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# Deficit Reduction Act of 1984: Provisions Related to the AFDC Program\*

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This article summarizes the provisions of the Deficit Reduction Act of 1984 that relate to the Aid to Families with Dependent Children (AFDC) program. Among other changes, the new legislation identifies certain individuals living in the same household with the dependent child who must file for assistance and have their income and resources considered in determining the child's eligibility for an AFDC payment. The new law requires that the States disregard, in determining AFDC eligibility and payment amounts, the first \$50 per month of the current monthly support obligation of any child support collected on the family's behalf or received directly by the family. It also extends the \$30 earned income disregard for an additional 8 months and exempts from countable resources burial plots, funeral agreements, and (for a limited period) real property that the family is making a good faith effort to sell. The legislation also broadens the types of work programs that the States may require AFDC recipients to participate in by allowing States to use AFDC payments to subsidize certain public and private sector employment. The new law also includes a provision based on a Grace Commission recommendation that requires the States to establish an income and eligibility verification system for certain Federal and federally assisted programs.

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On July 18, 1984, President Reagan signed into law H.R. 4170, the Deficit Reduction Act of 1984 (Public Law 98-369). That legislation contains a number of provisions affecting the Old-Age, Survivors, and Disability Insurance (OASDI), Supplemental Security Income (SSI), Medicare, Medicaid, and Aid to Families with Dependent Children (AFDC) programs. The principal provisions related to the AFDC program are summarized in this article. Companion articles, covering those provisions of the new law that relate to OASDI, SSI, Medicare, and Medicaid, appeared in the November issue of the *Social Security Bulletin*.<sup>1</sup>

The AFDC provisions include proposals presented to Congress by the Administration, modifications by Congress of Administration proposals, and proposals ini-

tiated by Congress. Generally, these provisions concern determination of eligibility, counting of income and resources, work program requirements, and program administration. All of these provisions, unless otherwise noted, went into effect on October 1, 1984.

## Determination of Eligibility

**Gross income limitation (section 2621).** Prior law limited AFDC eligibility to families with gross income at or below 150 percent of the State's standard of need. The new legislation increases the gross income limitation to 185 percent of the State's standard of need.

**Recalculation of ineligibility caused by lump-sum income (section 2632).** Prior to the new law, there was no statutory provision for recalculating the period of ineligibility caused by receipt of lump-sum income. Regulations permitted recalculation if the lump sum was expended in connection with a life-threatening circumstance.

The States now have the option to shorten the period

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<sup>1</sup> See "Deficit Reduction Act of 1984: Provisions Related to the OASDI and SSI Programs," pages 3-10, and "Deficit Reduction Act of 1984: Provisions Related to the Medicare and Medicaid Programs," pages 11-15, *Social Security Bulletin*, November 1984.

of ineligibility in any of the following situations: (1) an event occurs that, had the family been receiving payments, would have increased the amount payable; (2) the lump sum or a portion thereof becomes unavailable due to a circumstance beyond the family's control, such as theft or loss of the income; and (3) the family incurs and pays for medical expenses as approved by the State. This provision also stipulates that the lump-sum provision applies to all individuals whose needs are considered, regardless of whether they have other income or whether their other income, if any, is earned or unearned. It also specifies that lump-sum income may be either earned or unearned income. These clarifications were expected to help resolve several court cases pending on these issues. The clarification that lump-sum income may be either earned or unearned became effective on the date of enactment of the legislation.

**Eligibility requirements for aliens (section 2635).** Under prior law, in determining AFDC eligibility and payment amounts, aliens were deemed to have the income and resources of their sponsors available for their support for 3 years from the date of their entry into the United States. That provision did not address the eligibility of aliens who were sponsored by public or private agencies or organizations.

The new law provides that any alien whose sponsor is a public or private agency or organization is ineligible for assistance for 3 years from the date of his or her entry into the United States, unless the State agency determines that the sponsoring public or private agency or organization is either no longer in existence or has become unable to meet the alien's need. This determination is based on criteria specified by the State and any documentary evidence it may require.

**Earned income of full-time students (section 2642).** Under prior law, the States could disregard, for purposes of applying the gross income limit, the earned income of a dependent child participating in a program under the Job Training Partnership Act (JTPA) of 1982 for a period not to exceed 6 months. The new law permits the States, for a period of up to 6 months, to disregard all or any part of the earned income of a dependent child if that child is a full-time student in determining whether the family's gross income exceeds the gross income limitation. The same amount must be disregarded in determining the need of such a dependent child who is an applicant for AFDC. Authority to disregard income is extended to those children in school who do not participate in a JTPA program. This provision became effective on June 1, 1984.

## Counting of Income and Resources

**Work expense deduction (section 2622).** The States are now required to disregard the first \$75 of monthly earnings for both applicants and recipients who are

either full-time or part-time workers. Under prior law, the first \$75 of monthly earnings was so disregarded only for full-time employment, while the States had to establish an amount less than \$75 for workers not employed full time or not employed throughout the month.

