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CalWORKS: California's Response to Welfare Reform

Rebecca S. Engrav†

INTRODUCTION

The passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Welfare Act")¹ signaled the beginning of a radically new method of delivering aid to poor mothers, immigrants, and children. The Welfare Act replaced Aid for Families with Dependent Children ("AFDC") with Temporary Assistance for Needy Families ("TANF"). TANF sets basic requirements for assistance programs, including work requirements² and strict lifetime time limits on aid.³ It also provides each state with a block grant of funds to use to implement its own assistance program.

California is uniquely situated in the welfare "reform" process. Approximately 2.6 million residents of California received aid under AFDC, more than in any other state.⁴ Of the 10.9 million welfare recipients in the United States, more than one-fifth reside in California.⁵ Accordingly, California receives the biggest share of federal block grant money and is responsible for crafting the largest aid program in the country. Because of the sizable amount of resources being poured into the program and the vast numbers of people who will be affected by it, California has a respon-

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1. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996) [hereinafter Welfare Act] (codified primarily in scattered sections of 42 U.S.C.).
2. Twenty-five percent of a state's welfare recipients must be working by the end of 1997 and 50% must be working by 2002. See Welfare Act, 42 U.S.C.S. § 607(a) (Law. Co-op Supp. 1997). As of October 1997, most states expected to meet the overall work goal for 1997, although more than half did not expect to meet the additional requirement that 75% of two-parent families on welfare be working. See Jason DeParle, *Half the States Unlikely to Meet Goals on Welfare*, N.Y. TIMES, Oct. 1, 1997, at A1.
3. A recipient can receive aid for a maximum cumulative lifetime total of five years. See Welfare Act, 42 U.S.C.S. § 608(a)(7).
4. See STAFF OF HOUSE COMM. ON WAYS AND MEANS, 104TH CONG., 2D SESS., 1996 GREEN BOOK: AID TO FAMILIES WITH DEPENDENT CHILDREN AND RELATED PROGRAMS 460-61 (Comm. Print 1996).
5. See Ken Leiser, *Wilson Signs Historic CalWORKS into Law*, SAN DIEGO UNION-TRIB., Aug. 12, 1997, at A11.

sibility to create a system that works and that perhaps can be a model to other states.

PROVISIONS OF CALIFORNIA'S WELFARE PLAN, CALWORKS

After eight months of heavily partisan and rhetoric-filled legislative debate, California Governor Pete Wilson signed the Thompson-Maddy-Ducheny-Ashburn Welfare-to-Work Act of 1997 ("California Welfare Act") into law on August 11, 1997.⁶ The main component of the California Welfare Act is the California Work Opportunity and Responsibility to Kids Act ("CalWORKS"),⁷ which responds to the federal Welfare Act and describes how California will replace AFDC. CalWORKS establishes baseline requirements and directs counties to create individual plans for implementing the new aid program.

1. Eligibility

Under CalWORKS, California will continue to use the basic eligibility standards set by the AFDC program.⁸ Legal, noncitizen immigrants may receive aid,⁹ subject to federal deeming regulations.¹⁰ If a recipient is a minor parent, the income of her or his parents or legal guardian is considered available income when calculating eligibility and grant level.¹¹ The basic grant amount remains the same, with no cost-of-living increases available until after the 1997-1998 fiscal year.¹² When an individual is first found eligible for aid, the county should assess whether or not a one-time cash payment or noncash voucher would enable the individual to

6. Thompson-Maddy-Ducheny-Ashburn Welfare-to-Work Act of 1997, 1997 Cal. Stat. 270 (West) [hereinafter California Welfare Act] (codified in scattered sections of CAL. EDUC. CODE; CAL. GOV'T CODE; CAL. HEALTH & SAFETY CODE; CAL. PUB. UTIL. CODE; CAL. UNEMP. INS. CODE; CAL. WELF. & INST. CODE).

7. See CAL. WELF. & INST. CODE §§ 11200-11526.5 (West Supp. 1998).

8. Families consisting of children and related adult(s) are eligible for aid if at least one parent is dead, physically or mentally incapacitated, incarcerated, unemployed, or permanently absent. See *id.* § 11250. A family of three with monthly income below \$694 is eligible for aid. See *id.* § 11452. No specific period of residency is required.

