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Georgia's Welfare System Reference Guide: Program Bases and Flexibility for Reform Assessment

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GEORGIA
CENTER *for* OPPORTUNITY

Georgia's Welfare System Reference Guide: Program Bases and Flexibility for Reform Assessment

A preliminary reference guide on the background, structure, statutory and regulatory bases, scope, and flexibility for reform of Georgia's welfare system

Working paper for the Georgia Center for Opportunity

Open invitation: The Georgia Center for Opportunity invites comments, new ideas and unique perspectives to improve the accuracy of the descriptions, better assess the flexibility, and expand the scope of ideas for reform from experts in the field as well as other interested individuals. Because the information and analyses are organized by program area, individuals can easily focus their review on those sections with which they are most familiar.

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Introduction

The purpose of this working paper is to review the legal and administrative structure of the welfare system in Georgia and make assessments on the flexibility allowed by the federal government to implement a redesign of the system. The facts and analyses developed here are crucial in redesigning and transforming the system into a more rational one without disincentives for self-improvement, work or marriage and one that better encourages individuals and families to attain self-sufficiency.

This is a working paper because we fully expect to improve it given anticipated feedback. Therefore, we are announcing an open invitation to experts in the field as well as other interested individuals for comments, new ideas and unique perspectives to improve the accuracy of the descriptions, better assess the flexibility, and expand the numbers of idea for reform.

The paper is organized by major means-tested welfare programs that include the following information:

- Federal, state and, when important, local agencies charged with administering the program;
- Citations for federal and state statutory authorization for the program;
- Citations for federal and state regulations;
- Program participation and cost;
- Program summary;
- Background;
- Description of the State of Georgia's administrative role;
- Recent basic program data;
- Analysis;
- Strategies for reform assuming no changes in federal law
- Comment on reform assuming changes in federal law; and
- Important sources of information.

Definitions of Some Key Terms

Cliff model: a computer-based economic model developed by the author that allows for analysis of whether welfare cliffs exists and the extent of those cliffs. Georgia Center for Opportunity sponsored the development of a model for Georgia's welfare system, for more information on the cliff model please see *Disincentives for Work and Marriage in Georgia's Welfare System*.

Coordinating agency: an agency given the responsibility to coordinate benefits of all or most welfare programs by welfare reform. Ideally, this agency will be given the authority to alter eligibility requirements and benefit amounts of other programs to be consistent with a master eligibility engine.

Individual financial independency plan (IFIP): a plan drawn up by the coordinating agency that establishes goals to move from dependency on means-tested welfare programs to financial independence.

Welfare cliff: the phenomenon when an individual or family faces a potential financial loss in welfare benefits that exceeds any increased net earnings from being offered or receiving increased gross earnings.

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Acronyms

ABD: Aged, Blind and Disabled

ACF: Administration for Children and Families, HHS

ACTC: Additional Child Tax Credit

ACA: Patient Protection and Affordable Care Act of 2009, also known as ObamaCare.

ACS: American Community Survey of the U.S. Census Bureau

APTC: Advance Premium Tax Credits pursuant to purchased HIX policies per the ACA

ARM: AFDC-Related Medicaid, where AFCD is Aid to Families with Dependent Children, the predecessor program to TANF.

CAPS: Childcare and Parent Services

CCDBG: Child Care and Development Block Grant

CCDF: Child Care and Development Fund

CCR&R: Child Care Resource and Referral System

CFR of C.F.R.: Code of Federal Regulations

CHIP: Children's Health Insurance Program

CMO: care management organization

CMS: Center for Medicare and Medicaid Services, HHS

COMPASS: Common Point of Access to Social Services

COSTAR: County Statistical Reporting System of DFCS

DCA: Georgia Department of Community Affairs

DCH: Georgia Department of Community Health

DECAL: Georgia Department of Early Care and Learning

DFCS: Division of Family and Children Services, DHS

DHS: Georgia Department of Human Services

EBT: Electronic Benefits Transfer

EITC: Earned Income Tax Credit

FFY: Federal Fiscal Year

FNS: Food and Nutrition Service, U.S. Department of Agriculture

FPL: Federal Poverty Level

Ga. R & R: Rules and Regulations of the State of Georgia

GCAA: Georgia Community Action Association

HCV: Section 8 Housing Choice Vouchers

HHS: U.S. Department of Health and Human Services

HIX: Health Insurance Exchange pursuant to the Affordable Care Act

HUD: United States Department of Housing and Urban Development

IFIP: Individual financial independency plan; a plan drawn up by the coordinating agency that establishes goals to move from dependency on means-tested welfare programs to financial independence.

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IRS: Internal Revenue Service

LIHEAP: Low Income Home Energy Assistance Program

LIM: Low-Income Medicaid

LII: Legal Information Institute of the Cornell University Law School

MTW: Moving-to-Work (special designation of public housing authorities by HUD)

NSLP: National School Lunch Program

OCC: Office of Child Care, ACF

O.C.G.A.: Official Code of Georgia Annotated

OFA: Office of Family Assistance, ACF

OFI: Office of Family Independence, DFCS

PICS: PIH Information Center (PIC) System.

PIH: Office of Public and Indian Housing, HUD

PHA: Public housing authority

PRWORA: Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

PTC: Premium Tax Credit pursuant to purchased HIX policies per the ACA

RSM: Right from the Start Medicaid

SBP: School Breakfast Program

SCHIP: Separate Children's Health Insurance Program

SFY: State Fiscal Year, which is July 1 through June 30th for most states, including Georgia

SOI: also known as SOI Tax Stats; Statistics of Income Division, IRS

SSA: Social Security Administration

SSI: Supplemental Security Income

SLCSP: Second Lowest Cost Silver Plan, pursuant to HIX

SNAP: Supplemental Nutrition Assistance Program, also known as food stamps.

TANF: Temporary Assistance for Needy Families

TTP: total tenant payment, as related to housing assistance

USC or U.S.C.: United States Code

WIC: Women, Infants and Children program

WIPA: Work Incentives Planning and Assistance of SSI

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Georgia Welfare System Summary Table 1: Administrating Agencies and Statutory Bases

Program	Federal agency	State Agency	Federal Law	State Law	Flexibility Comment
Earned Income Tax Credit	Internal Revenue Service	None	6 U.S. Code § 32 - Earned income	None	No flexibility, but Georgia could create an innovative cash flow program.
Additional Child Tax Credit	Internal Revenue Service	None	6 U.S. Code § 24 - Child tax credit	None	No flexibility, but Georgia could create an innovative cash flow program.
Temporary Assistance for Needy Families	Office of Family Assistance within the Administration for Children and Families of the U.S. Department of Health and Human Services	Division of Family and Children Services of the Department of Human Services	Part A of Title IV of the federal Social Security Act, as amended by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. i.e., 42 U.S. Code Part A - Block Grants to States for Temporary Assistance for Needy Families	O.C.G.A. 49-4-180 through 49-4-193	Currently a block grant with considerable flexibility; Georgia could submit an amendment to its state plan; TANF also is not problematic in regards to generating welfare cliffs.
Supplemental Security Income	Social Security Administration	Disability Adjudication Services of the Vocation Rehabilitation Agency	Title XVI (Supplemental Security Income for Aged, Blind, And Disabled) of the Social Security Act, i.e., 42 U.S. Code Subchapter XVI	O.C.G.A. § 49-9-4 and § 49-9-7	Section 1115 of the Social Security Act allows for states to apply for waivers for demonstration projects, provided goals of program are fulfilled.
Supplemental Nutrition Assistance Program, a.k.a. food stamps	Food Nutrition Service of the U.S. Department of Agriculture	Division of Family and Children Services, Georgia Department of Human Services	7 U.S. Code Chapter 51 - Supplemental Nutrition Assistance Program	O.C.G.A. 49-4-16	Although pilot and experimental programs are allowed, parameters are currently restrictive relative to meaningful reform.
National School Lunch Program and School Breakfast Program	Food and Nutrition Service of the U.S. Department of Agriculture	School Nutrition Program for the Georgia Department of Education	42 U.S. Code Chapters 13 and 13A (in part)	O.C.G.A. 20-2-187 and O.C.G.A. 20-2-66	No flexibility.

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Supplemental Nutrition Packages for Women, Infants, and Children program	Food and Nutrition Service of the U.S. Department of Agriculture	Georgia Department of Public Health	Section 17 of the Child Nutrition Act of 1966 found in 42 U.S. Code § 1786	General authority of Department of Public Health: O.C.G.A. § 31-2A-6 and § 31-5-1	Georgia may be able to submit an amendment to its delivery system, but approval will depend on program guarantees.
Section 8 Housing Choice Vouchers	Office of Public and Indian Housing of the Department of Housing and Development	Georgia Department of Community Affairs plus 10 housing authorities in Georgia	42 U.S.C. Section 1437(f)	Implied authority found in O.C.G.A. § 50-8-3.1	HUD is expanding its Moving-to-Work projects, which may provide opportunities. Also, there is a congressional appetite to reduce costs and improve housing programs.
Low Income Home Energy Assistance Program	Division of Energy Assistance, Office of Community Services, ACF, HHS	Division of Family and Children Services, Georgia Department of Human Services	Energy Policy Act of 2005; Found in 42 U.S.C. § 8621-8630	Implied authority found in O.C.G.A., Title 49, Chapter 2	LIHEAP is a block grant, enabling Georgia latitude to adjust delivery of program funds.
Childcare and Parent Services	Office of Child Care, Administration for Children & Families, U.S. Department of Health & Human Services	Division of Family and Children Services, Georgia Department of Human Services	42 U.S. Code § 618 - Funding for child care and 42 U.S. Code Chapter 105-Community Service Programs, Subchapter II-B (Child Care and Development Block Grant) Sections 9857 through 9858r	O.C.G.A. 20-1A-60 through 20-1A-64	Currently a block grant, giving Georgia the opportunity to amend its state plan; also in 2014, Congress added a new waiver process in Section 9858(c) that is untested but can provide opportunities.
Medical Assistance: Medicaid, PeachCare, and Health Insurance Exchanges subsidies	Center for Medicare and Medicaid Services of the U.S. Department of Health & Human Services	Georgia Department of Community Health is the lead agency. The Department of Human Services provides eligibility determination through the COMPASS system	42 U.S. Code Subchapter XIX - Grants to States for Medical Assistance Programs; 42 U.S. Code Subchapter XXI - State Children's Health Insurance Program; 42 U.S. Code Chapter 157 - Quality, Affordable Health Care for All Americans; 26 U.S. Code § 36B - Refundable credit for coverage	O.C.G.A. 49-4-140 through 49-4-157; 49-5-270 to 49-5-273	Georgia may apply for demonstration waivers under Section 1115 of the Social Security Act for Medicaid and PeachCare, and also may apply for a new waiver in Section 1332 of the Social Security Act, allowing states extensive latitude in regards to the Affordable Care Act, including waivers to the U.S. Tax Code.

