A COMMISSION REPORT

Statutory and Administrative Controls Associated With Federal Grants for Public Assistance

THE ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS

MAY 1964
A—21

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

WASHINGTON, D.C. 20575

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PREFACE

The Advisory Commission on Intergovernmental Relations was established by Public Law 380, passed by the 1st Session of the 86th Congress and approved by the President September 24, 1959. Section 2 of the act sets forth the following declaration of purpose and specific responsibilities for the Commission:

> SEC. 2. Because the complexity of modern life intensifies the need in a Federal form of government for the fullest cooperation and coordination of activities between the levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.
>
> It is intended that the Commission, in the performance of its duties, will—
>
> (1) bring together representatives of the Federal, State, and local governments for the consideration of common problems;
>
> (2) provide a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;
>
> (3) give critical attention to the conditions and controls involved in the administration of Federal grant programs;
>
> (4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;
>
> (5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;
>
> (6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and
>
> (7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers.

Pursuant to its statutory responsibilities, the Commission from time to time singles out for study and recommendation particular problems, the amelioration of which in the Commission's view would enhance cooperation among the different levels of government and thereby improve the effectiveness of the Federal system of government as established by the Constitution.

One such problem, so identified by the Commission, was the question of statutory and administrative controls associated with Federal grants for public assistance.

This report focuses on the question of intergovernmental relations, particularly Federal-State relations, in the administration of the public assistance categories under the provisions of the Social Security Act. The background of public assistance in the United States is reviewed, very briefly, and the existing Federal statutory and administrative controls are outlined in detail. Resultant State statutory provisions and their impact on the size of recipient rolls and levels of assistance payments are reviewed as are the States' organizational structures for administering public assistance. Principal issues that have involved Federal-State disagreements are discussed and alternative recommendations are presented for Federal action to overcome the main points of friction.

This report was adopted at a meeting of the Commission held on May 21–22, 1964.

FRANK BANE, *Chairman.*

WORKING PROCEDURES OF THE COMMISSION

This statement of the procedures followed by the Advisory Commission on Intergovernmental Relations is intended to assist the reader's consideration of this report. The Commission, made up of busy public officials and private persons occupying positions of major responsibility must deal with diverse and specialized subjects. It is important, therefore, in evaluating reports and recommendations of the Commission to know the processes of consultation, criticism, and review to which particular reports are subjected.

The duty of the Advisory Commission, under Public Law 86–380, is to give continuing attention to intergovernmental problems in Federal-State, Federal-local, and State-local, as well as interstate and interlocal relations. The Commission's approach to this broad area of responsibility is to select specific, discrete intergovernmental problems for analysis and policy recommendation. In some cases, matters proposed for study are introduced by individual members of the Commission; in other cases, public officials, professional organizations, or scholars propose projects. In still others, possible subjects are suggested by the staff. Frequently, two or more subjects compete for a single "slot" on the Commission's work program. In such instances selection is by majority vote.

Once a subject is placed on the work program, a staff member is assigned to it. In limited instances the study is contracted for with an expert in the field or a research organization. The staff's job is to assemble and analyze the facts, identify the differing points of view involved, and develop a range of possible, frequently alternative, policy considerations and recommendations which the Commission might wish to consider. This is all developed and set forth in a preliminary draft report containing (*a*) historical and factual background, (*b*) analysis of the issues, and (*c*) alternative solutions.

The preliminary draft is reviewed within the staff of the Commission and after revision is placed before an informal group of "critics" for searching review and criticism. In assembling these reviewers, care is taken to provide (*a*) expert knowledge and (*b*) a diversity of substantive and philosophical viewpoints. Additionally, representatives of the American Municipal Association, Council of State Governments, National Association of Counties, U.S. Conference of Mayors, U.S. Bureau of the Budget, and any Federal agencies directly concerned with the subject matter participate, along with the other "critics" in reviewing the draft. It should be emphasized that participation by an individual or organization in the review process does not imply in any way endorsement of the draft report. Criticisms and suggestions are presented; some may be adopted, others rejected by the Commission staff.

The draft report is then revised by the staff in light of criticisms and comments received and transmitted to the members of the Commission at least 2 weeks in advance of the meeting at which it is to be considered.

In its formal consideration of the draft report, the Commission registers any general opinion it may have as to further staff work or other considerations which it believes warranted. However, most of the time available is devoted to a specific and detailed examination of conclusions and possible recommendations. Differences of opinion are aired, suggested revisions discussed, amendments considered and voted upon, and finally a recommendation adopted (or modified or diluted as the case may be) with individual dissents registered. The report is then revised in the light of Commission decisions and sent to the printer, with footnotes of dissent by individual members, if any, recorded as appropriate in the copy.

ACKNOWLEDGMENTS

The staff work on this report was conducted by William P. Maxam, a staff member of the Commission. In the course of the project, Mr. Maxam received generous assistance and advice from numerous officials of the Welfare Administration in the Department of Health, Education, and Welfare, State public assistance directors, and others concerned with public assistance. This help is gratefully acknowledged, especially that of Charles E. Hawkins and Paul Vernier of the Welfare Administration, Department of HEW.

Wm. G. Colman,
Executive Director
Melvin W. Sneed,
Assistant Director
Governmental Structure and Functions

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Chapter I

INTRODUCTION

A. Background of the Issue

The central theme coursing through the work of the Advisory Commission on Intergovernmental Relations is strengthening the American Federal system of government by increasing the effectiveness of its State and local governments. The grant-in-aid device has long been an instrument for this purpose, just as it has been useful in furthering Federal-State cooperation. It has been used to stimulate concerted State and local action on matters of broad national concern, to cope with disaster, to equalize resources, and to carry out long-range cooperative endeavors. Indeed, it is a sort of keystone in the whole edifice of intergovernmental relations.

On the other hand, ever-increasing use of Federal grants-in-aid for the performance of a growing variety of governmental functions, many of which are traditionally State or local in character, has been viewed with alarm by many people. Some see the trend as one of more and more concentration of power in the central government rather than one of strengthening State and local government. The alarm stems out of the proposition that "with Federal aid goes Federal control." The fear is that as more and more governmental functions succomb to the grant-in-aid treatment, an ever-widening skein of Federal regulations will enmesh the administering State agencies, thus transforming State governments into mere administrative agents of the central government.

It is not the purpose of this report, of course, to indulge in a philosophical discourse about the impact of grants-in-aid on the structure of American government. But it is necessary as a backdrop for the present report to face up to the fact that Federal requirements are necessary, if not indispensable, to imple-

menting the administration of grant-in-aid programs and to assure the attainment of national program objectives.

This certainly is no less true of the public assistance programs than of many others. The question is not whether Federal requirements, or controls, should be imposed upon the States as a condition for Federal participation in the provision of public assistance. The question is whether under existing statutory and administrative requirements the State and local governments are able to exercise proper discretion, and whether enough flexibility is permitted the States in dealing with the tremendously varying conditions that affect the administration of public assistance all over the Nation. There is a question also as to whether existing requirements are adequate.

Characterized by a whopping cash outlay for assistance payments alone of some $54 billion in Federal, State, and local funds since passage of the Social Security Act, it is not strange that the public assistance programs have been subjected to critical scrutiny nor any wonder that from time to time intergovernmental relations have been strained. Such headlines as "State Faces Loss of U.S. Welfare Aid," "HEW Rejects Aid Bill in Michigan as Biased," and "GAO To Look for Chislers on Relief Rolls" are indicative of the problem and of public interest and concern about it.

It is the purpose of this report to examine the question of intergovernmental relations, particularly Federal-State relations, in the provision of public assistance. The intention is to seek out the points of friction and determine whether there is too much or not enough Federal control. It is hoped that the report will allay unjustified criticism, as well as point a critical finger at a few points of weakness.

B. Scope of the Study

This study focuses on titles I, IV, X, XIV, and XVI of the Social Security Act as outlined below. Their specific statutory provisions, as well as the Federal administrative regulations which implement them, are examined, as are State statutory and administrative requirements. While an overview of the important aspects of the public assistance programs is given, the

main focus, as mentioned before, is on the Federal-State relations involved in administering the programs. An attempt will be made to determine whether any of the Federal regulations go beyond the intent of the law, whether such regulations and accompanying actions by the administering Federal agency generally contribute to harmony or to friction in Federal-State relations, and whether there is need for any changes in the law, the regulations, or in the administration of the program, so as to improve intergovernmental relations. Specific problems and disagreements which have arisen in the Federal-State relationship are reviewed, and possible alternative solutions discussed.

C. Brief History of Public Assistance in the United States

There is general agreement that the Elizabethan poor laws of early 17th-century England have been one of the greatest influences on public assistance in the United States. In fact, there are indications even today that some elements of these early poor laws have carried over into the attitudes and philosophies regarding public assistance. The most important aspect of the Elizabethan poor laws was their recognition that the care of the poor was a responsibility of government. Even though this responsibility to the poor was limited and confined to the most local unit of government, the recognition of such responsibility was clearly established nevertheless. Other significant concepts and practices instituted by the poor laws were: the means test as a requirement for aid, the obligation of relatives to the poor, residence requirements for recipients, bare minimum subsistence allowances for recipients, and the general attempt to repress poverty.[1]

Largely as a result of the influences of the poor laws, the public assistance pattern in the United States was a patchwork of local, county, and private activities until about the end of the 19th century. Thereafter the States began to participate in this patchwork of activities, with the early State programs being designed to meet the needs of special groups of people.[2] The

[1] The Welfare Investigating Committee of the New Jersey Legislature, *Legislative Report on the Aid to Dependent Children Program in New Jersey* (January 1963), p. 3.

[2] Wayne Vasey, *Government and Social Welfare* (New York: Henry Holt, 1958), p. 27.

first of these State public assistance programs were established in Ohio in 1898 and in Illinois in 1903, and provided for aid to the blind. In 1911, State programs of aid to needy children were established in Illinois and Missouri.[3] Beginning in 1912, attempts were made to establish State old-age pension systems, but the early efforts in this category met with problems of constitutionality. An old-age pension law passed in Montana in 1923 was the first to survive the legal tests.[4]

By 1934, the year prior to passage of the Social Security Act, the States had made some progress in establishing public assistance programs. However, coverage of needy persons in any of the aforementioned groups was far from complete throughout the country. The Social Security Board in its First Annual Report summarized the situation as follows:

> (1) only thirty of the fifty-one jurisdictions (states and territories) had legislation permitting or providing old-age assistance;
>
> (2) within this thirty, one-third of the counties did not provide old-age assistance;
>
> (3) in most of the counties where assistance was provided, the qualification requirements were highly restrictive and lack of funds resulted in long waiting lists;
>
> (4) forty-five states authorized aid to dependent children, but it was provided in less than half of the local units in these states; and
>
> (5) in the twenty-four states with laws for public pensions to the blind, only two-thirds of the counties participated in these programs.[5]

State public assistance programs with the extent of coverage thus described were unable to meet the problems arising from the prolonged depression which began in 1929. The Federal Government first began to provide aid to the States to meet these needs in 1932. Then, from 1933 to 1935, a number of Federal programs were initiated to provide funds for a variety of needs, including public assistance. It is unnecessary for the purposes of this report to catalog each of these programs. It is important to note that the early Federal relief programs were viewed as being of an emergency and temporary nature and were not

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[3] U.S. Commission on Intergovernmental Relations, *Federal Aid to Welfare,* a Study Committee report (June 1955), p. 71.

[4] *Ibid.,* Vasey.

[5] *First Annual Report,* Social Security Board to the 75th Cong., 1st Sess., p. 9.

designed to provide long-range solutions to the many problems involved.

The first step in the direction of establishing Federal programs to deal with long-term economic security needs of the people, including public assistance, was creation of the Committee on Economic Security in 1934. This was created by Executive Order to recommend a program to help alleviate misfortunes that could not be wholly eliminated. The report of the Committee led to passage of the Social Security Act on August 14, 1935.[6] This, of course, changed the overall welfare and public assistance structure from the patchwork of State, local, and private activities to a comprehensive intergovernmental program with extensive Federal participation in financing and policymaking. However, Federal participation in public assistance under the act supplemented rather than supplanted the existing programs.

D. The Public Assistance Titles of the Social Security Act

The original Social Security Act, in addition to its three public assistance titles, also established a Federal-State system, of unemployment insurance; a Federal system of old-age and survivors' insurance; and Federal grants to the States for maternal and child health, crippled children's services, public health services, and vocational rehabilitation, the latter two of which subsequently were removed from the act and placed elsewhere. Since the nonpublic assistance titles are beyond the scope of this study, they will not be dealt with further.

The three original public assistance titles of the Social Security Act were: Title I—Grants to States for Old-Age Assistance, which was expanded in 1960 to include Medical Assistance for the Aged; Title IV—Grants to States for Aid to Dependent Children, which was changed considerably by amendments in 1961 and 1962 and currently is titled—Grants to States for Aid and Services to Needy Families With Children; and Title X—Grants to States for Aid to the Blind. The two titles added subsequently are Title XIV—Grants to States for Aid to the Permanently and Totally Disabled, adopted in 1950, and

[6] *Ibid.*, Vasey, pp. 29–33.

Title XVI—Grants to States for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged, adopted in 1962. Briefly, the general nature of each of these titles is as follows:

Title I—Grants to States for Old-Age Assistance and Medical Assistance for the Aged.—provides for Federal grants to the States for the two purposes indicated. Under old-age assistance, Federal grants are made to the States to assist in financing State programs for the needy aged who are 65 years of age or older. This program as originally enacted provided assistance to recipients for living expenses. However, the title was amended in 1950 to provide for vendor payments for medical care. Federal grants are made to the States according to a formula spelled out in the Federal act. All 50 States participate in the old-age assistance program.

The program for medical assistance to the aged was added to title I on October 1, 1960. This provides for Federal grants to States that have programs of medical assistance for needy persons aged 65 and over who are *not* receiving old-age assistance but whose incomes are not sufficient to provide them with necessary medical care. As of May 1964, 33 States were participating in this program.

Title IV—Grants to States for Aid and Services to Needy Families With Children.—Originally was established to provide grants to the States to asist in their programs of financial aid to dependent children who were deprived of parental support by reason of death, continued absence from the home or physical or mental incapacity of the parent. However, Social Security Act Amendments in 1961 and 1962 expanded AFDC coverage to include Federal financial participation in State programs that include needy children of unemployed parents, unemployed relatives with whom the children are living, and foster home care for certain dependent children. Each of the 50 States participate in the basic AFDC program, but at the time of this report there are varying degrees of participation in the programs and services made available by the 1962 amendments.

Title X—Grants to States for Aid to the Blind.—Provides for Federal grants to States that have assistance programs for the

needy blind. All 50 States are participating in the Aid to Blind Program.

Title XIV—Grants to States for Aid to the Permanently and Totally Disabled.—Provides for Federal grants to States that administer programs of assistance to needy persons for the purpose indicated. Preventive and rehabilitative services are important parts of this program. All of the States except Nevada administer APTD programs.

Title XVI—Grants to States for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged.—This title, established by the Social Security Amendments of 1962, enables States to submit a combined plan for these programs. The basic purpose of this title was not to alter the above programs, but to enable the States to prepare and submit plan materials for the programs under one title and one State plan. As of May 1964, 15 States either had plans approved under this title or were preparing such plans.

Chapter II

THE FEDERAL ROLE IN THE PUBLIC ASSISTANCE PROGRAMS

In considering the public assistance programs, it should be borne in mind that the intended Federal role therein was to strengthen the existing State programs and to encourage the States to establish the categorical programs where they did not exist. This intent is set forth in the title of the Social Security Act which, among several things, states that the act is "To provide for the general welfare . . . by enabling the several States to make more adequate provision for aged persons, blind persons, dependent . . . children." Following is a review of the essential elements governing the Federal role in the programs.

A. Statutory Requirements of the Social Security Act

Some of the provisions of the act are specific in their requirements for the States. However, generally speaking, the statutory requirements of the public assistance titles are very broad in nature and require supplementary interpretation and administrative regulations. In this respect the public assistance titles are unlike most of the other titles of the act, particularly Title II (Federal Old-Age, Survivors, and Disability Insurance Benefits) in which the provisions are spelled out in much detail. Consequently, much more discussion and controversy have evolved around the public assistance titles, although, in spite of this, the nature of the Federal-State relationship in the administration of these programs does not always appear to be well understood by the Congress or the public.

The basic statutory requirement for State participation under the public assistance titles is the submission of a State plan for the administration of each categorical program, although, as noted above, the Social Security Amendments of 1962 made

it possible for States that desire to do so to combine under Title XVI (Grants to States for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged) the plans of the corresponding titles. However, for practical purposes, it can still be considered that a State plan is required for each program. While there are Federal statutory and administrative requirements with which the State plan must comply, it is intended that as far as possible a State plan shall consist of the relevant State statutory provisions and implementing procedures which the State has established on its own initiative. The Federal Government participates in the State public assistance programs only upon the request of the individual States and when the State plans satisfy the Federal requirements.

In addition to detailing the State plan requirements, each of the public assistance titles also provides for the method and process of making payments to the States for Federal matching of State expenditures for public assistance.

B. Federal Administrative Regulations

Implementing the broad statutory requirements of the public assistance titles is a considerable body of regulations and administrative materials which interpret, explain, and set forth more precisely what is expected of the States in meeting the intent of the act. Responsibility for promulgating the regulations is vested in the Secretary of Health, Education, and Welfare who, in turn, has delegated this responsibility to the Commissioner of Welfare in the Welfare Administration, Department of Health, Education, and Welfare. The Bureau of Family Services in the Welfare Administration has the major responsibility for administering the public assistance titles.

Since passage of the Social Security Act, various means have been used to inform the States of the requirements they must meet in order to comply with the Federal act, and also to recommend improvements for their programs. In the early years, information to the States was provided through the regional offices of the Federal agency by means of mimeographed memoranda and regional field letters. These were supplied to the regional offices whose staffs, in turn, passed the information and interpretation of the law along to the States. Such procedure

was not satisfactory to the States, so State letters replaced the memoranda and field letters which in turn were replaced by the *Handbook of Public Assistance Administration.*[7] This Handbook has been the principal means of informing States regarding official policies and standards. However, in addition to the Handbook, supplemental materials are published in the form of monographs, reports, articles, and related items. Appropriate Federal and State officials involved in administering the programs are furnished copies of the Handbook. The Bureau of Family Services is responsible for keeping the Handbook current as necessary to reflect amendments to the Social Security Act and changes in the regulations.

It is a difficult task to prepare administrative regulations and interpretations in conformity with the public assistance titles for a number of reasons. The fact that the statutory provisions are broad has already been noted. The necessity to prepare a set of uniform policies and standards that can be implemented in all of the 50 States and which allow for a wide variety of difference among the States also adds to the difficulty. Still another consideration is that some Federal and State officials prefer administrative regulations which are so specific that they allow virtually no room for deviation. Others prefer regulations that leave room for a considerable amount of leeway in interpretation. In this environment of complexity and differing opinions, it is not surprising that the Handbook is voluminous.

For purposes of this report, further discussion of the Federal role in the public assistance programs falls under three topics; namely, Principal Statutory Requirements for State Plans and their Implementation, The Approval Process for State Plans, and Payments to the States.

C. Principal Statutory Requirements for State Plans and Their Implementation

Many of the State plan requirements are the same under each title of the act. All of the requirements are given at least a minimum amount of interpretation in the Handbook, which also indicates how compliance with the requirements shall be evi-

[7] Robert T. Lansdale and others, *The Administration of Old-Age Assistance,* p. 444.

denced in the State plan. Some of the statutory requirements, of course, allow considerably more room for interpretation by the Federal agency than do others, interpretations which sometimes lead to disagreements with the State agencies.[8]

1. *Statewide operation*

The intent of the act and the supplementing administrative requirements in regard to statewide operation is to assure that all eligible persons of the State have access to the program regardless of the political subdivision in which they reside. Consequently, the State plan and thus the State program, whether it is a State-administered or a State-supervised program, must be in effect in all political subdivisions of the State. This applies to all public assistance titles. The historical reason for the inclusion of this provision in the Social Security Act was that prior to passage of the act, many of the State public assistance programs were permissive in allowing the local political subdivisions freedom to decide whether or not they would participate. Under such a program, a needy person in one part of the State could have access to assistance, while a needy person elsewhere in the same State might not have access because the particular unit of government there did not participate. Such variation is not permitted under the Social Security Act with regard to any of the public assistance categories.[9]

2. *State financial participation*

State financial participation in the public assistance programs was required by the Social Security Act because of the belief that the programs could not be adequately supported if strictly local funds were relied upon, even if supplemented by Federal funds. It was also believed that the use of State funds would bring about a desirable degree of equality and uniformity in the public assistance programs within the State, in spite of the diverse fiscal resources of the political subdivisions. The act does not specify any percentage of program costs that must come from State funds. However, Federal administrative requirements provide that State funds shall be used to pay a substantial part of the total program costs and that State funds must be used for both assistance and administrative costs. The requirement for State financial participation applies to all public assistance programs.

3. *Single State agency*

The intended purpose of specifying that the public assistance programs be administered by a single State agency was to assure that one agency

[8] The specific statutory and Handbook citations of the essential State plan requirements are contained in the appendix.

[9] This type of variation is common, however, with regard to the "general assistance" category in which the Federal Government does not participate.

would be charged with final authority both for administering the particular program within the State and in dealing with the Federal agency. A single State agency may administer one or more or all of the public assistance programs. The single State agency provision was not intended to interfere with the regular organizational arrangements within a State or with the State's normal executive, legislative, and judicial processes. A single State agency may also administer other State programs in addition to public assistance programs. The single State agency concept applies to all the public assistance titles.

4. *Opportunity for a fair hearing*

All public assistance titles specify that there must be provision for guaranteeing to any applicant the opportunity for a fair hearing before the State agency if his claim for assistance has been denied or not acted upon with reasonable promptness. Federal administrative requirements provide that the State agency shall establish a hearing procedure within the State agency to be administered by personnel not involved in the denial of an individual's application. The hearing procedure cannot be located outside the "single State agency," however. Federal requirements also provide that an individual whose application for assistance is denied must be notified in writing of the opportunity that is available to him for a fair hearing.

5. *Administration*

Each of the public assistance titles contains provisions specifying that the State plan shall provide such methods of administration, including a merit system of personnel administration, as the Secretary finds necessary for proper and efficient operation of the plan. In a very broad sense, methods of administration for State plans are specified in the *Handbook for Public Assistance Administration* for virtually all of the statutory provisions of the public assistance titles. Since most of these are discussed separately in this report, the only two items of concern at this point are the merit system for personnel administration and quality control of case actions.