9. The federal Welfare Act bars legal immigrants arriving after August 22, 1996, except for asylees, veterans, and refugees, from receiving federal benefits during their first five years in the United States. See Welfare Act, 8 U.S.C.S. § 1613(b) (Law. Co-op Supp. 1997). The Welfare Act also allows states to deny state benefits to certain categories of legal, noncitizen immigrants who arrived before August 22, 1996, and/or to newly arriving immigrants, during and after the federal five-year ban. See *id.* § 1622. CalWORKS allows both current and newly arriving immigrants to receive cash benefits. See CAL. WELF. & INST. CODE § 11008.13.

10. See CAL. WELF. & INST. CODE § 11008.13. Deeming refers to considering the income of an immigrant's sponsor and the sponsor's spouse available to the immigrant when calculating income eligibility and grant amount. See *id.*

11. See *id.* § 11008.14.

12. See *id.* § 11450.

avoid needing to sign up for aid.¹³ The county has sole discretion to decide whether or not to offer this type of payment to any given individual.¹⁴

2. Welfare-to-Work

The federal Welfare Act requires that adult aid recipients be in work-related activities after receiving assistance for two years.¹⁵ By 2002, fifty percent of a state's recipient families must be working thirty hours per week.¹⁶ The Welfare Act requires states to determine what work-related activities they will offer. States may establish "good cause" exceptions to the work requirements and/or may impose more stringent work requirements than those mandated by the federal Welfare Act.

CalWORKS directs counties to offer an array of work-related activities, which may include education, job search and job readiness assistance, job training, employment, and community service.¹⁷ Suggested educational activities include adult basic education,¹⁸ vocational or technical training, or other education directly related to employment.¹⁹ Suggested forms of employment include subsidized and unsubsidized private sector placements, subsidized public sector jobs, internships, supported or transitional work, or self-employment.²⁰ Counties may offer community service placements to aid recipients at any point in the process. If a county certifies that no jobs are available in the local economy, it must offer community service placements to recipients who have reached their time limit but remain income-eligible.²¹

Counties must provide the support services necessary to enable each recipient to participate in the work-related activities to which she or he has been assigned.²² Required support services include child care for children under ten years of age or with disabilities; cash or vouchers for trans-

13. The goal of these lump-sum diversion payments is to assist individuals who face a temporary barrier but are likely to find stable work quickly on their own. The applicant can decide whether to accept the diversion payment or sign up for aid. If the applicant accepts the diversion payment but later signs up for aid, the amount of the diversion payment will either be repaid to the county or the recipient's time limit will be counted as starting when the diversion occurred. *See id.* § 11266.5.

14. *See id.*

15. *See* Welfare Act, 42 U.S.C.S. § 602(a)(i)-(a)(ii) (Law. Co-op Supp. 1997).

16. *See id.* § 607(a), (c).

17. *See* CAL. WELF. & INST. CODE § 11322.6.

18. Adult basic education consists of reading, writing, arithmetic, high school equivalency, and English as a Second Language ("ESL") courses. *See id.*

19. *See id.* Aid recipients may only enroll in educational programs if the county determines the education is needed for the recipient to find employment. Recipients may only enroll in programs which the county, in conjunction with educational institutions, has certified as generally leading to employment. *See id.* § 11325.23. If the recipient's educational activities take up less than 32 hours per week, the recipient must also participate in other approved work-related activities. *See id.*

20. *See id.* § 11322.6.

21. *See id.* § 11322.9.

22. *See id.* § 11323.2.

portation; cash or vouchers for ancillary job-related expenses such as books, tools, fees, and clothing specifically required for the job; and personal counseling for problems that affect the recipient's ability to work.²³ Health care through the Medi-Cal program remains the same as before CalWORKS, but in addition, counties may provide mental health, substance abuse, and domestic violence services to recipients whose ability to participate in work-related activities is limited by those problems.²⁴ CalWORKS provides one-time assistance of thirty dollars per day for up to sixteen days for recipients who become homeless.²⁵

CalWORKS requires that adults in families receiving aid participate in work-related activities after an initial four-week job search.²⁶ Single parents must participate for twenty-six hours per week beginning in July, 1998. This requirement increases to thirty-two hours per week by mid-1999.²⁷ In two-parent families, one or both parents must work a combined total of thirty-five hours each week.²⁸ Counties have the option of requiring thirty-two hours per week immediately.²⁹

The following individuals are exempted from welfare-to-work participation requirements: children attending elementary, secondary, or vocational school full-time; individuals who have a disability which significantly impairs their ability to work or who are of advanced age; nonparent relatives who have primary responsibility for providing care for a child who is a dependent or ward of the court, or is at risk of foster care placement, if their caretaking duties exceed normal parenting responsibilities and make it impossible to work; individuals who care for an ill or incapacitated member of the aided household; parents who have primary responsibility for caring for a child under six months of age;³⁰ and pregnant women who have medical verification that the pregnancy significantly impairs their ability to be employed.³¹ Custodial parents who are under twenty years of age, do not have a high school diploma or its equivalent, and who do not meet the general exemption requirements or

23. *See id.*

24. *See id.* § 11322.6.

