

# Utah Reauthorization Project

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## TANF and WIA Reauthorization Issues of Concern to People with Disabilities (Status report as of September 26, 2003)

### Temporary Assistance for Needy Families (TANF)

Research in Utah and other states shows that disabilities--of both parents and children--play a significant role in the lives of anywhere from 20 to 50 percent of TANF families. A survey of studies of families enrolled in TANF found that,

- from one-fourth to one-third have a serious mental health problem;
- one-fifth have physical impairments that are barriers to employment;
- from one-fifth to one-third have learning disabilities; and
- as many as 20 percent have a substance abuse problem.

Studies of families who have left TANF found that,

- among those not working, one-fifth to two-fifths say they cannot work due to a disability, health condition, or illness;
- one-fourth to one-half of parents who have been sanctioned off of TANF say they were unable to comply with the state's welfare rules because of a disability, health condition, or illness; and
- learning disabilities or low intelligence has caused difficulties in understanding and complying with the complicated program rules.

Although less is known about children with disabilities in TANF families, it is clear that at least the shortage of specialized child care for children with disabilities and child behavior problems can greatly complicate the efforts of TANF parents to comply with work and other participation requirements.

TANF reauthorization provides an opportunity to improve the way the program benefits all families, including those with disabilities. It also offers a chance to provide better, more realistic assistance to families with special barriers.

### 2003 Reauthorization Legislation

- The U.S. House of Representatives passed HR 4 "Personal Responsibility, Work, and Family Promotion Act of 2003" on February 13, 2003.
- The Senate Finance Committee--of which Senator Orrin Hatch is a member--passed "Personal Responsibility and Individual Development for Everyone (PRIDE)" on September 10, 2003 (not yet numbered) . The bill may reach the Senate Floor in October or November. If it passes, it will be conferenced with HR 4, probably early next year.

## Issue #1: Work participation rate requirements for states and hours of participation for families

- Both HR 4 and PRIDE raise state participation rates 5% per year from the current rate of 50% to 70% by FY2007 and give states the option to exclude from the rate calculation families in their first month of assistance and families with a child under 12 months on a case by case basis.
- HR 4 - To "count" for purposes of state participation rates, a family must participate in "countable" activities (see below) for 40 hours per week, 24 hours of which must be in work.
- PRIDE - To "count" for purposes of state participation rates, a family . . .
  - headed by a single parent with a child under six counts as .675 if participating in "countable" activities for 20-23 hours and as 1.0 if participating 24+ hours.
  - headed by a single parent with children between six and 18 counts as .675 for 20-23 hours, as .75 for 24-29 hours, as .875 for 30-33 hours, as 1.0 for 34 hours, as 1.05 for 35-37 hours, and as 1.08 for 38-40 hours.
  - with two parents without child care counts as .675 for 26-29 hours, as .75 for 30-34 hours, as .875 for 35-38 hours, and as 1.0 for 39+ hours.
  - with two parents with child care counts as .675 for 40-44 hours, as .75 for 45-50 hours, as .875 for 51-54 hours, and as 1.0 for 55+ hours.

UREAP Analysis: Both bills raise state participation rate requirements which, if not met, bring the threat of fiscal sanctions. Consequently, states are likely to exert more pressure to funnel more people into "countable" activities. However, HR 4 is of far greater concern than PRIDE because, under HR 4, families must participate longer hours each week in order to "count" towards participation rates (40 hours, regardless of the presence of very young children). Additionally, far fewer activities are "countable" than under PRIDE. Moreover, although complex, the schedule of partial and extra credit in PRIDE (above) will allow states to get some credit for families who are participating less than 24 and 34 hours (depending on the age of children) while HR 4 gives no credit for parents participating less than 40 hours. *PRIDE can be improved on the Senate Floor in at least two ways: 1) by adding .5 credit for parents with children of any age who participate in countable activities for 18 or 19 hours (part-time work for many employers). Senators Lincoln and Breaux filed, but did not offer, an amendment to this effect prior to Senate Finance Committee markup of PRIDE; and b) by reducing the required hours of participation for parents with children under six from 24 to 20, as in the current law.*

## Issue #2: Work activities for parents

Under current law, the following activities qualify as "work": unsubsidized jobs, subsidized private and public sector jobs, work experience, on-the-job training, job search for a maximum of six weeks, community services, vocational educational training for a maximum of 12 months (for up to 30% of caseload), and providing child care for certain TANF recipients. The two bills make very different changes . . .

- HR 4 eliminates vocational educational training and providing child care. It also reduces the number of months allowed for work-related training from 12 to four, and substance abuse treatment and rehab activities count as "work" for no more than three months in any 24 month period.
- PRIDE retains work activities in the current law and adds certain "barrier removal" activities as countable for any three months out of 24 and for an additional three months (thanks to Senator Hatch via an amendment during PRIDE mark-up) if tied to a self-

sufficiency plan and to work or work-readiness activities. Added barrier removal activities are: post-secondary education (for up to 10% of the caseload--the same limitation applies to vocational educational training), adult literacy, substance abuse counseling, treatment or programs to remove barriers, and activities authorized under a waiver approved for any state after August 22, 1996.