(a) *Merit system for personnel administration*

The Federal standards for a merit system of personnel administration in the public assistance programs are the same as those used in the administration of certain other grant-in-aid programs. These standards have been issued by the Welfare Administration, the U.S. Public Health Service, the Bureau of Employment Security of the Department of Labor, and the Office of Civil Defense of the Department of Defense.[10] In those States having statewide civil service systems, these systems service the public as-

[10] Departments of Health, Education, and Welfare, Labor, and Defense. *Standards for a Merit System of Personnel Administration* (January 1963).

sistance programs if their standards are substantially equivalent to the Federal standards. If not, a separate administrative compartment tailored to the Federal standards must be established within the State civil service agency. In States without civil service systems, the Federal standards require the establishment of a Merit System Council to administer the merit system for the grant-in-aid programs.

The Federal standards provide an option whereby State agencies mav exempt several positions from the merit system standards if they so desire. These positions are: members of State and local boards or commissions; members of advisory councils or committees, or similar boards whose members are paid only for attendance at meetings; State and local officials serving ex officio and performing incidental administrative duties; the executive head of each State agency; one confidential secretary to any of the foregoing exempted officials; janitors; part-time professional personnel who are paid for any form of medical, nursing, or other professional service, and who are not engaged in the performance of administrative duties; and attorneys serving as legal counsel.

The Federal standards also require that there be a classification plan for all merit system positions; that a compensation plan be established and maintained; that appropriate competitive examinations be a part of the personnel appointment process; that there be a system of performance evaluation of the employees' work; and that proper personnel records be maintained by the State agency. In addition to merit system requirements, individuals whose principal employment, whether or not under the merit system, is in a federally aided agency, are subject to the prohibitions in the Hatch Act, administered by the U.S. Civil Service Commission.

The provisions in State plans regarding the merit system must comply with the Federal standards. The Division of State Merit Systems in the Office of Field Administration of the Department of Health, Education, and Welfare is responsible for advising and assisting the States in establishing and maintaining proper merit system standards, for reviewing State practices, and for enforcing compliance with the Federal standards.

(b) *Quality control of case actions*

The Federal administrative requirements which provide that the States shall establish a system of quality control of case actions cite four statutory provisions as authority for this requirement, as follows: the provision requiring statewide operation of the State plan; the single State agency requirement; the provision for such methods of administration as the Secretary may find necessary; and the requirement that the State agency make such reports as are required by the Secretary. Consequently, this might be discussed under any of these other provisions, but it is brought up here because it appears to be largely an administrative tool.

"Quality Control of Case Actions is a system under which all States will conduct a continuing review of the quality and accuracy of local agency actions on public assistance cases in the Federal categories." [11] Quality control was developed because public and official concern about the costs of public assistance and about the eligibility of the recipients thereof indicated the need for a systematic method of assuring State and Federal accountability in the public assistance programs.

Still further need for a systematic review of case actions was demonstrated by the Aid to Families With Dependent Children (AFDC) eligibility review which was made in 1963. This was the first nationwide review to be conducted by the States under Federal direction and standards. It disclosed that "a high percentage of recipients in many States received incorrect payments, and in an even larger number of instances, case records did not indicate that eligibility had ever been properly established." [12] Even before the review was completed, the States were informed that they would be required to participate in a quality control system on a continuing basis for all public assistance categories.

The quality control pattern of operations essentially is as follows: The Bureau of Family Services determines the standards, forms, methods, and required sample sizes which the State agencies use to administer the review. The State agency conducts the review of the quality of the actions of all local agencies. One-half of the sample of the local case actions to be reviewed are positive actions and one-half negative actions. The review is conducted by State agency personnel. These personnel carefully analyze all case records involved in the sample cases and substantiate these records by field investigations for all positive actions and to the extent feasible in the negative action cases. Careful records must be maintained by the central office personnel on the specified forms provided by the Federal agency.

The major focus of the review "is on the correctness of the local agency's action *at the time it was taken,* in the light of the situation as it existed at that time." [13] Further aspects of the review are: State agency analysis of the review findings in order to identify causes of the problems found; application by State and local agencies of corrective measures appropriate to the problems; and periodic reporting on the review to the Bureau of Family Services. Table I shows the required sample sizes, by State, for the quality control review for a 12-month period.

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[11] Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services, *A System of Quality Control of State Actions* (December 1963), p. 1.

[12] *Ibid.*

[13] *Ibid.*, p. 3.

TABLE I.—Quality Control: Required Sample Sizes

One-half of each sample is to cover "positive" actions (applications approved and cases continued after periodic redetermination) and half is to cover "negative" actions (applications denied and cases closed) [1]

State	Total	Aid to families with dependent children	Adult categories
Alabama	2,400	900	1,500
*Alaska	600	300	300
Arizona	1,200	600	600
Arkansas	1,800	600	1,200
California	3,000	1,500	1,500
Colorado	1,500	600	900
Connecticut	1,200	600	600
*Delaware	600	300	300
Florida	2,100	900	1,200
Georgia	2,400	900	1,500
*Hawaii	600	300	300
Idaho	900	*300	600
Illinois	2,400	1,200	1,200
Indiana	1,500	600	900
Iowa	1,500	600	900
Kansas	1,500	600	900
Kentucky	2,100	900	1,200
Louisiana	2,400	900	1,500
Maine	1,200	600	600
Maryland	1,200	600	600
Massachusetts	2,100	900	1,200
Michigan	2,100	900	1,200
Minnesota	1,500	600	900
Mississippi	2,100	900	1,200
Missouri	2,400	900	1,500
Montana	900	*300	600
Nebraska	900	*300	600
*Nevada	600	300	300
*New Hampshire	600	300	300
New Jersey	1,500	900	600
New Mexico	1,200	600	600
New York	2,700	1,500	1,200
North Carolina	2,100	900	1,200
North Dakota	900	*300	600
Ohio	2,400	900	1,500
Oklahoma	2,400	900	1,500
Oregon	1,200	600	600
Pennsylvania	2,700	1,500	1,200
Rhode Island	1,200	600	600
South Carolina	1,500	600	900
South Dakota	900	*300	600
Tennessee	2,100	900	1,200
Texas	2,400	900	1,500

See footnotes at end of table.

TABLE I.—Quality Control: Required Sample Sizes—(Continued)

State	Total	Aid to families with dependent children	Adult categories
Utah	1,200	600	600
Vermont	900	*300	600
Virginia	1,200	600	600
Washington	1,500	600	900
West Virginia	1,500	900	600
Wisconsin	1,500	600	900
*Wyoming	600	300	300

[1] Number of case actions to be reviewed in a 12-month period except as indicated for States with (*). Sample size for adult categories is preliminary, subject to revision.

*Because of relatively small number of completed case actions in these States, the required number of sample case actions are to be reviewed in 24 months.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services, *A System for Quality Control of Case Actions*, Attachment C, Washington, D.C., December 1963.

Upon transmittal of the Handbook material on the quality control review in August 1963, the Bureau of Family Services advised the States of the time schedule for implementing the review. This specified that the States would notify the Bureau in September 1963 for AFDC and in December 1963 for the adult categories as to the position in the central office of the State agency where overall responsibility for quality control was to be lodged. It also specified that in September and October for AFDC and in December and January for the adult categories, States should recruit and train staff for conducting the review, interpret the system to local agencies, and prepare the necessary administrative materials.

Field investigations for AFDC were to begin in November 1963, and for the adult categories in February 1964. By December 1, 1963, State agencies were to have submitted plan material for all categories in accordance with the Handbook provisions. January 1, 1964, for AFDC and April 1 for the adult categories were established as deadlines for full operation of the quality control review system.[14]

6. *Required reports*

All the public assistance titles specify that State plans must provide that the State agency will make such reports as the Secretary may from time to time require. Federal administrative requirements provide that State agencies submit two general types of reports: periodic statistical reports and reports on results of special studies. The former are the most numer-

[14] U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services, *Handbook Transmittal No. 12* (Aug. 23, 1963), pp. 2–3.

ous, and they are submitted recurrently by the States as specified by the Federal agency. They provide information needed on a continuing basis by both the Federal agency and the State agencies for efficient administration of the programs. In early 1964, the Handbook provided for the submission of 16 reports by State agencies, ranging from monthly reports to quadrennial reports. Of these 16 reports, 12 are required and 4 are of a voluntary nature. The special study reports generally are designed by the Bureau of Family Services "to assemble, for special administrative uses, information which is needed on a more comprehensive scale than can be economically maintained on a periodic basis." [15]

7. *Confidentiality of information*

The statutes provide that there shall be safeguards to restrict the use or disclosure of information regarding public assistance applicants and recipients to purposes of administering the program. This statutory provision and its Federal administrative interpretation led to considerable controversy in 1951, as will be discussed later, and was modified by amendment to the Internal Revenue Code. The amendment enables a State, if it so desires, to enact legislation to make available for public access the records of disbursements for public assistance, providing the conditions for such access are prescribed and the use of such information for commercial or political purposes is prohibited. The major purpose of the Social Security Act provisions for safeguarding information was to protect applicants and recipients from the public disclosure of confidential information they give to the public assistance agency regarding the circumstances that make them eligible for assistance and to prohibit the use of any public assistance information about individuals for commercial or political purposes.

8. *Opportunity for application*

All public assistance titles require that any individual desiring to make application for assistance shall have the opportunity to do so and that assistance will be furnished with reasonable promptness to those applicants found eligible. Federal administrative requirements provide that State plans must specify a time period for processing applications. If such period exceeds 60 days for permanent and total disability cases or 30 days for the other programs, the plan must contain justification for the longer time needed and a statement of intended corrective action.

9. *Age requirements*

The age requirements specified in the Social Security Act are: 65 years for Old-Age Assistance; not more than 18 years for Aid to Families with Dependent Children; 18 years and older for Aid to the Permanently and Totally Disabled; and no age requirement for Aid to the Blind. States

[15] Department of Health, Education, and Welfare, Social Security Administration, Bureau of Public Assistance, *Public Assistance Under the Social Security Act* (July 1961), p. 14.

must adhere to these requirements if they are to receive Federal matching funds for the recipients concerned.

However, it is possible for a State to provide broader coverage than these requirements permit and still receive Federal matching funds for those recipients who fall within the Federal requirements. For example, Colorado provides old-age assistance coverage for needy individuals 60 years of age and over if they have resided in the State for 35 years immediately preceding application. Under this program, the State receives Federal matching funds for qualified recipients 65 years and over, but not for those under 65.

10. *Residence requirements*

The Social Security Act specifies that the State plan for all public assistance programs, except Aid to Families With Dependent Children, shall not have residence requirements which require that a person reside in the State more than 5 of the previous 9 years and longer than 1 year immediately preceding application. A State plan for Aid to Families With Dependent Children may not deny aid with respect to any child otherwise eligible who has resided in the State for 1 year immediately preceding application for aid, or in the case of a child less than 1 year of age whose parent resided in the State 1 year immediately preceding the child's birth. These residence requirements are the strictest that the States may have and yet qualify for Federal matching funds. The States may, however, adopt more lenient requirements and still qualify. For example, New York has no residence requirement for assistance under any of the public assistance programs, except that the person must be a resident of the State at the time of application for assistance and thereafter.

11. *Concurrent benefits prohibited*

The Social Security Act provides that no individual may receive assistance under more than one of the public assistance programs simultaneously, except under Medical Assistance for the Aged where concurrent receipt is prohibited only with respect to Old-Age Assistance. While an individual may not receive concurrent benefits, assistance from more than one of the public assistance programs may go into the same household for different individuals.

12. *Notice of desertion by parent*

The act provides that a State plan for Aid to Families With Dependent Children must provide for giving prompt notice to law enforcement officials of aid being given with respect to a child who has been deserted by a parent. Federal administrative requirements specify that the State plan for AFDC shall provide for informing all applicants for assistance under this program of the requirement that law enforcement officials must be notified in all cases where assistance is being provided with respect to a child who has been deserted or abandoned by a parent. The Federal requirements also specify that the State plan shall establish criteria and

procedures for carrying out this requirement. These shall include the determination of who are defined as parents under the State law, the identification of the law enforcement officials to be notified of parent desertion, and the content of the written notices that are sent to these officials.

13. *Standards for determining eligibility and need*

The Federal statutes permit the States wide latitude in developing standards for determining eligibility and need in the public assistance programs. All of the public assistance titles (except the provisions for Medical Assistance for the Aged) provide that the State agency shall, in determining need, take into consideration any income and resources of an individual making application for assistance. In the Aid to the Blind program, the Federal statute requires that the first $85 per month of earned income plus half of the earned income in excess of $85 per month must be disregarded. This is the only requirement in the public assistance titles for disregarding income. However, there are optional provisions open to the States in all of the titles except Title XIV (APTD) for disregarding part of a recipients income for certain needs. Titles I (Grants to States for Old-Age Assistance and Medical Assistance for the Aged) and XVI (Grants to States for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged) provide that State plans shall include reasonable standards for determining eligibility and the extent of assistance under the plan.

In the case of determining eligibility and need, as in other instances, the Federal administrative requirements are more concerned that such State standards are uniform throughout the State, systematic, and complete than they are about the specific provisions of the State plan. In accordance with this general view, Federal administrative requirements specify, among other things, that the State plan must include the statewide standard for determining need and amount of assistance and the policies to be applied uniformly throughout the State; that the plan must include policies that will assure that all income and resources of an individual claiming assistance will be considered in determining that he is needy; and that the State plan must provide that the payment is based on the determination of the amount of assistance needed unless insufficient State public assistance funds preclude this. In such case the State plan must include a method, statewide in applicability, of adjusting individual payments that will be in effect uniformly in all localities.

14. *Standards for institutions*

If State Plans for Old-Age Assistance, Aid to the Blind, and Aid to the Permanently and Totally Disabled contain provisions for assistance to individuals in private or public institutions, the Social Security Act provides that a State authority must be designated to establish and maintain standards for such institutions. Under the provisions of these public assistance titles, the State may or may not provide assistance to persons in

institutions. However, if the State desires to provide such assistance, arrangements must be made for complying with the Federal requirement.

Federal administrative requirements in this connection emphasize the designation of State authorities to establish and maintain standards rather than specifying what the standards should be. The provisions regarding standards for institutions were added to the Social Security Act by amendment, effective in 1953, because of concern of the Congress over the inadequate standards in many public and private institutions (principally nursing homes for the aged). Congress believed that it was a necessary and proper function of State governments to establish and maintain such standards.

15. *Exclusion of certain types of institutions*

The titles of the act concerned with Aid to the Aged, Blind, and Disabled prohibit payments to inmates of public institutions, patients in institutions for tuberculosis or mental diseases, patients in medical institutions who are there as a result of illness previously diagnosed as tuberculosis or psychosis, and to individuals who have been in medical institutions longer than 42 days after their illness has been diagnosed as tuberculosis or psychosis.

The original Social Security Act virtually prohibited payments to individuals in mental and tuberculosis institutions by the provisions which excluded assistance payments to inmates of public institutions and limited assistance to money payments to needy individuals. Thus, the only assistance payments which went to persons in mental or tuberculosis hospitals were the money payments made to individuals in voluntary or private hospitals. The Social Security Act Amendments of 1950 changed these provisions by providing for Federal participation in the cost of medical care for eligible recipients and modifying the prohibition against granting assistance to persons who were patients in medical institutions. However, a further provision was added which prohibited Federal participation in the cost of assistance given to persons in tuberculosis or mental hospitals (public or voluntary) or persons in general hospitals as a result of a diagnosis of tuberculosis or psychosis. In 1960, the act was further amended to permit Federal participation in the cost of medical assistance to patients in general hospitals for 42 days after a diagnosis of tuberculosis or psychosis has been rendered.[16]

D. The Approval Process for State Plans

Both the central office of the Bureau of Family Services and the representatives in the regional offices have important roles in the approval of State plans. Their roles are important during all phases of the preparation and administration of the plans.

[16] Department of Health, Education, and Welfare, Bureau of Family Services, Internal Memorandum (Feb. 15, 1963).

The most significant administrative requirements applicable to State plans have been noted above. The Handbook, which contains the requirements, is distributed by the Bureau of Family Services to its regional representatives and to the State agencies. In addition to the statutory and administrative requirements, the Handbook includes, among other things, items of legislative history, discussion of the manner in which certain policies are developed, functions of the Bureau of Family Services, and recommendations for the improvement of State public assistance programs.

However, one part of the Handbook (VI–1100) contains instructions for submittal of State public assistance plans initially, and amendment thereto; and this specifies precisely the subject matter which must be covered in the State plan when it it submitted for Federal approval.

The general pattern for the preparation and approval of plans is as follows: A State predicates a public assistance plan on its own statutes providing the legal base therefor. The Single State agency charged with the responsibility for the program draws up the plan in accordance with the State law and the Federal statutory and administrative requirements. The regional representatives of the Bureau of Family Services advise the State agency of interpretations of the Federal requirements and how State policies and procedures can be adjusted to conform with these requirements. In most instances, the regional personnel are able to advise the State agency as to whether or not the plan is likely to be approved. However, a State may submit a completed draft of its plan to the Federal agency for informal review and comment prior to formal submittal of the plan.

The regional office continues to have an important role as the formal approval of a State's plan nears. Virtually all communications between the State agency and the central office of the Bureau of Family Services flow through the regional office. This is true not only of items regarding approval of a State plan but of other matters as well. While the final recommendation to the Commissioner of Welfare on approval or disapproval of a State plan comes from the central office of the Bureau of Family Services, the regional representatives have a very important voice in the formulation of the final decision. After the State plan

is approved by the Welfare Commissioner, the State may begin receiving Federal matching funds for the programs involved.

Formal approval of a State plan by the Welfare Commissioner is only the beginning of Federal-State relations in the public assistance partnership. The Federal agency must be assured at all times that the State is operating its program in accordance with the approved plan. A most important device for maintaining continuous review of State and local administration of public assistance is the administrative review conducted by regional office personnel of the Bureau of Family Services. The purpose of the administrative review is to provide a factual basis for assuring that State agencies continue to adhere to Federal requirements and the provisions of their State plans, and for assisting State agencies in attaining the highest practicable standards of administration and achievement of program objectives. The review is carried out through:

> (1) direct observation of agency operations by means of interviews with staff, review of agency records and related sources of information, and (2) analysis of a State agency's data from its own methods of keeping informed.[17]

The administrative review is intended to round out the various other means of obtaining information about the State programs such as the regular required research and statistical reports and the reviews of the Divisions of Grant-in-Aid Audits and State Merit Systems in order to give the Bureau of Family Services a unified picture of total State practice in public assistance. The review is conducted annually.[18]

E. Payments to the States

Upon approval of a State plan, the Secretary is authorized by the Social Security Act to make payments to the States from Federal appropriations according to specific formulas spelled out for the different titles, as follows:

> The basic formula for determining the Federal share of assistance is in two parts. Effective October 1, 1962, in the first part, the Fed-

[17] U.S. Department of Health, Education, and Welfare, Social Security Administration, Bureau of Public Assistance, *Program Staff Manual,* Ch. 5–10 (July 1, 1961), p. 3.

[18] *Ibid.*

eral share is $^{29}/_{35}$ of the first $35 of the average monthly payment per recipient for the aged, blind, and disabled under titles I, X, and XIV, or per recipient of aid to the aged, blind or disabled under title XVI; and $^{14}/_{17}$ of the first $17 per recipient in aid to families with dependent children.

The second part of the formula is applicable to monthly expenditures in excess of the amounts stated above, up to the prescribed limit of $70 times the number of (1) recipients of old age assistance, aid to the blind, and aid to the permanently and totally disabled, or (2) recipients of aid to the aged, blind, or disabled (under title XVI); and $30 times the number of recipients for aid to families with dependent children. The Federal percentage to be applied for this part of the formula is derived by relating the State's per capita income to the national per capita income. This percentage will range among States from a minimum of 50 percent to a maximum of 65 percent. * * *

* * * * * * *

In addition to the basic formula, as described above, for determining the Federal share of old-age assistance under title I and aid to the aged, blind or disabled under title XIV, there is additional Federal financial participation provided to States that make vendor medical payments. Two alternative formulas have been provided to determine the additional Federal funds for such vendor medical payments. The formula to be applied on and after October 1, 1962, for any individual State in a specified quarter is the one of two alternatives that yields the larger amount of additional Federal funds for that State in that quarter:

(1) An amount equal to 15% of vendor medical payments each month up to a maximum of $15 per recipient per month from Federal, State and local funds; or

(2) An amount equal to the 'Federal medical percentage' of the amount of vendor medical payments up to a maximum of $15 per recipient per month, or of the amount by which the total average payment exceeds $70, whichever is less.

Thus, additional Federal participation in vendor medical payments cannot be earned in more than a total of $15 per recipient per month.

The 'Federal medical percentage' differs from the 'Federal percentage' used in the basic formula for determining the Federal share of old-age assistance, in that the former varies from a minimum of 50% to a maximum of 80%, whereas the latter varies from a minimum of 50% to a maximum of 65%. In both instances, the percentage is based upon the relationship of the State's per capita income to the national per capita income.

The formula for determining the Federal share of assistance expenditures for medical assistance for the aged is the 'Federal medical

percentage' of the State's monthly expenditures, with no maximum for any jurisdiction.[19]

The public assistance titles also provide for Federal grants to the States for 75 percent of the cost of preventive and rehabilitative services specified by the Secretary and for training of personnel. The Federal share of other nonassistance costs is one-half. Table II shows the amounts and percentages of Federal funds provided for the public assistance programs in fiscal year 1963 on the basis of the statutory formulas.

In order that the Secretary may fulfill his statutory responsibility for assuring that Federal matching funds are expended for their intended purposes under the approved State plan, the annual fiscal audit of each State's accounts and records pertaining to Federal funds for public assistance has been established. The audit is conducted by the Division of Grant-in-Aid Audits in the Office of Field Administration of the Department of Health, Education, and Welfare, for the purpose of making the following determinations regarding the use of Federal funds:

TABLE II.—Financial Data on Public Assistance Payments and Amounts and Percentages From Federal Funds Fiscal Year 1963

[Dollar amounts in thousands]

Program	Total funds, all governments	Federal	
		Amount	Percent
OAA	$2,003,338	$1,297,769	64.8
MAA	289,175	147,477	51.0
AFDC	1,425,876	826,752	58.0
AB	95,001	45,401	47.8
APTD	387,109	217,993	56.3
All programs	4,200,499	2,535,392	60.4

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services, *Trend Report* (December 1963).

(*a*) That the State has properly reported its accountability for grants of Federal funds for public assistance;

[19] U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services, *Handbook of Public Assistance Administration,* Pt. V, Secs. 2231 through 2231.11.

(*b*) That amounts claimed for Federal matching for public assistance payments were actually expended to individuals determined by the State * * * to be entitled to public assistance under the appropriate category; and that such payments were proper in their fiscal aspects;

(*c*) That amounts claimed as public assistance administrative expenditures were actually expended by the State and charged to the appropriate category, for the purposes defined * * * as necessary or appropriate to the administration of public assistance * * *;

* * * * * * *

(*f*) That amounts expended and used as a basis for claiming Federal funds (under the public assistance titles) were not derived from other Federal sources and were not used as a basis for other Federal matching; and

(*g*) That the share of the Federal Government in any collection was accurately and promptly adjusted with or remitted to the Federal Government.[20]

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[20] U.S. Federal Security Agency, Office of Federal-State Relations, *Grant-in-Aid Audit Bulletin 1* (Oct. 12, 1948), pp. 1–2.