25. This assistance is generally available only once in a lifetime. It is available once every two years if the homelessness is caused by domestic violence, mental illness, or destruction of recipient's home through condemnation, fire, etc. *See id.* § 11450.

26. The length of the job search can be shortened or extended on a case-by-case basis at the county's discretion, based on whether or not the county thinks the search is likely to lead to employment. *See id.* § 11325.22.

27. *See id.* § 11322.8.

28. *See id.*

29. *See id.*

30. Counties may set the period of exemption as low as 12 weeks or as high as one year following the birth or adoption of a child, based on criteria developed by the county and applied on a case-by-case basis. The six month exemption can only be used once in a lifetime. After it has been used, a parent is only exempt for 12 weeks upon the birth or adoption of subsequent children. Counties may increase this period to six months based on criteria developed by the county and applied on a case-by-case basis. *See id.* § 11320.3.

31. *See id.*

whose exemption is based solely on their child's age, are not exempt, but their participation is limited to educational activities in pursuit of a high school diploma or its equivalent.³² In addition, a recipient has "good cause" not to participate in work requirements if the county certifies that necessary support services are not available. A good cause exception is also available to recipients who are victims of domestic violence if participation in work-related activities would be detrimental to the recipient or to her or his family.³³

3. "Personal Responsibility" Requirements

The federal Welfare Act requires states to set and enforce standards for conduct relating to certain disfavored actions. For example, each state's TANF plan must explain how the state plans to discourage out-of-wedlock births.³⁴ CalWORKS incorporates the conduct requirements of the federal Welfare Act and adds additional requirements. All school-age children in families receiving aid, with a few exceptions, must attend school.³⁵ Children not required to be enrolled in school must be immunized unless immunizations are medically inappropriate or contrary to the family's beliefs.³⁶ Unless exempt, aid recipients must participate satisfactorily in their welfare-to-work plans. Satisfactory participation includes signing the plan,³⁷ participating in required program activities,³⁸ and accepting any legitimate job offers.³⁹

The federal Welfare Act specifies that unless single parents "cooperate" in establishing paternity and enforcing child support orders, they cannot initially qualify for aid, or if already enrolled, must be sanctioned by at least a twenty-five percent grant reduction.⁴⁰ In addition to complying with the federal requirements, each state may define what con-

32. *See id.* If an 18- or 19-year-old custodial parent is already enrolled in a non-G.E.D. educational or vocational program that the county certifies is likely to lead to employment at the time of application for aid, she or he may continue in that program. *See id.*

33. Good cause exceptions must be reevaluated no less than every three months. *See id.*

34. *See* Welfare Act, 42 U.S.C.S. § 602(a)(1)(v) (Law. Co-op Supp. 1997).

35. *See* CAL. WELF. & INST. CODE § 11253.5.

36. *See id.* § 11265.8.

37. *See id.* § 11327.4.

38. *See id.*

39. A recipient may turn down a job offer without penalty if the offered employment is discriminatory, exceeds daily or weekly hours customary to the occupation, requires round trip travel of more than two hours (or two miles, if walking is the only available means of transportation) exclusive of time needed to take other family members to school or day care, involves conditions that violate applicable health and safety standards, does not offer worker's compensation insurance, would violate the recipient's union membership, or would interrupt an approved education or job training program that would otherwise lead to self-sustaining employment. *See id.* § 11320.31.

