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EMERGENCY BOARD RESERVES FOR FEDERAL WELFARE REFORM

The 1997 Oregon Legislative Assembly chose to set aside \$4.9 million in the Emergency Fund to address some of the impacts of the 1996 federal welfare reform.¹ While the Department of Human Resources (DHR) always noted that Oregon was receiving a windfall of federal funds to support the temporary assistance to needy families program,² throughout the session, DHR also provided legislators with estimates of the costs associated with implementation of federal welfare reform. DHR informed the Human Resources Subcommittee of the Joint Ways and Means Committee that federal welfare reform was going to harm many Oregonians unless the State invested significant financial resources to offset losses in federal assistance. The agency explained that some low income Oregonians would lose all cash, medical or food assistance supported by federal funds, while others would have benefits reduced as a result of federal welfare reform. Additionally, DHR noted that it would be forced to expend additional costs for long-term care if federal cash benefits were not continued to disabled and elderly immigrants in community-based care settings.

The Costs of Federal Welfare Reform

Some of the costs of welfare reform were included in the budget proposed by the Governor and approved by the Legislative Assembly. The following describes \$59.7 million in major costs of welfare reform that were not included in the proposed or final DHR budget.

Food Stamp Benefits Reduced by \$921,000 for Some Needy Oregonians

Federal welfare reform changed the way food stamps are calculated, resulting in a reduction in food stamp benefits to many recipients of public assistance. When the

¹ The Legislative Assembly set aside \$1.9 million in HB 5049, 1997 Or Laws Chapt. 712, the Department of Human Resources budget bill. The Legislative Assembly set aside \$3.0 million in SB 5523, 1997 Or Laws Chapt. 871, the bill funding the Emergency Fund.

² The temporary assistance to needy families (TANF) program is the program that supports families with dependent children, formerly known as the aid to dependent children (ADC) program. After the Legislative Assembly adjourned, Congress appropriated additional funding for Oregon and other states; Oregon learned that it was slated to receive over \$16 million in "welfare-to-work" grant funds. Additionally, under a program announced in May 1997, Oregon is eligible to receive \$5.7 million to assist the state for its additional costs in making Medicaid eligibility decisions under federal welfare reform; these funds were not included in the DHR budget package.

change went into effect during the interim in the 1995-97 biennium, DHR sought and obtained approval from the Emergency Board to expend state dollars to supplement cash assistance to public assistance recipients. The Department's budget was adjusted so that families with dependent children (then known as the ADC program) and disabled, poor individuals receiving General Assistance (GA) would see no net loss in cash and food stamp benefits combined to purchase basic needs.

The Governor's proposed budget continued the state-funded supplement only for families with dependent children who were working toward becoming self-sufficient, families in the Temporary Assistance to Needy Families (TANF) program. The budget did not continue the supplement for recipients of General Assistance (GA), the disabled, childless adults awaiting approval of their federal disability benefits. DHR and others often characterize GA recipients as "the poorest of the poor" receiving assistance from DHR; they can have no more than \$50 in cash assets, and they receive only \$292 per month in cash assistance. The supplement amounted to \$48 a month, and would have cost the state \$921,000 during the 1997-99 biennium if continued.³

Child Support for Families Reduced by \$4.6 million

Public assistance recipients are required to assign their right to child support to the State. The money collected is used by the state to reimburse the State for some of the cash assistance provided to the children. Because the federal government shares in the cost of state cash assistance programs, the federal government gets a share of the money from the state. Federal welfare reform ended a requirement that the State share some of the child support it collects for a family on public assistance -- the first \$50 collected each month -- with the family. Additionally, if the State continues to pass through the first \$50 collected to the family, the state now bears the full cost.⁴

After federal welfare reform passed, DHR went to the Emergency Board and sought and obtained approval to continue the \$50 pass-through for the remainder of the 1995-97 biennium, with the state picking up the entire cost of the pass through. The Governor's proposed 1997-99 budget, and the budget approved by the Legislative Assembly, discontinued the \$50 child support pass-through. As of July 1, 1997, the state and federal governments keep the first \$50 received. Over the course of the 1997-99 biennium, 4,000 families each month who otherwise would have received the

³ During the public hearings on the DHR budget, the agency testified that continuing the supplement for GA recipients would cost \$2.0 million. Letter from Roger Auerbach to Rep. Chuck Carpenter, February 17, 1997. On June 10, 1997, a coalition of advocates and legislators wrote SDSD complaining that SDSD prematurely told GA recipients that they were going to lose the \$48 supplement. In response, SDSD announced that the cost for continuing the supplement had gone down by about \$1 million, or 54 percent, and was now just \$921,000.