Chapter III

THE ROLE OF THE STATES IN THE PUBLIC ASSISTANCE PROGRAMS

The States have had a much greater voice in shaping their public assistance programs than frequently has been assumed by critics of the Federal role. The exercise of State discretion has had a great deal to do with determining the shape of things as they are, and there is wide variation among the States in many important aspects of public assistance administration.

It is clear that the Federal Government has a central and dominant role in financing, establishing certain National policies and standards, and in determining the overall direction of public assistance over the country. The Federal administering agency also establishes controls to deal with rather minute details of some aspects of the programs. Nevertheless, the actions of the States have had significant impact on the program. Regarding the Federal-State partnership in the public assistance programs, Edward A. Lutz has written that "states generally get their way, when sufficiently determined, where it counts most—that is, in fixing program levels to be supported in part by Federal funds." [21]

While Federal statutory and administrative requirements in many instances establish boundaries beyond which the corresponding State provisions cannot go, the fact remains that the State laws are the basis for State programs, and they vary widely in general philosophy as well as specific detail. State statutory and administrative provisions cover the entire gamut of subjects involved in public assistance. However, for the purposes of this report, the most important of these provisions will be discussed under three headings—(A) Organization, Administration, and

[21] Edward A. Lutz, *Some Problems and Alternatives in Developing Federal Block Grants to States for Public Welfare Purposes* (New York: Government Affairs Foundation, Inc., 1954).

Financing; (B) Eligibility Requirements and the Determination of Need; and (C) Impact of State Statutory and Administrative Provisions on Program Levels and Size of Recipient Rolls.

A. Organization, Administration, and Financing

Without regard here to the desirability or necessity of the requirement, it is clear that the Federal statutory provision for the designation of a single State agency to supervise the administration of a State public assistance plan and the administrative interpretation of this provision has limited the flexibility of State organization for administering public assistance. Another limitation on State organization is the Federal statutory requirement for granting a fair hearing before the State agency to any individual whose application for assistance is denied. As a result of these Federal limitations on State organization, three organizational patterns or slight variations thereof have emerged. The principal arrangement is where States have designated a major department or agency which administers other programs as well as public assistance as the single State agency for the latter. Forty-three States have organizations which follow this pattern. Another arrangement has been the designation of a division of a major State department or agency as the single State agency for the public assistance programs. Alaska, Missouri, and Pennsylvania do this. A third arrangement is in operation in Delaware, Massachusetts, North Carolina, and Virginia. These States follow the first organizational arrangement for all public assistance programs except Aid to the Blind. Delaware, North Carolina, and Virginia each have a single State agency which administers Aid to the Blind separate from the other public assistance programs. In Massachusetts the Aid to the Blind program is administered by a division of the State Department of Education which is designated as the single State agency.

Regardless of which of these arrangements a State has adopted, the same single State agency administers the four categorical public assistance programs in all States except the four mentioned which have a separate single State agency to administer Aid to the Blind. The two essential criteria that a single State agency must meet to comply with Federal requirements

are: (1) it must be responsible for final administrative decisions respecting policies, rules, and regulations and for final administrative hearing decisions; and (2) the administrative decisions of the agency must not be subject to review by any State official other than the Governor.[22] The Federal statutory provision for a single State agency and administrative interpretations of the provision have in some instances caused disagreements between States and the Federal Government as will be discussed later.

There are two methods by which States administer the public assistance programs—the State administered program and the State supervised, locally administered program. The State administered program essentially is a State program in which the State determines all policies, standards, rules, and regulations. Under this type of administration local or county agencies are administrative units of the State agency, and all of the personnel at the local level are State employees. In a State supervised program the State establishes virtually the same guidelines and control as in the State administered program. However, in the State supervised program the counties or other local political subdivisions actually administer the program, and the administering personnel are employees of the local government and not of the State. This allows for some local flexibility in administering the programs. State public assistance agencies keep the local agencies informed as to Federal and State policies and regulations that must be followed in order to stay in conformity with the Federally approved State plans.

Under both the State administered and the State supervised programs, local public assistance directors are appointed under the merit system except in New York where some local welfare directors are elected. Local directors are generally appointed by the State welfare agency in the States with State administered programs. In States having State supervised programs local directors are appointed by the county welfare board in most instances.

A total of 27 States have State administered programs for the 4 categorical public assistance programs, 21 have State super-

[22] The Council of State Governments, *State Government Organization and Federal Grant-in-Aid Program Requirements,* A Report to the Governors' Conference (July 1–4, 1962), pp. 16–17.

vised systems for all 4, and Massachusetts and Ohio have a State administered program for aid to the blind and old-age assistance, respectively, and State supervised programs for the remaining 3 categories (table III). In general, the non-Federal share of both administrative and assistance costs in State administered programs tends to be financed by State funds alone, while such share in State supervised programs tends to be financed by State and local funds. However, as table III shows, there are a number of exceptions to this generalization.

Another indication of State flexibility in the administration of the public assistance programs is in the method by which States appoint the chief executive officer of the administering State agency. There are three general methods of appointment, as shown in table IV. One is appointment by the Governor. A second is appointed by the Governor with confirmation by at least one house of the State legislature. A third method of appointment is by the State advisory, policy forming, or administrative board on public welfare. These boards have different titles and responsibilities in the different States. Alaska and Colorado are the only States that do not follow one of these three appointment patterns. Most of the States take advantage of the option to exempt the chief executive officer from the merit system. However, the Hatch Act applies to all of these officials regardless of the method of appointment.

B. Eligibility Requirements and the Determination of Need

Perhaps the area of greatest flexibility allowed the States in administering the public assistance programs is in the determination of eligibility requirements for recipients. The various Federal limitations as to eligibility have been discussed and here we deal with what the States have done within these limits.

It will be recalled that the Social Security Act in the titles covering Old-Age Assistance, Aid to the Blind, and Aid to the Permanently and Totally Disabled provides that a State plan may not impose any citizenship requirement which excludes any citizen of the United States. Table V shows what the States have done within this limitation. Eleven States either require that the public assistance recipients in at least one of the programs be citizens or have a specified number of years residence in the

TABLE III.—Type of State Administration and Source of Non-Federal Funds for Public Assistance—by Program

State	Administration		Financing			
			Administrative costs		Assistance costs	
	State administered	State supervised	State funds only	State and local funds	State funds only	State and local funds
Alabama	.....	All	All	.....	All	.....
Alaska	All	.....	All	.....	All	.....
Arizona	All	.....	All [1]	.....	All	.....
Arkansas	All	.....	All	.....	All	.....
California	.....	All	.....	All	.....	All
Colorado	.....	All	.....	All	OAA	AB, AFDC, APTD.
Connecticut	All	.....	All	.....	All	.....
Delaware	All	.....	All	.....	OAA, AB, APTD.	AFDC
District of Columbia.						
Florida	All	.....	All	.....	All	
Georgia	.....	All	.....	All	.....	All
Hawaii	All	.....	All	.....	All	.....
Idaho	All	.....	All	.....	All	.....
Illinois	All	.....	All	.....	All	.....
Indiana	.....	All	.....	All	.....	All
Iowa	.....	All	OAA	AB, AFDC, APTD.	OAA	AB, AFDC, APTD.
Kansas	.....	All	.....	All	.....	All
Kentucky	All	.....	All	.....	All	.....
Louisiana	All	.....	All	.....	All	.....
Maine	All	.....	All	.....	OAA, AB, APTD.	AFDC
Maryland	.....	All	.....	All	.....	All
Massachusetts	AB	OAA, AFDC, APTD.	AB	OAA, AFDC, APTD.	AB	OAA, AFDC, APTD.
Michigan	All	.....	All [2]	.....	All	.....
Minnesota	.....	All	.....	All	.....	All
Mississippi	All	.....	All	.....	All	.....
Missouri	All	.....	All	.....	All	.....
Montana	.....	All	.....	All	.....	All
Nebraska	.....	All	All	.....	All	.....
Nevada [3]	All	.....	All	.....	All	.....

See footnotes at end of table.

TABLE III.—Type of State Administration and Source of Non-Federal Funds for Public Assistance—by Program (Continued)

State	Administration		Financing			
			Administrative costs		Assistance costs	
	State administered	State supervised	State funds only	State and local funds	State funds only	State and local
New Hampshire	All		All		AB, AFDC.	OAA, APTD.
New Jersey		All		All		All
New Mexico	All		All		All	
New York		All		All		All
North Carolina		All		All		All
North Dakota		All	AB	OAA, AFDC, APTD.	AB	OAA, AFDC, APTD.
Ohio	OAA	AB, AFDC, APTD.	OAA	AB, AFDC, APTD.	OAA	AB, AFDC, APTD.
Oklahoma	All		All		All	
Oregon		All	All			All
Pennsylvania[4]	All		All		All	
Rhode Island	All		All		All	
South Carolina		All	All		All	
South Dakota	All		All		All	
Tennessee	All		All			All
Texas	All		All		All	
Utah		All	All		All	
Vermont	All		All		OAA, AB, APTD.	AFDC
Virginia		All		All		All
Washington	All		All		All	
West Virginia	All		All		All	
Wisconsin		All		All		All
Wyoming		All	All		AB	OAA, AFDC, APTD.

[1] Except County Boards of Supervisors are required to furnish county public welfare departments office space, costs of which are matched by Federal funds.

[2] Except cost of local office space furnished by county.

[3] Does not have an APTD program.

[4] In the APTD program local funds are used for the non-Federal share of assistance and administrative costs for nursing home care of recipients in institutions operated by county authorities.

Source: U.S. Department of Health, Education, and Welfare, Social Security Administration, Bureau of Family Services, *Characteristics of State Public Assistance Plans Under the Social Security Act*, Washington, D.C., 1962.

TABLE IV.—Method of Appointing Chief Executive Officer of State Public Assistance Agency

State	Appointed by Governor	Appointed by Governor with consent of at least 1 house of legislature	Appointed by—
Alabama			State Board of Pensions and Security
Alaska			Commissioner of Department of Health and Welfare.
Arizona			State Board of Public Welfare.
Arkansas	X		
California		X	
Colorado			Colorado Civil Service.
Connecticut		X	
Delaware [1]			State Board of Welfare.
Florida			State Welfare Board.
Georgia	X		
Hawaii		X	
Idaho	X		
Illinois			State Public Aid Commission.
Indiana	X		
Iowa			State Board of Public Welfare.
Kansas			State Board of Social Welfare.
Kentucky	X		
Louisiana			State Board of Public Welfare.
Maine	X [2]		
Maryland			State Board of Public Welfare under Merit System.
Massachusetts [3]	X		
Michigan			State Social Welfare Commission.
Minnesota		X	
Mississippi			State Board of Public Welfare.
Missouri		X	
Montana			State Board of Public Welfare in cooperation with Governor.
Nebraska		X	
Nevada	X [4]		
New Hampshire			State Board of Public Welfare.
New Jersey			State Board of Control subject to approval by Governor.
New Mexico			State Board of Public Welfare.
New York			State Board of Social Welfare.
North Carolina			State Board of Public Welfare with Governor's approval.
North Dakota			State Public Welfare Board.
Ohio		X	
Oklahoma			Public Welfare Commission.
Oregon			State Public Welfare Commission.
Pennsylvania		X	
Rhode Island		X	

See footnotes at end of table.

TABLE IV.—Method of Appointing Chief Executive Officer of State Public Assistance Agency (Continued)

State	Appointed by Governor	Appointed by Governor with consent of at least 1 house of legislature	Appointed by—
South Carolina			State Board of Public Welfare.
South Dakota	X		
Tennessee	X		
Texas			State Board of Public Welfare with advice and consent of Senate.
Utah	X		
Vermont		X	
Virginia		X	
Washington		X	
West Virginia		X	
Wisconsin			State Board of Public Welfare.
Wyoming			State Board of Public Welfare.
Total	11	13	26.

[1] In Delaware the executive officer of the Aid to the Blind program is appointed by the Commission for the Blind.

[2] Appointed by Governor with the consent of the Advisory Council of Health and Welfare.

[3] In Massachusetts the executive officer of the Aid to the Blind program is appointed by the Governor with the consent of the Governor's Council.

[4] Appointed by the Governor in accordance with State merit system except for purposes of removal.

Source: U.S. Department of Health, Education, and Welfare, Social Security Administration, Bureau of Family Services, *Characteristics of State Public Assistance Plans Under the Social Security Act*, Washington, D.C., 1962.

United States in lieu of citizenship. The act contains no specific provisions regarding a citizenship requirement under the AFDC program and Texas is the only State which has imposed one.

As previously noted, all States except Colorado adhere to the Federal requirement of age 65 for eligibility for Old-Age Assistance. Table VI shows, however, that there is considerable variation among the States in their age requirements for the other three public assistance programs. In the AFDC program, 29 States use the Federal maximum age limit of under 18 years. Nineteen States require that recipients under 18 years of age must be in school if physically and mentally capable of attending.

For those not in school in these States, the age requirement is under 16 years. Two States have still other age requirements.

There are no Federal age requirements for the aid to the blind program. As shown in table VI, 28 States likewise have no age limitations. However, 10 States require that recipients be 16 years of age. Eight States require that recipients be 18 years old; three States have a requirement of 21 years; and the requirement in North Dakota is "under 65." In the APTD program a total of 22 States follow the Federal provision, 25 States have limitations of 18 and under 65 years; 2 States have slightly different requirements; and Nevada has no APTD program.

The Social Security Act's provisions regarding residence requirements which the States may establish in the OAA, AB, and APTD programs, as noted earlier, are that such requirements shall not exceed more than 5 of the preceding 9 years including the year immediately preceding application. Table VII shows that in the Old-Age Assistance program, 17 States have a residence requirement of 5 of the preceding 9 years with 1 year immediately preceding application, subject to minor modifications in some States, 23 States have a residence requirement of the preceding year subject to modification by reciprocal arrangements with other States, 6 States have other requirement combinations, and 4 States have no durational residence requirement.

Under Aid to the Blind, 11 States require residence for 5 of the preceding 9 years including 1 year immediately preceding application, subject to minor modifications in some States; 24 States require residence for 1 year immediately preceding application, subject to minor modifications; 9 States have other requirement combinations, while 6 States have no durational residence requirement.

For Aid to the Permanently and Totally Disabled, 11 States have a residence requirement of 5 of the preceding 9 years including 1 year immediately preceding application, subject to minor modifications in some States; 29 States require residence for 1 year preceding application, with some modifications; 3 States have some other requirement combination; 6 States have no durational residence requirement; and Nevada has no APTD program.

TABLE V.—Citizenship Eligibility Requirements for Old-Age Assistance, Aid to the Blind, and Aid to the Permanently and Totally Disabled

State	Old-Age Assistance			Aid to the Blind			Aid to the Permanently and Totally Disabled		
	None	Required	Residence in lieu of citizenship (years)	None	Required	Residence in lieu of citizenship (years)	None	Required	Residence in lieu of citizenship (years)
Alabama	X			X			X		
Alaska	X			X			X		
Arizona			15			15			15
Arkansas	X			X			X		
California	X [1]			X			X [1]		
Colorado		X		X			X		
Connecticut	X			X			X		
Delaware	X			X			X		
Florida			20			20			20
Georgia	X			X			X		
Hawaii	X			X			X		
Idaho	X			X			X		
Illinois	X			X			X		
Indiana		X			X		X		
Iowa			25		X [2]		X		
Kansas	X			X			X		

Kentucky	X			X			X		
Louisiana	X			X			X		
Maine	X			X			X		
Maryland	X			X			X		
Massachusetts	X			X			X		
Michigan	X			X			X		
Minnesota	X			X			X		
Mississippi	X			X			X		
Missouri	X			X			X		
Montana	X			X			X		
Nebraska	X			X			X		
Nevada	X			X				No program	
New Hampshire		X [3]		X				X	
New Jersey	X			X			X		
New Mexico	X			X			X		
New York	X			X			X		
North Carolina	X			X			X		
North Dakota			10			10			10
Ohio	X			X			X		
Oklahoma	X			X			X		
Oregon	X			X			X		
Pennsylvania	X			X			X		
Rhode Island	X			X			X		
South Carolina		X		X			X		

See footnotes at end of table.

TABLE V.—Citizenship Eligibility Requirements for Old-Age Assistance, Aid to the Blind, and Aid to the Permanently and Totally Disabled (Continued)

State	Old-Age Assistance			Aid to the Blind			Aid to the Permanently and Totally Disabled		
	None	Required	Residence in lieu of citizenship (years)	None	Required	Residence in lieu of citizenship (years)	None	Required	Residence in lieu of citizenship (years)
South Dakota	X			X			X		
Tennessee	X			X			X		
Texas		X			X			X	
Utah	X			X			X		
Vermont			25			25			25
Virginia	X			X			X		
Washington	X			X			X		
West Virginia	X			X			X		
Wisconsin	X			X			X		
Wyoming			15	X			X		

[1] Noncitizen must not have been convicted of an overt act against the Government of the United States.

[2] Or has made application for citizenship.

[3] Or an alien who has resided continuously in the United States for 10 years with 5 of last 9 in New Hampshire.

Source: U.S. Department of Health, Education, and Welfare, Social Security Administration, Bureau of Family Services, *Characteristics of State Public Assistance Plans Under the Social Security Act*, Washington, D.C., 1962.

TABLE VI.—Age Eligibility Requirements for Aid to Families With Dependent Children, Aid to the Blind, and Aid to the Permanently and Totally Disabled

State	Aid to Families With Dependent Children			Aid to the Blind					Aid to the Permanently and Totally Disabled	
	Under 16, or 18 if at school	Under 18	Other	16 or over	18 and over	21 and over	Under 65	No limitation	18 and under 65	18 and over
Alabama		X		X					X	
Alaska		X			X					X
Arizona	X			X						X
Arkansas	X			X						X
California	X			X						X
Colorado	X							X	(1)	
Connecticut		X						X		X
Delaware		X				X				X
Florida		X						X	X	
Georgia			X [2]	X					X	
Hawaii		X						X		X
Idaho	X							X		X
Illinois		X						X	X	
Indiana	X				X					X
Iowa	X				X				X	
Kansas		X						X		X
Kentucky	X							X		X

See footnotes at end of table.

TABLE VI.—Age Eligibility Requirements for Aid to Families With Dependent Children, Aid to the Blind, and Aid to the Permanently and Totally Disabled (Continued)

State	Aid to Families With Dependent Children			Aid to the Blind					Aid to the Permanently and Totally Disabled	
	Under 16, or 18 if at school	Under 18	Other	16 or over	18 and over	21 and over	Under 65	No limitation	18 and under 65	18 and over
Louisiana	X							X	X	
Maine		X		X					X	
Maryland		X						X		X
Massachusetts		X			X				X	
Michigan		X		X						X
Minnesota		X						X	X	
Mississippi	X							X	X	
Missouri	X				X					X
Montana		X						X		X
Nebraska	X			X					X	
Nevada	X							X	No Program	
New Hampshire	X							X	X	
New Jersey		X			X				X	
New Mexico	X							X		X

New York	X						X		X
North Carolina	X						X	X	
North Dakota	X [3]					X		X	
Ohio	X			X				X	
Oklahoma	X						X	X	
Oregon	X						X		X
Pennsylvania	X				X			X	
Rhode Island	X						X	X	
South Carolina	X						X	X	
South Dakota	X			X					X
Tennessee	X						X	X [4]	
Texas		X [2]			X			X	
Utah	X						X	X	
Vermont	X		X						X
Virginia	X						X	X	
Washington	X		X						X
West Virginia	X						X	X	
Wisconsin	X [5]						X		X
Wyoming	X						X	X	

[1] 18 years or over and under 60 years, or if over 60 years of age, is ineligible for Colorado old-age assistance.

[2] Under 16 years.

[3] Under 18 years, if living in home of a relative by blood, marriage, or adoption. Under 21 years, if living in a licensed child caring or child-placing institution, of if physically or mentally incapacitated or otherwise eligible.

[4] 18 years through 65.

[5] Under 21 years without Federal financial participation.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services.

TABLE VII.—Residence Eligibility Requirements for Old-Age Assistance, Aid to the Blind, and Aid to the Permanently and Totally Disabled

State	Old-Age Assistance			Aid to the Blind			Aid to the Permanently and Totally Disabled		
	5 of last 9 plus year preceding	Preceding year	Other	5 of last 9 plus year preceding	Preceding year	Other	5 of last 9 plus year preceding	Preceding year	Other
Alabama		X			X			X	
Alaska			X [1]			X [1 2]			X [1]
Arizona	X			X [2]			X		
Arkansas	X [3]			X [2]			X [3]		
California	X					X [4]	X		
Colorado			X [5]			X [6]		X	
Connecticut			X [4]			X [4]			X [4]
Delaware		X [7]			X [7]			X [7]	
Florida	X			X [8]			X		
Georgia		X			X			X	
Hawaii			X [4]			X [4]			X [4]
Idaho		X [7]			X [7]			X	
Illinois		X			X [2]			X	
Indiana			X [2]			X [2 9]	X		
Iowa	X			X [2]				X	
Kansas	X [10]			X [10]			X [10]		
Kentucky			X [11]			X [11]			X [11]
Louisiana	X			X [2]			X		
Maine		X [7]			X [7]			X [7]	

Maryland		X [7]			X [2 7]			X	
Massachusetts		X			X [2]			X	
Michigan	X [7]			X [2 7]				X	
Minnesota		X			X [2]			X	
Mississippi		X				X [4]		X	
Missouri	X			X				X	
Montana	X			X [2]				X	
Nebraska	X [7]				X [7]		X [7]		
Nevada	X					X [12]		No Program	
New Hampshire	X [7]				X [7]		X [7]		
New Jersey		X [7]			X [7]			X [7]	
New Mexico		X			X [2]			X	
New York			X [4]			X [4]			X [4]
North Carolina		X			X				None
North Dakota		X			X			X	
Ohio			X [9]			X [2 9]		X	
Oklahoma	X			X [2]			X		
Oregon	X					X [2 9]		X	
Pennsylvania		X [7]			X [7]			X [7]	
Rhode Island			X [4]			X [4]			X [4]
South Carolina		X			X [2]				None
South Dakota		X			X			X	
Tennessee		X			X			X	
Texas	X			X			X		
Utah		X [7]			X [7]			X [7]	
Vermont			X [13 7]			X [2 13 7]			X [13 7]
Virginia		X			X			X	

See footnotes at end of table.

TABLE VII.—Residence Eligibility Requirements for Old-Age Assistance, Aid to the Blind, and Aid to the Permanently andTotally Disabled (Con.)

State	Old-Age Assistance			Aid to the Blind			Aid to the Permanently and Totally Disabled		
	5 of last 9 plus year preceding	Preceding year	Other	5 of last 9 plus year preceding	Preceding year	Other	5 of last 9 plus year preceding	Preceding year	Other
Washington	X					X [14]		X	
West Virginia		X			X			X	
Wisconsin		X			X [2]			X	
Wyoming		X			X			X	

[1] 5 years during 9 years immediately preceding application.