40. *See* Welfare Act, 42 U.S.C.S. § 608(a)(2) (Law. Co-op Supp. 1997). Under the Welfare Act, cooperation includes supplying the name of the noncustodial parent; appearing at interviews, hearings, and legal proceedings; and submitting to any court-ordered genetic tests. *See id.* § 654(2a).

stitutes cooperation⁴¹ and may set higher sanctions, including complete denial of benefits.⁴² CalWORKS defines cooperation as: providing the name and, if known, address, phone number, place of employment or school, social security number, and names and addresses of relatives or associates of the individual who owes support; appearing at interviews, hearings, and legal proceedings if given reasonable notice and lacking good cause not to appear;⁴³ and, if paternity is at issue, submitting to genetic tests, and requiring the child to undergo testing as well.⁴⁴ If the district attorney determines that a recipient is not cooperating and lacks good cause, the recipient's grant will be reduced by twenty-five percent until she or he cooperates.⁴⁵

4. Time Limits

The federal Welfare Act imposes a five-year cumulative limit on the length of time an individual can receive aid, but allows states to set shorter limits.⁴⁶ CalWORKS establishes a five-year limit on receipt of aid, which includes TANF aid received in other states.⁴⁷ Parents or caretaker relatives who are permanently in one of five hardship categories are exempt from the five-year limit.⁴⁸ A recipient can receive CalWORKS aid for eighteen months at a time.⁴⁹ At the end of eighteen months, the county has the option to extend aid for up to six additional months if it certifies that no job is available or if the extension would likely lead to unsubsidized employment.⁵⁰

If an adult in a recipient family reaches the permanent limit and does not qualify for a hardship exemption, the needs of that adult are no longer considered when calculating the amount of the family's grant.⁵¹

41. *See id.* § 654(2a).

42. *See id.* § 608(a)(2).

43. Good cause includes domestic violence. *See CAL. WELF. & INST. CODE* § 11477.04.

44. *See id.* § 11477.

45. *See id.* § 11477.02.

46. *See Welfare Act*, 42 U.S.C.S. § 608(a)(7).

47. *See CAL. WELF. & INST. CODE* § 11454. Months during which a recipient is exempt from welfare-to-work activities, during which the full amount of a recipient's cash grant is reimbursed by child support payments, or during which a diversion payment was given in place of cash assistance, are not counted toward the total. *See id.* § 11454.5.

48. Parents or caretaker relatives are exempt if they are: aged 60 or older; are caring for an ill or incapacitated household member and caretaking responsibilities make it impossible for the caretaker to participate in work activities; are receiving government disability benefits and the disability makes it impossible to participate in work activities; or the county has determined that the individual is incapable of maintaining employment or participating in work activities. Nonparent caretakers are also exempt if they are caring for a ward of the court or child at risk of foster care, and the county has determined that the caretaking responsibilities make it impossible for the caretaker to participate in work activities. *See id.* § 11454.

49. *See id.*

50. Current aid recipients are limited to 24 months, starting from the time they sign or refuse to sign a welfare-to-work plan. *See id.*

51. *See id.* § 11320.15. Children thus can retain benefits even after all adults in the family not eligible for aid have been disqualified.

Counties may choose to provide additional services to the adults; if so, the adults must participate in community service activities.⁵²

5. Sanctions

Sanctions may be imposed against aid recipients who do not comply with CalWORKS' requirements or who commit fraud. If, without good cause, a recipient does not participate in a welfare-to-work plan or does not comply with other requirements, the needs of that recipient are not included when calculating the family's monthly grant.⁵³ For a first instance of noncompliance, the grant reduction continues until the recipient complies.⁵⁴ For a second instance, the reduction lasts until the recipient complies or for three months, whichever is longer.⁵⁵ For a third or subsequent instance, the reduction lasts until the recipient complies or six months, whichever is longer.⁵⁶ If a recipient is found guilty of fraud in the receipt of aid in court or an administrative hearing, his or her needs are not included in the grant calculation for a period of time ranging from six months for a slight charge to permanently for a serious charge.⁵⁷

HOW CALWORKS ADDRESSES TANF PROVISIONS THAT HAVE THE POTENTIAL TO HARM POOR WOMEN

The impetus behind the 1996 federal Welfare Act appeared to be the stereotype of the "Welfare Queen," a lazy single mother of color who has many children solely to get government money.⁵⁸ Focusing on this erroneous image, Congress passed the Welfare Act hoping to "end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; [and] prevent and reduce the incidence of out-of-wedlock pregnancies."⁵⁹ The moralistic, punitive attitudes held by many proponents of welfare reform resulted in the Act's conduct requirements, outlined above, as well as its severe sanctions for noncompliance. The Welfare Act gives states the freedom to create even harsher systems.

Four elements of the federal Welfare Act are of particular concern to poor women and those who organize on their behalf. The Act requires

52. *See id.*

53. *See id.* § 11327.5.