**Continuation of \$30 disregard from earned income (section 2623).** Prior law provided that, in determining the AFDC payment, a \$30 plus one-third earned income disregard be applied for the first 4 consecutive months in which a recipient had earnings in excess of the standard work expense and dependent care disregards. Under the new legislation, after the disregard has been applied for 4 consecutive months, a \$30 disregard will be available for 8 additional months. After this time, neither disregard will be available again until 12 consecutive months have passed during which the person does not receive AFDC payments.

**Work transition in the case of certain families who lose AFDC payments because of earned income (section 2624).** The States are now required to provide 9 months of Medicaid coverage to families who lose eligibility for AFDC due to the exhaustion of the \$30 or the \$30 plus one-third disregard. States have the option of extending this coverage for up to 6 additional months in the case of a family that would be eligible for AFDC payments if the \$30 plus one-third disregard were applied.

This provision also allows certain families who were terminated from AFDC before October 1, 1984, due to the loss of the \$30 plus one-third disregard to be eligible for Medicaid for 9 months (6 additional months at State option). To be eligible, the family must apply no later than the end of the 6th month after the month in which final regulations are published<sup>2</sup> and must have been continuously eligible for AFDC (from the date it lost eligibility through the month before application) if the \$30 and one-third disregard had been applied. The family must also disclose any private health insurance coverage at the time of application.

**Clarification of earned income provision (section 2625).** This provision defines the term "earned income" as the gross amount of earnings before the taking of payroll or other deductions. This clarification was necessary because of conflicting court decisions concerning whether to apply the work expense disregard to gross income or to the income remaining after the deduction of mandatory payroll expenses. This provision became effective on the date of enactment of the legislation.

**Exclusion of burial plots, funeral agreements, and certain nonexcludable real property (section 2626).** This provision requires that, in determining eligibility, a State must exclude one burial plot and one funeral agreement per family member. The States are also required to exempt for 6 months (with a State option for an additional 3 months) real property that the family is

<sup>2</sup> Final regulations were published on September 10, 1984.

making a good faith effort to sell, but only if the family agrees to use the proceeds from the sale to repay the AFDC payments received. Any payments of assistance made during the disposal period are considered overpayments to the extent that they would not have been made had the property been disposed of at the beginning of the period.

**Treatment of earned income credit in determining countable income (section 2629).** This provision requires that the States count earned income credits as income only when they are actually received. Prior law required that the States count as income the amount of advance payments of the earned income credit an individual could receive, regardless of whether the individual actually received payments.

**Individuals who must file for AFDC as a unit (section 2640).** Under prior law, persons filing for AFDC payments had the option of including or excluding family members from the assistance unit. This provision requires that an application for a dependent child must include the parents and siblings (except SSI recipients) living in the same household as the dependent child, if otherwise eligible. The need, income, and resources of these individuals is considered in determining eligibility for assistance and payment amount.

**Counting the income of parents of minor parents (section 2640).** The new law requires that the income of the parent(s) or legal guardian(s) of a minor parent be counted, when all parties are living in the same household, in determining eligibility and payment for the minor parent and the minor's dependent child or children. Previously, the income of the minor's parents was considered in determining AFDC eligibility for the minor and the minor's children only under limited circumstances.

**Disregard of child support payments (section 2640).** Under prior law, all child and spousal support collected on the monthly support obligation was reported to the AFDC agency by the Child Support Enforcement agency for the purpose of determining eligibility. The new law requires that the first \$50 collected by the Child Support Enforcement agency representing monthly support payments be paid to the assistance unit. In addition, this amount as well as any such support received by the family, not to exceed \$50 per month per family, is to be disregarded by the AFDC agency in making the determination of need and payment amount.

## Work Program Requirements

**Federal matching for expenses incurred by States in reimbursing AFDC recipients for transportation and day care costs attributable to participation in CWEP (section 2627).** Under prior law, if a recipient was required to participate in a Community Work Experience Program (CWEP), the State was required to provide

transportation and other necessary services or reimburse CWEP participants for their costs. By regulation, Federal match for reimbursement was limited to the first \$25 per participant per month.

The new legislation requires that, in cases where the State is unable to provide transportation and day care services directly, Federal match is available for reimbursement of costs for transportation by the most appropriate means, and for reasonable, necessary, and cost-effective day care costs of up to \$160 per child per month.

**Modification of requirements for Work Supplementation Program (section 2638).** Under prior law, the States were permitted to implement a Work Supplementation Program (WSP) to make jobs available as an alternative to AFDC payments. The new law allows the States to operate grant diversion programs by modifying the WSP statute in a number of ways. States may now subsidize jobs in the private sector and may provide Medicaid and the earned income disregards to WSP participants for up to 9 months. In addition, changes in Federal funding give States greater flexibility in developing methods by which AFDC grants are diverted to wages. This provision became effective on the date of enactment of the legislation.