[2] Or lost vision while resident of State.

[3] Or 3 years during the 5 years immediately preceding application, and last 1 year continuously.

[4] No durational residence requirement. Must be resident of the State at time of application.

[5] 5 of 9 years immediately preceding application. If between 60 and 65, 35 years residence required immediately preceding application (exclusive of Federal participation).

[6] 5 of last 9 years immediately preceding application, or became or shall become blind while a bona fide resident of State.

[7] May be waived or altered through reciprocal agreement with other States.

[8] For minors, 1 year preceding application; if under 1 year of age, the parent or relative with whom child is living must have resided in the State 1 year immediately preceding the birth of the child.

[9] 3 of last 9 years with 1 year continuous and immediately preceding application.

[10] For honorably discharged veterans, their wives or widows, 1 year immediately preceding application. If veteran was resident of Kansas at enlistment, the 1 year requirement is waived.

[11] 6 months immediately preceding application; reciprocal agreements may be made with other States.

[12] 2 out of last 9 years with 1 year immediately preceding application; or became blind while a resident of the State.

[13] 2 years of the past 6 years immediately preceding application. May be waived through reciprocal agreements with other States.

[14] 5 out of last 10 years immediately preceding application or lost eyesight after entry into State, from cause not existing at time of entry, and has resided continuously in State since loss of sight.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services.

The Federal residence requirements for the AFDC program provides that the State plan shall have no residence requirement in excess of 1 year immediately preceding application or, in the case of a child under 1 year of age, assistance must be granted in otherwise eligible cases if the parents resided in the State 1 year preceding the birth of the child. Since this requirement allows little flexibility, the States have either adopted the wording of the Federal provision or established a somewhat more liberal requirement.

In determining the need of an applicant for assistance, the Federal statute requires that State public assistance plans provide for consideration of any income and resources an applicant may have. However, within reasonable outer limits the States have a free hand in how the income and resources shall be determined and they have devised a number of differing limitations on the amounts of real and personal property an applicant may possess and still be eligible for assistance. In regard to property used as a home by Old-Age Assistance applicants, 28 States evaluate the home separately from other real property and specify no separate dollar maximum for such property. Twenty-two States evaluate the home against a maximum dollar value, which is stated in terms of "market," "sale," or "real value," "equity in home," or "assessed value." These limitations, stated in these terms, range from "moderate value plus $750" in Kansas and $1,500 in New Hampshire on the low side to a maximum of $12,000 in Ohio.[23]

For the consideration of the monetary value of an applicant's reserves of real property other than home, personal property, or a combination of the two, 48 States have established dollar limitations which such resources cannot exceed if the applicant is to be eligible for assistance. Two States—New Jersey and New York—require the consideration of these resources in determining eligibility, but do not specify dollar limitations. Of the 48 States that have dollar limitations on such real property, 27 States specify a maximum of $500 or less, 11 specify maximums between

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[23] Department of Health, Education, and Welfare, Social Security Administration, Bureau of Public Assistance, *Summary Data on Eligibility Requirements With Respect to Relatives' Responsibility, Liens on Property, Limitations on Property Ownership and Residence in Old-Age Assistance* (December 1960).

$550 and $800, and 10 States specify maximums between $1,000 and $1,500.[24]

The establishment of criteria for determining whether public assistance applicants are in need is a matter which likewise is left almost entirely to the States. The policies of the States in this regard range from austerity to prodigality. Federal requirements provide that any income and resources of the individual must be taken into consideration in determining need in all programs, and that in the Aid to the Blind program the first $85 per month of earned income plus one-half of that over $85 per month must be disregarded in the consideration of need. Most States define a person in need with such phrases as "having insufficient income and other resources to provide a reasonable subsistence compatible with decency and health," although eight States have established a minimum monthly dollar amount for one or more of the public assistance programs as a criterion for determining need.[25] States generally develop a budget for recipients in order to determine individual or family requirements. In some States the maximum payments permitted may not be sufficient to meet the budgeted needs.

C. Impact of State Statutory and Administrative Provisions on Program Levels and Size of Recipient Rolls

Most of the States statutory and administrative provisions discussed, either directly or indirectly, have an impact on the payment levels of the public assistance programs and the size of the recipient rolls. As shown below, different legislative and administrative actions of the States are a major influence on the public assistance payment levels and the number of recipients. There are, of course, wide differences among the States in the economic, social, political, organizational, and administrative environment surrounding the public assistance programs. Nevertheless, the following is indicative of important factors, arising out of flexibility left to the States, that help to explain the varying payment

[24] *Ibid.*

[25] The eight States are: Arizona, California, Colorado, Louisiana, Massachusetts, Nevada, Washington, and Wyoming. These limitations range from the low of $30 per child per month in the AFDC program in Nevada to $117.80 per recipient per month in the AB program in California.

levels and the striking differences in the relative size of the recipient rolls among the States.

Tables VIII and IX, for AB and APTD, respectively, indicate the average monthly public assistance payment per recipient by State for June 1963, and the statutory and/or administrative limits on the monthly money payments. Tables X and XI show the same data for Old-Age Assistance and Aid to Families with Dependent Children, respectively. It should be noted that in these tables the average monthly payment per recipient includes vendor payments for medical care whereas the State statutory and administrative limits on monthly payments apply ordinarily only to money payments. Consequently, in some instances the payments appear to exceed the monthly limits.

As indicated, State statutory or administrative limits on the amount of payments to recipients have a considerable impact on the payment levels in each of the categories. Of the 10 States with the highest monthly recipient payments for Aid to the Blind, 6 have no limit on the amount of the monthly payment, while of the 10 States with the lowest payments only 1 State does not have such a limit. Under the Aid to the Permanently and Totally Disabled program, of the 10 States with the highest monthly payments, 5 have no limits and of the 10 States with the lowest payments, only 1 has no limit. For Old-Age Assistance, 4 of the 10 States with the highest monthly payments do not have limits, while of the 10 States with the lowest payments, 2 have no such limits. It will be noted also (table XII) that of the 10 States in the group with the second highest monthly payments 6 have limits. This compares with four States for the highest payment group as noted above. This is indicative that factors other than payment limits are involved in determining the amount of monthly payments. For the AFDC program, 8 of the 10 States with the highest monthly payments do not have limits on individual payments and 9 of the 10 do not have limits on payments to families. Of the 10 States with the lowest monthly payments, 9 States have both individual and family payment limits. Thus it is clear that the cost levels of these programs is to a considerable extent controlled by the States.

TABLE VIII.—Average Monthly Payment Per Recipient and State Limit on the Amount of Monthly Payments to Individuals for Aid to the Blind, June 1963

State	Average monthly payment per recipient (includes vendor medical payments)	Limit on monthly money payment to individual	State	Average monthly payment per recipient (includes vendor medical payments)	Limit on monthly money payment to individual
Massachusetts	$137	None	North Dakota	$81	None
California	123	$175	Indiana	80	[3] $95
Connecticut	122	None	Alaska	78	110
Hawaii	119	None	Montana	78	None
Nevada	118	None	Utah	78	[4] 80
Oklahoma	115	143	Delaware	76	[5]
Minnesota	115	[1] 115	Pennsylvania	74	[1] 70
New Hampshire	106	165	Arizona	73	90
New York	105	None	Missouri	70	65
Colorado	101	None	Maryland	70	210
Iowa	101	None	Arkansas	70	85
Nebraska	100	100	Idaho	70	None
Michigan	95	90	Kentucky	69	110
Washington	95	[2]	Texas	69	71
Illinois	94	None	South Carolina	68	65
New Mexico	94	190	Virginia	68	None
Wisconsin	93	75	Florida	67	66
Oregon	92	None	Vermont	67	75
Kansas	92	None	South Dakota	66	[6]
Rhode Island	87	None	North Carolina	62	[7] 130
New Jersey	86	None	Georgia	59	65
Wyoming	86	90	Tennessee	48	60
Maine	82	65	Alabama	48	[1] 75
Ohio	82	None	West Virginia	47	[1] 165
Louisiana	81	105	Mississippi	38	40

[1] May be exceeded under certain conditions.
[2] Maximum $325 per month for any assistance unit.
[3] May be exceeded for necessary medical or funeral expenses.
[4] May be increased to meet cost of living increase.
[5] Set by State Commission for the Blind.
[6] May take full advantage of the Federal act.
[7] Family limit only.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services.

TABLE IX.—Average Monthly Payment Per Recipient and State Limit on the Monthly Money Payment to Individuals for Aid to the Permanently and Totally Disabled, June 1963.

State	Average monthly payment per recipient (includes vendor medical payments)	Limit on monthly money payment to individual	State	Average monthly payment per recipient (includes vendor medical payments)	Limit on monthly money payment to individual
Massachusetts	$132	None	Delaware	$72	None
Hawaii	127	None	Maryland	70	$210
New York	116	None	Florida	69	66
Michigan	115	$90	Utah	69	[1] 80
New Hampshire	112	165	Arizona	68	80
North Dakota	112	None	Vermont	68	75
California	108	106	North Carolina	68	None
Wisconsin	106	80	Missouri	68	100
Oklahoma	105	143	South Dakota	67	[2]
Illinois	98	None	Virginia	66	None
Kansas	97	None	Connecticut	65	None
New Jersey	94	None	Pennsylvania	64	None
Indiana	93	None	Minnesota	61	70
Oregon	92	None	Arkansas	59	65
New Mexico	91	190	Georgia	58	65
Maine	91	65	Washington	58	[3]
Rhode Island	88	None	South Carolina	58	60
Wyoming	83	90	Texas	58	65
Nebraska	81	70	Louisiana	57	95
Iowa	81	None	Idaho	56	None
Ohio	80	None	Tennessee	48	60
Montana	76	None	West Virginia	47	[4] 165
Colorado	73	None	Alabama	46	[4] 75
Kentucky	72	110	Mississippi	34	40

[1] May be adjusted to meet rise in the cost of living.
[2] May take full advantage of the Federal act.
[3] Maximum $325 per month for any assistance unit.
[4] May be exceeded under certain conditions.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services.

TABLE X.—Average Monthly Public Assistance Payment Per Recipient and State Limits on Amount of Monthly Money Payments to Individuals for Old-Age Assistance, June 1963

State	Average monthly payment per recipient (includes vendor medical payments)	Limit on monthly money payment to individual	State	Average monthly payment per recipient (includes vendor medical payments)	Limit on monthly money payment to individual
Minnesota	$109	[1] $115	New Mexico	$81	$190
California	107	172	Michigan	79	90
Colorado	104	[2] 108	Pennsylvania	77	None
Wisconsin	101	75	Indiana	76	[5] 70
New Hampshire	100	165	Idaho	72	None
New Jersey	96	None	Maryland	72	210
Oklahoma	92	143	Texas	70	71
North Dakota	91	None	Utah	69	[2] 80
Iowa	90	None	Montana	68	None
Kansas	90	None	Hawaii	68	None
Nevada	89	None	Alabama	68	[6] 75
New York	87	None	Arkansas	66	85
Illinois	86	None	Missouri	66	100
Wyoming	86	90	Florida	64	66
Ohio	85	None	Delaware	63	100
Alaska	85	110	Arizona	63	85
Washington	85	([3])	Virginia	61	None
Oregon	84	None	Kentucky	60	110
Rhode Island	84	None	North Carolina	57	None
Louisiana	84	105	Maine	56	[1] 65
Connecticut	84	None	South Carolina	56	60
Massachusetts	83	None	Georgia	55	65
Vermont	83	75	Tennessee	48	60
Nebraska	82	70	West Virginia	47	[1] 165
South Dakota	82	([4])	Mississippi	35	40

[1] May be exceeded under certain conditions.

[2] May be increased by State agency based upon cost of living increase.

[3] Maximum $325 per month for any assistance unit.

[4] May take full advantage of the provisions of the Federal act.

[5] May be exceeded for necessary medical and funeral expenses.

[6] Local funds may be used to exceed this limit.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services.

TABLE XI.—Average Monthly Public Assistance Payment Per Recipient and State Limits on Amount of Monthly Money Payments for Aid to Families With Dependent Children, June 1963

State	Average monthly payment per recipient (includes vendor medical payments)	First child and family limits	State	Average monthly payment per recipient (includes vendor medical payments)	First child and family limits
Minnesota	$47	None	Utah	$33	$80–None
New Jersey	47	None	Maryland	32	230–None
Connecticut	45	None	Vermont	30	45–None
Wisconsin	44	None	Nebraska	30	100–None
California	44	$145–None	Ohio	30	None
Illinois	44	None	Maine	30	32–250
Massachusetts	43	None	Nevada	30	[2]
Washington	43	[1]	Arizona	29	80–220
North Dakota	42	None	Indiana	28	50–None
New York	41	None	Pennsylvania	27	None
Idaho	41	None	West Virginia	26	32–165
New Hampshire	40	None	Kentucky	25	42–160
Rhode Island	39	None	Missouri	24	32–None
Oregon	38	None	Virginia	24	[3] 175
Iowa	37	None	Georgia	23	34–134
Wyoming	37	90–225	North Carolina	23	None
Colorado	37	None	Louisiana	23	72–255
Michigan	37	120–240	Delaware	22	75–150
Kansas	36	None	Texas	19	35–107
South Dakota	35	41	Tennessee	19	25–100
Alaska	34	50–None	Arkansas	18	37–111
Oklahoma	34	236–None	South Carolina	17	27–99
New Mexico	34	190–None	Florida	17	32–81
Montana	34	None	Alabama	12	32–124
Hawaii	34	None	Mississippi	9	25–90

[1] Maximum $325 per month for any assistance unit.

[2] $30 for the needy relative, $30 for each eligible child; plus 20 percent of the unmet need, if any, as budgeted.

[3] Local funds may be used to exceed this limit.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services.

TABLE XII.—Proportion of Individuals Age 65 and Over Receiving Old-Age Assistance and a Comparison of Selected Characteristics of State Programs, June 1963

State	Persons aided per 1,000 population age 65 and over	Liens, recoveries, or assignments provided	Relative support required	Percentage of local participation in non-Federal share of assistance costs	
Louisiana	498	No	Yes*	X	
Alabama	393	No	No	X	
Mississippi	383	No	Yes*	X	
Oklahoma	315	No	No	X	
Georgia	301	No	Yes		4
Arkansas	281	No	Yes*	X	
Texas	278	No	Yes*	X	
Colorado	267	No	No	X	
Alaska	230	Yes	Yes*	X	
Missouri	208	No	No	X	
New Mexico	192	No	Yes	X	
Kentucky	177	No	Yes	X	
California	170	No	Yes		14 3/7
South Carolina	169	Yes	No	X	
Tennessee	148	No	No		20
North Carolina	134	Yes	No		50
Arizona	125	No	No	X	
Vermont	124	Yes	Yes*	X	
Minnesota	118	Yes	Yes		33 1/3
Washington	116	No	No	X	
Nevada	111	No	Yes	X	
Florida	110	No	No	X	
Wyoming	105	Yes	Yes*		50
Maine	104	Yes	Yes	X	
South Dakota	101	Yes	Yes*	X	
Kansas	99	Yes	Yes*		[1] 50
North Dakota	99	Yes	Yes*		10
Massachusetts	96	Yes	Yes		[2] 33 1/3
Iowa	90	Yes	Yes	X	
Ohio	90	Yes	Yes	X	
West Virginia	90	Yes	Yes	X	
Montana	86	Yes	Yes		33 1/3
Utah	84	Yes	Yes*	X	
Idaho	83	Yes	Yes*	X	
Oregon	79	Yes	Yes		30
Nebraska	77	Yes	Yes	X	
Michigan	75	Yes	Yes	X	
Wisconsin	74	Yes	Yes		[3]
New Hampshire	66	Yes	Yes*		[4]
Rhode Island	65	Yes	Yes	X	

See footnotes at end of table.

TABLE XII.—Proportion of Individuals Age 65 and Over Receiving Old-Age Assistance and a Comparison of Selected Characteristics of State Programs, June 1963 (Continued)

State	Persons aided per 1,000 population age 65 and over	Liens, recoveries, or assignments provided	Relative support required	Percentage of local participation in non-Federal share of assistance costs
Illinois	62	Yes	Yes	X
Indiana	53	Yes	Yes*	40
Virginia	42	Yes	Yes	37 ½
Pennsylvania	41	Yes	Yes	X
Maryland	38	Yes	Yes	[5]
Hawaii	35	Yes	Yes	X
Connecticut	33	Yes	Yes	X
New York	31	Yes	Yes	[6] 50
New Jersey	30	Yes	Yes	[7] 25
Delaware	28	No	Yes	X

[1] Of non-Federal share of assistance costs, State pays $5 per recipient from special fund. Of balance, State 50 percent, local 50 percent.

[2] For cases without local settlement State pays 100 percent of non-Federal share.

[3] State pays 30 percent of total cost, county pays remainder less Federal share.

[4] Of total costs, State 75 percent less Federal share, local 25 percent.

[5] County pays 16⅔ percent of total costs.

[6] State pays 100 percent of cost for cases with residence in State less than 1 year.

[7] The local share for institutional cases is 50 percent.

*Denotes States in which there are statutory provisions without income scale for determining ability of relative or where there is only general support legislation not specifically applying to OAA. There is reason to believe that the relative support provisions are not as effectively administered as in those States listed with a non-qualified "Yes."

X denotes no participation.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services.

There are a number of important factors affecting the size of the recipient rolls that are subject to control by the States. Three such factors associated with the relative numbers of Old-Age Assistance recipients are: (1) liens, recoveries, and assignments; (2) relative support; and (3) local financial participation in assistance costs.

It is left entirely to the States to determine whether or not there shall be statutory provisions "for the placing of liens on the

property of a recipient of public assistance, for assignment of resources such as insurance and negotiable assets, or for recovery from the estate of deceased recipients." [26] The only Federal stipulation in this regard is that the Federal Government receive its proportionate share of any resources recovered. State requirements relating to liens, recoveries, and assignments may apply also to the other categories, but are much more common in the Old-Age Assistance program.

A total of 32 States have provisions governing administration of their Old-Age Assistance programs for recovery from the estates of recipients (table X). Of the 10 States with the highest recipient rates, Alaska is the only State with a lien or recovery provision. On the other hand, of the 10 States with the lowest recipient rates, all of them except Delaware have such a provision. Further, in light of the fact that the OAA rates range from a low of 28 recipients per 1,000 population aged 65 and over in Delaware to a high of 498 in Louisiana, it is significant that of the 25 States with the lowest recipient rates, 24 have a recovery provision, while of the 25 States with the highest recipient rates only 8 have recovery provisions.

A second factor associated with the size of the Old-Age Assistance rolls is found in State legal requirements for support of the needy aged by their children or other relatives. It is difficult to classify these State provisions with a simple "yes" or "no" because of their variety. However, by creating a "modified yes" classification it is possible to maintain acuracy and still demonstrate the impact of this factor on the recipient rolls.

The States designated with an unqualified "Yes" (table XII) are those 26 States in which the statutory provisions regarding relative support are either a part of the State's public assistance law or construed as applying to Old-Age Assistance, and the ability of a relative to support an applicant or recipient is established by an income scale or other prescribed method set forth in the law or State plan provisions. It is probable that the recovery provisions in these 26 States tend to be more of a deterrent factor in limiting the size of the rolls than the 2 other types of State provisions discussed here. The 14 States designated by the "quali-

[26] *Ibid., Summary Data on Eligibility Requirements.*

fied Yes" are those in which there either is no income scale or similar method of determining the ability of the relative to support the aged person under the statutory provision, or in which the general-support legislation does not specifically apply to Old-Age Assistance, yet some attempt is made in both instances to establish the ability of a specified relative to support. It also is probable that relative-support provisions in these latter States are much less a deterrent in limiting the size of the recipient rolls than is the case for the former group of States. The 10 States designated "No" are those in which there is no legislation prescribing the responsibility of relatives to support. In these States, the State plan provides that the ability of relatives to support shall be "explored" as a resource but it is doubtful that this serves as much of a deterrent to the size of the rolls.

Of the 10 States with the highest recipient rates 4 have no relative-support provisions, 5 have the "qualified Yes" provision discussed above, and only 1, Georgia, has a relative-support provision with a method of determining ability to support. Conversely, of the 10 States with the lowest recipient rates, 9 have a relative-support provision and a prescribed method for determining ability, and 1, Indiana, has a relative-support provision but no prescribed method for determining ability.

The third factor considered here is local financial participation in assistance costs. Of the 18 States that require local participation in OAA costs, 15 specify a percentage of the non-Federal share while 3 States specify a percentage of the total cost. Of the 10 States with the highest recipient rates, 9 do not provide for local participation in assistance costs, and 1, Georgia, provides for local financing of only 4 percent of the non-Federal share of such costs. Of the 10 States with the lowest recipient rates, 5 provide for local participation in assistance costs and 5 do not.

To sum it up, it should be noted that only Alaska and Georgia among the 10 States with the highest recipient rates have at least two of the provisions considered. On the other hand, of the 10 States having the lowest recipient rates, all of them except Delaware provide for at least 2 of the factors considered, and 5 provide for all 3. Thus, whether considered individually or collectively, these provisions, which are neither required nor prohibited

by the Federal act, and which have or have not been adopted within the range of flexibility permitted the States in administering the public assistance programs, have a significant impact on the size of a State's recipient rolls and thus on the total cost of the programs.

For the AFDC program, four characteristics influencing the size of the recipient rolls are: participation in the unemployed parent phase of the program, local participation in the financing of assistance costs, participation in the foster home care provisions of the program, and the requirement of school attendance for children in specified age groups as a condition of eligibility.

States participate in the unemployed parent phase of the AFDC program at their own option, and 15 were so participating as of June 1963. Six of these fifteen States are among the ten States with the highest recipient rolls. None of the 10 States with the lowest recipient rates were participating when this report was prepared.

Twenty-three States provide for local participation in the financing of assistance costs in the AFDC program. Of the 10 States with the highest recipient rates, 1, only New York, provides for such local participation. Of the 10 States with the lowest rates, 6 States provide for local participation in the financing of assistance costs (table XIII).

States also may determine whether or not they desire to participate in the foster home care provision of the AFDC program. As of June 1963, 15 States were participating in this aspect of the program. Of the 10 States with the highest recipient rates, 5 participate in the foster home care provision, and of the 10 States with the lowest rates, 3 participate.