- PRIDE also allows a single recipient caretaker providing substantial, ongoing care for a child or adult dependent (including a spouse) with a physical or mental impairment to be counted as engaged in work.
- UREAP Analysis: Senator Hatch has been instrumental in making PRIDE far superior to HR 4 in terms of what activities are defined as "work" for purposes of participation rates and additional allowable hours of barrier removal activities. *UREAP will ask him to offer or support an amendment (possibly offered by Senator Jeffords) to allow states to extend parents' participation in barrier removal activities beyond the six months that PRIDE currently allows (known as "3 + 3") to "3 + 3 +" on a case-by-case basis. UREAP will also ask Senator Hatch to offer an amendment to raise the number of hours of education and training that can count to 24 (current law is 12). This would be important if fears that Senator Snowe's amendment adding "post-secondary education" will be lost in Conference Committee.*

### Issue #3: Child Care Funding

Even without increases in work requirements in both HR 4 and PRIDE, there are serious shortages in certain types of care, e.g., after-hours and weekend care, and care for ill children and children with disabilities and state economic crises are causing many to cut back on funding.

- Both bills currently contain only \$1 billion in increased funding over five years.

UREAP Analysis: Senator Olympia Snowe (R-VT) has announced that she will offer an amendment on the Floor to "substantially" increase child care funding (around \$6 billion is expected). She says that she will identify an offset so that it will not add to the deficit, and therefore can pass with a simple majority. Senate Finance Committee Chairman Grassley made a deal with Senator Snowe to support her amendment on the Floor and in the Conference Committee in exchange for her agreement to vote for the PRIDE bill during Finance Committee mark-up without additional child care funding. *Senator Hatch has pledged to support more child care funding and we believe he intends on supporting Senator Snowe's amendment. It would be important to encourage him to do so, as well as to lobby Senator Bennett and other Republican colleagues to vote for her amendment and support it in the Conference Committee.*

### Issue #4: Family Self-sufficiency Plans

- Both HR 4 and PRIDE require an assessment and a Family Self-sufficiency Plan to be developed within 60 days of enrollment.
- PRIDE requires a more in-depth process, including investigation of work barriers and child well-being, that should result in a better understanding of family and child circumstances and lead to better delivery of supportive services that may be needed for them to succeed.

UREAP Analysis: Senator Hatch has been instrumental in making these changes. If these provisions in PRIDE prevail, the law should trigger a better understanding of families with disabilities--including children, the delivery of more effective supportive and intervention services,

and help ensure that Self-sufficiency Plans are more realistic in terms of parent capabilities. *A thank-you to Senator Hatch would be in order; we are not aware of any efforts afoot to undo his work on the Floor and we can hope that the House will recede on this point in Conference Committee.*

#### Issue #5: Sanctions

- HR 4 requires an immediate full-family sanction after two months of non-participation.
- PRIDE does not require a specific type of sanction and requires states to create a pre-sanction review process.

UREAP Analysis: As noted above, it has been found that families with disabilities are especially vulnerable to inappropriate sanctioning and Senator Hatch is aware of Utah's pre-sanction "conciliation" process. He offered the successful amendment prior to mark-up of PRIDE that added the pre-sanction review process. *We hope that this positive change will be retained in the final version of TANF reauthorization legislation.*

#### Issue #6: "Superwaiver"

- HR 4 creates "Program Coordination Demonstration Grants" allowing broader waiver authority for a long list of programs to be run in an unlimited number of states. Congressional oversight would not be required. This construct was introduced by the Bush Administration last year as the "Superwaiver."
- PRIDE vastly limits the concept, allowing only 10 state demonstrations that involve TANF, child care, and the Social Services Block Grant.

UREAP Analysis: Utah created the very positive Single Parent Employment Demonstration (SPED) involving waivers in four federal programs, but UREAP believes that the HR 4 approach goes too far. We are told that Senator Hatch is "not a fan" of the superwaiver concept and we believe he should be encouraged to hold firm against any efforts on the Floor to expand beyond what is currently in PRIDE.

## **Workforce Investment Act (WIA)**

### **2003 Reauthorization Legislation**

House passed HR 1261

Senate Health, Education, Labor, and Pensions (HELP) Committee Mark-up of S 1627 pending

### **Title I: Amendments to Title I of the Workforce Investment Act of 1998**

#### Issue #1: Community based organizations (CBOs) on State Workforce Investment Boards (SWIBs)

- Both HR 1261 and S 1627 eliminate the mandatory seat for CBOs from SWIBs, although CBOs still have a seat on Local WIBs
- In S 1627, Governor has option to appoint "others" including CBOs to SWIBs

UREAP Analysis: There is a major difference between giving advice, as Local Workforce Investment Boards (LWIBs) do, and setting policy, the responsibility of SWIBs. Disability groups are included in CBO category, therefore this change is likely to give people with disabilities less of a voice in policy decisions, rather than more, as advocates have recommended. *UREAP is working with Senators Hatch and Bennett to enlist their help with Republican members of the HELP Committee to putting CBOs back on SWIBs via the manager's amendment. If there is not time for this to occur prior to mark-up, the Senators will be asked to support this action on the Floor.*

#### Issue #2: Public sector partners removed from LWIBs

- Both HR 1261 and S1627 remove public sector entities from LWIBs, although they allow the Governor the option of setting up local "councils" for partners with an advisory capacity.