⁴ The federal government used to take financial responsibility for \$30 of the first \$50 passed through to the family, with the state taking financial responsibility for the remaining \$20.

child support pass-through will no longer receive \$4.6 million in family income to support the children.

Six to Eleven Thousand Lawful Immigrants Lose Food Stamps

Federal welfare reform denies food stamp benefits to lawful immigrants. Food stamp benefits are essential to supplementing the limited income of elderly and disabled immigrants and the income of working poor immigrant families, especially children.

During the legislative session, DHR originally estimated that 11,700 lawful immigrants would lose about \$22 million in food stamp benefits over the course of the 1997-99 biennium. About 3,700 are elderly or disabled clients on the Senior and Disabled Services Division (SDSD) food stamp caseload, and 8,000 are on the Adult and Family Services Division (AFS) caseload. Near the end of the legislative session, AFS estimated that only 2,435 of its caseload will lose food stamps; SDSD did not reduce its estimate that 3,700 seniors and disabled Oregonians would lose food stamps. The Department, however, continued to use AFS's original 8,000 figure, citing 11,700 as the total losing food stamp benefits. After the session, DHR adopted the lower figure (6,000 total), bringing the cost to replace the food stamps down to about \$11 million.

4,000 Legal Immigrants Lose \$43.2 million in SSI Cash Assistance

During the legislative session, DHR estimated that about 4,000 lawful immigrants would lose eligibility for Supplemental Security Income (SSI) cash assistance, totaling some \$43.2 million in lost federal payments. DHR calculated the cost to Oregon for restoring part of the lost cash assistance at the lower General Assistance payment level (\$292 per month versus \$484 in SSI) would cost \$26.3 million. These estimates assumed Congress would do nothing to fix the problems created by the 1996 federal welfare reform legislation.

Legislative Assembly Appropriates \$4.9 million to Emergency Fund

The Legislative Assembly set aside \$4.9 in the Emergency Fund to address some of the costs of welfare reform. The \$4.9 million was set aside through two special reserves (a \$1.9 million reservation and a \$3.0 million reservation) in two different bills. The following is a description of each of the reserves. The Legislative Assembly's \$4.9 million reserve in the Emergency Fund covers 8.2 percent of the over \$59 million in cuts to federal benefits that were explained to the Ways and Means Committee.

\$1.9 million in HB 5049 Through November 1, 1998

With no federal fix to the lost SSI guaranteed, the agency was faced with the possible need to restore some cash assistance to the 400 lawful immigrants receiving

SSI who were in long term care each month. By paying the individuals at the GA payment level, the state could keep the people in community based care and incur lower Medicaid costs. If the state did not allocate the \$1.9 million needed to make the small monthly stipend, the people in long term care could move into more expensive nursing homes and would have cost the state \$4.9 million⁵ in increased Medicaid costs. Not assured that Congress would reinstate SSI for those needing long term care who were in the country before August 22, 1996, the Legislature made a special \$1.9 million appropriation to the Emergency Board to avoid the larger cost and keep the people in the lower cost community based care once their SSI ran out.

While the need to avoid higher nursing home costs drove the effort to set aside the \$1.9 million, the actual appropriation to the Emergency Fund is not limited to those needing community based care: HB 5049 provides that the \$1.9 million is

“for payments to noncitizens who lose eligibility for federal Supplemental Security Income benefits due to changes in federal welfare laws or those who would have qualified for public assistance benefits except for their noncitizen status.”⁶

This appropriation language gives DHR and the Emergency Board flexibility to use the funds for any other “public assistance” denied to Oregonians due to their non-citizen status, such as food stamps, Medicaid and General Assistance. The legislation further provides that if the special reserve is not allocated to DHR by November 1, 1998, any unused money reverts to the general purpose appropriation to the Emergency Fund for any lawful purpose.

\$3.0 million in SB 5523 Through December 31, 1997

In the bill that funded the Emergency Fund, the legislature allocated \$23.2 million to special restricted appropriations. Of the \$23.2 million, \$3 million is for

“Services to legal non-citizens who will no longer be eligible for federally funded public assistance and persons whose benefits are reduced as a result of changes in allowable deductions for calculating food stamp benefits, due to federal welfare reform”⁷

⁵ The agency originally told the Ways and Means Committee that the cost of nursing home care would be \$12.9 million. Letter from SDSD Administrator Roger Auerbach to Rep. Chuck Carpenter, February 17, 1997. The agency subsequently noted that \$12.2 million was the total cost, of which \$4.9 million would be the state general fund cost. “Legal Noncitizens and Welfare Reform,” undated DHR document submitted in response to letter from Representative Chuck Carpenter to DHR director Gary Weeks, dated May 16, 1997.