Twenty-nine States provide that all children under age 18 otherwise eligible for assistance shall be eligible for AFDC. Two of these States provide assistance for those under 21. Nineteen States require school attendance for children under 18 who are physically and mentally capable of attending, otherwise only children under 16 are eligible for assistance. Georgia and Texas provide assistance to eligible children under 16 with no option for attending school. Of the 10 States with the highest recipient rates, 4 require school attendance for children under 18, while

TABLE XIII.—Proportion of Children Under Age 18 Receiving Assistance Under the Aid to Families With Dependent Children Program and a Comparison of Selected Characteristics, June 1963

State	Children aided per 1,000 population under age 18	State plan includes children of unemployed parents	Percent of Non-Federal share locally financed assistance costs	State plan includes foster home care	Under 16, or 18 if at school
West Virginia	134	X	.....	X	.....
Mississippi	67	.....	.....	.....	X
Pennsylvania	61	X	.....	.....	.....
Oklahoma	59	X	.....	X	X
Illinois	57	X	.....	X	.....
New York	55	X	[1] 50	.....	.....
Alabama	54	.....	.....	X	.....
Rhode Island	54	X	.....	.....	.....
Louisiana	53	.....	.....	X	X
Missouri	53	.....	.....	.....	X
New Mexico	51	.....	.....	X	X
Arizona	49	X	.....	X	X
Kentucky	49	.....	.....	.....	X
North Carolina	47	X	50	X	.....
Maine	46	.....	[2] 18	.....	.....
Tennessee	44	.....	20	.....	X
California	43	.....	32.5	X	X
Florida	43	.....	.....	.....	.....
Colorado	41	.....	20	.....	X
Connecticut	38	X	.....	.....	.....
Delaware	38	X	50	.....	.....
Hawaii	37	X	.....	.....	.....
Maryland	37	X	([3])	X	.....
Oregon	35	X	30	X	.....
Massachusetts	34	X	133⅓	.....	.....
Alaska	33	.....	.....	.....	.....
Utah	32	X	.....	X	.....
Iowa	31	.....	50	.....	X
New Jersey	31	.....	50	.....	.....
Ohio	31	.....	([4])	.....	.....
Arkansas	30	.....	.....	.....	X
Georgia	29	.....	4	.....	X [5]
Michigan	29	.....	.....	.....	.....
Nevada	29	.....	.....	.....	X
Washington	29	.....	.....	.....	.....
Kansas	27	.....	50	.....	.....
South Dakota	27	.....	.....	.....	.....
South Carolina	26	.....	.....	.....	.....
Vermont	26	.....	([6])	.....	X
Minnesota	25	.....	50	.....	.....

See footnotes at end of table.

TABLE XIII.—Proportion of Children Under Age 18 Receiving Assistance Under the Aid to Families With Dependent Children Program and a Comparison of Selected Characteristics, June 1963 (Continued)

State	Children aided per 1,000 population under age 18	State plan includes children of unemployed parents	Percent of Non-Federal share locally financed assistance costs	State plan includes foster home care	Under 16, or 18 if at school
Idaho	24	.....	.....	.....	X
Indiana	21	.....	40	X	X
Virginia	21	.....	37½	X	X
Wisconsin	21	.....	(7)	X	.....
Montana	20	.....	33⅓	.....	.....
Nebraska	20	.....	.....	.....	X
North Dakota	20	.....	25	.....	.....
Wyoming	19	.....	50	.....	.....
Texas	15	.....	.....	.....	X [5]
New Hampshire	14	.....	.....	.....	X

[1] For cases with residence in State less than a year, State pays 100 percent of the non-Federal share of assistance costs.

[2] State pays 100 percent of non-Federal share for cases without legal settlement in any city or town.

[3] County required to put up 0.1 mill levy; State and Federal funds make up balance of total assistance costs.

[4] Allocation of State and Federal funds to counties based on rules and regulations of statewide application by Director of Public Welfare, except that no county receives less than 25 percent of total expenditures.

[5] Under 16 years only.

[6] Of total costs for cases without local settlement, State 100 percent; for cases with local settlement, State 87½ percent less Federal share, local 12½ percent.

[7] State pays 33⅓ percent of total assistance costs, county pays remainder less Federal share.

Source: U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services

6 do not. Of the 10 States with the lowest recipient rolls, 5 require such attendance, 1, Texas, provides assistance to those under 16, and 4 States have no such limitations for children under 18.

From this it appears, as might be expected, that two of the characteristics are more common in the States with high recipient rates, while the other two are more common in the States with low rates. Of the 10 States with the highest rates, 8 participate in either the unemployed parent segment of the program or the foster home care provision, 3 participate in both, and 2 partici-

pate in neither. Of the 10 States with the lowest recipient rates, only 3 States participate in 1 of the provisions, none participate in both, and 7 participate in neither.

With regard to local financial participation and the school attendance restriction, it can be noted that in the 10 States with the highest recipient rates, 5 have 1 of these characteristics, none have both, and 5 have neither. All of the 10 States with the lowest rates have 1 of these characteristics and 2 have both.

The point of all this is that States do have a great deal of leeway in shaping their public assistance programs. The data presented above should dispel some of the commonly held beliefs that the Federal Government exercises such a heavy control over the public assistance programs as to substantially eliminate policy discretion at the State level. Indeed, the variation among the States in such matters as recipient rates and payment levels is so great that some persons might well question whether there is enough uniformity required in the use of Federal funds which come from the taxpayers of all the States. It should be pointed out that the various factors described above cannot be assumed to account for all of the great variation among States in the relative level of their public assistance rolls. Variations in the cost of living, State per capita income and other social and economic factors affect the picture, of course. But it should be emphasized that the presence or absence of the types of State requirements described above have an obvious effect upon State and Federal costs for public assistance, and no amount of explanation or rationalization associated with other factors can alter this major conclusion.

Chapter IV

ISSUES INVOLVING FEDERAL-STATE DISAGREEMENT IN ADMINISTRATION OF THE PUBLIC ASSISTANCE PROGRAMS

Before discussing important problems and issues that have caused disagreements between the States and the Federal Government it is necessary to make a clear distinction between the terms "conformity" and "matching" as they apply to Federal requirements which affect State public assistance programs. Federal requirements that affect "conformity" of the State plan with the Federal act involve the total Federal grant to the State.[27] However, under the provisions of title XVI of the act the Secretary is granted the discretion of withholding payments only in those categories or parts of the State plan for aid to the aged, blind, or disabled, or for such aid and medical assistance to the aged that are declared not in compliance with the Federal act. Prior to the enactment of title XVI, and still true under the other public assistance titles, the only option for the Secretary in the withholding of funds for noncompliance of any part of a State plan was to withhold the entire Federal grant under the particular title. "Matching" requirements are those Federal requirements affecting the use of Federal funds only in particular expenditures.[28] Virtually all of the major problems involving Federal-State relations in the public assistance programs can be classified as "conformity" or "matching" problems.

Presented in this portion of the report are the processes involved in hearings before the Secretary on conformity, including a selected case study, the audit exception process and examples

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[27] U.S. Department of Health, Education, and Welfare, Social Security Administration, Bureau of Family Services, *Public Assistance Under the Social Security Act*, Washington, D.C. (July 1961), p. 12.

[28] *Ibid.*

of exceptions, and important issues in the public assistance programs on which there have been recent Federal-State problems and disagreements.

A. Hearings on Conformity Before the Secretary of Health, Education, and Welfare

Through such devices as the administrative review, routine financial and statistical reports, planned consultations by regional personnel with State personnel, as well as through other formal and informal means, the Federal agency keeps informed as to whether a State plan complies—on paper and in actual operation—with the Federal act and whether the State program is being administered in accordance with the approved State plan. It should be noted that as a practical matter Federal professional personnel, especially those in the regions, and State professional personnel work together very closely, and that they are usually rather well informed of the other's intentions and actions. Consequently, it is not often that a new State action or a Federal requirement arises totally unexpectedly. This, of course, is not to imply that there are no disagreements and that the relations are always smooth. But it is meant to suggest that generally there is a mutual understanding and anticipation on the part of both Federal and State personnel about new developments in the public assistance programs at both the Federal and State levels.

These practical aspects of Federal-State interactions in the public assistance programs are mentioned in order to correct a rather generally held opinion that hearings before the Secretary are common occurrences that develop rather abruptly to settle issues over the conformity of State plans. In fact, there have been only 15 conformity hearings called before the Secretary of Health, Education, and Welfare, the Administrator of the Federal Security Agency, and the Social Security Board combined since passage of the Social Security Act, as indicated in table XIV, although in some instances Federal funds were delayed without hearings in order to force State conformity. A few of the hearings called were never held because the issues were resolved by Federal-State negotiations before the hearing materialized.

Such negotiations generally continue even after a hearing has been called.

When an issue of disagreement regarding conformity reaches the stage where it appears that there is no solution acceptable to both the State and the Federal agency, the State has three possible alternatives, one or a combination of which it may pursue in an atempt to get the most satisfactory solution from its point of view. These are: (1) to continue negotiations with the Federal agency and agree to a solution prior to the calling of a hearing; (2) to fail to accept any solution arising from negotiations with the Federal agency and either request a hearing before

TABLE XIV.—Summary of Scheduled Hearings on State Plan Conformity Since the Passage of the Social Security Act

State involved and date of decision to give State an opportunity for hearing	Subject of hearings
1. North Carolina; June 2, 1936.	Question of statewide operation of Aid to the Blind program.
2. Missouri; Apr. 27, 1937...	Inefficient operation. Inaccurate reporting of expenditures. Inaccurate statistical reporting. Question of whether there was a single State agency.
3. Illinois; June 10, 1937....	OAA—inefficient administration. Denial of right of fair hearing. Inaccurate reporting. Inaccurate accounting methods and records.
4. Oklahoma; Feb. 11, 1938.	Inefficient administration.
5. Ohio; Aug. 19, 1938.....	Inefficient administration. Noncompliance with accurate reporting provisions. Noncompliance with fair hearing provision.
6. Kansas; May 14, 1940....	Matching payments to persons in public institutions.
7. Georgia; July 12, 1941....	Protection of public assistance records. Question of whether State had a merit system.
8. Texas; Aug. 13, 1943.....	State legislation which provided for exemption of $250 of earned income in OAA.
9. Colorado; Nov. 26, 1943..	Failure to take into account all income and resources in determining amount of assistance.
10. Louisiana; Sept. 22, 1944.	Eligibility determination.
11. New Mexico; Jan. 18, 1949.	Denial of assistance to needy Indians.
12. Arizona; Feb. 1, 1949....	Do.
13. Indiana; Apr. 25, 1951...	Protection of public assistance records.
14. Arizona; Apr. 11, 1952...	Exclusion of Indians in plan submitted for Aid to the Permanently and Totally Disabled.
15. Louisiana; Sept. 30, 1960.	Denial of Aid to Dependent Children assistance to children because of "unsuitable home."

Source: Files, Bureau of Family Services, Welfare Administration, Department of Health, Education, and Welfare.

the Secretary or wait until such a hearing is called by the Secretary; and (3) to seek relief from the Congress by requesting legislation to amend the Social Security Act to reflect the State's point of view on the particular issue.

In order to illustrate problems involved in a hearing, as well as to demonstrate how a particular issue was finally settled beyond the hearing, a case study is presented. This involved the State of Indiana in 1951 on the issue of confidentiality of public assistance records.

The hearing before the Federal Security Administrator revolved around amendments to the Indiana Welfare Act enacted by the State legislature in 1951. The Federal statutory requirement that the State plan provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan has been noted previously, as have the accompanying administrative requirements, and these should be kept in mind in connection with the Indiana case.

The Federal agency through its regional representatives generally keeps informed of major State legislative action affecting the public assistance plans and programs in each State. As a result of this surveillance, the Federal agency was aware of the progress of the Indiana legislation before its final passage. Through consultation and correspondence, the State public asistance agency was advised by the Federal agency that the impending legislation would, if enacted, change the State plan to such an extent that it would no longer be in conformity with the Social Security Act. The State agency, in turn, advised the appropriate legislative committees and the Governor of this probable effect on the State plan. The State legislature passed the proposed amendments to the State Welfare Act notwithstanding the advice it had received. The Governor vetoed the legislation. Then the legislature overrode the Governor's veto with the required majorities in both houses. Thus the amendments to the State Welfare Act became State law and automatically a part of the State public assistance plans for the OAA, AB, and ADC programs.

The controversial legislation became Chapter 321, Indiana Acts of 1951. Chapter 321 amended section 93 of the Indiana

Welfare Act by deleting the following provision from that section:

> All records concerning any applicant or recipient of assistance contemplated in Part 3 of this act [Part 3 includes Old-Age Assistance, Aid to Dependent Children and Aid to the Blind] shall be confidential and the use or disclosure thereof shall be restricted to purposes of administration of assistance under this act . . . ;[29]

Chapter 321 further amended Section 93 of the Indiana Welfare Act to read as follows:

> SEC. 93. The county welfare board of each county shall on or before the thirtieth day of each January, April, July and October, file with the county auditor, each member of the county council, prosecuting attorney and all township trustees of such county a complete report showing the names and addresses of all recipients receiving payments under this act, together with the amounts paid to each during the preceding quarter. Said report shall also show the names and addresses of and salaries paid to all employees of the county welfare board.
>
> The reports so filed with the county auditor shall be securely bound by him in a separate record book provided for that purpose which said book and all reports contained therein shall be and the same hereby are declared to be public records and shall be open to public inspection at all times during the regular office hours of said county auditor. Provided, however, that nothing herein contained shall be construed to authorize or require the disclosure of any records of the public welfare department pertaining to children heretofore or hereafter placed in foster homes for adoption or other purposes.[30]

Chapter 321 also amended Section 93a of the Indiana Welfare Act as indicated in the following quotation (material added by chapter 321 is italicized and that deleted is lined out):

> SEC. 93a. Misuse of Public Assistance Information. Except as provided in this section, ~~or for purposes directly connected with the administration of this act in accordance with the rules and regulations of the state department of public welfare;~~ it shall be unlawful for any person, body, association, firm, corporation or other agency to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any lists or names ~~of, or any information concerning persons applying for or receiving public assistance pursuant to the provi-~~

[29] U.S. Federal Security Agency, Office of the General Counsel, *Suggested Findings and Conclusions* for hearing re: Effect of Chapter, 321, Indiana Laws of 1951 on Indiana State Plans for OAA, ADC, and AB, p. 6.

[30] State of Indiana, Attorney General, *Suggested Findings and Conclusions* for hearing re: Effect of Chapter 321, Indiana Laws of 1951 on Indiana State Plans for OAA, ADC, and AB, p. 18.

~~sions of the welfare act directly or indirectly derived from the records, papers, files or communications of the state or county or subdivisions, agencies or offices thereof or acquired in the course of the performance of official duties other than as provided in this act~~, *for commercial or political purposes of any nature, or for any purpose not directly connected with the administration of public assistance.*[31]

It became apparent that when chapter 321 became operative in the late summer of 1951 that the State plans for OAA, ADC, and AB would be declared out of conformity with the Social Security Act. With this prospect in view, the State Department of Public Welfare requested and was granted a hearing before the Federal Security Administrator. This was held May 15, 1951. The State law in question had not yet gone into effect, so the decision of the Federal Security Administrator could only represent what would be done when the law became operative.

The case made by the Federal agency essentially was: that under the new law there would be no way the State agency could establish effective safeguards which would adequately restrict the use and disclosure of public assistance information; and that the new law required that lists containing the names and addresses, and amounts of assistance paid, be opened to the public. The Federal agency concluded that both of these elements were in conflict with the Social Security Act. The State of Indiana argued essentially that use of the information for commercial and political purposes was prohibited by the new State law and that there was a criminal penalty provided for the violation of this provision. The State contended that this met the requirements of the Federal act. The Federal Security Administrator accepted the arguments against the State and decided that the State plans would be out of conformity when the new State law went into effect.

After the hearing before the Federal Administrator, the State had only two alternatives it could pursue if it was to avoid the loss of Federal matching funds. One was for the State legislature to amend the new act so that the State plans would be in conformity with the Federal act. The other was to seek remedy from the Congress. The latter course was pursued.

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[31] U.S. Federal Security Agency, Office of the General Counsel, *Suggested Findings and Conclusions*, p. 7.

On July 31, 1951, the Federal Security Administrator declared Indiana State plans for OAA, AB, and ADC out of conformity, and steps were taken to withhold Federal matching funds. Subsequently, the Congress enacted Public Law 183 of the 82d Congress on October 20, 1951, to alleviate the situation in Indiana resulting from the withholding of Federal funds in the public assistance programs. This legislation which is generally referred to as the "Jenner Amendment" was an amendment to the Revenue Act of 1951 and became section 618 of the act. This reads, as follows:

> No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to Title I, IV, X, or XIV of the Social Security Act, as amended, by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.[32]

Upon enactment of this legislation, the Indiana plans were approved and Federal matching funds were restored with no loss of funds by the State.

B. The Processing of Audit Exceptions

The purpose and mechanics of the fiscal audit in the public assistance programs were discussed in chapter III. Here processing of the exceptions growing out of the fiscal audit will be examined in some detail.

As the audit progresses, the Federal auditor discusses in sufficient detail with the appropriate State officials those expenditures that appear questionable in order to secure sufficient information for determining whether or not the questioned expenditures should be listed as exceptions. However, State officials are not advised by the auditor of questioned expenditures in which the applicability of Federal policy is uncertain until such items are first submitted to the regional auditor who, in turn,

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[32] U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services, *Handbook of Public Assistance Administration,* Part IV, par. 7100.

discusses the items with the regional public assistance representative. Any questioned expenditures on which agreement cannot be reached by the regional auditor and the public assistance representative, as to whether the expenditures are audit exceptions, are referred to the respective Washington offices for decision after clearance by the regional director. Any exceptions on which the regional auditor and the public assistance representative agree that there are unusual surrounding circumstances are also referred to the respective Washington offices for decision.

All exceptions agreed upon by the regional auditor and the public assistance representative, and those which the Washington offices have decided should be sent to the State agency, are submitted to the appropriate State official for concurrence or appeal. The letter of transmittal is prepared by the regional auditor for the signature of the public assistance representative. Among other instructions, the letter of transmittal advises the State as to the form in which an appeal should be prepared and as to the facts that should be included in an appeal. The State agency is allowed 30 days from the date of receipt of the letter of transmittal to submit a statement of concurrence or appeal. Upon receipt of the State agency's statement in the regional office, the regional auditor prepares a letter to the State agency for the signature of the public assistance representative advising the State agency of the following:

> (*a*) That all exceptions in which the State agency concurs should be reported by the State agency as an adjustment in its next statement of expenditures.
>
> (*b*) That appealed exceptions, in each program where they exceed $200 in Federal funds, will be submitted to Washington for consideration by the [Welfare] Commissioner, and that no further action should be taken by the State agency until it is advised of final disposition of the appeal.
>
> (*c*) That the appealed exception, in each program where they involve $200 or less in Federal funds . . . [will probably not be processed].[33]

[33] U.S. Federal Security Agency, Office of Federal-State Relations, Grant-in-Aid Audit Bulletin 1, p. 4. When the total exceptions or the total exceptions not concurred in by the State agency is reduced to $200 or less in Federal funds, the report generally will not be processed further. This is referred to as the small amounts policy.

Those audit exceptions appealed by a State become a part of the former report. Before the regional auditor submits the formal audit report to Washington, he secures the comments of the public assistance representative and of other appropriate technical representatives on the points of the State agency's appeal. The regional auditor submits the formal audit report to the Division of Grant-in-Aid Audits of the Office of Field Administration, Department of Health, Education, and Welfare. The Division of Grant-in-Aid Audits immediately provides a copy of the audit report to the Bureau of Family Services for comments on the appealed exceptions. Comments also may be obtained from the Office of the General Counsel and from the Division of State Merit Systems if appropriate.

The Division of Grant-in-Aid Audits prepares the formal audit report in final form for the Bureau of Family Services to submit to the Welfare Commissioner. To go with the formal audit report to the Welfare Commissioner, the Bureau of Family Services prepares a comprehensive memorandum containing all of the appropriate comments of the interested bureaus and offices on the appealed exceptions, the basis for each appealed exception, and a summary of the State agency's appeal. The memorandum is cleared by the Division of Grant-in-Aid Audits before submittal to the Welfare Commissioner for a decision on the appealed exceptions.

After the Welfare Commissioner has acted on the appealed audit exceptions, the Bureau of Family Services advises the State agency of such action and requests that the amount of any disallowance be reported as an adjustment in the next statement of expenditures. The State agency has no further opportunity for appeal beyond the decision of the Welfare Commissioner.

Tables XV, XVI, and XVII show the audit exceptions for the four categorical public assistance programs for the quarter beginning July 1 and ending September 30, 1963. It should be noted that these tables deal with only those States in which the fiscal audit was completed during the above quarter and in which there were appealed exceptions. Since the fiscal audit in each State is called for annually and since the carrying out of this requirement is currently being met close to schedule, it is probable

that the quarter's exceptions shown in the tables represent the completion of the annual fiscal audit in about one-fourth of the States. While the quarter shown probably is typical as far as the number and amounts of the audit exceptions involved, the impression should not be left that there are no audit exceptions larger than those indicated.[34]

C. Recent Issues Involving Federal-State Relations

In addition to the formal Federal-State confrontations of the sort discussed above, there have been many other issues which

TABLE XV.—Audit Exceptions in Old-Age Assistance Audit Reports Received During the Quarterly Period July 1 to Sept. 30, 1963

Basis for exception	Amount originally questioned by auditors	Cleared in regional offices	Small amounts policy	Concurred in by States	Appealed exceptions
Retroactive payments	$51.22			$51.22	
Refunds not credited	1,251.87			1,251.87	
Checks outstanding over 2 years	668.65			668.65	
Emergency payments prior to complete determination of eligibility	581.00			581.00	
Payment not within time limit for currency	3,652.00			3,652.00	
Unauthorized payments	1,576.68	$1,187.03		361.10	$28.55
Grantee deceased	44.80				44.80
Medical payments from pooled fund not in accord with fee schedule	3,544.25				3,544.25
Collections due United States	2,220.47			2,220.47	
Overstated expenditure	2,185.26			2,185.26	
Administrative expenses not matchable	14,900.53	5,163.38	$12.57	8,271.77	1,452.81
Total	30,676.73	6,350.41	12.57	19,243.34	5,070.41

Source: Audit reports prepared by Policy and Audit Processing Branch, Division of Grant-in-Aid Audits, Office of Field Administration, Department of Health, Education and Welfare.

[34] Examples of larger audit exceptions during other calendar quarters in 1963 are: In California a total of $28,282 in all programs involving administrative expenses not matchable; and in Rhode Island a total of $32,750 in all programs involving administrative expenses not matchable.

