

## The 'Illegitimacy Bonus' and State Efforts To Reduce Out-of-Wedlock Births

By Patricia Donovan

**O**ut-of-wedlock births have increased dramatically in recent decades and now account for about one-third of U.S. births each year.<sup>1</sup> Although most nonmarital births are to women who are not on welfare, Congress used the 1996 welfare reform law to mount a major nationwide campaign against "illegitimacy."

To motivate states to adopt policies and programs that discourage nonmarital childbearing, Congress included in the law a so-called illegitimacy bonus, which rewards states that reduce out-of-wedlock births among all women—not just welfare recipients or teenagers—and also decrease abortions. For four years, beginning in FY 1999, the federal government will award a total of up to \$100 million annually to a maximum of five states that achieve the greatest declines in out-of-wedlock births and reduce their abortion rate to below its 1995 level. If five states qualify, each will receive \$20 million; if fewer than five meet the requirements, each will receive \$25 million.<sup>2</sup>

Although the first illegitimacy bonus will be awarded in 1999, little is known about how—or even whether—states are actively pursuing the bonus, because the law imposes no obligation on them to announce their intention or to inform the federal government of specific steps they have taken to compete for the money. In fact, the law does not require states to do anything to win the bonus; the Department of Health and Human Services will use data on births and abortions that the states routinely submit to the federal government to make the calculations necessary to determine the bonus winners.\*

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\*Abortion data for the handful of states that do not report abortions are estimated by the Centers for Disease Control and Prevention (CDC). Under proposed regulations to implement the illegitimacy bonus, these states could use the CDC estimates to show a decrease (or increase) in abortions compared with the 1995 level. (Source: *Federal Register*, 63:10268, 1998.)

In a survey conducted in 1998 to gather information on state family planning expenditures, The Alan Guttmacher Institute (AGI) asked officials in state health and social services agencies if their state had taken any steps to reduce out-of-wedlock births in an effort to qualify for the illegitimacy bonus. Respondents in 34 states and the District of Columbia reported that they had. Asked to briefly describe these efforts, respondents cited a wide array of activities, ranging from the establishment of a task force to study the issue to an expansion of the state's family planning program to the new abstinence-only education program created by the welfare reform law. Some cited no new initiatives, pointing instead to existing family planning and teenage pregnancy prevention programs.<sup>3</sup>

Subsequent interviews with many of the survey respondents and other agency officials in some two dozen states during the fall of 1998 provided a fuller picture of the types of efforts states have made to reduce out-of-wedlock births and pregnancies since passage of the welfare reform law in August 1996. Some states have acted in response to a formal decision to seek the illegitimacy bonus; others, however, have taken steps to lower nonmarital childbearing in the absence of any official policy or, in some cases, even after concluding that they have little chance of winning the bonus. In some states, the effort has been quite modest, while in others it has involved substantial programmatic and funding initiatives.

In general, state efforts fall into three broad categories: programs and policies designed to increase contraceptive use among welfare recipients and other low-income women; activities to prevent teenage pregnancies; and grants to support local initiatives aimed at both adults and teenagers. Significantly, many of these new efforts are funded under the states' welfare block grant, known as Temporary As-

sistance to Needy Families (TANF), even though the programs are not restricted to TANF recipients. This approach appears consistent with the statute, which specifies that states may use their TANF grant "in any manner reasonably calculated to accomplish the purposes" of TANF.<sup>4</sup>

### **Increasing Contraceptive Use**

Given that states must reduce abortion rates as well as out-of-wedlock births to win the illegitimacy bonus, it is not surprising that some have focused on increasing contraceptive use among unmarried women to prevent unintended pregnancies. Many of these efforts involve collaboration between state and local health and social services agencies.

### **Promoting Family Planning**

Some states are making a concerted effort to promote the benefits of family planning among TANF recipients and applicants, by disseminating written materials and training local welfare caseworkers to discuss contraception with their clients. Alabama and Kentucky, for example, have developed simple brochures that describe available contraceptive methods and urge women to consider the impact another child would have on their ability to get off public assistance and support their families. The pamphlets are available in local social services offices and, in Kentucky, health department clinics. In addition, Kentucky has sent the brochure to TANF recipients with a letter informing them where they can obtain family planning services.

