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OPENING STATEMENT
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ACTING CHAIRMAN
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS
HEARING ON
IMPLEMENTATION OF THE FAMILY SUPPORT ACT OF 1988
SAN DIEGO, CALIFORNIA
MARCH 26, 1990

THE SUBCOMMITTEE ON HUMAN RESOURCES WILL COME TO ORDER.

TODAY WE HOLD OUR SECOND HEARING ON THE IMPLEMENTATION OF THE FAMILY SUPPORT ACT OF 1988.

MUCH HAS HAPPENED SINCE OUR FIRST HEARING IN WASHINGTON NEARLY ONE YEAR AGO. THE DEPARTMENT HAS PROPOSED AND ISSUED REGULATIONS ON THE JOB OPPORTUNITIES AND BASIC SKILLS PROGRAM. TWENTY-SEVEN STATES HAVE APPROVED JOBS PROGRAMS ALREADY, AND ALL STATES WILL HAVE APPROVED PROGRAMS BY OCTOBER OF THIS YEAR.

AS EXPECTED, THE ROAD TO IMPLEMENTATION OF THE FAMILY SUPPORT ACT HAS BEEN BUMPY. OFFICIALS AT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES HAVE DONE A COMMENDABLE JOB DESPITE THE ABSENCE OF AN ASSISTANT SECRETARY FOR FAMILY SUPPORT. THE STATES HAVE CONTRIBUTED ENORMOUSLY TO THE DEVELOPMENT OF REGULATIONS, BUT SOME PROBLEM AREAS REMAIN.

IT IS FITTING THAT THIS HEARING SHOULD TAKE PLACE IN SAN DIEGO, A LEADING LABORATORY IN THE TESTING OF NEW IDEAS TO HELP WELFARE RECIPIENTS BECOME SELF-SUFFICIENT. ONE OF THE REMAINING PROBLEM AREAS, PARTICIPATION RATES, WAS STUDIED EXTENSIVELY IN THE SAN DIEGO SATURATION WORK INITIATIVE MODEL. THIS AND OTHER ENDEAVORS IN SAN DIEGO HAVE SERVED US WELL AS WE HAVE TRIED TO HELP WELFARE RECIPIENTS BECOME INDEPENDENT AND PRODUCTIVE CITIZENS.

I LOOK FORWARD TO TODAY'S TESTIMONY. WE WILL HEAR FROM NOT ONLY PUBLIC OFFICIALS AND INTEREST GROUPS, BUT ALSO FROM PARTICIPANTS IN THE PROGRAM. LET US BEGIN.

TESTIMONY FOR THE HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS

March 26, 1990

Presented By

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State of California

TESTIMONY FOR THE HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS
March 26, 1990

My name is Dennis Boyle, Deputy Director of the State Department of Social Services here in California. Thank you, Representative Downey, for this opportunity to speak before the Human Resources Subcommittee of the Ways and Means Committee on the subject of implementation of the Job Opportunities and Basic Skills Training Program (JOBS), Transitional Child Care, Transitional Medical Care, and Child Support Enforcement provisions of the Family Support Act. We in California are in the midst of our effort to incorporate the JOBS final regulations into our landmark Greater Avenues for Independence Program called GAIN. I'd like to talk about our experience.

GAIN has served 300,000 enrollees since its inception in 1986. During that time, more than 70,000 found jobs. Of these, 20,000 left the welfare roles. The average starting wage has increased from $5.55 in fiscal year 1987 to $6.00 in fiscal year 1989. These results indicate that the program is working. But we don't just rely on statistics to come to this conclusion. Sometimes, there is a tendency to become so caught up in numbers that we lose sight of individuals. In order to help provide some individual perspective on GAIN, I have some articles which were written by some of our GAIN participants. Let me read portions of just a few of the articles published in the February 1990 GAIN Student Newspaper of the Los Angeles County School District's adult education division. One participant wrote:

> "Before the GAIN Program started, I had very little hope of ever having independence and a positive self-image. I'm a high school dropout with almost no work experience at all. . . I'm grateful for my AFDC, but I'm not proud of it. You don't feel proud when you live on money others have worked for. . . The grant they give you can be both good and bad. . . You get used to what's called 'free money,' while all the time it's taking your pride and dignity. . .
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> When I received a letter stating it was mandatory for me to participate in GAIN, I was furious. . . they were trying to run my life by taking away my rights to do as I please, the right to do nothing but exist, with no hope or even a dream of a better life. . . However, once I started school I find I enjoy learning. . . Each time I conquer a new academic skill, I become all the more enthused. . . Now I can see a better life for myself in the near future.