TABLE XVI.—Audit Exceptions in Aid to Families With Dependent Children Audit Reports Received During the Quarterly Period July 1 to Sept. 30, 1963

Basis for exception	Amount originally questioned by auditors	Cleared by auditors	Cleared in regional offices	Small amounts policy	Concurred in by States	Appealed exceptions
Retroactive payment	$64.59	.....	.....	.....	$64.59	.....
Medical payments from pooled fund not in accord with fee schedule	7,291.77	.....	.....	.....	.....	$7,291.77
Checks outstanding over 2 years	44.90	.....	.....	.....	44.90	.....
Emergency payment prior to complete determination of eligibility	20.50	.....	.....	.....	20.50	.....
Payment not within time limit for currency of payment	348.50	.....	.....	.....	348.50	.....
Child over 18 years	3,118.57	$205.00	.....	.....	1,548.00	1,365.57
Child deceased	612.43	.....	.....	.....	309.45	302.98
Overstated expenditure	4,483.59	.....	.....	.....	4,442.29	41.30
Unauthorized payments	7,978.67	456.27	$357.49	.....	7,164.91	.....
Administrative expenses not matchable	15,855.05	.....	7,297.54	$74.51	7,697.35	785.65
Total	39,818.57	661.27	7,655.03	74.51	21,640.49	9,787.27

Source: Audit reports prepared by Policy and Audit Processing Branch, Division of Grant-in-Aid Audits, Office of Field Administration, Department of Health, Education, and Welfare.

have given rise to considerable Federal-State discussion and disagreement. Yet these issues have been resolved, postponed, or submerged without going through the more formal processes of settlement. It is with some of these issues, most of which are concerned with "conformity" rather than "matching," that the report is concerned here.

1. *Quality control of case actions*

The scope and methods of quality control were discussed in chapter II. Implementation of this review process by the Federal agency has brought considerable complaint from the States, especially New York, for example, whose position will be reviewed here.

TABLE XVII.—Audit Exceptions in Aid to the Permanently and Totally Disabled and Aid to the Blind, Based on Audit Reports Received During the Quarterly Period July 1 to Sept. 30, 1963

Basis for exception	Amount originally questioned by auditors	Cleared in regional offices	Small amounts policy	Concurred in by States	Appealed exceptions
AID TO THE PERMANENTLY AND TOTALLY DISABLED					
Collections due United States	$43.86	.....	.....	$43.86	.....
Grantee deceased	68.48	.....	.....	.....	$68.48
Medical payments from pooled fund not in accord with fee schedule	2,024.39	.....	.....	.....	2,024.39
Payment not within time limit for currency	877.35	.....	.....	871.50	5.85
Emergency payments prior to complete determination of eligibility	124.50	.....	.....	124.50	.....
Overstated expenditures	2,018.32	.....	.....	2,018.32	.....
Unauthorized payments	610.35	$300.47	.....	309.88	.....
Administrative expenses not matchable	4,740.13	2,088.29	$2.01	2,342.10	307.73
Total	10,507.38	2,388.76	2.01	5,710.16	2,406.45
AUDIT EXCEPTIONS FOR AID TO THE BLIND					
Medical payments from pooled fund not in accord with fee schedule	$212.95	.....	.....	.....	$212.95
Unauthorized payment	44.27	.....	.....	$44.27	.....
Overstated expenditure	373.50	.....	.....	373.50	.....
Administrative expenses not matchable	574.85	$169.84	$0.71	321.88	82.42
Total	1,205.57	169.84	.71	739.65	295.37

Source: Audit Reports prepared by Policy and Audit Processing Branch, Division of Grant-in-Aid Audits, Office of Field Administration, Department of Health, Education, and Welfare.

The concept in the quality control review of State office review of local agency actions is not new. A number of State agencies already had case review units as a part of their organizational structure prior to the establishment of the quality control review as a part of Federal requirements. Still others made case review a part of the regular responsibility of field supervisors. The concern on the part of the Federal agency that Federal funds granted to the States be used to match assistance payments only to

persons eligible under the requirements in effect in each State likewise is not new. In the early years of the Social Security Act, the Social Security Board used an eligibility audit which concentrated on a case-by-case inspection to evaluate proof of eligibility. This was replaced in 1940 by the administrative review which has been discussed. Over the years the State agencies were encouraged by the Federal agency to institute systems of review of local agency actions with regard to eligibility requirements. In fact, the institution of such a review became a requirement in 1956, but the States were not given a due date.

Increasingly in recent years the Congress, perhaps as a result of the "Newburgh Case," AFDC problems in the District of Columbia, and other such situations, has been questioning the Federal agency about the degree of adherence by public assistance agencies at all levels of government to the statutory requirements for eligibility in all the public assistance programs. The Federal agency frequently has been unable to answer the inquiries to the satisfaction of the Congressmen or Senators concerned. Consequently, for this reason as well as others, the Senate Committee on Appropriations in its June 29, 1962, report on the fiscal year 1963 appropriations for public assistance grants directed the Department of Health, Education, and Welfare to conduct a nationwide review of eligibility in State programs of Aid to Families with Dependent Children. In its directive to the Department, the Senate committee stated, in part:

> The Committee will expect the Department to make an all-out effort to carefully review eligibility under the ADC program throughout the country. This review should include local, State and Federal personnel organized into a concerted effort to eliminate any abuses of the program. A full report of the Department's findings will be expected when the Department appears before the Committee next year. It is incumbent upon the committee to insist upon a thorough check in view of the seeming complacency exhibited by Federal, State, and local community officials, particularly in the light of the results disclosed through the special investigation in the Nation's Capital.[35]

For the purpose here, it is unnecessary to spell out the details of the AFDC eligibility review. It will suffice to present the major findings of this review. These were stated by Secretary Celebrezze in his letter transmitting the report to the chairman of the Senate committee, as follows:

> The report indicates wide variations in rates of ineligibility and correctness of payments among the States during the survey period. Eleven States, for example, had ineligibility rates below 2 percent and two States had rates above 15 percent. For all AFDC cases nationwide the rate was 5.4 percent.

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[35] U.S. Department of Health, Education, and Welfare, *Eligibility of Families Receiving Aid to Families With Dependent Children,* a report requested by the Senate Appropriations Committee (July 1963), p. 1.

Even before the AFDC review was completed the quality control procedure was devised and announced to the States. Something akin to quality control would have been initiated even had the nationwide AFDC eligibility review not been requested, because it had become apparent that the Federal agency did not have adequate information regarding eligibility under the public assistance programs. The major purpose of the quality control procedure was "to provide a nationwide, systematic means of State and Federal accountability for the quality and accuracy of local agency case actions." [36] It was also designed to improve and strengthen the public assistance programs in a number of ways.

In brief, the Federal agency believes that the quality control review is absolutely essential to provide proper information for adequate accountability to the Congress and to the public.

The heart of the problem for New York is well stated by George K. Wyman, the State's Commissioner of Social Welfare. In his letter dated February 18, 1964 he describes the operation of the control review in accordance with the Federal requirements, and compares this with what had been done in the past, as follows:

> The Quality Control sample of 2700 case actions annually will be spread so thinly among the 66 public welfare agencies that the review of performance on a case-by-case basis will give us no idea of the overall performance of an agency and no means of evaluating this performance. In the past, we have been able to assess the quality of local administration through the study of an adequate sampling of cases in each public welfare district done with sufficient frequency to assure us of up-to-date knowledge of the performance and problems of each of the 66 agencies. In the 65 upstate agencies we made an eligibility survey once in four years and a study of some special aspects of case handling in the intervening two year period. A study of one or more aspects of administration was included as a part of each agency survey. In New York City the eligibility and special surveys were made in each of the eighteen welfare centers on a rotating basis. Under Quality Control, there will be a total of about 475 case actions reviewed in the 58 smaller agencies, 475 in the six largest upstate agencies, 1,750 in New York City. Half of these are to be so-called "positive actions" i.e., cases newly accepted for assistance or redetermined to be eligible, half are to be negative actions, i.e., cases closed or applications denied. On the average, in the 58 smaller agencies our staff will read 8 cases, 4 positive and 4 negative, spread out over an entire year. For the smallest of these agencies the sample is likely to produce only 2 or 3 cases a year. For the larger of these agencies, the Quality Control sampling

[36] U.S. Department of Health, Education, and Welfare, Welfare Administration, Bureau of Family Services, *A System of Quality Control of Case Actions* (December 1963), p. 2.

system will select only 6 or 8 active cases in two programs and over a twelve month period.

New York presented an alternative proposal to the Federal agency when it became apparent that its existing review system was not compatible with the new quality control requirements. Wyman describes the alternative as follows:

> Our Department had proposed that we be permitted to divide the 58 smaller agencies into four comparable groups for sampling purposes, then select in each six month period cases from one of these four groups. Thus in an agency for which under present quality control requirements we might review 12 case actions per year or one per month, we might review 24 cases within a six month period or four per month. We would still need to supplement the quality control review with review of non-Federal categorical and possibly some additional ADC cases but we would do this within the same six months period. We would then analyze the case findings and relate them to the findings of simultaneous administrative surveys in the same agencies. Thus, within each six month period, 14 or 15 of our smaller upstate agencies would be rather carefully surveyed. In addition, each of the six largest agencies would be reviewed on a continuing basis, as would New York City. Even in New York City we would prefer to sample one-fourth (4 or 5) of their 18 welfare centers during each six month period, thus reviewing about 200 cases per welfare center every two years.

This proposal was not acceptable to the Department of Health, Education, and Welfare because it failed to meet some essential criteria of quality control. Needless to say, New York was not pleased with the decision. However, the State agency did not push the controversy near the hearing stage. Instead it proceeded on schedule to implement the quality control review as prescribed by the Bureau of Family Services.

Wyman has made it clear that he does not object to the goals and purposes of the quality control review. However, he objects to what he terms costly and complicated details and which he does not think are of value to the State agency or will achieve the purposes of the Federal agency. He believes that it is virtually impossible to make comparisons among States because of varying State laws, standards, and procedures. As an example, Wyman points out (and as this report has shown in Chapter III), that some States grant old-age assistance according to a plan which approximates a "pension," whereas other States may require children to contribute to parental support and have a more conservative policy regarding the amount of resources which may be disregarded in determining need.

It should be added that New York was one of the very few States that had established a rather comprehensive system for reviewing case actions of local agencies prior to the Federal quality control requirement. Federal officials agree that many aspects of the New York system of review have merit and

contribute to the strengthening and improvement of the public assistance programs in the State. However, they contend that the New York system does not provide the Federal agency with the type of information needed for fiscal and program accountability to the Congress.

Other States have had problems with the quality control review, although their problems do not appear to have been as far reaching or as controversial as in the New York situation. Most of these problems have involved such matters as financing the review, recruiting staff to conduct it, and meeting the time schedule.

2. *Single State agency*

A proposal submitted to the legislature by the Governor of Oregon in 1961, providing for reorganization of the executive branch of the State government, generated a considerable amount of Federal-State correspondence, discussion, and disagreement about the single State agency concept as it applies to the public assistance programs. The proposed reorganization called for the establishment of six major executive departments: Labor, Natural Resources, Public Safety, Transportation and Public Utilities, Commerce, and Social Services.

Under the proposed plan, the Department of Social Services would have program responsibilities similar to those of the Federal Department of Health, Education, and Welfare. The Department of Social Services was to be divided into divisions for administration of the following programs among others: health, mental health, public welfare, veterans' affairs, and vocational rehabilitation.[37] The Director of the Department of Social Services was to be appointed by the Governor. The division heads in the Department of Social Services were to be appointed by the Director of the Department with the approval of the Governor. The division heads would not have been subject to the merit system but were to serve at the pleasure of the Director of the Department.

The Division of Public Welfare in the Department of Social Services was to serve as the designated State agency for the administration of all public assistance programs and to promulgate and enforce such rules and regulations as necessary to assure full compliance with the terms of Federal and State laws. The Oregon proposal also provided that the Department of Social Services would be responsible for the administration of the duties, functions, and powers vested in the Department and its administrative divisions and that the Department would in general supervise the administration of the public assistance programs. Thus, while the administrator of the Public Welfare Division would be vested with supervision and control of the Division, the final administrative responsibility would rest with the

[37] The Council of State Governments, *State Government Organization and Federal Grant-in-Aid Program Requirements,* a report to the Governors' Conference, Hershey, Pa. (July 1–4, 1962), p. 16.

Director of the Department of Social Services.[38] Finally, the reorganization plan provided for review of hearing decisions regarding denial of assistance to applicants by a tribunal placed at the departmental rather than the divisional level.

The State public welfare agency requested review and comment on the proposed legislation from the Federal agency. The Governor likewise became very active in the discussions and exchange of correspondence with Federal officials regarding the reorganization proposal. Most of the discussion and disagreement revolved around the single State agency concept. The Federal agency advised Oregon officials that enactment of the proposed reorganization plan would raise serious question in regard to compliance with the single State agency concept in the public assistance programs. The following paragraph prepared by the General Counsel of the Department of Health, Education, and Welfare, summarizes rather well the reasons why the Federal agency seriously questioned whether the proposed Oregon public assistance reorganization would comply with the single State agency requirement of the Social Security Act:

> A question whether this essential requirement (single State agency) can be met is presented where the unit designated as the State agency is made subject to the supervision of State officials, other than the Office of the Governor, with respect to program functions. Moreover, the power to appoint the head of a designated agency, and certainly the power to remove him if he is removable without cause, are important elements in determining where program authority lies. No question would arise if such powers were vested in the Governor. In addition to questions as to placement of administrative authority arising from the specific wording of the pertinent State statutes or of the State Plan, another agency or authority of government in the State may not be permitted in practice to substitute its judgment for that of the "single State agency" in administrative decisions such as those involving the application of the policies, rules, and regulations promulgated under the State program laws.[39]

The Department of Health, Education, and Welfare likewise suggested that the establishment of a tribunal independent of the Division of Public Welfare to review hearing decisions would raise a serious question of compliance with the Federal requirement.

About the only concession the Federal agency was willing to make was in regard to merit system coverage of the division heads in the proposed De-

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[38] Letter dated Feb. 17, 1961, from Azile H. Aaron, Regional Public Assistance Representative, Bureau of Public Assistance, to Miss Jeanne Jewett, Administrator, Oregon Public Welfare Commission.

[39] *Comments Concerning Proposed Oregon Department of Social Services,* prepared by Alanson W. Willcox, General Counsel, Department of Health, Education, and Welfare (Jan. 22, 1962).

partment of Social Services. The General Counsel of the Department of Health, Education, and Welfare suggested that regardless of whether the Department of Social Services or the Public Welfare Division was finally established as the single State agency, exemption of the division heads from the merit system would not preclude a finding of substantial compliance of the Oregon merit system with the Federal standards.[40]

The Federal agency suggested to the State of Oregon that the reorganization plan could be amended in one of two ways to satisfy the single State agency requirement for the public assistance programs. The two alternatives were: (1) to designate the Department of Social Services as the single State agency and to provide this department with final program authority; or (2) to designate the Public Welfare Division as the single State agency and vest the Division with final program authority.[41] The State did not find these alternatives acceptable and the proposed Oregon reorganization plan was not enacted.

However, the Governor did not give up easily after receiving the adverse decision from the Federal agency. He devoted considerable effort in seeking congressional support for legislation that would amend the Social Security Act to permit States to establish the type of organization proposed in the Oregon reorganization plan. He likewise did much to secure support for his cause from his fellow State Governors. In regard to the first effort, three bills were introduced in the 87th Congress which, if enacted, would have made the Oregon reorganization plan possible.

These bills were, first, H.R. 10476, to amend titles I, IV, X, and XIV of the Social Security Act to eliminate or modify certain Federal requirements that might otherwise prevent constructive reorganization of the State agencies which are involved in the administration of the programs under these titles. This bill provided for amending the single State agency provision in each of the titles by adding the following language:

> but nothing in this title shall prevent such single State agency from being administratively organized as a subordinate unit within a major department of State government concerned primarily with the general supervision and coordination of related activities;

The bill also provided for amending the provisions in each of the titles dealing with a fair hearing before the State agency by adding the following language:

> and if the State agency is organized as a subordinate unit within a major department of State government, such department may provide for administrative review of the decisions of the State agency which have been rendered after such a hearing;

Finally, the bill provided for amending the provisions dealing with the merit system by adding the following language:

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[40] *Ibid.*

[41] *Ibid.*

except that the head of a State agency organized as a subordinate unit within a major department of State government may be exempted for merit system coverage.

No action was taken on these bills in the 87th Congress. Similar bills have not been introduced in the 88th Congress. Second, H.R. 10474, would have amended the Vocational Rehabilitation Act to eliminate or modify certain Federal requirements that might otherwise prevent constructive reorganizations of the State agencies which are involved in the administration of the vocational rehabilitation program. Third, H.R. 10475, would have amended the Public Health Service Act to eliminate or modify certain Federal requirements that might otherwise prevent constructive reorganization of the State agencies which are involved in the administration of the programs under this act. The latter two bills were put forward because the proposed reorganization plan also had encountered similar conformity problems regarding the single State agency concept in the administration of Federal grant-in-aid programs under these additional acts in respective divisions of the proposed Oregon Department of Social Services.

In his efforts to secure support from his fellow State Governors, the Governor of Oregon was successful in securing passage of a resolution by the 53d Annual Meeting of the Governors' Conference. This resolution, among other things, stated that:

> The Conference deplores the tendency of federal agencies to dictate the organizational form and structure through which the States carry out federally supported programs.

3. *Protective payments in AFDC*

For a number of years State and local officials and many citizens in North Carolina, as well as other States, have been concerned about the problems stemming from the misuse of public assistance grants by some of the recipients in the program of Aid to Families with Dependent Children. These officials did not believe that a large percentage of the recipients were involved in the misuse of the grants. However, in addition to being concerned about the problem itself, they were fearful that if nothing were done there would be serious long-range effects, such as undermining public confidence in the AFDC program. The essential problem was that some of the adult recipients of AFDC grants (in behalf of children) were unable to manage the grant so as to provide proper food, clothing, and shelter for the children. Still other recipients were spending the funds for improper purposes, including unnecessary luxuries and intoxicating beverages.[42]

In an effort to get at the problem, the General Assembly of North Carolina enacted Chapter 668, Session Laws of 1959. This provided that a county welfare board, upon learning that AFDC funds were not being used

[42] "The Need for Supervision in the ADC Program," Statement by John Alexander McMahon, General Counsel, North Carolina Association of County Commissioners, p. 1.

by the parent to benefit the children, could direct the county superintendent of public welfare to supervise the expenditure of the funds in order to insure that the children were benefited. Such supervision under the act was to include, as necesary, conferences with the recipient, preparation of monthly budgets, reporting on expenditures by the recipient, and generally directing the expenditure of assistance payments. Under the act, opportunity was to be given recipients to appeal the order for supervision, including final appeal to the State Board of Allotments and Appeal.[43]

The North Carolina statute contained a proviso, however, that the act would not take effect in the event the Secretary of Health, Education, and Welfare notified the State Board of Public Welfare that the legislation would cause the State plan for AFDC to be in conflict with the Social Security Act. The Secretary so advised the State that the State law was in conflict with the Federal act and thus the North Carolina legislation did not become effective.

The Federal agency ruling was based on an interpretation of the Social Security Act requirement that payments to recipients must be direct money payments. The Federal agency contended that based on the intent of the Social Security Act and legislative history over the years, assistance payments come to the recipient as a right and that the individual shall be free to decide how the use of these payments will serve his own best interests. Any written or oral direction to the contrary by the State was forbidden by Federal regulations.[44] North Carolina did not further pursue the matter.

The Social Security Act Amendments of 1962 afforded some measure of relief to States with similar problems by permitting the use of so-called protective payments in the AFDC program. Title IV was amended bv the 1962 Amendments to provide that a State which so desires may include in its State plan a procedure for granting protective payments with regard to needy children. This enables the State agency to make such payments to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of the child when it is determined by the State agency that the relative of the child, with respect to whom assistance payments are being made, has such inability to manage funds, that making payments to him would be contrary to the welfare of the child. The number of individuals with respect to whom protective payments are made may not exceed 5 percent of the number of other recipients of AFDC. As of July 1, 1963, 12 States had either submitted plan material or indicated their intentions to participate in this phase of the AFDC program. North Carolina was among the twelve.

[43] *Ibid.*, p. 2.
[44] *Ibid.*, pp. 1–3.

Chapter V

SUGGESTIONS FOR IMPROVING FEDERAL-STATE RELATIONS IN THE PUBLIC ASSISTANCE PROGRAMS

This chapter deals with the pros and cons of certain alternatives that have been suggested for improving Federal-State relations in the public assistance programs.

A. Judicial Review

States have no appeal from decisions by the Secretary of Health, Education, and Welfare declaring a State plan out of conformity with the Social Security Act. Judicial review of such decisions, a remedy which has been provided under many grant-in-aid programs enacted subsequently, has been suggested as a solution. Considerable attention was focused on the problem by the former "Kelley Commission" of New York, which investigated the conditions surrounding Federal-State disagreements in public assistance in the early 1950's. The report of this commission, which frequently has been cited, recommended judicial review. Subsequently, the interest of State and local officials in judicial review has waxed hot and cold as problems and disagreements have arisen with the Federal agency.

Bills that would provide for such review have been introduced in the Congress. In the 2d session of the 87th Congress, S. 3787 was introduced by Senators Javits and Keating of New York and Metcalf of Montana, while in the 1st session of the 88th Congress, Representative Curtis of Missouri introduced a similar but not identical bill (H.R. 6202). S. 3787 would have added a section to each of the public assistance titles of the Social Security Act as follows:

> Any State which is dissatisfied with the Secretary's action (in declaring its plan out of conformity with the Federal Act) . . . may appeal to the United States district court for the district in which the capital of

such State is located by filing with such court a notice of appeal. The jurisdiction of the court shall attach upon the filing of such notice. A copy of the notice of appeal shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary shall thereupon file in the court the record of the proceedings on which he based his action. The action of the Secretary shall be reviewed by the court (on the record) in accordance with the provisions of the Administrative Procedure Act.

H.R. 6202 is more detailed, providing for a hearing before the Secretary in cases of disagreement over decisions of the Secretary and spelling out time limits for each step in the procedure. Appeal from the Secretary would be made to the United States Court of Appeals for the circuit in which the State is located, and the decision of this court would be subject to review by the United States Supreme Court. This bill further specifies that the Secretary shall not reduce payments to the States prior to whichever of the following occurs first:

(*a*) the thirty-day period commencing on the date he notifies such State of his poposed action expires without the State having filed a petition with him for a reconsideration of the issues upon which his proposed action is based;

(*b*) the date such State notifies him that no appeal will be taken on his proposed action or that any such appeal previously filed has been withdrawn;

(*c*) the date a final judgment with respect to such proposed action had been sustained on review by the Supreme Court of the United States, or the date that, because of the lapse of time, such a judgment is no longer subject to review by the Supreme Court of the United States.

Arguments in favor of a system of judicial review of the decisions of the Secretary are: (1) It would place the State on an equal basis with the Federal Government in the administration of the public assistance programs. As the situation now stands, the Federal agency definitely has the upper hand in the Federal-State partnership because there is no recourse for the State beyond the decision of the Secretary; (2) There is ample precedent for judicial review in the public assistance programs because at least 11 other Federal grant-in-aid programs have such provisions; and (3) Lack of a system of judicial review tends to stifle initiative on the part of the States for fear anything new they initiate may be declared out of conformity with the Act.