54. *See id.*

55. *See id.*

56. *See id.*

57. *See id.* § 11486.

58. For an analysis of how the mainstream media focused the "welfare debate" around this stereotype, see Charlotte Ryan, *Battered in the Media: Mainstream News Coverage of Welfare Reform*, 26 RADICAL AM. 29 (1996).

59. Welfare Act, 42 U.S.C.S. § 601(a)(2)-(a)(3) (Law. Co-op Supp. 1997).

aid recipients to cooperate with child support enforcement,⁶⁰ requires aid recipients to work⁶¹ but does not mandate that states provide or subsidize child care,⁶² attempts to discourage unmarried women from bearing children,⁶³ and severely limits immigrant women's access to needed resources.⁶⁴ California's CalWORKS plan has adopted provisions that attempt to address these concerns in a realistic, rather than punitive, way.

1. Required Cooperation with Child Support Enforcement

California Governor Pete Wilson's proposed welfare plan specified that mothers would not receive any aid until the paternity of their children was legally established, a tactic designed to force mothers to help the state recover child support payments from the fathers.⁶⁵ It did not, however, include any additional funding for the already backlogged district attorneys' offices which pursue enforcement of child support. This oversight could have resulted in denial of benefits to even those mothers who agreed to play by the governor's rules.⁶⁶ CalWORKS as enacted adopts a more moderate approach. Recipients must cooperate in establishing paternity and enforcing child support orders, but they can receive aid even if the support money is not yet forthcoming.⁶⁷

Under CalWORKS, recipients do not have to sign voluntary paternity declarations,⁶⁸ and cooperation requirements can be waived if the recipient or child is a victim of domestic violence or if the child was conceived as a result of rape or incest.⁶⁹ In a significant improvement from the AFDC system, domestic violence can be established on the basis of the victim's affidavit alone, unless the county has a written, independent, reasonable basis to doubt the victim's credibility.⁷⁰ Aid applicants who have been abused and are seeking to create stable, safe lives, however, still face two particular barriers: first, the exemption from cooperation is not

60. *See id.* § 608(a)(2).

61. *See id.* § 601(a)(1)(ii).

62. *See id.* § 607(e)(2). States may not reduce or terminate assistance to a recipient who refuses to work if the recipient is a single parent with a child under six years of age and "affordable" child care is unavailable. *See id.* § 607(e)(2)(c). The Welfare Act does not, however, define "affordable."

63. *See id.* § 601, note 10 ("[I]n light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in [this Act] is intended to address the crisis.")

64. *See Welfare Act*, Pub. L. No. 104-193, §§ 400-51, 110 Stat. at 2260-77.

65. *See Virginia Ellis, Welfare Accord Forged by Wilson, Legislators*, L.A. TIMES, July 29, 1997, at A1.

66. *See id.*

67. *See CAL. WELF. & INST. CODE* § 11477.04 (West Supp. 1998).

68. *See id.* § 11477.

69. *See id.* § 11477.04.

70. *See id.* § 11477.04. AFDC required "objective" evidence of violence, such as police or medical reports. *See* 45 C.F.R. § 232.43(c) (1995). Such evidence frequently does not exist, as many battered women never report the abuse.

available to recipients who do not feel comfortable or safe identifying as battered,⁷¹ and second, such recipients may have to choose between the safety of taking the domestic violence exception and pursuing the child support they and their children rightfully deserve.⁷²

Forcing recipients to choose between an exemption from cooperation to maintain their safety and pursuit of the money they deserve punishes innocent victims and rewards the perpetrators of the violence.⁷³ CalWORKS lacks procedures to both protect victims' safety and recover the money they are owed. Recipients must provide their actual addresses, which are listed on court documents and become public record, to receive aid payments. Recipients must agree to appear at hearings with the batterer, although CalWORKS does stipulate that a recipient can take a good cause exception from this requirement while still cooperating with other aspects of support enforcement.⁷⁴ If an aid recipient takes the good cause exception to cooperation, the district attorney generally must suspend child support services until the recipient requests their resumption.⁷⁵

CalWORKS avoids the most punitive child support cooperation measures allowed by the federal Welfare Act, but it does not yet adequately protect and provide for the needs of domestic violence survivors. Survivors of domestic violence who wish to receive child support safely should be supported and encouraged.⁷⁶ In implementing CalWORKS, counties should ensure that the penalty-free, good cause exception from cooperation is communicated clearly to all aid applicants. This can be done through clear explanations of the recipient's right to pursue support if she desires and her right not to appear at hearings without incurring a penalty. In addition, a program to protect the confidentiality of women receiving aid should be developed.⁷⁷

