

CRS Report for Congress

Received through the CRS Web

Privatization and Welfare Administration

Joe Richardson
Domestic Social Policy Division

Summary

All states use private companies to administer significant parts of the three major federal/state public assistance programs they are charged with operating: Temporary Assistance for Needy Families (TANF), the Medicaid program, and the Food Stamp program. These components include benefit delivery, work/training efforts for recipients, social services and caseload management, and computer/automation services. However, federal laws covering these programs allow “privatization” of one important activity — *actual eligibility determinations* — in only one of the three, TANF. In the other two, states must use government workers to perform eligibility determination tasks, unless a waiver is granted. And, even with TANF, only one state (Wisconsin) now uses private groups to administer all aspects of its program, including eligibility judgments.

At issue is whether (and how) to extend authority to “privatize” eligibility determinations to food stamps and Medicaid and the degree to which this might make privatized eligibility determinations more prevalent. In addition to Wisconsin, four states (Arizona, California, Florida, and Texas) have shown interest in expanded privatization. Florida and Texas are considering public assistance reforms that may require waivers of federal food stamp and Medicaid rules; an Arizona pilot was ended in 2003; and a California government commission has recommended pursuing across-the-board privatization. However, there has been no definitive congressional action, and no waivers have yet been approved.

Proponents of extended privatization authority contend there are efficiencies and cost-savings that could accrue, and that it is difficult to privatize administration for only one of the three major programs because the applicant/recipient population overlaps significantly. Opponents state concerns about the potential for denial of help to those in need due to cost concerns, the administrative problems and financial risks associated with privatizing eligibility determinations, and the potential for a net loss of jobs.

This report gives a brief background on the debate and will be updated as events, legislation, and new proposals warrant.

States have long used private entities to run discrete components of their major welfare programs, TANF, food stamps, and Medicaid.¹ Examples include work/training programs and social services (like child care) provided through TANF, benefit delivery through electronic benefit transfer (EBT) systems, and “managed care” systems used in the Medicaid program. But the 1996 welfare reform law (P.L. 104-193) gave efforts to privatize the administration of benefits a boost. It explicitly allows states to “administer and provide services” under TANF through contracts with private organizations. This effectively permits states to privatize all features of their TANF program, including activities related to the *determination of eligibility*. On the other hand, states still must use public officials to undertake activities related to eligibility judgments in the Food Stamp and Medicaid programs because of limiting provisions in their governing laws.² General waiver authority in both these programs might permit “demonstration” projects under which private entities carry out eligibility determinations; however, no waivers have yet been approved.

Major State Initiatives

Privatization of eligibility activities has been, or is being, pursued in five states: Arizona, California, Florida, Texas, and Wisconsin.

Wisconsin goes beyond the typical privatization of public assistance services. It uses private groups to administer all aspects of its TANF program in many (but not all) of its state welfare program “regions.” However, since public employees still must determine eligibility for food stamps and Medicaid, there are on-site county eligibility workers to do so.

Pursuant to a welfare privatization program established by state law, Arizona launched a pilot program in 2000 in part of one county under which the welfare department transferred its TANF responsibilities and certain other duties (like eligibility for child care assistance) to a private vendor; food stamps and Medicaid activities were not included. But, in July 2003, the vendor discontinued its role in determining TANF eligibility — primarily because of “duplication” resulting from the requirement that government personnel decide food stamp eligibility.

Texas is in the process of establishing a system under which most activities relating to public assistance eligibility/benefit determinations would be integrated and privatized (using contracts with private sector companies). Depending on the type of system Texas adopts, federal food stamp and Medicaid waivers (or congressional action) may be called for.

Florida is developing a system under which local community and faith-based organizations would take over many (perhaps most) activities relating to public assistance determinations (e.g., screening applicants, collecting information for use in judging

¹ They also have operated other significant programs for low-income families and individuals not covered in this report — e.g., social services and child care not funded under TANF — using a wide range of private groups.

² Section 11(e)(6) of the Food Stamp Act and Section 1902(a)(5) of the Social Security Act.

eligibility) in order to facilitate service integration. To the extent these organizations are involved in actual eligibility determinations, federal food stamp and Medicaid waivers (or congressional action) may be requested. At an earlier stage, Florida made preliminary requests for broad waivers of federal rules that would have permitted it to largely (if not completely) privatize food stamp and Medicaid eligibility activities.