Arguments in opposition to judicial review are: (1) It is not needed because the States have sufficient opportunity to present their side of any disagreement through negotiations with Federal officials, and to the Secretary through the hearing process if negotiation breaks down; (2) The State in reality does have appeal beyond the Secretary because appeal may be made to the Congress; (3) States have not been badly treated at the hands of the Federal agency, as evidenced by the fact that there have been only 15 hearings scheduled before the Federal agency over all the years of the public assistance programs; and (4) Judicial review will present insurmountable problems in regard to withholding funds from the State while litigation takes place, or in recouping funds from the States if the court ultimately decides in favor of the Federal Government.

The National Association of Counties at its 28th annual meeting in Denver, Colo., in 1963 adopted a plank in its American County Platform in support of judicial review, as follows:

> The National Association of Counties urges enactment of appropriate Federal legislation to provide the counties and States access to judicial review of Federal staff legal interpretations of the Social Security Act affecting Welfare programs administered by the States and counties in partnership with the Federal Government.

On the other hand, the Department of Health, Education, and Welfare is on record in opposition to H.R. 6202.

B. Modification of the Single State Agency Requirement

One of the most controversial issues in Federal-State relations in the public assistance programs has involved the single State agency statutory requirement. A recent instance was the Oregon case discussed earlier.

The merits of the single State agency requirement appear to be largely historical. In the formative years of the public assistance programs, it was absolutely essential that the single State agency requirement be vigorously enforced to bring order out of chaos in the existing as well as the newly emerging public assistance programs in the States. It was also necessary that the Federal agency have one and only one State agency to deal with in matters regarding public assistance and only one agency to hold

responsible for administering these programs. Some will argue that the need for strict enforcement of this requirement is just as great today as it ever was.

However, since the public assistance programs are now well established and the States have become more sophisticated in the administration of these programs, it would appear that sound argument could be made for more liberal interpretation of this requirement. The basic argument against strict interpretation is that States need to restructure their governmental organization to keep pace with the added functions and responsibilities that are thrust upon them by the complexities of modern life. Just as change dictated Federal establishment of the Department of Health, Education, and Welfare, and, recently, the severance from the Social Security Administration of functions now administered by the newly formed Welfare Administration, it has been and will continue to be necessary for State governments to reorganize. It is quite probable that such reorganization efforts will run into trouble trying to meet both the needs and desires of the particular State and, at the same time, satisfy the single State agency requirement.

Rigid application of this control can tie up a Governor, as well as the legislature, in structuring State government. Also, it is increasingly apparent that many of today's problems call for cutting across individual program lines and this easily can require new organizational structures that run afoul of the single State agency concept. In other words, the single State agency requirement may very well have become outmoded.

C. Establishment of a Permanent Public Assistance Advisory Council

The need for State and local officials to have more voice in the formulation of Federal legislative proposals and in the preparation of administrative requirements issued by the Federal agency dictates that serious consideration should be given to the establishment of a device such as a permanent public assistance advisory council. In the past, advisory groups have been established from time to time by the Congress to study the public assistance programs and to make recommendations for improve-

ment. Traditionally these have been appointed on a temporary basis and charged with responsibility for studying the programs and issuing a report of their findings. They were dissolved upon the issuance of the report. The Social Security Act Amendments of 1962 provided for the appointment by the Secretary of an advisory council to review the administration of the public assistance and child welfare programs. This council is to be appointed in 1964 and is required to make a report of findings and recommendations by July 1, 1966. It will then cease to exist, although the act also directs the Secretary to appoint advisory councils from time to time thereafter as he deems necessary.

While past advisory groups undoubtedly have been helpful, they do not appear to have provided an adequate sounding board for State and local ideas regarding public assistance. The Commissioner of Welfare, as have predecessors who have been delegated responsibility for the public assistance programs, consults from time to time on public assistance matters with the Executive Committee of State Directors of the American Public Welfare Association. Nevertheless, it does not appear that these relatively informal advisory arrangements are as effective as a permanent and more formally constituted body would be in giving State and local government a voice in the formulation of legislative proposals and administrative regulations.

The Federal Hospital Council, which is provided by law in connection with administration of the Hospital Construction Act and is appointed by the Secretary of Health, Education, and Welfare, might be a satisfactory model as well as a precedent for the establishment of a permanent Public Assistance Advisory Council. The Federal Hospital Council is composed of 12 members who are appointed for 4-year overlapping terms. The Surgeon General of the Public Health Service serves as Chairman ex officio of the Council which is designed to advise him on the administration of the program. It is provided by law that the Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon the request of three or more members of the Council, the Surgeon General is required to convene the Council. A permanent Public Assistance Advisory Council to be truly effective should be required by

law to report annually to the Congress on its deliberations and operations.

Important arguments supporting the establishment of such a Council for public assistance are: (1) It would give States and local governments a formal, legally-constituted forum for presenting to the Federal agency their ideas and grievances regarding the public assistance programs; (2) It would permit these governments to present their recommendations and any disagreements with the Federal agency to the Congress in an effective, orderly, and uniform manner rather than on a "hit or miss" basis as they must do at present; and (3) advisory councils in the traditional pattern have not adequately considered the problems of State and local governments in the public assistance programs.

Important arguments against the establishment of a permanent Public Assistance Advisory Council are: (1) There really is no need for such a Council with the existing provision in the law directing the Secretary to establish an advisory council from time to time; (2) Representative views of the States are adequately presented to the Federal agency by those State directors whom the Welfare Commissioner consults frequently; and (3) A Permanent Council would require staff time and assistance of personnel in the Department of Health, Education, and Welfare, which would interfere with regular program activities.

D. Exclusion of Mental and Tubercular Patients in Institutions From Public Assistance Payments

It has been noted previously that patients in institutions as a result of a diagnosis of psychosis or tuberculosis are excluded from the receipt of assistance payments by the statutory provisions of the Social Security Act. This appears to have been the outgrowth of the concepts that only money payments should be made to individuals and that the care of needy mental and tubercular patients is the responsibility of the States. However, from time to time, State officials have raised questions about the restriction and have suggested that it be lifted from the Act. Actually, on several occasions, the Federal agency and the Congress have considered liberalizing the Act's provisions regarding

mental and tubercular patients but the only such liberalization made was in a 1960 amendment. This permitted Federal participation in assistance payments to individuals in general medical institutions for 42 days after the diagnosis of tuberculosis or psychosis. Another liberalization was made by an administrative determination of the Secretary in March 1962 that patients on convalescent leave from mental institutions might receive assistance with full Federal participation.

Examination of the number of patients involved in the consideration of this issue reveals that the major problem concerns mental patients. Tuberculosis has been a diminishing problem. In 1961, it was estimated that there were 48,000 patients in tuberculosis hospitals in the United States, of which 5,000 were age 65 and over. At the same time it was estimated that there were 157,700 aged patients in public mental institutions.[45]

In dealing with this question, the Social Security Act might be amended in one of two principal aspects. First, the Act could be amended to eliminate the provisions which deny Federal participation in public assistance to mental and tubercular patients in general medical institutions. Such participation is not denied to other eligible public assistance recipients in such institutions. Since current medical practice recommends that mental patients be treated to the extent possible in general medical institutions near their homes, the removel of the provision denying Federal assistance to patients in such institutions would conform with recommended practice. Likewise it should tend to encourage the transfer of patients in mental institutions to general medical institutions when the condition of the patient warranted. Also, the removal of the 42-day limitation on assistance payments to patients in medical institutions, after a diagnosis of psychosis or tuberculosis, would enable the treatment of these patients to continue in the medical institutions and thus perhaps preclude the necessity for the transfer of many of these patients to mental institutions.

Second, the Social Security Act could be amended to eliminate all provisions which deny Federal participation in assistance pay-

[45] Department of Health, Education, and Welfare estimates.

ments to mental and tubercular patients. The main argument for such amendment is that the existing provisions discriminate against individuals and the States by not providing for Federal participation. It can be argued that the States should not be expected to bear the entire cost for needy mental and tubercular patients in institutions who otherwise would be eligible for public assistance.

The main argument against any modification of the Social Security Act with regard to mental and tubercular patients is that in reality the Federal assistance payments would merely supplant a portion of State funds and would not result in improved treatment of patients. Federal participation in payments to mental and tubercular patients in institutions would also require Federal attention to standards of care provided by such institutions.

E. Modification of Federal Requirements Regarding Eligibility and Need and the Federal Appropriation Structure

The very wide diversities among the States that have been noted in the size of the recipient rolls and in the program levels of the public assistance programs are due in large measure to the looseness of the Federal requirements relating to eligibility and need and to the "open-end" appropriation procedure. The essential question involved with regard to Federal requirements concerning eligibility and need is whether the Federal Government should tighten these provisions in the Social Security Act so that all of the States would either be "conservative" or "liberal" in their policies toward putting recipients on the rolls, or whether the present looseness in these requirements with its accompanying disparities should be continued. The Federal Government could bring about more uniformity among the States by requiring the States to tighten or liberalize, as the case might be, their requirements on such items as relative support responsibility, recoveries, liens, and assignments, and real and personal property limitations. The considerable effect that such provisions have on the size of the recipient rolls in the Old-Age Assistance program was illustrated earlier.

The main argument for tightening Federal requirements in regard to eligibility and need is that it is unjust to tax all Americans to contribute to the financing of an Old-Age Assistance program in those States where it is virtually a pension program for those 65 years of age and over while the taxpayers in their own States may employ measures to hold down the size of the recipient rolls. It also appears to be inconsistent that the Federal Government has indulged in such detail in various administrative aspects of the program and at the same time has virtually ignored major interstate variation and even competition regarding eligibility and need. It would appear that if there is to be a National interest in public assistance it could better be served by devoting attention to the substantive issues of the program rather than to administrative detail.

The main argument for maintaining the status quo is that State flexibility in and control of such aspects of the programs as the determination of eligibility and need is what is really important to the States and that the Federal Government should not infringe in these areas. Those who subscribe to this belief also contend that sufficient Federal control over the programs can be maintained through administrative requirements.

The two major concerns which involve the "open-end" appropriation in the public assistance programs are: (1) States that elect to do so can put relatively large numbers of recipients on the assistance rolls at payments close to the ceiling for which Federal aid applies; and (2) Congress has little control over the annual appropriations for public assistance.

The most frequently suggested change in this connection is the adoption of a "closed-end" appropriation. Under "closed-end" procedure the Congress would make an annual appropriation and an allotment to each State on the basis of a formula which would take into consideration, among other things, the State's needs and ability to finance them. The formula would be revised annually to reflect any change in these items. Important arguments for and against the "closed-end" appropriation in the public assistance program were presented in a staff study to the (Kestnbaum) Commission on Intergovernmental Relations in 1955. The most important arguments this study

listed for the "closed-end" appropriation are summarized as follows:[46]

(1) It would place the primary fiscal and administrative responsibility for the public assistance programs on the States and local governments where it belongs.

(2) It is consistent with the general pattern of Federal aid and fiscal responsibilities assumed by the Federal Government in other fields.

(3) It would place a limit upon public assistance expenditures in each State which may be financed in part by Federal funds.

(4) By setting up an adjustable allotment to each State for public assistance, the entire program is made more responsive to the will of the people as expressed through Congress and the State legislatures.

(5) It would make for greater simplicity in Federal-State relations and a minimization of Federal control of administration.

Arguments advanced against the "closed-end" appropriation were:[47]

(1) The practical result might well be insufficient funds to permit the Federal Government fully to meet its responsibility for the alleviation of economic insecurity of individuals and families.

(2) Under the "closed-end" grant the Federal Government would not share with the States the responsibility for making adjustments to changing economic circumstances.

(3) This type of grant will lead to constant pressure on Congress by the States for supplemental appropriations to meet changing economic conditions.

(4) Serious practical difficulties would be presented in developing an equitable formula for apportioning the Federal funds among the States.

(5) It would infringe on State autonomy for determining need of recipients.

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[46] U.S. Commission on Intergovernmental Relations, *Federal Aid to Welfare,* a Study Committee report (June 1955), pp. 12–13.

[47] *Ibid.,* pp. 43–45.

Chapter VI

CONCLUSIONS AND RECOMMENDATIONS

Obviously some requirements and controls are necessary in the administration of Federal grant-in-aid programs if they are to accomplish national objectives. Conceivably, as some would like it, the Federal Government might "put the money on the stump and run," thereby serving merely as a tax collecting agent of the States. The other extreme would arise either from great specificity in the Federal law or the unlimited authorization for the issuance of administrative regulations with no recourse in either case for State appeal from decisions of the Federal Administrator. This would tend to make the State a mere administrative agent of the Federal Government.

The Commission views the Federal grant-in-aid device as an important means for strengthening State and local government and rejects any proposition that such grants be made a mere vehicle for fashioning greater concentration of administrative power in the Central Government. The Commission believes that Federal controls associated with the administration of grant programs should be kept to a minimum sufficient to assure a satisfactory performance consistent with the national purposes of the program, and to provide proper accountability for the expenditure of Federal funds. Both the Federal statutory provisions and any implementing regulations governing a grant program should be developed with the desirability in mind of strengthening State and local government administration and should be carefully weighed against this objective before they are approved.

It follows that State and local government, as appropriate, should have a significant voice in the development of Federal program provisions, especially when Federal requirements will affect their organizational and administrative structures. The

Commission is of the view that the promulgators of Federal program requirements should "lean over backward" in allowing the States flexibility in structuring their governments for administering grant programs. Conditions vary widely, and they change, and the Governors and legislatures ought to be able to exercise discretion sufficient to deal with new and differing situations as they arise. The Commission believes that although accomplishment of the national purpose of a grant program is the fundamental goal, different State organizational arrangements should be permitted where it can be shown that national program objectives will not be endangered.

Considering the far-flung nature and ramifications of the public assistance programs, involving all levels of American government for three decades, no major problems of intergovernmental friction in their administration have persisted over a long period of time. There have been a lot of administrative headaches at all levels, a lot of routine "give and take" between Federal, State, and local officials, and a few big Federal-State flareups. The Federal statutory requirements left a considerable degree of flexibility to the States for program eligibility determination, and many States took advantage of it. However, the single State agency requirement, perhaps coupled with the failure to provide in the Federal statute for any recourse to the States from decisions of the Federal Administrator, has been an irritant to some of the States.

Much of the popular criticism which implies that the Department of Health, Education, and Welfare is inconsiderate of the interests of the States in its promulgation and enforcement of regulations does not appear justified. To the contrary, there is considerable evidence, including two recent General Accounting Office reports, of instances where the Federal agency has been perhaps unduly tolerant of State weaknesses in the public assistance program.[48] Yet there are aspects of the programs in which

[48] U.S. Comptroller General, *Observations on the Adequacy of the Nationwide Review of Eligibility in the Aid to Families With Dependent Children Program,* report to the Committee on Appropriations, U.S. Senate (October 1963). U.S. Comptroller General, *Excessive Financial Participation in Federally Aided Public Assistance Programs in the States of Louisiana and Oklahoma,* report to the Congress of the United States (February 1964).

the Federal statutes and the Federal agency have not permitted the degree of flexibility desirable for State governments to be more effective partners in the program.

The Commission believes there are several important issues in the public assistance programs that warrant attention and action to improve the intergovernmental partnership. These are: (1) the fact that the only present recourse a State has from a decision of the Secretary of Health, Education, and Welfare in disagreements with the Secretary, is the Congress; (2) the lack of assurance of sufficient voice for the States in the preparation of Federal administrative regulations affecting public assistance; (3) the frequent inability of the States to attract congressional attention to important issues in the public assistance program because the issues do not have political urgency or appeal; and (4) the lack of flexibility allowed to the States by the Federal act and administrative regulations in important aspects of the program. It is to these issues that the following recommendations are addressed.

1. *Judicial Review of Decisions by the Secretary of Health, Education, and Welfare*

Many key officials—Federal, State, and local—involved in the administration of the public assistance programs, and who have considered the problem, agree in theory that there should be opportunity for judicial review of Federal administrative actions in these programs. The fact that there are at least 11 existing Federal grant-in-aid programs which provide for judicial review is ample precedent for such a recommendation.

Certain basic issues are involved in formulating specific proposals for such court review. These stem largely from the sizeable amounts of Federal funds involved in the public assistance programs. Typical questions raised in providing judicial review of decisions of the Federal agency regarding State plans are as follows: If the agency declares a State plan out of conformity for any reason, such as change in the plan initiated by the State, or failure of the State adequately to implement new Federal administrative requirements, should Federal funds be withheld from the State or continued during the court review process? If the court decides in favor of the Federal Government, should

the State be required to repay the portion of Federal funds applying to the part of the plan found to be in error? If the Federal Government withheld funds for any length of time, would the State be able to continue assistance payments and avoid economic hardships for recipients?

While additional questions could be raised, this is sufficient to illustrate some of the complexities of the problem. The Commission believes that the difficulties can be minimized or avoided by devising an appropriate judicial review procedure.

The Commission recommends that the Congress amend the Social Security Act to give the States the right of appeal to the United States Court of Appeals—for the circuit in which the State is located—from administrative decisions of the Secretary of Health, Education, and Welfare regarding the conformity of State plans under the public assistance titles of the Act. Court review of the decisions of the Secretary would take place before the proposed changes became operative as a part of the State plan.[49]

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[49] Secretary Celebrezze did not concur in this recommendation.

Mayor Naftalin dissented from this recommendation and stated:

"I am concerned that the institution of judicial review procedure for decisions of the Secretary of Health, Education, and Welfare would slow down administrative actions in the public assistance programs. I believe it is absolutely necessary for the Secretary to have wide latitude for administrative discretion in the conduct of public assistance grants and that judicial review would tie the hands of the Secretary with consequent impairment not only of the Federal aspects of the program but of the State and local aspects as well."

Administrator Weaver dissented from this recommendation and stated:

"This recommendation has implications for a wide range of Federal aid programs, despite its necessary limitation in this report to public assistance grants under the Department of Health, Education, and Welfare. I do not believe that either the need for judicial review of such administrative decisions or the potential consequence of such a procedure have been sufficiently determined or considered.

"Congress enacts a program to serve a public purpose and generally leaves to the administering agency the responsibility for developing appropriate procedures to implement the legislation. In carrying out this responsibility, the administering agency is necessarily concerned with achieving the most expeditious and efficient operation of the program. Where there is some question of congressional meaning or intent, or some significant problem of program administration not susceptible of satisfactory solution by the agency itself, the matter is normally referred back to Congress for clarification or any appropriate changes.

"Unless it is shown (1) that a significant administrative problem exists, and (2) that the normal Federal legislative—administrative process is unable to resolve the problem, judicial review should not be introduced into what is essentially a matter of authorized administrative discretion."

The Commission believes that the most satisfactory approach to providing judicial review of administrative decisions of the Secretary is to establish a procedure whereby in cases of disagreement between the State agency and the Secretary, court review would occur prior to actual implementation of a proposed change in the State's existing approved plan. This would avoid the necessity for withholding or recouping Federal funds. Court review would involve a determination of whether an amendment to the existing plan proposed by the State or a new administrative requirement promulgated by the Federal agency conformed with the intent of the Federal statute. Under such procedure there would be no disruption in the operation of the existing approved State plan until agreement between the parties was reached or the court decision was rendered.

It has been argued that such procedure would unduly delay the implementation of essential Federal regulations. However, the Commission does not believe that this is a compelling argument. Time limits could be set for steps in the appeal process and priorities established for court review of such cases, thereby precluding undue delay in activating changes in State plans. An appeal on the part of one State would in no way affect the action of any other State in implementing Federal requirements prior to the court decision.

Some States and local officials believe that some form of judicial review should encompass all aspects of the public assistance programs, including "matching" issues or audit exceptions. However, the much greater concern is for review of decisions regarding "plan conformity" issues. The Commission believes that to involve audit exceptions or issues other than those of plan conformity in the judicial review process would create many additional problems.

2. *Increased Discretion for the Secretary of Health, Education, and Welfare in Regard to the Operation of State Plans*

The Commission recommends that the Congress amend the Social Security Act to provide the Secretary of Health, Education, and Welfare with the same discretion for declaring parts of a State plan out of conformity with the Federal Act under Titles I (Grants to States for Old-Age Assistance and Medical

Assistance for the Aged), IV (Grants to States for Aid and Services to Needy Families With Children), X (Grants to States for Aid to the Blind), and XIV (Grants to States for Aid to the Permanently and Totally Disabled) as is currently available to him in Title XVI (Grants to States for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged) of the Act.[50]

Prior to the enactment of title XVI of the Social Security Act as a part of the 1962 Amendments, and still true under the other public assistance titles, the only alternative for the Secretary when he found any part of a State plan out of conformity was to declare the entire plan out of conformity and to withhold Federal funds for the operation of the entire plan. As State plans and programs become increasingly more complex and complicated to meet the specifications demanded by more complex and complicated Federal statutory and administrative requirements, the need to provide the Secretary with such discretion becomes more evident. Disagreement over some aspect of a State plan between the State and Federal agencies should not be permitted to jeopardize an otherwise effectively operating State plan. This is precisely what could happen under the provisions currently in effect in all of the public assistance titles except under title XVI.

Enactment of this recommendation by the Congress also would simplify the judicial review process of the previous recommendation by limiting the portion of the plan involved in litigation.

3. *Modification of the Single State Agency Concept*

The Commission recommends that the Social Security Act be amended to give the Secretary of Health, Education, and Welfare discretion to waive the single State agency requirement for the public assistance titles to the extent necessary to enable States to organize the structure of the executive branch of State government in a manner compatible with their own organizational and administrative needs, so long as the Secretary is convinced that

[50] Secretary Celebrezze did not concur in this recommendation.

under such State organization the program objectives of the act will not be endangered.[51]

The Commission believes it is desirable to give the States maximum flexibility to organize the executive branch of State government to meet particular State problems and objectives as long as the objectives and requirements of the Federal act are otherwise met. The Commission believes that the single State agency concept may become outmoded as the Federal Government becomes involved in grants-in-aid for objectives which inevitably involve several departments of State government (e.g., juvenile delinquency and poverty programs). In these instances a "team effort" is required at the State government level, under the overall coordination of the Governor. In any event, the Commission does not believe that the single State agency requirement should be construed so rigidly as to preclude legitimate alternative forms for the structure of State government.

If the Secretary is not provided such discretion by legislation or legislative history, he will feel compelled to continue to interpret the single State agency requirement in the narrow manner that tradition and administrative requirements have dictated in the past. Because of the variety of organizational problems the States have, the Commission believes that it is more satisfactory to provide discretion for the Secretary on this matter than to attempt to specify in the statute the kinds of variation to be permitted.

4. *Establishment of a Permanent Public Assistance Advisory Council*

The Commission recommends that the Congress enact legislation establishing a permanent Public Assistance Advisory Council to advise the Secretary of Health, Education, and Welfare on proposed legislation, administrative regulations, and other related matters.[52]

Such a council might well be similar in nature to the Federal Hospital Council which is appointed by the Secretary of Health, Education, and Welfare. The membership should be composed of State and local public assistance directors and other persons

[51] Secretary Celebrezze did not concur in this recommendation.

[52] Secretary Celebrezze did not concur in this recommendation.

prominent and able, both in welfare administration and public affairs generally, should be appointed for overlapping terms, and have formalized procedures.