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Georgia Welfare System Summary Table 2: Participation and Program Costs

Program	Georgia Participation	Program Cost of Benefits Distributed in Georgia
Earned Income Tax Credit	1.1 million returns; estimated 2.9 million persons (2014, IRS data; author's calculation)	\$3.0 billion in benefits (2014)
Additional Child Tax Credit	844,800 returns (2014); estimated 2.6 million people (2014, author's calculation).	\$1.2 billion (2014)
Temporary Assistance for Needy Families	32,343 recipients (2014)	\$45 million (2014)
Supplemental Security Income	256,197 recipients (December 2014)	\$1.6 billion (2014 estimate)
Supplemental Nutrition Assistance Program, a.k.a. food stamps	839,207 households; 1.8 million recipients (FFY 2015)	\$2.8 billion (FFY 2015)
National School Lunch Program and School Breakfast Program	Free school lunches: 796,698 participants; reduced-cost school lunches: 72,633 participants; free school breakfasts: 454,097 participants; reduced-cost school breakfasts: 31,955 participants (SFY 2015)	\$754 million (SFY 2015)
Supplemental Nutrition Packages for Women, Infants, and Children program	264,299 participants (FFY 2015)	\$127 million (FFY 2015)
Housing Assistance: Housing Choice Vouchers and public housing	Housing Choice Vouchers: 44,104 households; 123,292 recipients; public housing: 28,957 households; 66,350 recipients (2016)	Housing Choice Vouchers: \$469 million (CY 2015); public housing: \$209 million (FFY 2015)
Low Income Home Energy Assistance Program (LIHEAP)	122,161 households (FFY 2016)	\$54. 5 million (FFY 2016)
Childcare and Parent Services (CAPS)	35,200 households; 61,800 children (SFY 2014)	\$260 million (SFY 2014)
Medical Assistance: Medicaid, PeachCare, and Health Insurance Exchanges	Low-Income Medicaid: 1,318,587 recipients (SFY 2015); PeachCare: 158,537 recipients (SFY 2015); Aged, Blind, Disabled Medicaid: 488,999 recipients (SFY 2015); HIX subsidies: 587,833 individuals (2016)	Low-Income Medicaid: \$4.0 billion (SFY 2015); PeachCare: \$311 million (SFY 2015); Aged, Blind, Disabled Medicaid: \$5.0 billion (SFY 2015); Health Insurance Exchange subsidies: \$1.7 billion, estimated (2016)

Federal agencies



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Program: Earned Income Tax Credit

Federal administering agency: Internal Revenue Service

State administering agency: none

Local administering agency: none

Applicable federal law: 6 U.S. Code § 32 - Earned income: <https://www.law.cornell.edu/uscode/text/26/32>

Applicable state law: none

Applicable federal regulation: 26 CFR Part 1 - Income Taxes, §§ 1.32-2 and 3: <https://www.law.cornell.edu/cfr/text/26/1.32-2> and <https://www.law.cornell.edu/cfr/text/26/1.32-3>.

Applicable state regulation: none

GA Program Participation: 1.1 million returns; estimated 2.8 to 3.0 million persons (2014, IRS data; author's calculation)

GA Program Cost: \$3.0 billion in benefits (2014, IRS data)

Summary

Because the Earned Income Tax Credit (EITC) is part of the tax code, there are limitations on what can be done without federal legislation. The repeal of the advance payment program in 2010 removed a major provision of the program that allowed cash flow to low-income families. To overcome this restriction, Georgia could consider establishing a low-interest loan program to provide cash flow to low-income families. In addition, there are several good options for changing federal law that would work well with systemic reform of the welfare system. First, the advance payment program can be reestablished. Second, a new program along the lines of the advance payment can be established, except instead of providing the advance payments through the employer, the advance payments can be made through the state of Georgia to administer a new cash flow program. Or third, the EITC can be eliminated and the funds that would have been used for the program can be bundled together and provided to the states to administer as part of a more rational welfare system. This can be accomplished by a block grant or a global waiver.

Background

Earned Income Tax Credit became law as a temporary program in the U.S. tax code on March 29, 1975 (Public Law 94-12).¹ The EITC is refundable, meaning that cash refunds can be received by the taxpayer even if the taxpayer made no tax payment. Therefore, the EITC functions as a subsidy or a cash assistance program, which is why economists call it a negative tax.

The Tax Code was amended in 1978 (Public Law 95-600) to make the EITC permanent and also to provide the opportunity for individuals to receive advance payments of the EITC through their employers, providing cash flow to the recipients throughout the year.² However, the advance payment program was eliminated in public law 111-226, signed by President Barack Obama on August 10, 2010.

The EITC phases in with work and then phases out after a certain threshold is met. Unfortunately, recipients currently cannot access the money until after they have filed their federal income tax forms and received their tax refunds, which includes any EITC funds that are due.

Georgia State Administrative Role

None.

¹ H.R.2166 bill summary and status, Thomas: legislative information from the Library of Congress: <http://thomas.loc.gov/cgi-bin/bdquery/z?d094:HR02166:@@R>.

² 92 Stat. 2772: <http://uscode.house.gov/statviewer.htm?volume=92&page=2772#>.

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Recent Basic Program Data

Georgia EITC Returns to Total Returns for Tax Year 2014

Description	Amount
Tax returns filed with EITC	1,138,570
All tax returns	4,378,120
Percent EITC	26.0%

Source: IRS SOI Tax Stats³

Georgia EITC Returns by Adjusted Gross Income for Tax Year 2014

Description	All returns	Size of adjusted gross income				
		Under \$1	\$1 to under \$10,000	\$10,000 to under \$25,000	\$25,000 to under \$50,000	\$50,000 to under \$75,000
Earned Income Tax Credit returns	1,138,570	6,780	273,680	569,270	286,590	2,250
Amount of EITC	\$3,063,653,000	\$8,274,000	\$394,756,000	\$2,063,131,000	\$596,919,000	\$573,000
Average EITC per return	\$2,691	\$1,220	\$1,442	\$3,624	\$2,083	\$255
Refundable EITC returns	1,018,420	4,520	243,270	525,360	243,630	1,630
Amount of refundable EITCs	\$2,646,792,000	\$5,614,000	\$326,098,000	\$1,809,157,000	\$505,527,000	\$396,000
Average refundable EITC per return	\$2,599	\$1,242	\$1,340	\$3,444	\$2,075	\$243

Source: IRS SOI Tax Stats⁴

Georgia EITC Returns by Number of Children for Tax Year 2013

EITC returns	Number	Amount	Average
No children	210,885	\$60,241,120	\$286
1 child	419,935	\$1,029,817,218	\$2,452
2 children	318,484	\$1,259,456,064	\$3,955
3 or more children	131,782	\$572,456,413	\$4,344
Total (from sum)	1,081,086	\$2,921,970,815	\$2,703
Total (as reported)	1,084,452	\$2,928,071,247	\$2,700
Statistical discrepancy	3,366	\$6,100,432	
Subtotal for returns with children	870,201	\$2,861,729,695	\$3,289

Source: Brookings⁵

Based on the data cited above, there are an estimated 2.9 million people benefitting from EITC. The calculation determined the minimum number in each of the households. For example, a household with one child would have a minimum of two people benefitting. This means that 419,935 filings would benefit a minimum of 839,870 individuals, assuming all single-parent households. Applying the percentage difference between married filing jointly and head of household from the Georgia profile in 2010 per data compiled by Brookings gives an estimated 2.8 million individuals benefitting. However, IRS data lump all families with three or more children together, and adjusting for average number of children per family with three or more children increases the total estimate to 2.9 million.

Analysis

Because this program is part of the tax code, individual taxpayers have the right to receive the tax credit, providing that they meet all requirements of the law. Article I Section 8 of the U.S. Constitution requires that taxes must be uniform throughout

³ Statistics of Income Division, IRS, Individual Income Tax Return (Form 1040) Statistics, State Data, SOI Tax Stats-Historic Table 2 for 2014: <https://www.irs.gov/uac/soi-tax-stats-historic-table-2>.

⁴ Idem.

⁵ Brookings Institute Earned Income Tax Credit (EITC) Interactive and Resources, April 14, 2015, downloaded June 28, 2016: <http://www.brookings.edu/research/interactives/eitc>.

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the United States, which removes discretion from the implementing federal agency to deny an individual the benefits if that person meets all criteria established by the law.

The current federal statute specifies how the tax credit shall be calculated, and there is no statutory basis for anyone to receive the credit other than the tax filer. Furthermore, there is no statutory flexibility for any governmental agency, whether federal or state, to alter the amount of the tax credit specified in federal law.

Although recipients are entitled to the subsidies, they have to wait until they receive their tax refunds in the following year. In the meantime, potential recipients must find other means to establish cash flow, which may include borrowing.

Importance of EITC

Because the EITC is a critical component of the welfare system, and it is the program that provides the most significant cash on a broad participation basis, it is important to integrate the program into any systemic reform.

Under reform, the potential benefits of the EITC need to be estimated by the coordinating agency in order to successfully implement individual financial independency plans. The elimination of the advance payment program in 2010 makes it particularly challenging to integrate this program into broader reform. It would be necessary to establish some mechanism to help reestablish cash flow to the recipients without excessive borrowing costs.

Strategies for Reform without Changes in Federal Law

If there are no changes in federal law, Georgia should consider creating a program that would make low-interest loans available to recipients in anticipation of their refunds. The loans would be repaid upon receipt of the federal tax refunds, and then if applicable and necessary taxpayers could take out additional loans for the subsequent tax year to help the recipients with cash flow for the current year. Interest on the loans could pay for the administrative cost of the program. The loans could be issued by a Georgia agency, or perhaps the program could empower private financial institutions to make these loans. This program might be called the “low-income family cash flow program.”

This cash-flow program would require contract language to guarantee recipients are obligated to repay the loan upon receipt of their federal tax refunds. It may be legally possible for the state of Georgia to negotiate arrangements with the Internal Revenue Service so that portions of individual refunds may be paid directly to the state of Georgia for repayment, but further legal research is necessary to confirm the possibility of this arrangement.

In administering the cash-flow program, it will be important to accurately estimate the amount of refundable tax credits due to recipients. It is advisable to avoid situations where loan values exceed refund amounts. It may take a trial-and-error period to establish a practice with sufficient accuracy. One challenge will be obtaining accurate information from potential recipients to make those determinations. Another challenge will be working with families that have erratic earnings and income, which is not uncommon among low-income households.

In order to confidently advocate for this cash-flow program, further research may be needed to determine current strategies used by low-income families in order to establish cash flow given current federal restrictions. This information may reveal sources not considered in this analysis and will be useful in justifying the loan program.

Furthermore, it is advisable to design the program so it requires no new spending, including ensuring the interest charged on the loans cover administration costs so not to burden Georgia taxpayers with additional obligations.

Reform Options Allowing for Changes in Federal Law

There are several good options for changes in federal law to allow for systemic reform.

Option 1

Reestablish the advance payment program within the Internal Revenue Service. This program will allow recipients to receive cash flow through their employers and would eliminate the need to establish a loan program discussed above. The coordinating agency would be able to account for the anticipated payments as part of the Individual financial independency plans (IFIPs) of welfare recipients.

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A drawback to this option is that the Internal Revenue Service does not have a good record of efficiently administering the advance payment program. The reasons provided by the Obama Administration for why it sought its elimination of the program are that (1) there were significant errors in estimating refunds from the EITC and (2) there was insufficient usage of the program.⁶ The latter complaint would be relatively easy to fix; i.e., Georgia can make it a requirement for all recipients of means-tested programs to apply for the EITC, which would be incorporated into the IFIPs. The first complaint may be more difficult to solve and would require administrative reform at the federal level.