⁶ 1997 Or. Laws Chapt. 712, Sec 7; HB 5049, Section 7.

⁷ SB 5523 Budget Report and Measure Summary, page 9.

The budget report states that this special appropriation is “reserved through December 1997.” If the funds are not allocated to DHR prior to December 31, 1997, the special reserve becomes part of the general purpose appropriation to the Emergency Fund for any lawful purpose.

The special reserve covers two needs, one general and one specific. The reserve for “persons whose benefits are reduced” describes the approximately 1,400 disabled General Assistance recipients who need the \$48 food stamp supplement not included in the Governor’s budget or the DHR budget approved by the Legislative Assembly. As noted above, the full biennium cost for this supplement was \$921,000. The general appropriation for lawful non-citizens losing public assistance can be used for a variety of public assistance programs, including cash assistance for persons losing SSI eligibility, medical assistance for persons no longer qualified for the Oregon Health Plan due to citizenship status, and food stamp benefits.⁸

DHR Plans For Use of Emergency Funds

In a letter dated May 16, 1997, Ways and Means Human Resources Subcommittee Chair Representative Chuck Carpenter asked DHR director Gary Weeks to identify “budget holes” caused by welfare reform and the Governor’s request for the extent to which each hole should be filled. In response, DHR provided Carpenter with a document entitled “Legal Noncitizens and Welfare Reform” that outlined DHR’s proposal for spending a \$7 million Emergency Fund set aside.⁹

DHR’s proposal listed the agency’s “priority order” for spending the Emergency Fund reserve. The priorities focused on getting cash assistance directly into the pockets of those losing their federal cash assistance and food stamp benefits.

- Priority #1: Fund cash grants at the GA level to keep legal immigrants in community-based care.
- Priority #2: Fund cash grants at the GA level for the other Oregonians (those not in long term care) losing SSI cash assistance or “who would have qualified for SSI if not for the fact that they filed their applications after 8/22/96.”¹⁰

⁸ In response to states such as Washington expressing a desire to purchase federal food stamp coupons for their non-citizen residents, Congress enacted legislation authorizing the practice.

⁹ The Carpenter letter did not mention an Emergency Fund set aside or any particular dollar amount. The DHR response, however, makes it apparent that DHR had discussions with legislative leadership about the options under consideration by the leadership in the budget negotiations before submitting the response.

¹⁰ As explained in the “Congress Enacts Partial ‘Fix’” section below, this priority option would cover those who are merely elderly and not disabled and those who arrive after August 22, 1996.

- Priority #3: If funds are still available, “provide money in lieu of food stamps to individuals who had become ineligible for food stamps due to welfare reform and whose income was below the SSI standard of \$484 [a] month.”
- Priority #4: If funds are still available, “provide money in lieu of food stamps to individuals who had become ineligible for food stamps due to welfare reform and whose income was above the SSI standard.”

The first priority is focused on the state avoiding the increased Medicaid costs of persons in nursing homes. The other priorities focus on helping those with the greatest loss of cash or food stamp income, with the disabled and elderly being helped first, and then others based on income.

In late July DHR director Gary Weeks invited colleagues in the human service community to an August 13 meeting to receive input on what the Department should request from the Emergency Board. Weeks’ invitation identified the \$1.9 million set aside for the “400 to 500” Oregonians who may need long term care assistance,¹¹ and the \$3 million reservation “for the purposes of mitigating the impacts and loss of benefits resulting from federal welfare reform.”

The invitation identified four general areas for use of the money: (1) cash grants for persons losing SSI; (2) funding to non-state organizations to provide naturalization assistance;¹² (3) replace lost food stamps with state dollars or assist food banks to address non-citizen needs; and, (4) supplemental payments to GA recipients whose food stamp benefits were reduced by the new method of calculating food stamp benefit levels under welfare reform.

Congress Enacts Partial “Fix”

In early August after the Legislative Assembly had adjourned, Congress passed and the President signed the Balanced Budget Act of 1997 (the BBA). The BBA restored SSI cash assistance for lawful immigrants who were residing in the U.S. before

¹¹ Weeks’ invitation letter suggested that if the recently passed federal balanced budget act fixed the problem “These funds are unlikely to be available for other non-citizen needs” such as Medicaid under the Oregon Health Plan or food stamps. At a planning meeting prior to the public meeting, advocates pointed to the language in Section 7 of HB 5049 that authorizes using the \$1.9 million for “public assistance” generally, and that the funds are not limited to persons losing SSI in long term care. As noted in the text below, DHR subsequently agreed that the funds were not restricted as originally explained in the invitation letter, and tried to get the \$1.9 million allocated toward cash assistance for persons not in long term care.