Kentucky has also instituted a training

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program for welfare workers on how to raise "the subject of family planning in a positive, factual and objective manner" and to refer clients to the nearest family planning clinic.<sup>5</sup> Officials in Kentucky and elsewhere report that such training is needed because welfare agency staff are often uninformed about contraceptive options and are reluctant to initiate discussion about what many consider a sensitive, personal issue.

"Welfare workers are often embarrassed to bring up the subject, because they don't think it is any of their business," notes Sharma Klee, a nurse consultant in the Kentucky Health Department. Klee reports that staff in at least 80% of Kentucky's 120 county social services offices have voluntarily participated in a two-hour training session conducted by local health department personnel.

Alaska undertook a similar training effort between fall 1997 and spring 1998, and Alabama revised agency policy to underscore that local social services staff are expected to initiate discussion about family planning, in order "to help clients understand the relationship between family planning and opportunities for employment and economic security."<sup>6</sup> Case managers are instructed to refer clients to family planning providers, but never to recommend a particular method or to discuss abortion.

Montana has budgeted a total of \$75,000 in FY 1999 TANF and Title X regional funds to train some 450 caseworkers in the state's 28 welfare offices on how to talk to their clients about family planning.<sup>7</sup> Jan Paulsen, a program specialist in the state's Public Assistance Bureau, says training will help welfare workers adjust to the changing nature of their job. "Before welfare reform, [they] were largely eligibility workers. Now, there is a big case-management piece to their job.... We're building the capacity to make the switch from black-and-white eligibility determination to case management." The state is making this effort, Paulsen says, even though "we reviewed the vital statistics for out-of-wedlock births and abortions and do not feel we're in the running for the bonus. We still wanted to make [an] effort to reduce the illegitimacy rate." In the future, Paulsen adds, the state hopes to use TANF funds to offer family planning services in welfare offices.

#### *Expanding Family Planning Access*

Under the welfare reform law, states are permitted, but not required, to use some of their TANF block-grant funds for "prepregnancy family planning services."<sup>8</sup> Several states have earmarked TANF funds to expand existing family planning

services or implement new programs as a way to lower nonmarital childbearing.

In North Carolina, for example, the legislature earmarked \$1.6 million in both FY 1998 and FY 1999 specifically to reduce out-of-wedlock births. The funds are divided among local family planning programs, on the basis of each county's share of the state's out-of-wedlock births. In FY 1998, allocations ranged from \$135,500 in the county with the highest rate of nonmarital births to less than \$5,000 in counties with low rates. To receive their county's share, the local health department must collaborate with the local social services agency to devise a plan for making family planning more accessible to people on TANF and recent welfare recipients with incomes below 150% of poverty.<sup>9</sup>

According to Margaret Woodcock, who heads the Women's Preventive Health Branch in the North Carolina health department, counties have used the money in a variety of ways. Some have purchased additional contraceptive supplies for their family planning clinics. Others have paid for public health staff to work in the local social services office to provide family planning information and referrals to TANF applicants. And at least one county has used its funding to place TANF caseworkers in the local health department clinic to facilitate the welfare application process and help applicants get an immediate family planning appointment when necessary.

Alaska has committed \$350,000 in FY 1999 TANF funds to provide comprehensive family planning services to women with incomes up to 200% of poverty who do not qualify for Medicaid. The state has contracted with three providers—two Planned Parenthood affiliates and a neighborhood health center—to provide clinical family planning services to eligible women for an annual capitated fee of \$150; in addition, the state supplies contraceptive methods to the providers at no charge.

The state anticipated serving 1,200–1,500 women in the program's first year, but may have to reassess that estimate in light of higher-than-expected interest.<sup>10</sup> According to Pam Muth, director of Alaska's Maternal and Child Health (MCH) program, 655 women were served in the first three months of the program, even though the state had yet to publicize the new effort. About 90% of women seeking services were unmarried; 55% were aged 18–24, and 26% were younger. The state has earmarked another \$75,000 in FY 1999 TANF funds to support a statewide media campaign that will emphasize family planning for unmarried women and the role of men

in preventing unintended pregnancy.