Option 2

Instead of reestablishing the advance payment system as it was before in option 1, i.e., through employers, the federal legislation could provide the anticipated payments to the State of Georgia instead, provided that in the end the taxpayers who qualify receive the full amount of their refunds allowable by law. Georgia would have guaranteed stream of funds to establish a loan program as part of reforming the welfare system that would provide cash flow to the recipients as discussed under the subtopic heading *strategies for reform without changes in federal law*. Importantly, this option shifts administrative responsibility to the state of Georgia, not only giving the state more control over the welfare program but also addressing the Obama administration's concern over the ability of the IRS to properly manage the program without significant errors.

Option 3

The third option may be the most ideal in affording flexibility in redesigning the welfare system. Under this option, the federal government repeals the EITC and bundles the money that would have been spent on EITC, sending it to the states to administer cash assistance programs as part of a redesigned welfare system. This would provide the greatest flexibility for systemic welfare reform.

This option would be ideal for several reasons. First, it would provide the greatest flexibility to the states to redesign a rational welfare system. By allowing competition among the states, they would have the ability to innovate and experiment to find the best approaches. Second, the federal government would establish broad parameters to operate the program, which if designed correctly, would reduce the overall cost of the program. States could simply receive the total funds that its taxpayers had historically received from the EITC program, or a little bit less, as a block grant but with an important twist. If the state is able to reduce the expenditure, then it would be able to keep some of the savings that can be designated for program enhancements, such as education and training.

This third option may be the most difficult to accomplish despite its superior benefits in redesigning the system. Because the federal government loses some control, and congressional members lose some influence from constituents who would need them less to solve programmatic or administrative problems with the program, there may be political resistance to block grants to the states. Also, some members of Congress may fear states might be too harsh in implementing the programs, causing deserving citizens to lose benefits that allegedly they would have received from the refundable tax credit program. These concerns can be addressed in the federal legislation when establishing the block grants by properly creating broad program parameters.

A more attractive alternative to block grants may be federal legislation that allows states to seek broad-based waivers that cut across programs, a global waiver. Political opposition may not be as great for several reasons. Only states that want to participate can seek the global waivers. The waivers would require approval based on broad parameters and goals established by federal legislation, and these parameters can be well designed so that political objections are addressed.

Sources

The primary source for the statutory analysis is the U.S. tax code as compiled by the Legal Information Institute of the Cornell University Law School. The Legal Information Institute of the Cornell University Law School also provides text of federal

⁶ Internal Revenue Service, "Advance Payments of EITC Eliminated, Archived notice: <https://www.eitc.irs.gov/EITC-Central/hot/archive>; Press Briefing by OMB Director Peter Orszag and CEA Chair Christina Romer, The White House, February 26, 2009: <https://www.whitehouse.gov/the-press-office/press-briefing-omb-director-peter-orszag-and-cea-chair-christina-romer>; Mark Robyn, "Obama Proposes Elimination of Advance Earned Income Tax Credit," Tax Foundation Blog, March 8, 2009: <http://taxfoundation.org/blog/obama-proposes-elimination-advance-earned-income-tax-credit>.

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statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The Earned Income Tax Credit is found here: <https://www.law.cornell.edu/uscode/text/26/32>. The institute also provides links to regulations.

The Internal Revenue Service of the U.S. Department of Treasury also provides tax information, including rulings and studies, on its website: <https://www.irs.gov>. Additionally, the Internal Revenue Service has a site dedicated to the “Earned Income Tax Credit & Other Refundable Credits”: <https://www.etc.irs.gov/EITC-Central/main>. One of the pages on this site provides basic statistics on the EITC by state, i.e., the number of EITC claims, total EITC amount, and average EITC. The most recent year of data was for tax year 2014 (accessed July 19, 2016): <https://www.etc.irs.gov/EITC-Central/etcstats>. The page also has links for prior EITC year data as far back as tax year 2008.

The IRC also publishes participation rates, that is, the percentage of *eligible* taxpayers that receive the EITC, based on American Community Survey (ACS) data: <https://www.etc.irs.gov/EITC-Central/Participation-Rate>. For Tax Year 2013, Georgia’s estimated participation rate was 80.8%. (2014 estimates were not available at the time they were accessed.)

The IRS also provides tax statistics, and SOI Tax Stats for individual tax returns, which can be found here: <https://www.irs.gov/uac/soi-tax-stats-individual-income-tax-return-form-1040-statistics>. Table 2 SOI TAX Stats, Historic Table 2 for the states are found here: <https://www.irs.gov/uac/soi-tax-stats-historic-table-2>. Georgia’s 2013 data is available here: <https://www.irs.gov/pub/irs-soi/13in11ga.xls>. 2014 was not available yet as of July 20, 2016.

The IRS provides a link to an EITC interactive database from the Brookings Institute: <http://www.brookings.edu/research/interactives/etc>. The Brookings project allows researchers to download data for years 2011 through 2013 for individual states. In addition, the Institute has archived data going back to 1997. Brookings uses extracted IRS data and ACS data

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Program: Additional Child Tax Credit

Federal administrating agency: Internal Revenue Service

State administrating agency: none

Local administrating agency: none

Applicable federal law: 26 U.S. Code § 24 - Child tax credit: <https://www.law.cornell.edu/uscode/text/26/24> **Applicable state law:** none

Applicable federal regulation: none found.

Applicable state regulation: none

GA Program Participation: 867,610 returns (2013); estimated 1.9 million people.

GA Program Cost: \$1.2 billion (2013)

Summary

The refundable portion of the Child Tax Credit, i.e., the Additional Child Tax credit (ACTC), is a subsidy for families with children similar to the Earned Income Tax Credit. Therefore, it makes sense to include the ACTC with any reform options listed under the EITC. The low-interest cash-flow loan program and the options for federal legislation discussed under the EITC are viable options that can include the ACTC.

Background

The Additional Child Tax Credit (ACTC) is the refundable portion of the Child Tax Credit. Initially, the Taxpayer Relief Act of 1997, signed into law by President Bill Clinton (Public law 105-34), created a \$400 per child tax credit for married couples earning up to \$110,000 and unmarried individuals up to \$75,000. After those thresholds, the tax credit is reduced by \$50 for each additional \$1,000 in income.

Originally, the refundable portion of the child tax credit was limited to taxpayers with three or more children and was subject to limitations of social security taxes paid, allowing these families to receive the credit even if they owed no taxes, thus, like the EITC, acting as a subsidy. Beginning in 2001, the amount of the tax credit increased until it reached \$1,000 in 2010. The refundable portion was also changed so that families with less than three children can receive a refundable credit with a phase-in limitation linked to earnings.⁷

Georgia State Administrative Role

None.

Recent Basic Program Data

Georgia ACTC Returns to Total Returns for Tax Year 2014

Description	Amount
Tax returns filed with ACTC	844,800
All tax returns filed	4,378,120
Percent returns with ACTC	19.3%

Source: IRS SOI Tax Stats⁸

⁷ See Internal Revenue Service ruling number 200235031, August 30, 2002: <https://www.irs.gov/pub/irs-wd/0235031.pdf>.

⁸ Statistics of Income Division, IRS, Individual Income Tax Return (Form 1040) Statistics, State Data, SOI Tax Stats-Historic Table 2 for 2014: <https://www.irs.gov/uac/soi-tax-stats-historic-table-2>.

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Georgia ACTC Returns by Adjusted Gross Income for Tax Year 2014

Description	All returns	Size of adjusted gross income						
		Under \$1	\$1 to under \$10,000	\$10,000 to under \$25,000	\$25,000 to under \$50,000	\$50,000 to under \$75,000	\$75,000 to under \$100,000	\$100,000 to under \$200,000
Additional Child Tax Credit	844,800	3,030	102,740	457,240	248,460	29,380	3,240	720
Amount of ACTC	\$1,168,346,000	\$4,585,000	\$77,156,000	\$653,528,000	\$387,972,000	\$39,573,000	\$4,419,000	\$1,113,000
Average ACTC per return	\$1,383	\$1,513	\$751	\$1,429	\$1,562	\$1,347	\$1,364	\$1,546

Source: IRS SOI Tax Stats⁹

It is estimated that 2.6 million Georgians benefit from the ACTC. The estimate is based on the ratio of EITC returns to estimated beneficiaries, except the EITC ratio was adjusted to remove those recipients who had no children in order to give a truer proportion of those families with children.

Analysis

The Additional Child Tax Credit shares many of the same characteristics of EITC. These credits are tax refunds that taxpayers are entitled to if they qualify pursuant to the tax code. Unlike the EITC, there was never an advance payment system for the refundable portion. Thus, recipients always had to wait until they received their refund from their tax filings before they could avail themselves of the refundable portion of the tax credit, i.e., the subsidy.

Because this subsidy is channeled through the Internal Revenue Service, it makes sense to link this program with the EITC when redesigning the welfare system.

Strategies for Reform without Changes in Federal Law

If Georgia would establish a low-interest program to help families with cash flow until they received their refundable EITC from the federal government, it would make sense to include the ACTC with the same program. See the explanation under EITC for more information.

Reform Options Allowing for Changes in Federal Law

There are several options for changes in federal law that follow along the options under EITC.

Option 1

If federal legislation would reestablish the advance EITC payment program that worked through employers, the reestablishment of that program could also include the ACTC. See Option 1 under EITC for more information.

Option 2

Again, following along the options set out under EITC, if federal legislation reestablished an advance payment program that used the state of Georgia as the conduit as opposed to employers, ACTC could be added to the program. See Option 2 under EITC for more information.

Option 3

Yet again, following along the option set out under EITC, if federal legislation created a program whereby the federal government repealed the EITC and provided those funds to the states so they could operate a more meaningful welfare program, it makes sense to include ACTC in that overhaul. See Option 3 under EITC for more information.

Sources

The primary source for the statutory analysis is the U.S. tax code as compiled by the Legal Information Institute of the Cornell University Law School. The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The Additional Child Tax Credit is found here: <https://www.law.cornell.edu/uscode/text/26/24>. The institute also provides links to regulations.

⁹ Idem.

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The Internal Revenue Service of the U.S. Department of Treasury also provides tax information, including rulings and studies, on its website: <https://www.irs.gov>. SOI Tax Stats for individual tax returns can be found here: <https://www.irs.gov/uac/soi-tax-stats-individual-income-tax-return-form-1040-statistics>. Table 2 SOI TAX Stats, Historic Table 2 for the states are found here: <https://www.irs.gov/uac/soi-tax-stats-historic-table-2>. Georgia's 2013 data is available here: <https://www.irs.gov/pub/irs-soi/13in11ga.xls>. 2014 was not available yet as of July 20, 2016.

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Program: Temporary Assistance for Needy Families — Cash Assistance

Federal administrating agency: Office of Family Assistance, Administration for Children and Families, U.S. Department of Health and Human Services

State administrating agency: Division of Family and Children Services of the Department of Human Services

Local administrating agency: none

Applicable federal law: Part A of Title IV of the Social Security Act, as amended by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996: https://www.ssa.gov/OP_Home/ssact/title04/0400.htm; i.e., 42 U.S. Code Part A - Block Grants to States for Temporary Assistance for Needy Families: <https://www.law.cornell.edu/uscode/text/42/chapter-7/subchapter-IV/part-A>

Applicable state law: O.C.G.A. Title 49 (Social Services), Chapter 4 (Public Assistance), Article 9 (Temporary Assistance for Needy Families); i.e., O.C.G.A. 49-4-180 through 49-4-193

Applicable federal regulation: CFR Title 45 Chapter II (Parts 260 through 265): <https://www.gpo.gov/fdsys/pkg/CFR-2013-title45-vol2/pdf/CFR-2013-title45-vol2-sec260-30.pdf> See also <https://www.law.cornell.edu/cfr/text/45/chapter-II>.