¹² On April 23, 1997, DHR held a “Welfare Reform Round Table discussion” and explained that it was already undertaking an effort to assist persons with naturalization. The agency did not set out a plan to seek additional funding for naturalization assistance, and subsequently never asked the Legislative Assembly for such funding.

August 22, 1996, who were receiving SSI because of their age or disability, or who become disabled. Only a very limited number of persons arriving on or after August 22, 1996, may receive cash assistance.¹³ The BBA did not address immigrants losing food stamps. As a result, 6,000 Oregonians lost food stamps as of August 22, 1997, and additional lawful non-citizen immigrants are being turned away or are not applying for benefits each month as a result of the 1996 welfare reform law. Last, while the BBA ensures that children losing SSI due to more restrictive standards enacted in the 1996 welfare reform law will still get Medicaid, many legal immigrants not residing in the U.S. on August 22, 1997, will still be unable to obtain Medicaid.¹⁴

DHR's Request to the September 1997 Emergency Board

In mid-August, DHR sent to the Governor's office for approval its request to the Emergency Board to use the full \$4.9 million.¹⁵ DHR proposed to use the money as follows:

- \$2.6 million to provide cash assistance at the GA level (currently \$292 per month) to the 400 families losing SSI;
- \$0.8 million for infrastructure investments in the Oregon Food Bank network;¹⁶
- \$0.9 million to supplement the reduced food stamps of many GA recipients; and
- \$0.6 million to contract with non-state organizations to provide naturalization assistance.

The Governor's office did not approve DHR's request, and instead scaled it back to a request for \$1.5 million of the \$4.9 million in special reservations available. The final request from the administration to the Emergency Board requested that a portion of the \$3.0 million reserve be allocated as follows:

¹³ Congress made some small changes in the "exemptions" from the ban on receiving assistance. For instance, certain immigrants can get SSI cash assistance under the exemption for seven years instead of the five year limit in the 1996 welfare reform law.

¹⁴ For example, Lawful Permanent Residents who arrived after August 22, 1996, must wait five years before they qualify for Medicaid.

¹⁵ Draft letter dated August 18, 1997, from DHR director Gary Weeks to Emergency Board Co-Chairpersons Senator Brady Adams and Speaker Lynn Lundquist.

¹⁶ Anti-hunger advocates had asked the Legislative Assembly for food bank investments during the session. They identified the general need for the investments that was exacerbated by the impacts of welfare reform on citizens and non-citizens alike. The Legislative Assembly, however, did not appropriate investment dollars. There is no record that the Department of Human Resources ever joined anti-hunger advocates in seeking these funds, or ever mentioned this use of money to legislators as a way of addressing the impacts of welfare reform on non-citizens.

- \$0.9 million to improve food bank infrastructure; and
- \$0.6 million to fund naturalization assistance.

At the Emergency Board meetings on September 11th and 12th, the staff of the Emergency Board in the Legislative Fiscal Office recommended that action on the request be deferred until the November Emergency Board meeting. The Human Resources Subcommittee and the Emergency Board followed the recommendation of its staff.

The November Emergency Board

If DHR repeats its September request and does not request and obtain approval to use the full \$3.0 million reserve, the remaining funds will lose their special purpose appropriation and will become available to the general purposes of the Emergency Fund. The \$1.9 million will remain in a special reserved appropriation status until November, 1998.

The costs for implementing some of the various policy options set forth in the draft DHR proposal that the Governor's office rejected have been reduced by the delay in implementation. While the need has not been reduced, caseload driven options (e.g. supplementing GA grants, providing GA to persons not eligible for SSI, providing food stamps) have gone down as the State keeps the extra money in the Emergency Fund. If the funds are released by the November Emergency Board, the costs will only be incurred for no more than 19 months of the 24 month biennium (December 1997 through June 1999). While the programs can be in effect by December 1, 1997, following a November Emergency Board meeting, in fact they may not be fully utilized in December or January; it will take time for persons to find out about eligibility, apply and be approved.

By withholding the benefits for five months, the cost to provide the benefits for the remainder of the biennium is reduced, and the agency and Emergency Board have more flexibility to directly help more people than originally envisioned. For instance, dollars allocated for food stamps for persons denied food stamps could go to more people with a December start-up date than a plan to distribute them beginning this past July or October 1.