Another GAIN participant wrote:

> "I always thought of going back to school, but I was afraid. I didn't want to go alone and I felt I couldn't do it. But when GAIN came into my life, it was the push that

> I needed to get me back to school. I was always at home doing really nothing to change my life. Now I have something to look forward to. I have a future to plan, things to learn, and a life to change."

Finally, another GAIN participant wrote of her experience:

> "I am 31 years of age. I have four children and am on welfare. . . I started school when I was eleven. I didn't learn anything by the time I got to 7th and 8th grades. . . The teachers gave me good grades without my even trying because they didn't have time for me. . . So I got married. That wasn't the answer, so I had kids. That wasn't the answer either. So I left my husband because he was so bad with me and the kids. I got on welfare a couple of years later.
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> Here comes GAIN into my life. I was scared . . . GAIN put me back to school. I was frightened. I cried every day and night. I didn't think I would make it. But I was wrong. The teachers there help me a lot to improve and give me confidence in myself. It's been seven months now, and let me tell you this . . . My life is a lot better now. . . I even help my own children with their homework. I know I am making it in this world. I am going to have a job soon after I finish school. I feel great! Thanks to GAIN for making my future a lot better. I won't disappoint you at all. I love you all.

There are many more articles than I have time to read, but copies of the GAIN newsletter are available for those of you who are interested in seeing more. To me, these words are powerful. The message is that we're doing something fundamentally right with this program. There are some who believe that participation should be completely voluntary. They should ask themselves, honestly, would these people and thousands like them, have had the confidence to take that first step if they were not required to? I believe that many thousands would not. Research data show that employment programs are most effective for people like those I've just quoted who started out with the least amount of hope and would not have participated initially without the requirement to do so. However, once they got involved, they realized that maybe the most important thing GAIN and JOBS have to offer is <u>real</u> hope and a good chance for a better future.

Now, I would like to discuss some of the technical aspects of the JOBS requirements which, we believe, get in the way of serving the people who need GAIN and JOBS services. The following are a few examples of remaining problems with JOBS requirements and, in some instances, the Family Support Act itself.

PARTICIPATION REQUIREMENTS

As I testified on May 25, 1989 before this subcommittee, we have a serious continuing concern about JOBS participation requirements. Actual operating experience from pilot tests of work programs demonstrates that states cannot meet or even approach the JOBS participation requirements in the final regulations. The regulatory detail on participation developed by HHS adds great difficulty and expense to the job of determining participation rates and seems to ensure the inability to achieve even minimal participation rates.

Let me tell you about the experience of our Saturation Work Initiative Model (SWIM) project which was operated here in San Diego as a pilot project for HHS and evaluated by the Manpower Demonstration Research Corporation. Keep in mind that SWIM was operated in only two welfare offices as compared with the logistics and compexities of a statewide operation in a large state. The SWIM metholodology for determining participation rates was to count any registrant in job search, training, education or part-time employment if they participated at least one hour sometime during the month. Using this yardstick, SWIM achieved a 55 percent monthly participation rate, the highest ever recorded. In order to achieve this, the county had to try to serve every mandatory recipient in those offices.

It took considerable time and expense to develop a tracking system that would measure participation using this simple, but workable methodology, as well as enormous effort on the part of the SWIM staff to assist folks to participate. However, if you were to apply the regulatory detail of the final JOBS regulations to the SWIM participation standards, I believe that: 1) a workable tracking system could not have even been developed within the two years that SWIM operated; 2) if the tracking system had been developed, the SWIM staff would have spent so much time feeding, correcting, interpreting and struggling with such a system that they would have had little time left over to help clients; and 3) the 55 percent monthly participation level achieved by SWIM would be reduced below even the seven percent initial standard provided in the Family Support Act.

Does this mean SWIM was unsuccessful? Absolutely not, unless unprecedented employment gains, welfare reductions and a 3:1 favorable cost benefit ratio indicate failure. Also, I believe that the SWIM findings show that the JOBS participation rate standards would be achieveable if the criteria for measuring them were to be made more reasonable. I strongly suggest that HHS and Congress take a very close look at the SWIM findings which were issued subsequent to the passage of JOBS. I think there are some valuable lessons to be learned.