Applicable state regulation: Ga. Comp. R. & Regs. R. 290-2-28-.01 to 290-2-28-.19: <http://rules.sos.state.ga.us/nllxml/georgiacodesGetcv.aspx?urlRedirected=yes&data=admin&lookingfor=290-2-28>

GA Program Participation: 32,343 recipients (2014)

GA Program Cost: \$45 million (2014)

Summary

The Temporary Assistance for Needy Families (TANF) program is a federal block grant to help families with children who are the poorest of the poor. There is wide variation and flexibility on how states administer the program. TANF is not problematic relative to economic disincentives to work, but TANF participants are only a small subset of families receiving means-tested assistance.

Background

The welfare reform act of 1996, formally known as the Personal Responsibility and Work Opportunity Reconciliation Act, replaced the Aid to Families with Dependent Children program (AFDC) with the Temporary Assistance for Needy Families program. A bipartisan bill passed by a Republican Congress and signed into law by Democratic President Bill Clinton, this act was the culmination of efforts to reform the welfare system that was widely perceived to create dependency on the Federal government.

TANF is a block grant, providing states with latitude on how they implement the program to meet broad goals, which are (1) to provide assistance to needy families so that children can be cared for in their own homes; (2) to reduce dependency by promoting job preparation, work and marriage; (3) to prevent out-of-wedlock pregnancies; and (4) to encourage the formation and maintenance of two-parent families.¹⁰

Principal tenets of the reform are moving people to work and providing only temporary assistance as opposed to permanent assistance. The program emphasizes employment but also includes job-training or employment-related activities. There are also time limitations on how long a family may be in the program, although a number of states have found ways around those limitations.

States are required to spend their own money, known as maintenance of effort, and may use some of the federal money for child care expenses of recipients. Enforcement of child support from absentee parents is also a critical component of the TANF program. States also are required to meet federal work participation standards of 50 percent of all families and 90 percent of

¹⁰ Federal Office of Family Assistance, "Major Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)," December 16, 1996, accessed on May 5, 2016: <http://www.acf.hhs.gov/programs/ofa/resource/law-reg/finalrule/aspesum>.

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two-parent families. However, states can receive credit for caseload reduction and excess spending on related programs that has an effective rate of less than 25% work participation.¹¹

Each state submits a plan to the federal Office of Family Assistance (OFA) for approval to receive federal funds. In addition, states may request and receive waivers from federal requirements, providing states even more flexibility beyond the criteria established by federal law and regulations. Specifically, Section 1115 of the Social Security Act allows states to file for waivers relative to TANF that in the judgment of the U.S. Secretary of Health of Human Services promotes the objectives of the law provided that it is cost neutral to the federal government. However, no Section 1115 waivers have been issued since the TANF program began, but several Section 1115 waivers from the predecessor program AFDC were grandfathered into several states' TANF programs.¹²

Income eligibility thresholds are fairly low in Georgia, which are based on calculations using a standard of need and a family maximum payment. For a family of three, it may receive cash payments if the single parent lacks employment or works part-time, but once the single parent works full time at minimum wage, he or she is no longer eligible for those cash payments.

The TANF population is considered to be the poorest of the poor of those who have children. Single moms with no employment and unmarketable labor skills are the most typical family type in the program.

Georgia State Administrative Role

Because TANF is a block grant, Georgia plays a major role in determining its TANF program. The program was enacted in Georgia in 1997 as the Temporary Assistance for Needy Families Act, the year following the federal enactment of the TANF program in 1996. The Department of Human Services is charged with the implementation, and the Board of Human Services has oversight of the agency's policy and regulations.

The Division of Family and Children Services of the Department implements the program pursuant to state plans submitted to the federal Office of Family Assistance.

Recent Basic Program Data

Georgia TANF Participation and Benefit Costs

SFY	Monthly averages				Total annual benefits
	Families	Adults	Children	Recipients	
2014	15,815	3,600	28,743	32,343	\$45,372,292
2015	13,543	2,797	24,532	27,328	\$40,223,035

Source: DFCS¹³

Analysis

From the metric of moving the TANF participants to work, the program is widely viewed as successful. However, it should be remembered that TANF participants are only a subset of the larger low-income population.

States have also been successful in controlling costs, although there is concern especially among some members of Congress that the reduction in costs have come at the expense of families that need assistance.

On the program goals of reducing out-of-wedlock births and two-parent family formation, there is little evidence that the TANF program has been effective. While there are numerous potential causes, the array of other mean-tested welfare programs are also undermining efforts of the TANF program.

¹¹ Idem.

¹² Statement of Kay E. Brown, Education, Workforce, and Income Security, United States Government Accountability Office, Testimony Before the Subcommittee on Human Resources, Committee on Ways and Means, House of Representatives, February 28, 2013. <http://www.gao.gov/assets/660/652454.pdf>. See also Gene Falk, Specialist in Social Policy, "Temporary Assistance for Needy Families: Welfare Waivers," Congressional Research Service, R42627, March 7, 2013.

¹³ Division of Family and Children Services, Georgia Department of Human Services, Descriptive Data by County for SFYs 2014 and 2015: <http://dfcs.dhs.georgia.gov/dfcs-descriptive-data-reports-year>.

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Partly because TANF cash benefits are provided only at the lowest income levels, the cliff model showed no economic disincentives due to the TANF cash program. Therefore, it was concluded that the TANF program is beneficial and does not add to the problem of the welfare cliffs in the state of Georgia.

Strategies for Reform without Changes in Federal Law

TANF is already a block grant, and states have considerable flexibility in how they implement the law. Because the program has not been identified as part of the problem in creating economic disincentives, no changes are being recommended. This is not to say, however, that future research will not reveal ways to improve the program or better ways to integrate it into the redesign of the welfare system.

Reform Options Allowing for Changes in Federal Law

See comments above.

Sources

The federal Office of Family Assistance provides a website on TANF that gives information on law, regulations, policies, data, reports, resources, and FAQs: <http://www.acf.hhs.gov/programs/ofa/programs/tanf>.

The Georgia Division of Family and Children Services, Department of Human Services, has webpages dedicated to the TANF program found on this link: <http://dfcs.dhs.georgia.gov/temporary-assistance-needy-families>. It includes fact sheets, state plans, and other information. TANF Eligibility Requirements can be found here: <http://dfcs.dhs.georgia.gov/tanf-eligibility-requirements>. The Division annually publishes Descriptive Data by County Reports, which are available here: <http://dfcs.dhs.georgia.gov/descriptive-data-county-reports>.

DFCS also publishes Office of Family Independence Outcome Measures & Results Reports. These give CAPS active caseload, TANF recipients, food stamp cases, Medicaid cases, TANF work participation rate, food stamp participation rate, Medicaid ABD Standard of Promptness, and Medicaid Family Standard of Promptness. These reports are available here (<http://dfcs.dhs.georgia.gov/family-independence-outcome-measures-reports>) and are fairly current. In mid-July, reports through May were available, thus there is about a one-month lag. However, not all months are available online.

Although the reports refer to various datasets, more detailed information is not regularly published online. Therefore, more detailed data will require an open records request or cooperation with the department. For example, the Descriptive Data by County report identifies “State TANF File” as a source, and the OFI Outcome Measures identify “SUCCESS” as a data source, and neither of these reports are available online.

The Urban Institute—under contract with the Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services—annually publishes a Welfare Rules Databook with information on how states implement their TANF programs. This contract came about because of the diversity of TANF programs among the states, making it difficult to track all various approaches by the states:

http://www.acf.hhs.gov/sites/default/files/opre/2014_welfare_rules_databook_final_508_v11.pdf.

The U.S. Social Security Administration provides a compilation of Social Security Law, which TANF is a part:

https://www.ssa.gov/OP_Home/ssact/title04/0400.htm.

The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The TANF program legislation can be found on this link:

<https://www.law.cornell.edu/uscode/text/42/chapter-7/subchapter-IV/part-A>. Regulations can be found here:

<https://www.law.cornell.edu/cfr/text/45/chapter-II>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website:

<http://www.lexisnexis.com/hottopics/gacode/Default.asp>. TANF is found in O.C.G.A. 49-4-180 through 49-4-193.

Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov>. TANF regulations can be found in Ga. Comp. R. & Regs. R. 290-2-28-.01 to 290-2-28-.19:

<http://rules.sos.state.ga.us/nllxml/georgiacodesGetcv.aspx?urlRedirected=yes&data=admin&lookingfor=290-2-28>

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Program: Supplemental Security Income

Federal administrating agency: Social Security Administration

State administrating agency: Disability Adjudication Services of the Georgia Vocation Rehabilitation Agency provides disability determinations

Local administrating agency: none

Applicable federal law: Title XVI (Supplemental Security Income for Aged, Blind, And Disabled) of the Social Security Act, i.e., 42 U.S. Code Subchapter XVI - Supplemental Security Income for Aged, Blind, and Disabled:

<https://www.law.cornell.edu/uscode/text/42/chapter-7/subchapter-XVI> or

https://www.ssa.gov/OP_Home/ssact/title16b/1600.htm

Applicable state law: O.C.G.A. § 49-9-4 (Creation of Georgia Vocational Rehabilitation Agency; function) and § 49-9-7 (Cooperation to carry out the purposes of federal statutes)

Applicable federal regulation: 20 CFR Chapter III- Social Security Administration, Part 416-Supplemental Security Income for the Aged, Blind, and Disabled (§§ 416.101 - 416.2227). <https://www.law.cornell.edu/cfr/text/20/part-416>

Applicable state regulation: none

GA Program Participation: 256,197 recipients (December 2014)

GA Program Cost: \$1.6 billion (2014 estimate)

Summary

The Supplemental Security Income (SSI) program provides income of the last resort to elderly and disabled individuals. Other than assisting in the process of determining disability, states play no role in determining eligibility or benefit amounts, and the program is uniform throughout the nation. However, Section 1115 of the Social Security law allows states to submit experimental, pilot or demonstration projects where the U.S. secretary of Health and Human Services may waive federal requirements. This provision provides an opportunity for Georgia to submit an application for a demonstration project without the need for federal legislation to incorporate SSI or aspects of SSI into a redesign of the welfare system. Along those lines, if federal legislation were passed, it is advisable to amend Section 1115 to facilitate the waiver process along the lines needed for the redesign.

Background

Congress enacted the Supplemental Security Income (SSI) program on October 30, 1972 (Public Law 92-603), to bring uniformity to income assistance of the last resort for aged, blind and disabled persons. Prior to the law, there was a wide diversity on how states provided income assistance to these populations with varying benefit amounts, eligibility rules, and even definitions of disability.¹⁴

In addition to providing benefits to adults, SSI provides income assistance to disabled children by deeming the income of the parents to the child. Although the subsidies are supposed to be used solely for the benefit of the disabled child, these subsidies nonetheless improve the financial situation of the entire family, causing some families to rely heavily on these welfare payments for financial survival.¹⁵

States are allowed to administer state supplementary programs that augment the federal SSI benefit amounts. Georgia, however, does not have a supplementary program.