**CWEP for Federal agencies (section 2641).** This provision allows CWEP participants to work in Federal offices or agencies under certain conditions. First, CWEP participants may not be considered Federal employees. Second, State agencies must provide these CWEP participants with the same workers' compensation and tort claims protection as provided to other CWEP participants in the State. This provision was necessary to clarify whether the Anti-Deficiency Act (31 USC 1342) precluded Federal agencies from sponsoring CWEP participants. This provision became effective on the date of enactment of the new legislation.

## Program Administration

**Monthly reporting and retrospective budgeting (section 2628).** Prior law required the States to determine eligibility prospectively, on the basis of the current month's circumstances. If eligible, a family's monthly payments were determined retrospectively. Every family was required to report each month on its income and other circumstances. The Secretary of Health and Human Services was authorized to waive the monthly reporting requirement for certain classes of recipients. Retrospective budgeting could not be waived, however.

The new legislation requires that the States use monthly reporting only for cases with recent work history or earned income. Retrospective budgeting is mandatory for all persons filing a monthly report. Also, the Secretary is authorized to grant waivers to promote compatibility between the AFDC and Food Stamp

monthly reporting and retrospective budgeting systems provided the waivers do not result in a net cost to the Federal Government.

**Waiver of overpayment recoupment when cost of collection would exceed amount due (section 2633).** This provision permits the States to waive the recovery of overpayments from individuals no longer receiving aid (except for cases involving fraud) when the cost to collect the overpayment would equal or exceed the amount of the overpayment based on the Secretary's criteria for determining cost-effectiveness and dollar limitations. The new statute also explicitly provides that a State must recover from a current recipient the amount of an overpayment that he or she received during a previous period of eligibility.

**Exceptions to requirements for protective payments (section 2634).** Under prior law, the States were required to provide for protective payments when a caretaker relative receiving AFDC payments was sanctioned for failure to meet program requirements in the Work Incentive (WIN) program, Employment Search program, or CWEP, as well as for failure to assign rights to support or cooperate in establishing paternity and securing support. Any caretaker relative who failed to fulfill these requirements not only had his or her needs removed from the grant, but was also replaced as the payee by a protective payee appointed by the State agency.

This provision allows the States to continue to make AFDC payments on behalf of the remaining members of the assistance unit to the sanctioned caretaker relative if, after making all reasonable efforts, the State agency is unable to locate an appropriate individual to whom such protective payments can be made.

**Provision by State agencies of information regarding fugitive felons (section 2636).** This provision allows disclosure to State and local law enforcement officers of the current address of AFDC recipients who are fugitive felons provided that the law enforcement officer gives the agency the recipient's name and Social Security number and satisfactorily demonstrates that the recipient is a fugitive felon and that the location or apprehension of such felon is within the officer's official duties.

## Miscellaneous Provisions

**Demonstration projects testing one-stop service delivery systems (section 2630).** The new law authorizes the

Secretary to make grants to assist in the development and operation of three to five pilot projects to demonstrate ways of improving service delivery in various human service programs.

**Exemption of certain pregnant women from registration for work or training (section 2631).** This provision explicitly exempts pregnant women from work registration or training beginning from the 6th month of a medically verified pregnancy. Previously, a State could exempt a pregnant woman from work registration or training if it determined that she was incapacitated.

**Three-year extension of provisions for disregarding in-kind assistance (section 2639).** In determining income in both the SSI and AFDC programs, an exclusion is provided for any support or maintenance to or on behalf of an individual that is based on need. This exclusion includes assistance in meeting home energy costs provided in-kind by a private nonprofit agency or in cash or in-kind by certain suppliers of home energy. Under prior law, these disregards were to expire after specified periods of time. The new law extends these provisions until October 1, 1987.

**Income and eligibility verification procedures (section 2651).** The new law requires that the States have in effect an income and eligibility verification system for use in administering their AFDC, Medicaid, unemployment compensation, and Food Stamp programs. The States must request and make use of quarterly wage information (available from the State unemployment compensation agency or other State agencies), wage and other benefit information available from the Social Security Administration, and unearned income data from the Internal Revenue Service (IRS). This information is protected against unauthorized disclosure for other purposes. In addition, IRS tax return information is protected by IRS confidentiality and privacy guidelines. The provision requires that the States use standardized data formats to facilitate the exchange of information. Finally, it requires that certain due process procedures be followed before information acquired through the State's income and eligibility verification system is used to deny, terminate, reduce, or suspend payments. This requirement also applies to the adult assistance programs under titles I, X, XIV, and XVI (Aid to the Aged, Blind, or Disabled) of the Social Security Act. The provision will become effective on April 1, 1985, except that the requirement that the States maintain a quarterly wage reporting system will go into effect on September 30, 1988.