71. See CALIFORNIA ALLIANCE AGAINST DOMESTIC VIOLENCE, IMPLEMENTING THE DOMESTIC VIOLENCE/ABUSE PROVISIONS OF CALWORKS: RECOMMENDATIONS FOR COUNTIES (1997). Many victims of domestic violence do not feel safe or comfortable disclosing abuse, either due to lack of knowledge/awareness or a legitimate fear that if that information is made public in any way, their abusers may find out and retaliate against them. In implementing CalWORKS, counties should notify all applicants and recipients of available provisions for victims of abuse, allow recipients to disclose abuse confidentially at any time, and not require applicants to answer questions about abuse in application interviews or other screenings. See, e.g., *id.*

72. See PAULA ROBERTS, CTR. FOR LAW AND SOC. POLICY, PURSUING CHILD SUPPORT: MORE VIOLENCE? (1997).

73. See *id.*

74. See CAL. WELF. & INST. CODE § 11477 (West Supp. 1998).

75. See *id.* at § 11477.02.

76. Nonpayment of child support is a significant cause of poverty for women and a primary reason why many women are forced to go on welfare in the first place. With strict time limits on aid in place, it is more important than ever that women receive all owed child support. See ROBERTS, *supra* note 72; Diana Griego Erwin, *Deadbeat Parents Left Out of Debate*, SACRAMENTO BEE, Aug. 7, 1997, at B1.

77. In Washington State, the Address Confidentiality Program accomplishes this goal by allowing battered women to use substitute addresses provided by the Secretary of State. The state maintains a confidential file matching the substitute addresses to real ones. Women use the substitute addresses on all forms, including court, marriage, and voting records. See ROBERTS, *supra* note 72.

2. Availability of Child Care for Recipients Participating in Work Activities

While it requires aid recipients to work, the federal Welfare Act does not require states to provide child care for the children of those recipients.⁷⁸ Although studies are inconclusive, reports from the U.S. General Accounting Office indicate that without child care, aid recipients will not succeed in obtaining stable employment and leaving welfare.⁷⁹ CalWORKS has responded to this by releasing aid recipients from their work requirements if counties do not make child care available.⁸⁰

Unfortunately, unless significantly more money is allocated for creating and subsidizing child care programs, most recipients will probably still not have access to child care. This lack of access will decrease recipients' chances of successfully transitioning to self-sustaining employment before reaching the time limit on receipt of aid. The necessary number of child care slots do not exist, and creating them soon enough to assist recipients whose time limit clock started ticking in January 1998 will be a herculean task.⁸¹ Finding enough infant care slots will be a particular problem because CalWORKS only allows recipients to stay home for twelve weeks to care for a second or subsequent child born or adopted while on aid, and counties may require mothers to work twelve weeks after the birth or adoption of any child, including the recipient's first. Infant care spots are already at a premium and very expensive. The heightened demand will increase prices, which will negatively impact mothers on welfare in two ways: first, since counties subsidize child care based on market rates, counties will have to spread their child care dollars even further, resulting in more families without access; second, higher rates for day care will make it harder for recipients to transition from work programs to self-supporting employment before they reach their eighteen-month limit.⁸²

78. See *supra* note 62.

79. See U.S. General Accounting Office, *Welfare-to-Work: State Programs Have Tested Some of the Proposed Reforms*, GAO/PEMD 95-26 (July 14, 1995) <<http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?lPaddress=waisback.access.gpo.gov&filename=pe95026.txt&directory=/diskb/wais/data/gao>> (studying state Workfare programs in place prior to passage of the federal Welfare Act).

80. Care must be provided for children who are ten years old and younger or disabled. See CAL. WELF. & INST. CODE § 11323.2 (West Supp. 1998).

81. During the next two years, 42,000 babies and children will need subsidized child care in Oakland, California, alone. Only 3500 currently are enrolled. See Karen de Sa, *Shortage of Subsidized Child Care Facilities*, OAKLAND TRIB., Oct. 30, 1997, at A2; see also John Borland, *Can Welfare Work?*, CAL. J., Oct. 1997, at 18.

