

Public Law 94-401
94th Congress

An Act

To amend title XX of the Social Security Act so as to permit greater latitude by the States in establishing criteria respecting eligibility for social services, to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to such title, to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

Sept. 7, 1976
[H.R. 12455]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

Social Security
Act,
amendments.
42 USC 1397a.

“(14) (A) For purposes of paragraphs (5) and (6), an individual shall, at the option of the State, be deemed to be an individual described in paragraph (5) (B) if, because of the geographic area in which any particular service is provided to him, the characteristics of the community to which it is provided, the nature of the service, the conditions (other than income) of eligibility to receive it, or other factors surrounding its provision, the State may reasonably conclude, without individual determinations of eligibility, that substantially all of the persons who receive the service are members of families with a monthly gross income which is not more than 90 per centum of the median income of a family of four in the State, adjusted (in accordance with regulations prescribed by the Secretary) to take into account the size of the family.

“(B) The provisions of subparagraph (A) shall not be applicable to child day care services furnished to any child other than a child of a migratory agricultural worker.”

(b) Section 2000(a) (4) of such Act is amended by adding at the end thereof (after and below subparagraph (E)) the following new sentence:

42 USC 1397a.

“In any case in which services are provided to individuals to whom the provisions of paragraph (14) are applied, the proportion of the expenditures for such services which are attributable to individuals described in the preceding sentence may be determined on the basis of generally accepted statistical sampling procedures.”

(c) Section 2002(a) (6) of such Act is amended, in the matter preceding subparagraph (A), by inserting “, family planning services,” immediately after “referral service”.

(d) The amendments made by this section shall be effective on and after October 1, 1975.

Effective date.
42 USC 1397a
note.

SEC. 2. Effective February 1, 1976, section 7(a) (3) of Public Law 93-647 is amended by striking out “February 1, 1976” and inserting in lieu thereof “October 1, 1977”.

Effective date.
42 USC 1397
note.

SEC. 3. (a) For purposes of title XX of the Social Security Act, the amount of the limitation (imposed by section 2002(a) (2) of such Act) which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, or which is applicable to any State for the fiscal year ending September 30, 1977, shall be deemed to be equal to whichever of the following is the lesser:

42 USC 1397a
note.
42 USC 1397.

(1) an amount equal to—

(A) 106.4 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1977, or

(2) an amount equal to (A) 100 per centum of such limitation for such fiscal period or fiscal year (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 75 per centum (in the case of such fiscal period) or 100 per centum (in the case of such fiscal year) of the total amount of expenditures (I) which are made during such fiscal period or year in connection with the provision of any child day care service, and (II) with respect to which payment is authorized to be made to the State under such title for such fiscal period or year, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal period or year, to which the provisions of subsection (c) (1) are applicable.

(b) The additional Federal funds which become payable to any State for the fiscal period or fiscal year specified in subsection (a) by reason of the provisions of such subsection shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

Grants.

(c) (1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3) (A)) during the fiscal period or fiscal year specified in subsection (a), to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3) (B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act, to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act, for the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a) (1) of such Act. With respect to sums to which the preceding sentence is applicable (after application of the provisions of paragraph (2)), the figure "75", as contained in the first sentence of section 2002(a) (1) of such Act, shall be deemed to read "100".

42 USC 1397.

42 USC 1397a.

(2) The provisions of paragraph (1) shall not be applicable—

(A) to the amount, if any, by which the aggregate of the sums (as described in such paragraph) granted by any State during the fiscal period or fiscal year specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal period or year, or

(B) with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used—

(i) to pay wages to any employee at an annual rate in excess of \$5,000, in the case of a public or nonprofit private provider, or

(ii) to pay wages to any employee at an annual rate in excess of \$4,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

(3) For purposes of this subsection—

Definitions.

(A) the term “qualified provider of child day care services”, when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State’s services program conducted pursuant to title XX of the Social Security Act; and

42 USC 1397.

(B) the term “Federal welfare recipient employment expenses” means expenses of a qualified provider of child day care services which constitute Federal welfare recipient employment incentive expenses as defined in section 50B(a) (2) of the Internal Revenue Code of 1954, or which would constitute Federal welfare recipient employment incentive expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.

26 USC 50B.

26 USC 40.

(d) (1) In the administration of title XX of the Social Security Act, the figure “75”, as contained in the first sentence of section 2002 (a) (1) of such Act, shall, subject to paragraph (2), be deemed to read “100” for purposes of applying such sentence to expenditures made by a State for the provision of child day care services during the fiscal year ending September 30, 1977.

42 USC 1397a.

(2) The total amount of Federal payments which may be paid to any State for such fiscal year under title XX of the Social Security Act at the rate specified in paragraph (1) shall not exceed an amount equal to the excess (if any) of—

(A) the amount by which such State’s limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such year, over

(B) the aggregate of the amounts of the grants, made by the State during such year, to which the provisions of subsection

(c) (1) are applicable.

26 USC 50A.

SEC. 4. (a) Section 50A(a) of the Internal Revenue Code of 1954 (relating to amount of credit for work incentive program expenses) is amended—

(1) by adding at the end of paragraph (2) the following new sentence: “The preceding sentence shall not apply to so much of the credit allowed by section 40 as is attributable to Federal welfare recipient employment incentive expenses described in subsection (a) (6) (B).”, and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.—

“(A) NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed \$1,000.

26 USC 40.

- 26 USC 40. “(B) CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed \$1,000.”
- 26 USC 50B. (b) Section 50B(a) (2) of such Code (relating to definitions; special rules) is amended to read as follows:
“(2) DEFINITIONS.—For purposes of this section, the term ‘Federal welfare recipient employment incentive expenses’ means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—
“(A) before July 1, 1976, or
“(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1977.”
- 26 USC 50A note. (c) The amendments made by this section with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer to an eligible employee whose services are performed in connection with a child day care services program of the taxpayer shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.
- 42 USC 1397a. SEC. 5. (a) Section 2002(a) (9) (A) (ii) of the Social Security Act is amended—
(1) by striking out “and” at the end of clause (II), and
(2) by adding after the comma at the end of clause (III) the following: “(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6.”
- Waiver. (b) The amendments made by subsection (a) shall, insofar as such amendments add a new clause (V) to section 2002(a) (9) (A) (ii) of the Social Security Act, be effective for the period beginning October 1, 1975, and ending September 30, 1977; and on and after October 1, 1977, section 2002(a) (9) (A) (ii) of the Social Security Act shall read as it would if such amendments had not been made.
- Effective date.
42 USC 1397a note.

Sec. 6. Effective February 1, 1976, section 4(c) of Public Law 94-120 is amended by striking out "January 31, 1976" and "February 1, 1976" and inserting in lieu thereof "September 30, 1977" and "October 1, 1977", respectively.

Effective date.
42 USC 1397a
note.

Approved September 7, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-903 (Comm. on Ways and Means) and No. 94-1317 (Comm. of Conference).

SENATE REPORT No. 94-857 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 16, considered and passed House.

May 20, considered and passed Senate, amended.

July 1, House receded and concurred in Senate amendments with an amendment.

Aug. 24, Senate agreed to conference report and concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 37:

Sept. 7, Presidential statement.