The administration of the program is not entirely federal. States handle the process for determining disabilities for which they are reimbursed for their costs by the federal government. Other than that responsibility, where states are acting as an agent

¹⁴ Annual Report of the Supplemental Security Program, 2015, Social Security Administration, Section III, pp 7-25. <https://www.ssa.gov/OACT/ssir/SSI15/ssi2015.pdf>. See also the SSI Annual Statistical Report, 2014, Social Security Administration, pp. 1-11. https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2014/ssi_asr14.pdf.

¹⁵ For a good news media series on this problem, see the three-part series “The Other Welfare” by Patricia Wen: “A Legacy of Unintended Side Effects,” “A Coveted Benefit, A Failure to Follow Up,” and “A Cruel Dilemma for Those on the Cusp of Adult Life,” The Boston Globe, December 12, 13, and 14, 2010.

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for the federal government, the entire program is administered by the federal government, including determination of eligibility and benefit amounts.

Georgia State Administrative Role

Although some states have supplemental payments for SSI, Georgia no longer has any.

Although the SSI is run by the federal government, states are still responsible for making disability determinations based on federal rules. In Georgia, the Disability Adjudication Services of the Georgia Vocation Rehabilitation Agency is responsible for those determinations: <https://gvra.georgia.gov/disability-adjudication-services>.

Recent Basic Program Data

Georgia SSI Recipients, Payments and Annualized Costs for December 2014

Description	Total	Category			Age		
		Aged	Blind	Disabled	Under 18	18–64	65 or older
Recipients	256,197	24,346	1,931	229,920	46,302	158,184	51,711
Average monthly payment	\$512	\$310	\$503	\$533	\$632	\$535	\$332
Total annualized cost*	\$1,573,859,163	\$90,634,315	\$11,661,077	\$1,471,616,755	\$351,421,068	\$1,016,091,760	\$206,283,453

Source: SSA¹⁶

Analysis

The rules for determining eligibility and benefit amounts are laid out specifically by federal law and regulations, which are administered federally by the Social Security Administration. Consequently, Georgia does not have the ability to influence those rules or vary from it, unless, however, it submits a request for and receives a waiver of those rules.

Section 1115 of the Social Security Act provides that states may submit experimental, pilot or demonstration projects that “in the judgment of the Secretary” of Health and Human Services will promote the objectives of the supplemental security income program. In such cases, the Secretary may waive any compliance rules of section 1602 that authorizes basic eligibility for SSI under the SSA. Any such proposals need to be budget neutral to the federal government, although it is permissible from the federal perspective if the state were to incur additional costs.¹⁷

Section 1115 opens the door for states to incorporate the SSI program, or portion thereof, into welfare reform initiatives without the need to change federal law or regulations. Although Section 1115 waivers are common with the Medicaid program—Medicaid.gov lists 40 approved, 25 expired, 27 pending and only 1 disapproved¹⁸—no waiver has ever been issued for the SSI program.

Using the Medicaid program as a basis for analysis, these waivers are negotiated between the federal government and the states. Typically, the review process involves considerable back-and-forth between the state and federal governments. Medicaid demonstration waivers are for five years and then renewable every three years.¹⁹ This appears to be a policy decision because these timeframes are not found in federal regulations or statute.

Interestingly, it is not the commissioner of the Social Security Administration who has the power to approve SSI waivers but the secretary of the Department of Human Services. Section 1115 plainly states that the “secretary” may waive the requirements, and “secretary” is defined in Section 1101 as follows: “except when the context otherwise requires, means the

¹⁶ Social Security Administration, SSI Annual Statistical Report, 2014. Tables 10 and 11:

https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2014/ssi_asr14.pdf. See also

https://www.ssa.gov/policy/docs/statcomps/ssi_asr/index.html.

¹⁷ Section 1115 allows for these waivers for seven means-tested assistance programs found in the Social Security Act:

https://www.ssa.gov/OP_Home/ssact/title11/1115.htm or <https://www.law.cornell.edu/uscode/text/42/1315>

¹⁸ Website accessed May 11, 2016: https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/waivers_faceted.html. Note that the website also lists Section 1915 waivers, which are more numerous.

¹⁹ “Five Key Questions and Answers about Section 1115 Medicaid Demonstration Waivers,” Kaiser Commission on Medicaid and the Uninsured, June 2011: <https://kaiserfamilyfoundation.files.wordpress.com/2013/01/8196.pdf>.

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Secretary of Health and Human Services.”²⁰ However, as a practical matter, the commissioner would likely be consulted and influential in the secretary approving or disapproving a waiver relating to SSI.

Strategies for Reform without Changes in Federal Law

The only option available to states for reforming SSI, or incorporating SSI into welfare reform, without changes in federal law is through the waiver process found in Section 1115 of the Social Security Law. This option is open-ended and would afford the state of Georgia wide latitude on developing a proposal to improve the SSI program in concert with a plan to redesign the welfare system, provided the SSI component of the redesign fulfilled the objectives of the SSI program *and* that Georgia officials could persuade federal officials on the advantages of its proposal. Recent efforts of the SSI program to reduce dependence on federal subsidies and move individuals to work, such as the Work Incentives Planning and Assistance (WIPA) program, provide some indication that federal officials might be persuaded to approve an SSI demonstration project if that project showed potential to promote independence of the individual. Of course, not to overstate the potential for approval, the degree of cooperation from federal officials will be influenced by those personalities holding official capacities and the policy emphasis of the administration holding office at the time.

A clear potential drawback with relying on Section 1115 is the possibility that an application for a demonstration project would be denied or permanently stalled in the review process. Another drawback includes a delay in moving toward a redesign as the federal government works through its first process to approve the waiver with the SSI program, which could take significant time, perhaps years, because there is no statutory timeframe for the federal government to act. Furthermore, because no state has a waiver to the SSI program and it would be the first time for the federal government work through a wavier for SSI, it is not unreasonable to expect additional time to review and approve it.

Because waivers are negotiated, the outcome could be negative or positive. The negotiations introduce the possibility that federal officials could insist on provisions that diminish the effectiveness of the welfare reform. At the same time, federal officials bring important considerations to the table not fully appreciated by Georgia officials that can improve the reform.

These drawbacks could be mitigated if federal officials are consulted early on and invited to provide comments on Georgia’s redesign before an application for a demonstration project is submitted. In addition, changes in federal law could enhance the process, giving federal officials guidance on how to evaluate and implement the waiver process.

Reform Options Allowing for Changes in Federal Law

If federal legislation is pursued, then it opens up more possibilities. However, it may be difficult to convince members of Congress to give much greater latitude than found in Section 1115. The SSI program came about not only to bring uniformity to income support for the elderly and persons with disabilities but also because of the fear among national leaders that some states were providing inadequate support.

As described in the subsection above, a successful strategy may entail amending Section 1115 to provide federal officials clearer guidelines and timeframes to judge a demonstration project along the lines of a proposed welfare redesign, thus helping to ensure an approval in a timely manner and reducing the possibility of federal officials imposing extraneous conditions that could diminish the effectiveness of welfare reform.

Considering the history of SSI, a global block grant is more likely than a global waiver.

Sources

The Social Security Administration has numerous reports and data on the SSI Program, including annual reports and statistical reports: https://www.ssa.gov/policy/docs/statcomps/ssi_asr. SSA also provides a compilation of Social Security Law, which SSI is a part: https://www.ssa.gov/OP_Home/ssact/title16b/1600.htm. The most recent statistical report, SSI Annual Statistical Report, 2014, can be found on this link: https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2014/ssi_asr14.pdf. Tables are also available in Excel.

²⁰ 42 U.S. Code § 1301 – Definitions: <https://www.law.cornell.edu/uscode/text/42/1301>. See also https://www.ssa.gov/OP_Home/ssact/title11/1101.htm.

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The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The SSI program can be found at this link: <https://www.law.cornell.edu/uscode/text/42/chapter-7/subchapter-XVI>. The Institute also provides federal regulations, found here for the SSI program: <https://www.law.cornell.edu/cfr/text/20/part-416>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>. The statutory authority of the Georgia Vocation Rehabilitation Agency is found in O.C.G.A. § 49-9-4 (Creation of Georgia Vocational Rehabilitation Agency; function) and § 49-9-7 (Cooperation to carry out the purposes of federal statutes).

Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov>. No SSI regulations were found.

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Program: Supplemental Nutrition Assistance Program, i.e., Food Stamps

Federal administrating agency: Food Nutrition Service of the U.S. Department of Agriculture

State administrating agency: Division of Family and Children Services, Georgia Department of Human Services

Local administrating agency: none

Applicable federal law: 7 U.S. Code Chapter 51 - Supplemental Nutrition Assistance Program

<https://www.law.cornell.edu/uscodee/text/7/chapter-51>

Applicable state law: O.C.G.A. Title 49 (Social Services), Chapter 1 (Public Assistance), Article 1 (General Provisions), Section 16 (Research, demonstration, and work experience programs; surplus food distribution); i.e., O.C.G.A. 49-4-16.

Applicable federal regulations: 7 CFR Part 271. <https://www.law.cornell.edu/cfr/text/7/part-271>

Applicable state regulations: none found other than 290-1-1-.05 (Same; Hearing Requests Subject to the Jurisdiction of the Office of State Administrative Hearings)

GA Program Participation: 839,207 households; 1.8 million recipients (FFY 2015)

GA Program Cost: \$2.8 billion (FFY 2015)

Summary

The food stamp program, or the Supplemental Nutrition Assistance Program (SNAP) as it was renamed in 2008, provides households with funds to help pay for food at participating stores using Electronic Benefits Transfer (EBT) cards that act like debit cards. Federal funds pay for all benefit amounts plus one half of a state's administrative costs to implement the program in addition to bonus payments and special administrative grants. Although federal law allows for pilot and experimental projects with the stated purpose of self-sufficiency, innovative welfare reform, and greater conformity with other welfare programs, other restrictions severely limit the flexibility for a state if it would adopt those projects, especially in regards to systemic welfare reform. Georgia could more aggressively pursue work requirements for non-elderly, non-disabled adults, which is currently admissible under federal law. Otherwise, current law is likely not flexible enough to adopt meaningful reform. Therefore, Georgia would most likely have to work around SNAP requirements in implementing welfare reform. With the help of federal legislation, Georgia would want the ability to increase or decrease benefit amounts and be able to combine them with other welfare-assistance programs.