82. The California Welfare Act provides subsidized child care for all families whose adjusted monthly income is at or below 75% of the poverty line. See CAL. EDUC. CODE § 8263.1 (West Supp. 1998). This care is available whether or not they are receiving aid. See *id.* § 8263. While this is a worthy endeavor, by further constraining already limited child care resources it will negatively impact mothers receiving aid.

Since child care, unlike work programs, is not required by the federal Welfare Act, access to it is not guaranteed. Even in the current expanding economy, allocating enough funding for child care in the state budget has been extremely difficult. Some predict that when the state goes through an economic downturn and aid is needed even more than it is now, the Legislature is likely to cut funds from child care programs.⁸³

Child care is a vital component of any welfare-to-work program. CalWORKS recognizes this necessity and requires counties to fund child care for children of all recipients required to work. For the welfare-to-work plan to succeed, the state and counties must commit the necessary resources to fund child care subsidies and development/construction programs thoroughly. Proposals to add a state-run preschool component to the public schools should be implemented, as such a program would alleviate some of the stress on child care availability.⁸⁴

3. Disincentives to Teen Childbirth

Although conservative rhetoric during the welfare debate at times included suggestions as draconian as complete elimination of benefits for additional children born to aid recipients,⁸⁵ the right focused its morality-based attack on women's reproductive choices on unmarried mothers in their teens. Moderate Democrats joined Republican attempts to use welfare reform to decrease the rate of teen pregnancy.⁸⁶ Assuming that teen childbirth is a sign of irresponsibility and a significant cause of long-term dependence on welfare, politicians disregarded evidence that shows poverty, poor education, and low life expectancy/poor health are better predictors of whether or not a given individual will need substantial government assistance as an adult.⁸⁷ Proponents of welfare reform de-emphasized or ignored these factors, instead focusing on eliminating welfare's benefits and "easy life," which they theorized convinced young women to drop out of school and get pregnant in order to draw a government check.

CalWORKS enacts the requirements of the federal Welfare Act, which specifies that recipients who are teen parents must live with one of

83. See Jason DeParle, *U.S. Welfare System Dies as State Programs Emerge*, N.Y. TIMES, June 30, 1997, at A1; Virginia Ellis, *Wilson Signs Historic Welfare Reform Package*, L.A. TIMES, Aug. 12, 1997, at A1.

84. See Karen de Sa, *Preschool Plan Could Be Welfare Relief*, OAKLAND TRIB., Nov. 3, 1997, at B3.

85. See U.S. General Accounting Office, *supra* note 79.

86. See Arline T. Geronimus, *Teenage Childbearing and Personal Responsibility: An Alternative View*, 112 POL. SCI. Q. 405, 406-07 (1997).

87. See *id.* at 410-12. Geronimus suggests that having children while a teenager can be a rational choice for poor young women living in communities with low life expectancies, poor health, and few job prospects. Early childbearing increases such women's chances of having their children cared for by healthy family members. In addition, having several healthy family members available to assist in child care for infants and preschool children may increase a woman's ability to find and keep self-sustaining employment. See *id.* at 424-26.

their parents, with another related adult, or in adult-supervised living arrangements;⁸⁸ must cooperate in establishing paternity and enforcing child support orders;⁸⁹ and must be enrolled full-time in high school or a G.E.D. program.⁹⁰ California will continue its Cal-Learn program for teen parents who are receiving welfare and have not graduated from high school or received a G.E.D. Cal-Learn provides bonuses for teens who progress in school, penalties for those who do not, child care and transportation assistance, and case management services.⁹¹

Setting aside the question of whether it is efficient or effective to use society's resources to discourage teen parenthood without addressing its root causes, assisting teen parents to complete high school and become economically self-sufficient is a worthwhile goal. For CalWORKS to succeed in this endeavor, county programs must adequately address child care issues and the safety of recipients who have been abused. Since CalWORKS recipients who are teenage parents must attend school and cannot stay home with their children, availability of infant day care is crucial to the success of the program. Because the requirement of living with a parent can threaten the safety of teenage mothers who have been abused or whose children are abused, the waiver provisions must be explained completely and thoroughly to applicants. Assistance should be provided to teenage mothers who are struggling to leave abusive situations.

