* (Sec. 221.2(b))—Under the new draft, states would no longer be required to maintain advisory committees for all social services, but they would have to have an advisory committee for day care only. Unlike current regulations which require that 1/2 of these committees be recipients, selected by recipients, the new regulations would not require any participation by recipients of day care services. The authority of the committees is vaguely defined as "to advise."

#### 5. Purchase of Services

(a) *Private Agencies*—Section 221.62 absolutely prohibits all private sources of the state's 25% matching share—whether in cash or in kind.

(b) *Public Agencies*—The state welfare agency may continue to purchase services from other public agencies, but Section 221.30(a)(2) requires that all such purchase arrangements are subject to prior review and approval by SRS, with documentation as to type, cost, and quality. Section 221.54 (b)(3) limits federal matching after March 1, 1973 to new purchases from other public agencies for services beyond those represented by fiscal 1972 expenditures (a move to prevent use of social services funds to

refinance state and local service programs). Section 221.30(a)(7) requires assurance that sources from which services are purchased are licensed or otherwise meet state and federal standards.

6. *Hearings Procedures*—Section 221.2(c) eliminates current requirements for fair hearings and appeals in cases of denial or exclusion from programs, or of failure to take into account a recipient's choice. Instead, it requires only "a system through which recipients may present grievances about the operation of the service program."

7. *Public Information*—All public information requirements in current regulations have been eliminated.

8. *Expansion of Services*—All requirements in current regulations for state agencies to extend or improve services, to develop alternative sources of services, or to mobilize resources have been eliminated.





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