In my May testimony, I stated that the 20 hour-per-week participation standard for counting participation was unreasonable and impractical from an administrative standpoint. Although this requirement was changed in the final regulations, I am unable to report sufficient improvement to make the system workable or meaningful. What happened is that, rather than conceding the nonviability of the 20 hour-per-week requirement, the regulation writers converted it to an "average" of 20 hours. This means that in order to count someone participating, say 15 hours-per week, you would have to find someone else whose level of participation is 25 hours and then compute an average of 20 hours each.

Additionally, in order to count even one hour of an individuals JOBS participation, you must verify that the individual attended at least 75 percent of the hours which were scheduled. Otherwise, participation is counted as zero even if the actual hours of attendance exceed 20 hours per week. This was also added in the final regulations.

Let me describe just some of the quirky effects of these new requirements:

- Tracking is vastly complicated. The tracking system must be able, first to identify, then to match up individuals who are participating less than 20 hours with others participating a corresponding number of hours over 20 hours. This represents a technical challenge of the first magnitude, especially when you consider the added difficulty of tracking whether the participant attended at least 75 percent of the time scheduled.

- One new clause added to the final regulations which I have not mentioned is that time spent on homework for an educational activity does not count as participation. The upshot is that a junior college student in a vocational course carrying a very full load of 18 hours per week of classes with another eight hours of homework would be a nonparticipant in JOBS as far as OFA is concerned.

- In addition, there would be a very negative impact on participants as a result of these rules. First, there is so much paperwork and other administrative minutia which would be required of JOBS case managers that they would have little time left to assist clients. This would probably lead to increased sanctions since there would not be time available to otherwise resolve participation problems. Second, clients would be bogged down with additional complexity, paperwork, providing verifications

and other nonproductive activities. Third, states would be forced to rely on components which provide the highest hours-of-participation in relation to cost, rather than assigning participants to those components which would be of more value but provide fewer hours. As you can see by my junior college example, it would be difficult, if not impossible, to find an educational component which could meet the twenty hours-per-week requirement. Finally, there would be a tendency to shy away from providing services to the most disadvantaged and difficult-to-serve who make up the JOBS target population, because there just woudn't be the time available to work with them. Getting them to participate 75 percent of the time will be very difficult.

I don't want to simply criticize without offering a viable solution, so please let me discuss a couple of options worthy of consideration. The most obvious would be the criteria used in the SWIM project which I discussed earlier. That would be to count participation each month based on the number of participants whose participation in a JOBS activity has been verified sometime during the month. The principal advantage would be that this method has been documented and proven in a successful pilot project to be feasible and practical. Another more stringent method would be to conduct a monthly point-in-time count. Let me explain. This means that on a given day each month, all clients' whose actual participation has been verified would be tallied on the basis of a head count which could be electronically tracked. Although some individuals who had participated only a short time during the month would be counted, this would be balanced out by the fact that others who had participated for longer periods, but whose participation ceased prior to the day of the head count, would not be included in the participant count. The chief advantages of these two options over the method set forth in the final regulations are that they are doable, accurate and reasonable. The HHS methodology seems to presuppose that states cannot be trusted, and that therefore numerous conditions, limitations and qualifiers are necessary to define participation. The result is not workable. We suggest that a simpler, less elaborate methodology be used, for example, one of the two options we have proposed. The results could then be monitored for accuracy. It is the design of the program that ensures meaningful participation, and that is where HHS' and Congress' attention should be directed.

TRACKING AND REPORTING REQUIREMENTS

In my comments the first time before this committee, I stated that the proposed tracking and reporting requirements were

burdensome and unmanageable, at that time requiring a sample of thousands of JOBS cases per month. I am pleased to report that the final regulations reduced that sample size to 1200 per year, a very significant improvement. However, at the same time, OFA has issued two JOBS Action Transmittals dated January 31, and February 6, 1990 respectively transmitting interim JOBS reporting requirements. They are effective October 1, 1989. Besides the obvious impossibility of retroactive implementation of these requirements, they are extremely detailed and burdensome. In fact, optimistically, it will take us a minimum of two years simply for development and installation. Before the end of the two-year period, we are told, the final requirements would be issued, thus obsoleting the interim system. Meanwhile, an enormous investment in time and other resources will be wasted.