California's Performance Review Commission has recommended that the responsibility for deciding who is eligible for TANF, food stamps, and Medicaid become a state-level (not county) responsibility that would use an Internet-based application system for all three programs and would be run by a private contractor.

Views on Privatization

Support for privatization of welfare eligibility determination activities — as well as other public assistance administrative functions — derives from a strong belief that it will “shrink” government, reduce costs by introducing private-sector efficiencies into the administration of public aid, and bring about better service to public assistance applicants and recipients. Proponents maintain that private agencies are likely to be more innovative than public ones and that competition for contracts should raise performance levels. Moreover, they note that the current situation — in which TANF eligibility activities can be privatized, but not those in other programs — is untenable, as shown by experience so far (e.g., the limited degree to which privatization has been taken up). The applicant/recipient population for the three major public aid programs overlaps to a great extent. Continuing to require government-employee involvement for food stamp and Medicaid eligibility determinations makes it extremely difficult to effectuate a coordinated public assistance system/strategy using private contractors.

Those who question the need for increased privatization authority have both general and specific objections. They worry that benefits may be denied to eligible applicants because private companies administering a given program could be tempted to hold down costs under the terms of their state contract at the expense of needy applicants/recipients, that there might be a net loss of jobs in a switchover to private administrators, and that the financial benefits to the government have not been shown. More specifically, there is concern that (1) selecting winning bidders would depend on a great deal of speculation, which could risk higher costs (because private entities' capacity to take on public assistance eligibility determinations is relatively unknown); (2) contractors would have great leverage over the state and potential competitors because of the likely high cost of changing administrators; (3) measuring contractors' performance with regard to eligibility determinations would be very hard; (4) contracting eligibility determinations might subject state and federal governments to large financial losses if the private entities withdraw (e.g., go bankrupt) and the government must step in; and (5) some privatization projects have been called to account for lax practices (e.g., Wisconsin's approach).³ In addition, opponents note that prior experience with privatization (e.g., conversion to electronic delivery of benefits) typically took a long time — including pilot projects and extensive evaluations — before it became accepted practice. They contend that a “go-

³ Wisconsin has had to warn one of its contractors that it might lose its contract unless it corrected major problems, including failure to “balance caseload and financial resources.”

slow” approach should be adopted, as opposed to wholesale conversion to private contracting with regard to eligibility determinations.

Legislation

No new substantive legislation directly related to expanding privatization of eligibility determinations has been proposed in the 109th Congress. However, some measures in earlier Congresses addressed the issue. H.R. 2015 of the 105th Congress (as approved by the House) proposed the use of nongovernmental personnel in making food stamp eligibility determinations. And S. 5 of the 108th Congress (a Senate Republican leadership bill) and H.R. 4 (as passed by the House in the 108th Congress) would have required increased scrutiny (through oversight of state audits) of TANF privatization initiatives. This latter provision for increased oversight is included in H.R. 240/S. 105 of the 109th Congress. Moreover, S. 5 included a provision specifically allowing states to privatize food stamp eligibility determinations.

On the other hand, proposals for new “superwaiver” authority — see CRS Report RS21219, *“Superwaiver” Proposals in the Current Welfare Reform Debate* — could allow states to get waivers, under somewhat looser rules than are now the case, for privatizing administration of food stamp eligibility determinations.

Other Resources

At least three other additional resources can be consulted when considering the question of privatizing eligibility determination activities in major public assistance programs: (1) work done by the Reason Foundation;⁴ (2) a 2004 report done by the Center on Budget and Policy Priorities dealing with privatization policies as they relate to the Food Stamp program;⁵ and (3) a 2002 privatization study, funded by the Department of Health and Human Services, looking at six TANF sites (*Privatization in Practice: Case Studies of Contracting TANF Case Management, Final Report*, March 2003).⁶

⁴ The Reason Foundation’s most pertinent annual privatization report is available, at [<http://www.rppi.org/apr2004/welfare.shtml>].

⁵ This report is available at the Center for Budget and Policy Priorities’ site, [<http://www.cbpp.org>] and is listed under food assistance publications.

⁶ This study is available at [<http://aspe.hhs.gov/hsp/privatization-rpt03/>].