4. Denial of Many Benefits to Immigrant Women

For immigrant women in California, AFDC was one part of a crucial network of services which also included food stamps, SSI, Medicaid (disbursed through Medi-Cal in California), and a state-run prenatal care program. As part of a wave of anti-immigrant sentiment, the Welfare Act severely limited legal immigrants' access to federal aid programs and gave states the right to further restrict immigrants' access to benefits.⁹² CalWORKS grants legal immigrants the right to obtain TANF benefits, subject to deeming requirements,⁹³ but a related bill only authorizes food stamps for legal immigrants under age eighteen and over age sixty-five

88. See Welfare Act, 42 U.S.C.S. § 608(a)(5) (Law. Co-op Supp. 1997); CAL. WELF. & INST. CODE § 11254 (West Supp. 1998). The state agency that handles TANF should assist the teen to find appropriate, adult-supervised living situation, if living with a parent or legal guardian would not be in the best interests of the teen, such as in cases of physical or sexual abuse. See *id.*

89. See *id.* § 608(a)(2); CAL. WELF. & INST. CODE § 1147.

90. See 42 U.S.C.S. § 608(a)(4) (Law. Co-op Supp. 1997); CAL. WELF. & INST. CODE § 11331.5.

91. See CAL. WELF. & INST. CODE §§ 11331-11334.7. Many other states responded to the federal Welfare Act's directive to "Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies," 42 U.S.C.S. § 602(a)(1)(v), by describing, as does California, an existing teenage pregnancy prevention program. See JODIE LEVIN-EPSTEIN, CTR. FOR LAW AND SOC. POLICY, STATE TANF PLANS: OUT-OF-WEDLOCK AND STATUTORY RAPE PROVISIONS (1997).

92. See *supra* note 64.

93. See CAL. WELF. & INST. CODE § 11008.13.

until July 1, 2000.⁹⁴ California's prenatal health care program for immigrants has been discontinued.⁹⁵

In addition, several of CalWORKS' general support services provisions do not adequately address the needs of immigrant women. English as a Second Language ("ESL") is included in the list of basic adult education services which counties *may* provide, but it is not required.⁹⁶ Even before CalWORKS was enacted, the demand for ESL classes far exceeded the supply. The likelihood of an immigrant getting into an ESL class in time to learn enough English to get a job before eighteen months have passed is quite small. In addition, counties are not required to provide culturally appropriate or language-specific child care for the children of immigrants required to work.

The potential complete loss of food stamps for immigrants in the year 2000 will have its most severe impact on immigrant women who formerly received AFDC. Ninety percent of recent immigrant families on AFDC in California also received food stamps in 1993-1994.⁹⁷ For these families, food stamps represented twelve percent of their annual income.⁹⁸ In contrast, seventy-five percent of recent immigrant families who received only food stamps, not AFDC, received less than two percent of their annual income from food stamps.⁹⁹ To provide basic human assistance to immigrant women and save costs by avoiding poor health and malnutrition, the Legislature should fully fund programs to replace the federal food stamp and SSI programs and California's prenatal care program, at least for those immigrants who qualify for TANF funds. In addition, since battered immigrant women face unique difficulties due to cultural mores, language barriers, and isolation from support networks, it is imperative that the good cause waivers and exception provisions in CalWORKS be explained clearly and in appropriate languages to all applicants.

CONCLUSION

CalWORKS, California's response to the federal Welfare Act, comprehensively attempts to address the barriers that make it difficult for welfare recipients to create stable, self-sustaining lives with incomes above the poverty line. In particular, provisions that provide child care

94. See Act of Aug. 18, 1997, § 1, 1997 Stat. 287, CAL. WELF. & INST. CODE § 18930-18934 (West Supp. 1998).

95. See ASIAN & PAC. ISLANDER AM. HEALTH FORUM, IMMIGRANT WELFARE PROVISIONS IN CALIFORNIA'S 97-1998 BUDGET (1997).

96. See CAL. WELF. & INST. CODE § 11322.6.

97. See THOMAS MACURDY & MARGARET O'BRIEN-STRAIN, PUBLIC POLICY INST. OF CAL., WHO WILL BE AFFECTED BY WELFARE REFORM IN CALIFORNIA? 109 (1997).

98. See *id.* at 172.

99. See *id.* at 109.

and allow certain requirements to be waived for victims of domestic violence will help some women on welfare to overcome adversity and obtain stable employment. However, even if all the programs are fully funded, aid recipients who face multiple barriers will still have a very difficult, if not impossible, time achieving self-sufficiency before they reach the end of the strict time limits. In implementing CalWORKS, the state and counties should therefore do everything in their power to ensure that funding remains consistent for a full array of quality support services, education, and training programs.