In addition to these TANF-funded activities, Alaska has allocated \$105,000 of its MCH block-grant funds to hire two family planning nurse practitioners to travel to designated areas that previously had little or no access to family planning services. (The nurses' travel costs are paid out of the state's general funds.) The goal is for each nurse to serve at least 500 new clients in FY 1999.<sup>11</sup> "Those numbers may seem piddly to [many], but they are pretty big for us, because we only have 10,000 births a year," Muth observes.

Although Alaska is aggressively pursuing the illegitimacy bonus, some officials are concerned about the impact on out-of-wedlock childbearing of the legislature's decision to end Medicaid coverage of abortions effective July 1998. "We are worried about our chance to compete," reports Muth. "Our abortion rate will go down, but unintended-birth rates will go up."

Kentucky, meanwhile, is preparing to spend \$500,000 in Social Services Block Grant funds in FY 1999 to expand access to family planning services for women with incomes under 200% of poverty. (The funds were earmarked after the state transferred 10% of its TANF money to the Social Services Block Grant, as the welfare reform law permits.)<sup>12</sup> According to Sharon Perry, staff assistant in the Cabinet for Families and Children, the money will go to local health department family planning clinics to help meet the demand for services among uninsured low-income women. "We want to expand the availability of family planning services for women who seek services through the health department and could end up on welfare if they are unable to get those services," Perry explains. A particular concern is assuring that all clinics have a sufficient supply of injectable contraceptives and other popular methods.<sup>13</sup>

#### **Targeting Teenagers**

Although states have to reduce out-of-wedlock births among all women to win the illegitimacy bonus, some have targeted their efforts largely, if not exclusively, at teenagers. South Carolina, Georgia, New York and Arkansas are notable examples of this approach. Some of these initiatives include the provision of contraceptive services to teenagers, while others do not.

South Carolina, which has taken no formal position on the illegitimacy bonus, has allocated \$3.5 million annually in TANF funds for three years beginning July 1, 1998, to support local initiatives to reduce teenage pregnancy rates. Ninety percent of the money will be distributed to the

state's 46 counties on the basis of a formula that takes into account the size of the county's adolescent population, teenage pregnancy rate and number of adolescent pregnancies; the remaining funds will be reserved for a three-year evaluation of the effort. Annual grants are expected to range from \$30,000 to \$170,000.<sup>14</sup> The counties have complete discretion over the types of projects they will support; however, the legislature specified that the money could not be used to provide abortions or anything of "monetary value," which project administrator Theresa Counts-Davis believes encompasses contraceptives.

Georgia began using TANF funds in FY 1997 to support a new youth development program that both seeks to encourage teenagers to delay initiation of sexual intercourse and provides family planning services to adolescents who are sexually active or already have a child. The program offers the full range of contraceptive services, testing and treatment for sexually transmitted diseases, and HIV prevention education in non-traditional settings, such as housing projects and shopping malls. It also provides comprehensive adolescent health services, including nutrition education, substance abuse counseling and school physicals.

Since the program began, its 27 centers, which are open to all teenagers without regard to income, have served an estimated 13,000 young people. TANF funding has grown from about \$3 million in FY 1997 to \$9 million (of the program's \$16 million total cost) in FY 1999.<sup>15</sup> According to Kathleen Toomey, director of Georgia's Division of Public Health, the state decided to focus its pregnancy prevention efforts on teenagers, on "the assumption that as the teen cohort aged, out-of-wedlock births would decline as a result of our intense youth development interventions."

New York, at Gov. George Pataki's direction, is trying to win the illegitimacy bonus. The state transferred \$7 million of FY 1998 TANF funds to its health department to be used to expand the Community-Based Adolescent Pregnancy Prevention (CBAPP) program, which targets communities with high teenage pregnancy rates, and to enable family planning programs to undertake additional education and outreach efforts targeted at teenagers enrolled in local CBAPP projects. Program initiatives seek to change community attitudes about teenage pregnancy by promoting abstinence; expand work opportunities and after-school activities for at-risk adolescents as alternatives to sexual activity; and make comprehensive family planning and reproductive health care services accessible

to sexually active teenagers, by providing services themselves or referring teenagers to nearby family planning clinics.