Background

In 1939, the Secretary of Agriculture created an experimental food stamp program to address problems with the Food Surplus Commodities Corporation established in 1935. The Nutrition Council for Defense recommended extending the program in 1941 as part of the National Defense Plan that expanded to half the counties in the country. A scandal and rumored fraud and abuse, plus the lack of Congressional authorization, ended the experiment in 1943. In 1961, President John Kennedy renewed the idea when he issued an executive order that initiated a food stamp pilot program, and he subsequently requested legislation to make the program permanent. President Lyndon Johnson renewed the request as part of his war on poverty that resulted in the enactment of the Food Stamp Act of 1964 (P.L.88-525).²¹

Amended more than fifty times, according to legislative information from the Food Nutrition Service,²² the act has the dual purpose of strengthening the "agricultural economy" and "providing improved levels of nutrition among low-income households." In 2008, the food stamp program was renamed the Supplemental Nutrition Assistance Program (SNAP), in part to reduce the stigma associated with the program, which became law as part of the Farm Bill of 2008 when Congress overrode President George Bush's veto.²³ Although the program is more widely recognized as the food stamp program and is still called

²¹ "From Food Stamps to the Supplemental Nutrition Assistance Program: Legislative Timeline", available on the website of the Food Nutrition Service: <http://www.fns.usda.gov/sites/default/files/timeline.pdf>.

²² Idem plus the website provides a short list of legislation that includes more current legislation since 2009: <http://www.fns.usda.gov/snap/legislation>.

²³ "A Short History of SNAP", available on the website of the Food Nutrition Service: http://www.fns.usda.gov/sites/default/files/History_of_SNAP.pdf. The Farm Bill of 2008 was passed as the Food, Conservation, and Energy Act of 2008.

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food stamps by many, benefits are no longer issued using stamps but by utilizing electronic benefits transfer cards that function like debit cards at participating retail outlets.

Currently, the federal government pays for all benefits issued through the food stamp program. However, states are responsible for the implementation of the program and are subject to federal laws, regulations and oversight of the Food and Nutrition Service of the U.S. Department of Agriculture. The federal government reimburses states for half of their administrative costs, excluding incentive payments and additional grants that states might receive.

Georgia State Administrative Role

As a general power, Georgia statute authorizes the Department of Human Services to be engaged in the distribution of surplus food through a food stamp program. DHS issues a food stamp policy manual that serves as the basis for program implementation: <http://dfcs.dhs.georgia.gov/sites/dfcs.dhs.georgia.gov/files/MAN3420.pdf>.

Because Georgia statute gives a Board of Human Services general policy oversight of the DHS, any changes to implementation of the food stamp program may require board approval.

Recent Basic Program Data

Georgia SNAP Participation, Benefits, and Cost

FFY	Participation		Monthly benefit		Cost
	Households	Persons	Per household	Per person	
2013	907,896	1,948,189	\$293	\$136	\$3,188,743,586
2014	882,115	1,942,689	\$267	\$121	\$2,827,853,876
2015	839,207	1,800,531	\$278	\$130	\$2,803,606,880

Source: FNS²⁴

Georgia SNAP Recipients by Age: June 2015

Description	Age 0-6	Age 7-15	Age 16-17	Age 18-21	Age 22-34	Age 35-44	Age 45-64	Age 65+	Total
Recipients	359,770	411,896	68,064	90,996	323,096	180,156	280,589	99,751	1,814,318

Source: DFCS²⁵

Analysis

Under current law, states have several options for administering the program. A state may elect a “simplified” Supplemental Assistance Program (Sec. 2035) that may work with the TANF program or the SNAP program or some combination of the two. In such cases and given approval by the secretary of Agriculture and given there are no additional costs for the federal government, the state may vary from national standards on deductions but in doing so it must consider work expenses, dependent care costs, and shelter costs. The state must also adhere to other federal statutory requirements, including making sure EBT cards are issued only to participants, food can only be purchased from approved retail stores, and the requirement that the benefit amount is reduced by thirty percent of a household’s income as determined by federal statute stays in place. In short, the simplified SNAP program may provide some wiggle room but probably insufficient latitude to vary from current procedures.

²⁴ FNS, online Supplemental Nutrition Assistance Program (SNAP) data for download, National and/or State Level Monthly and/or Annual Data: <http://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>.

²⁵ Division of Family and Children Services, Georgia Department of Human Services, Descriptive Data by County for SFY 2015: <http://dfcs.dhs.georgia.gov/dfcs-descriptive-data-reports-year>

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Appearing more promising at first glance, Section 2026 allows the secretary to conduct pilot or experimental projects in one or more areas of the country to test program changes to increase efficiency or improve delivery of benefits to eligible households, giving the secretary that ability to waive any requirement in federal law. The law states that permissible projects include:

- 1) improved program administration;
- 2) increased self-sufficiency;
- 3) innovative welfare reform strategies; or
- 4) greater conformity with rules of other programs.

A redesign of the welfare system would likely include all permissible project goals. *However*, the law also imposes severe restrictions on the projects. Foremost, if the secretary determines that the project reduces benefits by more than 20 percent for more than 5 percent of the households subject to the project, then the project may not include more than 15 percent of the SNAP households within the state and the project is limited to five years unless the secretary approves an extension.

Restricting permissible projects even more, Section 2026 provides a list of “impermissible projects.” The following is not a comprehensive list of those restrictions but is a good representation. First, the project cannot pay benefits in the form of cash and the benefits must be restricted to the purchase of food. Second, the project cannot transfer funds to another public assistance program. Third, the project must still be consistent with certain SNAP parameters, including guaranteeing that all eligible persons under current rules who apply for the program will receive benefits and abiding by the same gross income standards for non-elderly, non-disabled households. Fourth, a project cannot increase the shelter deduction with no out-of-pocket housing costs or housing costs that consume a low percentage of the household’s. Fifth, the project must be limited in time. Sixth, a project cannot waive any requirements relating to a simplified SNAP. Seventh, and last listed here, a project cannot waive requirements to issue benefits to those who may have become ineligible because of welfare reform, referring to the welfare reform that initiated TANF.

Although the Georgia General Assembly passed legislation that limits its low-income tax credit to those who do not receive food stamp allotments, ultimately the Department of Revenue ruled that state law was preempted by federal law. 7 U.S.C. 2017(b) states: “Benefits not deemed income or resources for certain purposes: The value of benefits that may be provided under this chapter shall not be considered income or resources for any purpose under any federal, state, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of benefits under this chapter.” This preemption highlights how this federal provision may limit the ability of states to integrate food stamps into wider reform.

Current flexibility for the states is thus limited, not allowing a state to change important basic parameters most likely needed for meaningful welfare reform. This limitation can be seen in FNS’s annual State Options Reports that begin in 2002. States have various options on how to administer the program, such as adopting simplified reporting, self-employment determinations, treatment of non-citizens and document imagining. However, no options entailing meaningful reform are listed in those reports.²⁶

Strategies for Reform without Changes in Federal Law

Without federal legislation, Georgia would be restricted in how it integrates SNAP funding into its reform. Georgia could apply for a pilot or experimental program under Section 2026, but the amount of additional flexibility would be limited, and the process for applying may not be worth the effort, although this should be evaluated in greater detail. Therefore, it is very likely that Georgia would need to develop a strategy to work the reform around the current SNAP rules. That is, given greater flexibility in other programs, a reform package could simply use such flexibility to fill in around the SNAP program. This solution is less than ideal, but it would likely be workable and may be the only option until federal law allows for greater flexibility.

²⁶ The most recent State Options Report was released on April 15, 2016. For access to these reports see <http://www.fns.usda.gov/snap/state-options-report>.

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However, federal law provides standards for work participation for non-elderly, non-disabled adults,²⁷ from which most states received waivers and do not enforce. In 2016, Georgia, at the U.S. government's urging, began enforcing these rules in a small subset of the counties. Georgia could and probably should opt to expand the requirement to all or nearly all counties.

Reform Options Allowing for Changes in Federal Law

Section 2026 is a natural provision to amend to give states more flexibility to integrate SNAP into systemic welfare reform. Already the section announces goals of self-sufficiency and greater conformity with other welfare programs using innovative reform despite the severe restrictions on permissible projects that follow.

Additionally, flexibility may come by the way of a block grant, as envisioned by Speaker Paul Ryan, or by federal legislation allowing for a global waiver that cuts across programs.

Ideally, Georgia would need the freedom to reduce and increase benefit amounts, allow the possibility to convert the benefits into cash, and allow the benefits for other welfare-assistance needs as the entire needs of the family are evaluated. Resistance in Congress will come from those who fear that SNAP money will be diverted from its primary purposes of reducing hunger and supporting agriculture.

Sources

The Food and Nutrition Service of the U.S. Department of Agriculture provides information on SNAP on its website that includes information on eligibility, statistics, and regulatory and statutory information:

<http://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap>.

The Georgia Division of Family and Children Services of the Department of Human Services and information is available on this webpage: <http://dfcs.dhs.georgia.gov/food-stamps>. The SNAP policy manual is available here:

<http://dfcs.dhs.georgia.gov/sites/dfcs.dhs.georgia.gov/files/MAN3420.pdf>. The Division annually publishes Descriptive Data by County Reports, which are available here: <http://dfcs.dhs.georgia.gov/descriptive-data-county-reports>.

DFCS also publishes Office of Family Independence Outcome Measures & Results Reports. These reports give CAPS active caseload, TANF recipients, food stamp cases, Medicaid cases, TANF work participation rates, food stamp participation rates, Medicaid ABD Standard of Promptness, and Medicaid Family Standard of Promptness. These reports are available here: <http://dfcs.dhs.georgia.gov/family-independence-outcome-measures-reports> and are fairly current. However, not all months are available online.

Although the reports refer to various datasets, more detailed information is not regularly published online. Therefore, more detailed data will require an open records request or cooperation with the department. For example, the Descriptive Data by County report identifies "SUCCESS Food Stamp Participation Report DMD8929I and Food Stamp File" as data sources, and the OFI Outcome Measures also identifies the SUCCESS DMD 6929I as a data source.

The Legal Information Institute of the Cornell University Law School provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The food stamp program can be found on this link:

<https://www.law.cornell.edu/uscode/text/7/chapter-51>. Its regulations can be found here:

<https://www.law.cornell.edu/cfr/text/7/part-271>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>. SNAP authority is found in O.C.G.A. 49-4-16.

Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov>. No SNAP regulations were found.

²⁷ 7 U.S. Code § 2015 - Eligibility disqualifications: <https://www.law.cornell.edu/uscode/text/7/2015>.

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Program: National School Lunch and School Breakfast Programs

Federal administrating agency: Food and Nutrition Service of the U.S. Department of Agriculture

State administrating agency: School Nutrition Program for the State of Georgia Department of Education

Local administrating agencies: local school districts and private schools

Applicable federal law: 42 U.S. Code Chapters 13 and 13A (in part) <https://www.law.cornell.edu/uscode/text/42/chapter-13> and <https://www.law.cornell.edu/uscode/text/42/chapter-13A>

Applicable state law: O.C.G.A. Title 20 (Education), Chapter 2 (Elementary And Secondary Education), Article 6. (Quality Basic Education), Part 5 (Program Weights and Funding Requirements), Section 187 (State-wide school lunch program; instruction in nutrition, hygiene, etiquette, and social graces; school food and nutrition personnel); i.e., O.C.G.A. 20-2-187; O.C.G.A. Title 20 (Education), Chapter 2 (Elementary and Second Education), Article 2 (Local Boards of Education), Section 66 (School Breakfast Programs); i.e., O.C.G.A. 20-2-66.