UREAP Analysis: UREAP has consistently recommended the retention of current law so that public sector representatives continue to hold seats on local boards. However, the Administration has been largely successful in its attempts to change the make-up of both the SWIBs and LWIBs in both the House and Senate version of WIA Reauthorization legislation. *Vocational Rehabilitation and other partners will be excluded from local boards unless somehow a change is effected before the Senate finalizes its bill and even if this occurs, restoration of the membership in the current law could be lost when the bill is conferenced.*

#### Issue #3: Block granting funding streams

- The House, in passing HR 1261, grants the Administration's desire to combine funding streams for Adult and Dislocated Workers and Wagner Peysner.
- Bipartisan HELP Committee staff have indicated that S 1627 would not pass out of the HELP Committee with this provision and therefore it is deleted.

UREAP Analysis: Block granting or combining funding streams often leads to less funding and loss of targeting populations for specialized services, therefore UREAP has opposed this action and favors the approach in S 1627. *We recommend asking Senator Hatch to be watchful on this. Thus far, we have not heard whether the Administration will fight hard for an amendment in Committee or on the Floor. Nor are there predictions about which provision is likely to prevail in a Conference Committee.*

#### Issue #4: Eliminate the policy-driving perception that WIA is a "work first" program

- Both HR 1261 and S 1627 add "unlikely" and "self-sufficiency" to the discussion of who is eligible for "intensive services" and "training" after they have received an assessment at a one-stop center, clarifying that *it is not necessary to be "unable" to obtain employment to access those services and that those services are appropriate to help the person reach self-sufficiency, not just a get a job.*

UREAP Analysis: As we understand it, the Department of Labor (DOL) interpreted language in the 1998 WIA law to mean "work first" and developed the policy of "sequential eligibility" whereby a person could not access intensive services of training services unless he or she was "unable" to find work without them. People with disabilities have been subject to this construct. With reauthorization, the Administration has agreed to mitigate this approach. While the best solution would be to eliminate all reference to a set of "Core Services" that is in some way the

gateway to "Intensive Services" and "Training," UREAP finds the language in both bills a substantial improvement and expects that this improvement to the WIA law will prevail.

#### Issue #5: Funding for One-Stop Career Center Infrastructure

- HR 1261 allows the Governor to take federal dollars out of Partners' programs to fund One-Stop infrastructure costs.
- S 1627 provides two options: 1) local negotiations expressed in Memoranda of Agreement (MOAs) among Partners, and, 2) if not accomplished by July 1, 2004, allow the Governor to set the funding formulas.

UREAP Analysis: Despite the pivotal function of one-stops in the 1998 WIA law, Congress did not fund infrastructure costs, rather instructed WIA partners to provide funding via MOAs. The Administration determined that this was not working and put forward the approach that is contained in HR 1261. There has been intense resistance. UREAP and others hoped for a separate funding stream, but there is little hope of that, at least given the size of the federal deficit. However, S 1627's two-step process is preferable to the sequestering process in HR 1261, although some details are still being worked on to cap percentages of funding that can be taken from some partner programs. Vocational Rehabilitation is a WIA Partner and is working to create a .25 (of 1%) percent cap on the transfer of VR funds.

#### **Title II. Amendments to the Adult Education and Family Literacy Act**

UREAP supports the Director of the Utah Adult Education Department in asking that Congress not make changes that may conflict with the mission of or otherwise jeopardize the Adult Education system in the process of WIA reauthorization. One area of concern is a provision in HR 1261 that assigns the same performance measures for adult education programs--whose mission is raising skills and proficiency--as are assigned to employment programs, i.e., job placement, job retention, and increased wages. This issue may be of interest to people with disabilities along with the rest of the adult education and literacy population.

#### **Title IV. Amendments to the Rehabilitation Act of 1973**

UREAP supports the Council of State Administrators of Vocational Rehabilitation (CSAVR) in calling for the Vocational Rehabilitation Program to continue to be administered and implemented as a Designated State Unit, i.e., an agency dedicated entirely to VR programs, rather than being a part of another agency or entity.

UREAP also supports the Association for Independent Living in Utah (AILU), the Utah Statewide Living Council (USILC), and the Utah State Office of Rehabilitation (USOR) in opposing the change in the appointment process for the Commissioner of the Rehabilitation Services.

- HR 1261 moves the Commissioner to the Department of Education, making the position a secretarial appointment, rather than a presidential one.
- S 1627 retains the current language and makes no change.

**For further information on specific provisions of current law and the referenced bills, please visit the Utah Reauthorization Project website (in letterhead on page 1). You will find links to the bills, summaries, side-by-side comparisons, and other analyses, as well as UREAP communications with elected officials and other information.**