In addition to the issue of interim reporting, we recommend that Congress take another look at the Family Support Act reporting requirements in terms of the amount of detail and the appropriateness of data requirements. One requirement which comes to mind is to report JOBS participation by family. This is not easy to do, and we do not see the value since it is individuals, not families, who participate in the program. Therefore, the requirement could be easily eliminated with no repercussions. Another example is the enormous detail required for child care reporting with regard to type of care, separating care for those with and without income and the length of time assistance is provided. This type of data is more properly gathered in a periodic survey format rather than individually on an ongoing basis. It is not essential for OFA to have this information to manage the program.

TARGET POPULATION

It is a correct and laudatory goal of the Family Support Act to target scarce JOBS resources towards the most disadvantaged groups receiving AFDC benefits. On this point, JOBS and GAIN are totally in "sync." However, the methodology in the final regulations for tracking this result is, I believe, flawed. The regulations and the Act require that 55 percent of JOBS funds be spent on the target population as defined in the Act. The procedure, as described in the regulations for tracking this, however, is too complicated, and fails to capture the whole picture.

The states are to track all participants and their components. Then, based on IV-A agency expenditures, the costs of the components are determined and the data combined to compute a cost-per-participant. The problems are that the procedures are

too complex on the one hand, while on the other, they don't capture the major expenditures from community resources for JOBS participants. We are not suggesting that community resources be tracked by participant because of the increased complexity this would entail, and we don't think it's doable in any event.

Our recommendation is to identify the number of JOBS participants who are members of the target population and those who are not. The target population requirement would be met if 55 percent of the participants were target population members. This method would not be perfect, but it would be simple, doable, and therefore more accurate than the method in the final regulations.

WORK SUPPLEMENTATION

The final federal regulations as well as the Family Support Act restrict the placement of Work Supplementation Program participants to only "new" positions in a company or agency. The effect of this provision is to solve a problem that doesn't exist, at least not in California, and in so doing, to prevent us from using this very useful placement tool. This happens because companies are saddled with an unrealistic requirement to create jobs which cannot be sustained given real-world economic conditions. The result is to unfairly deny job opportunities to JOBS participants which are otherwise available to other unemployed individuals in the community. This just doesn't make sense.

In the GAIN Program, the company must make a reasonable written commitment to retain WSP participants in their supplemented jobs after the component ends. This provision, in combination with a restriction not to displace existing workers, does away with the need to restrict placements to new positions. We recommend that Congress take another look at this provision as it pertains to the Work Supplementation Program and consider California's alternative policy as providing the needed protection to workers without destroying the viability of a potentially very valuable JOBS component.

WAIVER AUTHORITY

We recommend that Congress consider providing OFA with broader waiver authority in order to pilot alternative employment strategies for JOBS. JOBS may not be the perfect employment program in every particular and therefore, it would be advisable to continue to allow alternative policies and procedures, at least on a limited scale. This is not to advocate that waivers be granted on a wholesale basis. However, some additional waiver authority would be prudent.

Statewide evaluations of programs would be sufficient to determine the effectiveness of minor procedural changes without requiring miniscule evaluations of procedures or changes that really aren't appropriate to evaluate in the true sense of the word. Currently, the only avenue for waivers is the 1115 waiver process which assumes the pilots are so significant that an extensive evaluation is appropriate. The net effect is to discourage states from seeking changes to unworkable regulations.

CHILD CARE SLOT DEVELOPMENT

JOBS created a need to develop millions of new child care slots to provide child care for JOBS participants. In fact, states must guarantee child care for JOBS participants. Why, then, are states forbidden in the JOBS regulations from using JOBS funds for child care slot development. I do not have an answer, nor do I know a way to develop millions of new child care slots at no cost. Therefore, it is my recommendation that the restriction in the final regulations against using JOBS funds for child care slot development be eliminated.

TRANSITIONAL CHILD CARE/TRANSITIONAL MEDICAL BENEFITS

I wish to commend the Congress for recognizing in the Family Support Act the importance of transitional benefits for families that successfully break the cycle of welfare dependency and leave AFDC due to employment. Transitional benefits are the logical extension of the training and educational investment that has been made under JOBS. Prior to the Family Support Act, California had a state-funded three-month Transitional Child Care (TCC) program for former GAIN participants. State legislation is pending to replace the state program with the new federal program. I expect state legislation and regulations to be in place to start the program on April 1, 1990.