Applicable federal regulations: 7 CFR Part 210 - National School Lunch Program (<https://www.law.cornell.edu/cfr/text/7/part-210>); 7 CFR Part 220 - School Breakfast Program <https://www.law.cornell.edu/cfr/text/7/part-220>

Applicable state regulations: mention briefly in Rule 160-5-6-.01 Statewide School Nutrition Program (<http://rules.sos.state.ga.us/gac/160-5-6>)

GA Program Participation: free school lunches: 796,698 participants; reduced-cost school lunches: 72,633 participants; free school breakfasts: 454,097 participants; reduced-cost school breakfasts: 31,955 participants (SFY 2015)

GA Program Cost: \$754 million (SFY 2015)

Summary

The National School Lunch and School Breakfast Programs provide funds directly to schools in order that children may receive free or reduced-cost meals. The Federal government provides seventy percent of the cost, and states are expected to provide thirty-percent of the cost. Although eligibility is based on family income, a child living in an area with a high number of qualifying families may still receive free meals even if the family income of the child exceeds the individual eligibility thresholds.

Federal law provides no flexibility for states to vary from the current tactic of funding the schools who then provide free and reduced-cost meals to qualifying students, thus requiring states to find a work-around when redesigning the welfare system. Although changes in federal law may provide flexibility to state to incorporate money spent on free meals for school students into programs to increase self-sufficiency and reduce welfare cliffs, it may be politically advisable to still utilize work-arounds as opposed to radically changing the program.

Background

Prior to the Great Depression of the 1930s, all initiatives to provide aid for school lunches were state and local programs or private charities. During President Franklin Roosevelt's New Deal, a number of federal agencies—including the Reconstruction Finance Corporation, the Civil Works Administration, the Federal Emergency Relief Administration, and Federal Surplus Commodities Corporation—provided assistance to schools to serve lunches by providing labor or surplus commodities. Reduced labor and available surplus commodities during World War II dramatically reduced the New Deal programs, but Congress provided funds for maintaining school lunch programs in 1943, 1944 and 1945.²⁸

The program became officially established when President Harry Truman signed the National School Lunch Program into law in 1946. The Child Nutrition Act of 1966 amended the law creating a pilot school breakfast program.

Essentially, the federal law provides funds to state agencies, requiring a thirty percent match, and the state agencies then distribute the funds to participating public and private schools. If the state agency is prohibited from distributing funds to private schools, then the required match is waived and the federal government can provide the benefits directly to the private school.

²⁸ Gordon W. Gunderson, The National School Lunch Program: Background and Development, U.S. Government Printing Office, 1971 0-429-783: <http://www.fns.usda.gov/sites/default/files/NSLP-Program%20History.pdf>.

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Participating schools are charged with providing free lunches and breakfasts to students with family incomes up to 130 percent of the federal poverty level, and then reduced-cost lunches to children with family incomes up to 185 percent of the federal poverty level. The children nor their families receive money directly but instead the money goes to the school based on a federal funding formula using the number of participating children. Schools can receive enhanced funding if they have a significant number of children receiving free meals.

More recently as part of the Healthy, Hunger-Free Kids Act of 2010, the school meal programs now include a community eligibility provision, allowing all students in a high poverty area to receive free lunches and breakfasts, regardless whether an individual child qualifies or not. This program means that many children, up to 60 percent of children in a school, will be receiving free lunches despite having family incomes above the income eligibility thresholds. High poverty areas are defined as those areas where forty or more percent of its student population come from families on food stamps, Indian reservation food programs or TANF, or if the child receives Medicaid, or is enrolled in Head-Start or a similar program, or if the child is homeless, a runaway, migrant or foster child. The program began to phase in in 2011 and became available nationwide in 2016.²⁹

Georgia State Administrative Role

The State Board of Education is responsible for establishing a state-wide school lunch program, including operating costs of school lunchrooms and breakfast costs for eligible students as financed by federal guidelines. Operation of the school nutrition program has been assigned to the director of school nutrition under the Finance and Business Operations division of the Department of Education.

Recent Basic Program Data

Lunch and Breakfast Program Data for Public Schools: SFY 2014-2015

Description	Lunches	Percent	Breakfasts	Percent
Schools claiming lunches/breakfasts	2,408		2,313	
Average number lunches/breakfasts served daily	1,134,897	69.2%	560,613	35.3%
Average daily attendance	1,639,630			
Total meals served	202,808,427		101,798,359	
Meals served free*	142,371,516	70.2%	82,456,671	81.0%
Lunches served reduced-price*	12,979,739	6.4%	5,802,506	5.7%
Lunches served paid*	47,659,980	23.5%	13,539,182	13.3%

*Number calculated from percentage in source document.

Source: Georgia Department of Education³⁰

Revenue in Public Schools as Reported by the Local Education Agency

²⁹ See the FNS webpage CEP Planning and Implementation Guidance (<http://www.fns.usda.gov/cep-planning-and-implementation-guidance>), which includes a link to FNS's Community Eligibility Provision Planning and Implementation Guide, issued January 2016: <http://www.fns.usda.gov/sites/default/files/cn/SP22-2016a.pdf>. See also FNS's webpage dedicated to the Healthy, Hunger-Free Kids Act of 2010: <http://www.fns.usda.gov/school-meals/healthy-hunger-free-kids-act>.

³⁰ Georgia Department of Education, Facts and Figures 2014-2015 Georgia's School Nutrition Program: http://www.gadoe.org/Finance-and-Business-Operations/School-Nutrition/Documents/Administration/Facts_and_Figures_for_SY2015_Final.pdf.

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Description	Amount	Percent
Value of commodity foods received	\$48,857,636	5.2%
State funds received	\$22,455,822	2.4%
Federal reimbursement received	\$682,250,984	72.6%
Cash from students/adults purchasing lunch, breakfast, milk & other sales (Local revenue)	\$172,036,356	18.3%
Other cash	\$112,661	0.0%
Transfers In	\$14,516,775	1.5%
Total	\$940,230,233	100.0%
Subtotal Subsidies	\$753,564,442	80.1%

Source: Georgia Department of Education³¹

Analysis

Federal law provides no flexibility for states to deviate from the funding scheme. Although the law includes some pilot and demonstration projects, these projects are narrowly defined, such as allowing for experimentation with organic food, access to local farm foods, or direct certification of eligible children. None of these programs would allow a significant departure from the program's modus operandi, such as allowing the funds to supplement a family's independence account.

There is a political perception issue related to school lunches that needs to be considered. Any proposal that would be perceived as reducing school meal benefits will likely be criticized as taking food away from hungry children. One argument in favor of providing free and reduced school meals is that at least society can be assured that children will be receiving enough to eat while they are at school. For example, one issue with food stamps is that some parents make poor choices in what they buy in the beginning of the month, and by the end of the month they have completely drawn down their benefits on the EBT cards, limiting what they will be able to purchase. The children, of course, suffer for their parent's choices. Therefore, any proposal that would rely on an alternative method other than the current strategy of funding the schools would need to have a media messaging package to justify changes and answer anticipated objections.

Strategies for Reform without Changes in Federal Law

Because there is no flexibility in federal law to vary from its current tactic of channeling money to the schools, states are very limited in what they can do without changes in federal law. The funds must go to the schools, and eligible children are entitled to receiving free or reduced-cost meals.

Because of the significance of the program, a state welfare redesign should account for school meals when making its determination of other means-tested benefits as a work-around solution. In fact, State agencies administering food stamps are required to ensure that children receive free lunches,³² implying that already the school lunch benefit is integrated as part of the food stamp program. However, this conclusion falls short because food stamp benefit amounts are not adjusted based on the availability of the school lunch program. Instead, qualifying eligibility for food stamps simply guarantees that children of the family will get free school lunches as well.

Reform Options Allowing for Changes in Federal Law

Clearly, welfare reform at the federal level opens the opportunity to integrate funds spent on free and reduced-cost school lunches into independence accounts to help facilitate progression to self-sufficiency and eliminate welfare cliffs. However, such a move will receive difficult-to-counter political resistance in the name of fighting children hunger. That being said, a work-around solution may still be advisable.

Sources

The Food Nutrition Service of the U.S. Department of Agriculture administers the National School Lunch Program and the School Breakfast Program. Information on these programs can be found on its website:

³¹ Idem.

³² See 7 USC 2020(u): <https://www.law.cornell.edu/uscode/text/7/2020>.

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<http://www.fns.usda.gov/nslp/national-school-lunch-program-nslp> and <http://www.fns.usda.gov/sbp/school-breakfast-program-sbp>. Data tables for school meal programs are found here: <http://www.fns.usda.gov/pd/child-nutrition-tables>. Data include state level data on participation, meals served, cash payments, commodity costs and participation.

The School Nutrition Program for the state of Georgia has its own website: <http://www.gadoe.org/Finance-and-Business-Operations/School-Nutrition/Pages/default.aspx>. Facts and figures for 2014-2015 are found on its administration page, per Georgia's School Superintendent and Director of the School Nutrition Program: [http://www.gadoe.org/Finance-and-Business-Operations/School-Nutrition/Documents/Administration/Facts and Figures for SY2015 Final.pdf](http://www.gadoe.org/Finance-and-Business-Operations/School-Nutrition/Documents/Administration/Facts_and_Figures_for_SY2015_Final.pdf). More detailed data will require requesting information from the Department. The department has been cooperative in providing more detailed databases not posted on the website, including having sent a spreadsheet listing which schools participate in the breakfast program.

The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The school lunch program can be found on the following links: <https://www.law.cornell.edu/uscode/text/42/chapter-13> and <https://www.law.cornell.edu/uscode/text/42/chapter-13A>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>. School meal programs are found in O.C.G.A. 20-2-187 and O.C.G.A. 20-2-66.

Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov>. School lunch programs are found in Rule 160-5-6-.01.

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Program: Women, Infants, Children (WIC) food packages

Federal administrating agency: Food and Nutrition Service of the U.S. Department of Agriculture

(<http://www.fns.usda.gov/wic/women-infants-and-children-wic>)

State administrating agency: Georgia Department of Public Health (<http://dph.georgia.gov/WIC>)

Local administrating agency: none

Applicable federal law: Section 17 of the Child Nutrition Act of 1966:

http://www.fns.usda.gov/sites/default/files/CNA_1966_12-13-10.pdf. Also found in 42 U.S. Code § 1786 - Special supplemental nutrition program for women, infants, and children: <https://www.law.cornell.edu/uscode/text/42/1786>

Applicable state law: general authority of the Department of Public Health, i.e., no specific authority was found: Title 31 (Health), Chapter 2A (Department of Public Health), Section 6 (Rules and Regulations) and Title 31 (Health), Chapter 5 (Administration and Enforcement), Article 1 (General Provisions); i.e., O.C.G.A. § 31-2A-6, § 31-2A-8 (Department as agency of state for receipt and administration of federal and other funds), and § 31-5-1. (Adoption of rules and regulations).

Applicable federal regulations: 7 CFR 246: <http://www.fns.usda.gov/sites/default/files/wic/WICRegulations-7CFR246.pdf>

Applicable state regulations: Chapter 511-8 Subject 511-8-1 The Special Supplemental Nutrition Program for Women, Infants and Children (WIC). <http://rules.sos.state.ga.us/gac/511-8-1>

GA Program Participation: 264,299 participants (FFY 2015)

GA Program Cost: \$127 million (FFY 2015)

Summary

In addition to providing nutritional food packages worth about \$40 per month to qualifying recipients, the Women, Infants, Children (WIC) program also provides educational services on nutrition, health screening and referrals. States have the ability to devise their own delivery system, subject to federal law and regulations. The law is fairly broad in flexibility, but current regulations are more limiting. Georgia could potentially submit a revised delivery system as part of welfare reform, but the federal government would want to see guarantees that the recipients are obtaining nutritious food at reasonable costs. Any federal legislation giving more flexibility may also impose similar parameters.