In addition to these TANF-funded activities, New York requires all family planning programs to develop and implement detailed plans for more aggressive outreach to adolescents, such as reserving certain clinic hours for teenagers, as a condition for receiving their family planning funding.<sup>16</sup> The state could undertake further efforts in response to forthcoming recommendations from the Task Force on Out-of-Wedlock Pregnancies and Poverty, which Governor Pataki appointed to develop a 10-year plan to reduce nonmarital pregnancies, "with special emphasis on teenage pregnancies."<sup>17</sup>

Arkansas has opted to use state dollars for its new Unwed Birth and Teenage Pregnancy Prevention program. The state expects to spend about \$700,000 by the end of FY 1999 to support activities in the 16 counties (out of 75) with the most out-of-wedlock births among teenagers. (Another \$150,000 annually is available for a statewide media campaign that is being developed.) Counties are expected to use the funds to develop broad-based coalitions that will design and implement local programs to reduce teenage pregnancy.<sup>18</sup>

According to Donnie Smith, associate director for public health programs in Arkansas, counties have been encouraged to use the first year's funding, which thus far ranges between \$30,000 and \$35,000, primarily to assess local needs and resources, identify gaps in programs targeted to adolescents and develop a broad-based, multifaceted community program. "We encouraged them to use the funds for infrastructure development rather than individual interventions that might affect a limited number of children," Smith reports.

In the AGI survey and follow-up interviews, some respondents cited their state's abstinence-only education program as one of the steps the state had taken to qualify for the illegitimacy bonus. The program, which the welfare reform law created and funded at \$50 million a year (plus state matching funds) for five years, makes funds available to all states that are willing to comply with the statute's strict definition of abstinence education. That definition requires, among other things, teaching that abstinence is the expected standard for all unmarried people.<sup>19</sup>

All states applied for and received abstinence-only funds in FY 1998 (New Hampshire eventually returned its funds, and California has yet to appropriate the required matching funds), and all have submitted applications for FY 1999 funds.

Most states have chosen to use their grants to target youth aged 17 and younger through a range of activities, including media campaigns, in-school and after-school classes, mentoring and counseling programs, and curriculum development.<sup>20</sup>

## Supporting Local Initiatives

A number of states are offering grants to communities to encourage local initiatives aimed at reducing out-of-wedlock births and pregnancies. In some cases, the grants are quite small, in others they are substantial. For example, in an explicit effort to compete for the illegitimacy bonus, Tennessee used \$190,000 in FY 1998 TANF funds to award grants of \$5,000–22,500 to counties with the highest rates of nonmarital births among women aged 18–24; a second round of funding is expected this year. The counties have distributed the funds to local health departments, Planned Parenthood affiliates, schools, religious groups and other community-based organizations to support such activities as the development of public service announcements, presentations in prisons, curriculum development, mentoring programs and health fairs.<sup>21</sup>

Similarly, Utah will distribute up to \$350,000 in FY 1999 TANF funds to new and existing state and local programs designed to reduce out-of-wedlock pregnancies. The grant program seeks to prevent both first and subsequent nonmarital conceptions among adults and teenagers; its goal is to reduce out-of-wedlock pregnancies by 3%, highlight the role of men in preventing these pregnancies and prevent statutory rape. Thus far, eight grants, ranging from \$3,650 to \$65,800, have been awarded to Boys and Girls Clubs, a local United Way affiliate and county health departments to support family planning education and sexually transmitted disease prevention, provide case management and facilitate parent-child communication about sex.<sup>22</sup>

Virginia was one of the first states to use TANF money with an eye toward winning the illegitimacy bonus. Under former Gov. George Allen, the state made more than \$800,000 in TANF and other assistance funds available in FY 1998 for its Partners in Prevention Initiative, which supports community efforts to reduce out-of-wedlock births among teenagers and young adults through media campaigns, education programs for welfare recipients and youth in the court system, and various school and peer-education programs for teenagers. The grants were intended to cover the start-up costs of these activities, with the expectation that the projects would find other sources of support in succeeding years.<sup>23</sup>