The Commission believes that such a Public Assistance Council would give State and local public assistance directors a formally constituted body through which to register their dissent or agreement in regard to proposed changes in the Federal provisions governing the public assistance programs. One of the major complaints coming frequently from State directors is the Federal agency's alleged failure to consider their ideas in the preparation of legislative proposals and in the development of regulations. While it is true that State directors are consulted by the Federal agency, the complaint of the State directors is that their opinions frequently are given little consideration by the Federal agency. The Commission believes that the establishment of a permanent council, with proper procedural provisions, including required reporting of its operations, would greatly increase the probability that State and local opinions be taken fully into account.

The Public Assistance Advisory Council should have no judicial or quasi-judicial functions. It should not hold hearings or have a permanent staff. Rather, this council would carry out some of the same functions as have the temporary public assistance advisory councils of the past and also would provide advice to the Secretary regarding State and local attitudes toward proposed Federal legislation and administrative requirements.

5. *Modification of Federal Requirements Regarding Determination of Need and Eligibility for Public Assistance*

The Commission concludes that it is neither feasible nor desirable to endeavor to impose at the present time a national standard of uniformity concerning need and eligibility for public assistance.

The Commission opposes any effort to impose by Federal statute a nationwide standard of eligibility for public assistance.

(1) The determination of eligibility, and particularly the extent of need is the principal substantive task involved in the administration of public welfare, and to regulate this function

by Federal statute would deprive the States of much of their present policy responsibilities in this field.

(2) Economic and social conditions vary so greatly over the country that any quantitative standards of need would inevitably be too restrictive for some areas and unduly liberal for others. A $10,000 home or $1,200 in annual income may represent adequate economic security in certain farm areas or small towns in some States, but may be appallingly inadequate in high-cost-of-living areas, especially the larger cities.

6. *Modification of the Federal Appropriations Procedure for Public Assistance*

The Commission concludes that there should be no change in the Federal appropriations procedure for public assistance.[53]

The Commission believes that no change should be made in the present "open-end" appropriation arrangement for financing public assistance programs for the following reasons:

(1) A change to a "closed-end" procedure would place an undue burden on the States and political subdivisions in that these units of government would be required to make the entire adjustment to meet increased need for assistance as the result of fluctuating economic conditions. The Federal Government is better able to meet adjustments of this type than are the States and local governments and does participate in such adjustments under the "open-end" appropriation. Furthermore, rapid adjustments to appropriations would present great difficulties for States that have biennial legislative sessions.

(2) Use of allotment formulas would cause the States continually to bring pressure on Congress to provide supplemental appropriations for the public assistance programs when State financial difficulties were encountered.

(3) Change to allotment formulas, in which the Congress would determine the States' needs for funds, would in large measure infringe on the States' traditional responsibility for determining individual need and eligibility for public assistance.

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[53] Governor Anderson and Mayor Goldner dissented from this recommendation and stated:

"We believe that the existing appropriation structure permits too great a variation among the States in program levels and size of recipient rolls. We are aware that some variations in program levels and size of recipient rolls are inevitable for a variety of reasons. However, some modification in the appropriation structure for public assistance is desirable in order to limit these variations which have the effect of subsidizing prodigality and penalizing prudent fiscal management."

(4) As a practical matter it would be difficult for the Congress to develop an equitable formula for apportioning Federal funds to the States for the public assistance programs.

(5) The "open-end" appropriation is responsive to the desires of the Congress because the Congress does change the payment formulas from time to time.

7. *Exclusion of Mental and Tubercular Patients in Institutions from Public Assistance Payments*

As indicated earlier, the Social Security Act excludes from payments under the public assistance titles patients in institutions for tuberculosis or mental diseases, patients in medical institutions as a result of the diagnosis of tuberculosis or psychosis, and patients who have been in medical institutions longer than 42 days after the diagnosis of tuberculosis or psychosis is made.

The Commission recommends that the Social Security Act be amended to remove all prohibitions denying Federal participation in public assistance payments to mental and tubercular patients.[54]

There is no sound reason for discriminating against States and patients because a case is diagnosed tuberculosis or psychosis instead of something else. The States need assistance in the form of Federal participation in public assistance payments to individuals in public institutions whose cases are diagnosed as tuberculosis or psychosis if they are to maintain adequate treatment for such individuals. The fact that treatment of mental and tubercular patients is a traditional State responsibility is not a good reason why the Federal Government should not participate if the person is otherwise eligible for one of the public assistance categories. This is no longer a valid argument against Federal participation in assistance to these cases in the light of the enactment by the Congress of the Mental Health Act in 1963 which charted clearly a major Federal responsibility in the field of mental health. Furthermore the existing prohibi-

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[54] Secretary Celebrezze did not concur in this recommendation.

Mayor Goldner dissented from this recommendation and stated:

"I believe that the Federal Government by participating fully in public assistance payments to individuals in institutions with a diagnosis of psychosis or tuberculosis would merely be relieving the States of part of their proper financial responsibilities and that there would be no improvement in the treatment of patients. I am opposed to transferring this State responsibility to the Federal Government."

tion applies regardless of whether the patient is in a public or a private institution. Existing provisions for assistance payments to individuals in institutions who are not mental or tubercular patients is sufficient precedent for providing assistance to these additional patients in institutions.

Other Considerations

In the course of this study the Commission considered a number of other possible alternatives for improving the operation and administration of the public assistance programs. However, these alternatives have not been recommended because in most cases possible improvements are already underway or because the Commission believes that significant improvement will be brought about by the above recommendations.

The Commission believes that the ultimate elimination of the categories in the public assistance program (and the consequent inclusion of what is now "general assistance") is a desirable objective. However, it is recognized that this cannot be satisfactorily accomplished hastily because of tradition, cost, vested interests, and the numerous changes that would be needed in Federal and State statutes and administrative regulations. The enactment of title XVI of the Social Security Act was an important step in the direction of consolidating categories. Further steps should be taken whenever feasible. Disappointingly, title XVI so far has not reduced the volume of plan materials required from the requirements for the programs administered separately. The Department of Health, Education, and Welfare should make every effort to improve this situation.

The most frequent criticism of the role of the Federal agency in the public assistance programs by the State public assistance directors who were consulted during the course of this study was about things which some would say are the inevitabilities of bureaucracy. Such items were: the large amount of paperwork required of the States and local agencies; the lengthy and complicated Federal administrative regulations; the unique terminology used in the regulations; and the large number of Federal officials involved in the clearance process for materials submitted by the States. The Federal agency is aware of some of these problems, especially those resulting from the complexity of the *Handbook*

and has initiated a project which is called Handbook Simplification and Clarification. The project was begun in October 1963 and is still in an early stage. The Commission believes that this action is most desirable and that it should be a continuing project. If this achieves its desired objectives, the number of annoying bureaucratic inevitabilities will be materially reduced.

The Commission believes that the use of protective payments in the AFDC program is desirable. The provision in the 1962 amendments for the use of such payments at the option of the States for up to 5 percent of the recipients is an important step. States should participate under this option if they have sufficient problem cases which warrant protective payments. The results of State participation in this program should be carefully observed by the Federal agency with a view toward recommending expansion of the program if the facts so indicate.

Although the recommendations in this report are for Federal action, it is not intended to imply an absence of weaknesses at the State level. The Commission believes that perhaps the greatest shortcoming on the part of the States in administering public assistance has been their general failure to move beyond the specific prescriptions of the Federal agency. The recent Quality Control Review requirement is illustrative of State failure to move without Federal prodding. For years the Federal agency has recomended that States institute a system for central office review of local agency actions. Some States had heeded this recommendation, yet most of them were not nearly prepared to implement the Quality Control Review.

The States have contended and with some justification that they have not had the necessary flexibility to organize for administering the public assistance programs beyond the scope required by the Federal statutory and administrative requirements. The Commission believes that implementation of its recommendations will provide the States more flexibility and more voice in improving the programs, and thus eliminate an important excuse that the States now have for failing to move forward. The Commission urges the States to take advantage of every available opportunity to improve their public assistance programs without waiting for Federal initiative.

Appendix

FEDERAL STATUTORY PROVISIONS OF THE PUBLIC ASSISTANCE TITLES OF THE SOCIAL SECURITY ACT AND ADMINISTRATIVE REQUIREMENTS FOR STATE PLANS

This appendix was prepared in order to present a general view of how Federal administrative requirements regarding public assistance supplement the statutory provisions of the Social Security Act. Included are the essential statutory provisions of the Social Security Act regarding State plans, together with citations of the applicable sections of the act and a condensation of the appropriate administrative requirements from the *Handbook of Public Assistance Administration.*

1. *Statewide Operation*

(a) *Statutory.*—The State plan must be in effect in all political subdivisions of the State, and if administered by the subdivisions it must be mandatory upon them. This applies to all the public assistance titles or categories. (Title I—Old-Age Assistance and Medical Assistance for the Aged; Title IV—Aid and Services to Needy Families With Children; Title X—Aid to the Blind; Title XIV—Aid to the Permanently and Totally Disabled; and Title XVI—Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged.)[1] Sections 2(a)(1), 402(a)(1), 1002(a)(1), 1402(a)(1), and 1602(a)(1). Handbook II–2100.

(b) *Administrative.*—Handbook II–2310.

(1) A State plan must contain a description of organization, showing whether the plan is State administered or State supervised, the field offices established, and every geographical area covered.

(2) A State plan must contain financial methods that insure funds will be available to all parts of the State for assistance payments and administration.

(3) A State plan must contain a description of the system used to promulgate State policies and regulations.

(4) A State plan must contain a system of local office visits by State staff and a system of reports or other controls to assure continuous statewide operation of the plan.

(5) If local units of government are responsible for administration, the State Attorney General must certify that the State agency has full authority to establish and to enforce State policies, rules, and regulations upon the local units.

2. *State Financial Participation*

(a) *Statutory.*—The State plan must provide for financial participation by the State. This applies to all categories. Sections 2(a)(2), 402(a)(2), 1002(a)(2), and 1402(a)(2), and 1602(a)(2). Handbook II–3100.

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[1] Thereafter in this appendix reference to the respective categories generally is abbreviated as follows: OAA and MAA; AFDC; AB; and APTD.

(b) *Administrative.*—Handbook II–3200. A State plan must provide for use of State funds to pay a substantial part of total costs of both assistance and administration, with State and Federal funds allocated among localities in such a way to assure equitable treatment of people in similar circumstances throughout the State.

3. *Single State Agency*

(a) *Statutory.*—The State plan must provide for establishment or designation of a single State agency to administer the plan or must provide that such a State agency supervises the plan. This applies to all categories. Sections 2(a)(3), 402(a)(3), 1002(a)(3), 1402(a)(3), and 1602(a)(3). Handbook II–4100.

(b) *Administrative.*—Handbook II–4310.

(1) A State plan must contain a certification by the State Attorney General that under State law a single State agency has authority to administer the plan, or that it has authority to supervise administration of the plan.

(2) A State plan must show that State agency authority is not delegated outside the agency and that such authority is not impaired by activities of other officers and agencies of government in the State.

(3) If rules and regulations of the State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the State plan must give sufficient information to show the required authority of the State agency is not impaired.

(4) If services are performed by other State and local agencies and offices, the State plan must show the areas of administration such as fiscal or personnel, and must show that such agencies or offices are not authorized and do not in practice review, change or disapprove an administrative decision of the State agency, or otherwise substitute their judgment for that of the State agency in application of State agency policies, rules, and regulations.

4. *Opportunity for Application*

(a) *Statutory.*—The State plan must provide that all persons wishing to make application for benefits will have opportunity to do so and that assistance will be furnished with reasonable promptness to all eligible individuals. This applies to all categories. Sections 2(a)(8), 402(a)(9), 1002(a)(11), 1402(a)(10), and 1602(a)(8). Handbook IV–A–2310.

(b) *Administrative.*—Handbook IV–2331 and IV–A–2331.

(1) A State plan must provide that no person shall be refused opportunity to apply for benefits nor shall he be required to submit preapplication proof of eligibility. To safeguard the opportunity to apply, the State plan must make a distinction between applications and inquiries.

(2) A State plan must provide that assistance must be paid to each eligible applicant. Assistance must not be withheld from an eligible person so long as any payments are being made under the specific category.

(3) A State plan must provide for a determination of eligibility or ineligibility with respect to each application, subject to an applicant's right to decide not to pursue his application further.

(4) Records must be kept on all applications, and applicants must be notified in writing that assistance has been authorized in a stated amount or that it has been denied with the reason for denial. Each applicant must be notified in writing of his right to a fair hearing and the method of getting a hearing.

(5) A State plan must specify a time period to serve as a standard of reasonable promptness for completing the application process. If the time period is longer than 30 days for OAA, AB, and AFDC, and 60 days for APTD, the plan must include a justification and statement of intended corrective action.

(6) Applicants must be informed of the time period for expected action and of their right to request a hearing if action is not taken within the specified time.

5. *Opportunity for Hearing*

(a) *Statutory.*—The State plan must provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance is denied or is not acted upon with reasonable promptness. This applies to all categories. Sections 2(a)(4), 402(a)(4), 1002(a)(4), 1402(a)(4), and 1602(a)(4). Handbook IV–6100.

(b) *Administrative.*—Handbook IV–6310.

(1) A State plan must provide for specific delegation of responsibility within the agency for conduct of hearings, for rendering decisions that are binding on local units, and for establishing procedures assuring the right of an applicant to demand a hearing before the State agency.

(2) Every applicant must be informed in writing of his right to a fair hearing and of the method of getting a hearing.

(3) A State plan must provide for procedures and controls to assure prompt, definitive, and final administrative action on every request for a hearing.

(4) The hearing must be conducted by a qualified, impartial State agency official, or by members of a panel who have not taken any part in the action under consideration. The decision on the hearing constitutes the ultimate decision of the State agency and must be made in writing.

(5) The State agency must assure itself that the decision has been carried out.

6. *Administration*

(a) *Statutory.*—A State plan must provide such methods of administration as are found necessary by the Secretary for proper and efficient operation of the plan, including establishment and maintenance of personnel standards on a merit basis. This applies to all categories. Sections 2(a)(5), 402(a)(5), 1002(a)(5), 1402(a)(5), and 1602(a)(5). Handbook III–1100 and III–3300.

(b) *Administrative.*—Handbook III–2000 and III–3300.

(1) "Standards for a Merit System of Personnel Administration" is a uniform statement of basic merit system standards which must be applied to programs under the public assistance titles of the Social Security Act in which establishment and maintenance of such standards are conditions of receiving Federal grants-in-aid.

(2) A State plan must include a description of a staff development program which shall be completed and in effect by July 1, 1967.

(3) The new program must make available in-service training to all staff in State and local agencies administering public assistance.

(4) The State plan must make provision for technical and professional education for personnel assigned to positions designated by the State agency as requiring professional or technical education.

(5) The State plan must make provision for an appropriate number of technically competent persons to plan, to direct, and to conduct the staff development program.

(6) The State agency must make annual reports on the progress in carrying out staff development requirements.

7. *Required Reports*

(a) *Statutory.*—A State plan must provide for making such reports as may be required by the Secretary of Health, Education, and Welfare, and must comply with requirements of the Secretary to assure the correctness and verification of such reports. This applies to all categories. Sections 2(a)(6), 402(a)(6), 1002(a)(6), 1402(a)(b), and 1602(a)(6). Handbook VI–1000.

(b) *Administrative.*—Handbook VI–2000. A State plan must include identification of sources of data used, identification and description of definition of items used

in preparing required periodic statistical reports, and sufficient description of the processing of the data to assure the correctness of the reports.

8. *Confidentiality of Information*

(a) *Statutory.*—A State plan must provide safeguards restricting the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the program. Section 2(a)(7), 402(a)(8), 1002(a)(9), 1402(a)(9), and 1602(a)(7). This applies to all categories. Section 618 of the Revenue Act of 1951 (Public Law 183, 82d Cong.) permits State legislation allowing public access to the records of disbursements of assistance payments in the State's federally supported public assistance programs if the legislation prohibits use for commercial or political purposes. Handbook IV–7100.

(b) *Administrative.*—Handbook IV–7310.

(1) The State law must provide the State agency with the necessary authority to make and enforce effective rules and regulations and provide adequate legal sanctions with respect to violations of the provisions.

(2) The State agency must establish administrative regulations that will adequately protect the confidential nature of the public assistance information by provisions against its disclosure except under clearly defined conditions.

9. *Standards for Institutions and Exclusion of Patients in Institutions*

(a) *Statutory.*—If a State plan for OAA, AB, and APTD includes payments to people in private or public institutions, the plan must provide for establishment or designation of a State authority or authorities to establish and maintain standards for such institutions. Sections 2(a)(9), 1002(a)(12), 1402(a)(11), and 1602(a)(9). Handbook IV–8210.

The titles of the Act concerning OAA, AB, and APTD exclude payments to persons who are (1) inmates of public institutions (except as patients in medical institutions), (2) patients in institutions for tuberculosis or mental diseases, and (3) patients in a medical institution as a result of a diagnosis of tuberculosis or psychosis. Titles I (OAA) and XVI (OAA–MAA, AB, APTD) provide for vendor medical payments to patients in general medical institutions for up to 42 days after a diagnosis of psychosis or tuberculosis has been rendered. Sections 6(a), 1006, 1405, and 1605. Handbook IV–3510.

(b) *Administrative.*—Handbook IV–8231.

(1) A State plan for OAA, AB, or APTD must specify whether assistance is available to people in institutions.

(2) If the plan provides such assistance, it must describe the institutions and show they are subject to a State standard-setting authority or authorities.

(3) If State law gives concurrent powers to municipalities or other local authorities to set standards, the standards in localities operating under such powers must be at least equivalent to State requirements.

(4) The State plan providing assistance to people in institutions must describe the responsibilities and activities of the State agency in relation to the standard-setting authority.

10. *Age Requirements*

(a) *Statutory.*—A State plan may not impose an age requirement of more than 65 years for Old-Age Assistance. Section 2(b). A dependent child is defined as a needy child under the age of 18, section 406(a). Aid to Disabled is limited to eligible persons over 18, section 1405, and there is no age requirement for Aid to the Blind, Handbook IV–3210.

(b) *Administrative.*—Handbook IV–3230.

(1) A State plan for OAA must provide for inclusion of persons 65 years of age or older who are otherwise eligible.

(2) State plans for OAA, AFDC, and APTD must make provisions to assure that persons within the scope of these programs meet the age requirements of the Social Security Act.

11. *Residence Requirements*

(a) *Statutory.*—A State plan for OAA, AB, or APTD may not exclude an otherwise eligible person who has resided in the State 5 of the previous 9 years and 1 year immediately before application. Sections 2(b), 1002(b), 1402(b), and 1602(b). A State plan for AFDC may not require more than 1 year's residence in the State before application. Section 402(b). Handbook IV–3610.

(b) *Administrative.*—Handbook IV–3630.

(1) A State plan may not disqualify an otherwise qualified applicant who—

i. holds legal residence in another State for another purpose.
ii. as a wife has matrimonial domicile in another State.
iii. has a husband who does not meet prescribed residence requirements.
iv. has received some form of assistance or relief from the State or a political subdivision thereof, or from another State.
v. as a child AFDC applicant has parents who do not meet prescribed residence requirements.
vi. does not have "settlement" in a State or locality.

(2) A State agency may not stipulate a given period of time after which a recipient of assistance shall be presumed to have interrupted his residence because of absence from the State.

(3) A State may not impose a county or other local residence requirement, and must provide for continuation of payment to recipients who move from one locality to another, if eligibility otherwise has not changed.

12. *Concurrent Receipt of Assistance Prohibited*

(a) *Statutory.*—A State plan must provide for prohibition of concurrent receipt of OAA, AB, APTD, or AFDC benefits. Sections 402(a)(11), 1002(a)(7), 1402(a)(7), and 1602(a)(11). Handbook IV–2510.

(b) *Administrative.*—Handbook IV–2531. State plans for AFDC, AB, and APTD must include provisions in accordance with Social Security Act prohibition against concurrent receipt of benefits.

13. *Notice of Desertion in AFDC Cases*

(a) *Statutory.*—A State plan for AFDC must provide for prompt notice to law enforcement officials of furnishing Aid to Dependent Children in connection with a child deserted or abandoned by a parent. Section 402(a)(10). Handbook IV–8110.

(b) *Administrative.*—Handbook IV–8131.

(1) The State must include criteria for selection of AFDC desertion cases in which notice must be given to law enforcement officials.

(2) The plan must include provision for informing all applicants affected about the reporting requirements as early as possible during the application process and, in any case, affording each the opportunity to learn about the requirement and, if he wishes, to withdraw his application before the first payment is issued and the required notice sent to the law enforcement officials.

14. *Recipient Fraud.*[2]

Administrative.—Handbook IV–2630. Effective April 1, 1962, a State plan must—

(1) define fraud in accordance with State law as it relates to receipt of assistance payments;

(2) identify cases where there is reason to suspect fraud, in accordance with clear criteria;

(3) provide for methods of investigation in suspected fraud cases that are consistent with the legal rights of individuals;

(4) designate official positions responsible for decisions that cases are to be referred to law enforcement officials;

(5) provide for State supervision, review and control to assure that conditions and criteria for dealing with cases of suspected fraud are fulfilled; and

(6) provide for keeping records and making periodic reports in conection with fraud among applicants or recipients of public assistance.

15. *Consideration of Applicants' and Recipients' Income and Resources*

(a) *Statutory.*—A State plan must provide that the State agency shall, in determining need for assistance, take into consideration any other income and resources of an individual claiming assistance, as well as any expenses reasonably attributable to the earning of such income. This applies to all categories. Section 2(a)(10A), 402(a)(7), 1002(a)(8), 1402(a)(8), and 1602(a)(14). In OAA, of the first $50 per month of earned income the State agency may disregard not more than the first $10 thereof plus one-half of the remainder, section 2(a)(10A). In AFDC, the State agency may, subject to limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for the future identifiable needs of a dependent child, section 402(a)(7). In AB, the State agency shall disregard the first $85 per month of earned income, plus one-half of earned income in excess of $85 per month, and for a period not in excess of 12 months, such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, section 1002(a)(8).

(b) *Administrative.*—Handbook IV–3131.

(1) A State plan must include a statewide standard of need and the policies to be applied uniformly throughout the State in determination of need and amount of assistance.

(2) The standard of need must include basic consumption items and may include additional consumption items in specified circumstances of need, for which State-established money amounts or statewide methods must be used by all local subdivisions in arriving at the money amounts to be included for an item or group of items.

(3) The State plan must include the State's policy as to the persons whose need will be included in the need of an applicant.

(4) The State plan must provide that all income and resources available for use by individual claiming assistance will be taken into account by comparing them with the State's standard of economic security to determine the amount of assistance needed.

(5) The plan must provide that the payment is based on the determination of the amount of assistance needed. If funds are insufficient or maximum precludes payments in accordance with need, the plan must include a method—statewide in application—of adjusting individual payments uniformly in all localities.

[2] Not a legal requirement.

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