The most contested issue in the implementation of the federal TCC program has been the ceiling on reimbursements. The shortage of quality child care is a national concern and an acute problem in California. Former AFDC recipients must compete for child care in a market where demand exceeds supply. The entire work force is competing for low-cost child care. For this reason, when the GAIN program was enacted, a reimbursement ceiling of 1.5 standard deviations above the mean (which is approximately the 93rd percentile) was agreed upon through a bipartisan effort. This limit provides safeguards against extremes in child care costs while providing the ability to reimburse reasonable costs. Child care advocates strongly believe that a 75th percentile ceiling will drive some families back to welfare due to an inability to find child care under the ceiling level. I believe that no

family would purposely choose a high cost provider unless adequate care was unavailable at a lower rate; families are well aware that they must assume the entire cost when their benefits are exhausted. Therefore, as the Family Support Act does not dictate the reimbursement ceiling, I strongly urge that states be allowed the flexibility of determining an appropriate ceiling based on the realities of their local child care markets.

California will also implement the Transitional Medi-Cal Program in accordance with the requirements in Family Support Act. Conflicts between requirements in Transitional Child Care and Transitional Medicaid are a significant problem for California. While the Transitional Child Care law and final rules are generally flexible about most requirements, the Transitional Medicaid rules are very detailed. For example, in TCC there is no mention of reporting requirements. However, in Transitional Medicaid, families must report on income from the first three months and must submit this information by the 21st day of the forth month of the eligibility period. We question the need to be more restrictive in Transitional Medicaid. I strongly urge that a task group be formed with representatives from Health Care Finance Administration, the Family Support Administration and States to resolve regulatory conflicts between the programs to the extent possible and recommend changes to Congress to resolve conflicts in the law.

CHILD SUPPORT ENFORCEMENT

Significant improvements to the Child Support Enforcement Program will be realized as the requirements of the Family Support Act are implemented by states. The new provisions encourage states to provide better and more timely services to needy families, and will also result in increased child support collections and greater recoupment of welfare grants.

While we applaud the benefits of the child support provisions; in our judgment, other provisions present administrative obstacles to successful implementation. Many of the new requirements will be extremely costly to implement, including: periodically reviewing and adjusting child support awards; time limits for responding to requests for service; prompt distribution of child support collections; statewide automation of the program; and collection of Social Security Numbers. While we support all of these changes, we urge Congress to acknowledge the costs and increased staffing which will be necessary to revise and implement computer systems. Because of these additional costs, it will become increasingly difficult for states to maintain or improve their current collection-to-cost ratios. We believe that the whole concept of collection-to-cost ratios is in conflict with the expansion of states' efforts mandated by the Family

Support Act. Since many of the requirements have no direct correlation with increasing collections, these ratios discourage states from full implementation of the Act. We urge Congress to either eliminate the concept of collection-to-cost ratios as an incentive formula or, at least, exclude nonrevenue generating requirements from the ratios. At the minimum, Congress should consider elimination of minimum levels for states to qualify for federal incentives.

Second, in light of the requirement that states have a fully operational automated child support system by 1995, we continue to recommend that certain requirements of the Act be phased in and subject to audit only once a state's automated system is in place. Not all states currently have automated capability. Therefore, provisions which require automation for successful, cost effective implementation, such as time limits for distributing collections and certain case processing functions, should be gradually phased in for states with manual operations, with full implementation accomplished in conjunction with statewide automation of the program.

There is also a concern with the downward modification of child support orders. It is not clear whether this was actually intended by Congress. Our concern is with representation of both the custodial and noncustodial parents by the IV-D agency, thus causing a conflict of interest. We recommend that Congress clarify this provision and, if representation of the noncustodial parent was intended, we urge that Federal law clearly state that the IV-D agency is acting for the public good and not personally representing either party.

We are also concerned with the Family Support Act provisions relating to child support guidelines. The Office of Child Support Enforcement is holding States accountable for these provisions prior to that office's promulgation of regulations. This presents a paradox. Therefore, we urge that states not be held accountable for the provisions regarding federal child support guidelines until sufficient time has passed after release of the federal regulations for states to take whatever steps are necessary to comply.

Finally, we believe that any provision which requires significant system or staffing changes should not be immediately subject to audit. States must have the opportunity to adjust and fine tune any new system and provide adequate training for new staff prior to a requirement being audited. Audit sanctions only exacerbate implementation problems. We want to provide timely, quality services to families and ask you to help us make that possible.

I offer these comments in a spirit of cooperation. Thank you for this opportunity to testify.