On a smaller scale, Wyoming has made available \$50,000 in TANF funds along with \$10,000 in health department funds “to implement a family-centered, community-based, culturally [sensitive], coordinated system of unintended pregnancy prevention.”<sup>24</sup> Up to 10 grants of no more than \$6,000 will be awarded by the Wyoming Reproductive Health Council, acting on behalf of the Wyoming Unintended Pregnancy Prevention Task Force, which was established in early 1997. Although the program imposes no conditions on the age of the target population, the six grants that had been awarded by fall 1998 went to groups that are focusing on teenagers. One of the grants went to a family planning clinic, to enable it to extend its hours specifically to serve adolescents; another went to a county, to develop a media campaign.<sup>25</sup>

### Will These Efforts Yield ‘Winners’?

The passage of the welfare reform law clearly has spurred states to launch new initiatives and expand existing programs aimed at reducing out-of-wedlock births and pregnancies. Whether these efforts will have any impact on which states win the illegitimacy bonus is problematic, however.

The initiatives undertaken since 1996 are too recent to influence the first bonus awards, and probably the second. Most of these efforts were not developed and funded until FY 1998; many are just now becoming operational. Realistically, therefore, any effects these initiatives have on out-of-wedlock births will not show up in the data for some time. (Even then, of course, it may not be possible to demonstrate cause and effect.)

The first illegitimacy bonus, however, is scheduled to be awarded by the time the current federal fiscal year ends on September 30, 1999. It is expected to be based on changes in out-of-wedlock births between calendar years 1994 and 1997 and on a comparison of abortion rates between 1995 and 1997 (because these are the most recent data that will be available). Year two of the bonus will presumably be based on changes between 1995 and 1998, which again will be too early for new programs to be a factor.

On the other hand, major expansions of Medicaid-funded family planning services in some states prior to and around the time the federal welfare reform law was enacted might affect the outcome of the early bonus awards. Prior to 1997, for example, five states—Arizona, Illinois, Maryland, Rhode Island and South Carolina—had received waivers from the federal government to extend coverage to postpartum women who would otherwise lose their el-

igibility for Medicaid-funded family planning services approximately 60 days after giving birth. Additionally, Delaware had been granted a waiver to allow women to maintain Medicaid family planning coverage for up to two years after losing Medicaid eligibility for any reason. And Arkansas had received permission to offer Medicaid-funded family planning services to all women with incomes below 133% of the federal poverty level.<sup>26</sup>

Along similar lines, in January 1997, California expanded eligibility for its state-funded Medi-Cal family planning program to all women with incomes below 200% of poverty, and also launched several initiatives aimed at preventing teenage pregnancy. Preliminary data from Arkansas and California suggest that these expansion programs can serve thousands of women previously ineligible for Medicaid-funded family planning services.<sup>27</sup> In California, for example, the program’s caseload has grown to more than 1.1 million women, from 450,000 before the expansion.<sup>28</sup>

Whichever states win the bonus, the fact remains that since 1996, some states have made significant efforts to reduce out-of-wedlock births. Undoubtedly, the prospect of winning \$20–25 million through the illegitimacy bonus has helped to galvanize these states to address out-of-wedlock childbearing. A critical factor, however, has been the availability of TANF block-grant funds to support these initiatives.

“Absent the availability of TANF money, it is not clear whether the illegitimacy bonus in and of itself would have led to the plethora of activity we see today,” observes Jodie Levin-Epstein, senior policy analyst at the Center for Law and Social Policy, which studies welfare issues. “Whether states continue to use TANF funds for these activities,” Levin-Epstein adds, “will depend on several factors: whether states continue to perceive pregnancy prevention as a priority if pregnancy and birth rates continue to decline; whether the economy remains strong and welfare caseloads low, so states have the flexibility to use some of their TANF funds for activities other than cash assistance to beneficiaries; and whether final rules implementing TANF continue to permit this flexibility.”<sup>29</sup>

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