Background

President Lyndon Johnson established the Women, Infants, and Children (WIC) program with the signing of the Child Nutrition Act of 1966. The program targets low-income women who are pregnant or with children under five years of age. Services include education on nutrition and drug abuse for low-income mothers, screenings and referrals on health, welfare and social services, and supplemental food packages, including infant formula and nutritious foods for mothers who are breastfeeding.

The U.S. Secretary of Agriculture is charged with determining guidelines on what constitutes nutritious food packages for pregnant or breastfeeding women, infants, and children under five years of age. Grants are then provided to the states to make available the food packages to recipients. The current income level for eligibility is 185 percent of the federal poverty level, and in 2015 the average monthly cost of the food packages in Georgia was \$40, which has an annual cost of \$480.

In practice, the Georgia Department of Public Health provides recipients vouchers and a WIC approved foods list. Participating stores credit the purchase up to the limit of the voucher, which is then billed to the state. If the purchase exceeds the value of the voucher, then the recipient is responsible for the remaining cost.³³

Georgia State Administrative Role

Although no specific statutory authority was found, the Department of Public Health runs the WIC program as a public health program. O.C.G.A. § 31-2A-6 gives the department general powers to adopt “rules and regulations to effect prevention, abatement, and correction of situations and conditions which, if not promptly checked, would militate against the health of

³³ Georgia vendor information is found on this web link: <http://dph.georgia.gov/vendor-information>; approved food lists, including voucher instructions for recipients, are found on this web link: <http://dph.georgia.gov/wic-approved-foods-list>. See also Georgia Department of Public Health, Georgia WIC Program Vendor Handbook, April 1, 2014: http://dph.georgia.gov/sites/dph.georgia.gov/files/FFY2014_Vendor%20Handbook_Publishv1.pdf.

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the people of this state.” Additionally, O.C.G.A. § 31-2A-6 gives the department the power to “apply for, receive, and administer grants and donations for health purposes from the federal government...” Accordingly, the department adopted regulations for the special nutrition program for WIC: <http://rules.sos.state.ga.us/gac/511-8-1>.

The Board of Public Health is statutorily empowered to set general policy for the department.

Recent Basic Program Data

Georgia WIC Program Data

Description	FFY 2013	FFY 2014	FFY 2015
Food cost	157,977,103	132,934,014	126,957,333
Total participation	289,524	271,416	264,299
Average monthly benefit per person	\$45	\$41	\$40
Nutrition service and admin. costs	\$69,442,596	\$67,435,533	\$68,618,212

Source: FNS³⁴

Analysis

States are required to submit plans that include how the food will be delivered to recipients, subject to the approval of the U.S. secretary of agriculture. This provides some flexibility for states to change the method of delivery. However, federal regulations require state agencies to monitor vendors closely to assure numerous regulatory goals, such as fair pricing. Nonetheless, the state could submit an alternative scheme for delivery.

The difficulty in alternative schemes will be that the federal government will want to be guaranteed that the food packages keep to the nutritional standards, that recipients receive their full value, and program integrity. As the program now exists, when a recipient shops for food, she needs to separate out items that qualify for WIC and present the voucher, which needs to be checked by the vendor and processed. Then the recipient can purchase the remaining food. She may then apply her EBT card with the food stamp program if she also qualifies for SNAP. WIC has a higher income eligibility threshold, meaning that a number of recipients will have WIC but not SNAP.

It may make sense to streamline the SNAP and WIC programs into a single program despite the fear that mothers and young children will not get the nutrition they need. One solution to this objection might be to limit food stamps to the same list of healthy foods. Another solution might be to rely on the educational component of the WIC program, trusting that recipients will act in their own interest, which may not be unreasonable considering the natural instinct to provide for one's child.

Strategies for Reform without Changes in Federal Law

Georgia may submit a revised plan to the FNS with a different delivery system other than the current voucher system. Blending the program into SNAP would likely require making changes to the SNAP program limiting food choices to healthy foods as part of the arrangement, otherwise Georgia risks receiving a disapproval of the revised delivery system.

Alternatively, because the cost of the WIC food packages is small compared to other means-tested programs, the WIC program could essentially be ignored in the redesign of the welfare system. That is, the annual loss is approximately \$480 per person, which is less than a 25¢ per hour pay raise for a full-time worker.

Reform Options Allowing for Changes in Federal Law

Federal legislation could provide more flexibility on the WIC food package by allowing Georgia to envelop the program into either the SNAP program or a broader redesign of the welfare system. Federal legislators would probably like to see some guarantee that mothers and young children will get the proper nutrition up to the currently full value.

³⁴ FNS, online data for WIC Program: <http://www.fns.usda.gov/pd/wic-program>.

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Sources

The Food Nutrition Service of the U.S. Department of Agriculture administers the WIC program. Information, including legislation and regulations, can be found on its website: <http://www.fns.usda.gov/wic/women-infants-and-children-wic>. FNS has program data (<http://www.fns.usda.gov/pd/wic-program>) that includes participation, food costs, average monthly food cost per person, nutrition services and administrative costs, and state level participation.

The Georgia Department of Public Health administers the WIC program: <http://dph.georgia.gov/WIC>. DPH provides a fact sheet that provides some data: [http://dph.georgia.gov/sites/dph.georgia.gov/files/WIC Resources/Publications/2013 WIC Fact Sheet.pdf](http://dph.georgia.gov/sites/dph.georgia.gov/files/WIC%20Resources/Publications/2013%20WIC%20Fact%20Sheet.pdf). No other program data were found on the DPH website.

The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The WIC program can be found on the following link: <https://www.law.cornell.edu/uscode/text/42/1786>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>. WIC is found under general authority for the Department of Public Health: O.C.G.A. § 31-2A-6 and § 31-5-1.

Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov>. The supplemental nutrition program of WIC is found here in Rule 511-8-1.

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Program: Housing Programs

Federal administering agency: Office of Public and Indian Housing of the Department of Housing and Development

State administering agency: Georgia Department of Community Affairs operates a housing choice voucher in 149 of the 159 counties

Local administering agencies: Ten counties have their own housing choice programs operated by local public housing authorities. Public housing is operated by public housing authorities (PHAs). Georgia has 188 PHAs.

Applicable federal law: 42 U.S.C. Section 1437(f): <https://www.law.cornell.edu/uscode/text/42/1437f-1>

Applicable state law: authority may be implied by Title 50 (State Government), Chapter 8 (Department of Community Affairs), Article 1 (General Provisions), Section 3.1 (Power and duty of Department); i.e., O.C.G.A. § 50-8-3.1.

Applicable federal regulations: 24 CFR Part 982: <https://www.gpo.gov/fdsys/pkg/CFR-2000-title24-vol4/pdf/CFR-2000-title24-vol4-part982.pdf>

Applicable state regulations: none found. Department of Community Affairs regulations found in G.A. R&R Department 110

GA Program Participation: Housing Choice Vouchers: 44,104 households; 123,292 recipients; public housing: 28,957 households; 66,350 recipients (2016)

GA Program Cost: Housing Choice Vouchers: \$469 million (CY 2015); public housing: \$209 million (FFY 2015)

Summary

Initially the federal government provided housing to low-income families who could not afford their own homes by building, maintaining, operating, and making available public housing through public housing authorities. Although there are about one million households in public housing today, this number has been capped because public housing has fallen into political disfavor. Instead, the federal government has been emphasizing rental assistance programs that utilize privately-held properties, of which the Section 8 housing choice voucher program is the largest one. Since the 1990s, Congress has directed HUD to allow moving-to-work (MTW) demonstration projects that now includes 39 public housing authorities, including the Atlanta Housing Authority and the Housing Authority of Columbus, Georgia. In December 2015, President Obama signed an appropriations bill that expands the program to 100 housing authorities over seven years. The parameters of the expansion will be determined in Fall 2016, invitations will be posted in Winter of 2016/2017, housing authorities will have four months to respond, and the housing authorities will be selected by Spring or Summer 2017.

The recent federal trend to emphasize work and find ways to reduce costs in housing programs provides an opportunity for Georgia to gain additional flexibility to alter housing choice programs, which could be adopted through the appropriations process similar to the way the moving-to-work initiatives were adopted. Georgia could work more closely with the two MTW housing authorities, and because the Georgia Department of Community Affairs handles voucher programs for 149 counties, the state could coordinate these activities more aggressively with other welfare programs.

Background

The federal government's debut into rental housing occurred during the Great Depression as part of the Works Progress Administration that created a Housing Division to purchase land and build multifamily housing, which was controversial among local officials who were not consulted in the projects. In response, Congress passed the Housing Act of 1937, requiring federal, state, and local partnerships, including the creation of public housing authorities that are creatures of state and local laws. The emphasis with this legislation and subsequent housing legislation over the next thirty years was on building, maintaining, and making available rental units through public housing, i.e., housing owned and controlled by governmental entities.³⁵

The first program for rental assistance using subsidies in the private market came with the Housing and Urban Development Act of 1965 that created the Department of Housing and Urban Development. In a program established by Section 23, PHAs contracted with private landlords to rent to low-income families where tenants paid a quarter of their income and the federal

³⁵ Maggie McCarty, Libby Perl, Bruce E. Foote, Katie Jones, and Meredith Peterson, "Overview of Federal Housing Assistance Programs and Policy," Congressional Research Service, Report RL34591, July 22, 2008, pp. 2-3: http://garrettforms.house.gov/uploadedfiles/crs_july_22_2008_overview_of_federal_housing_assistance_programs_and_policy.pdf.

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program paid the rest based on fair market rent. The program started small by comparison to public housing. By 1972, there were 38,000 Section 23 rental units compared to one million rental units in public housing.³⁶

Criticisms of the housing programs and policies by the Nixon Administration, including a moratorium on all new activity other than the Section 23 program, led to a major shift in emphasis from public housing to rental assistance that culminated with the enactment of the Housing Act of 1974. A major feature of the act was Section 8 that provided both subsidies for new construction and rehabilitation projects and a new rental assistance program based on Section 23. The Housing and Urban-Rural Recovery Act of 1983 repealed the program that subsidized new construction and rehabilitation projects but modified the rental program to utilize vouchers and provide more flexibility to PHAs.³⁷

Continued negative public perception of public housing in addition to interest in promoting self-sufficiency and returning more power to state and local governments during the 1990s led to the Quality Housing and Work Opportunity Reconciliation Act of 1998. This act further consolidated and emphasized Section 8 programs, “deregulated” PHAs, and prohibited HUD from increasing the number of public housing units.³⁸ In addition, Congress through the appropriation process created the moving-to-work (MTW) initiative for PHAs to provide support services to promote self-sufficiency. In 2000, the Atlanta Housing Authority became one of 32 nationwide designated MTW housing authorities. In July 2013, the Housing Authority of Columbus became Georgia’s second MTW PHA out of 39 nationwide.³⁹

In December 2015, President Barack Obama signed into law the 2016 Consolidated Appropriations Act that expands the MTW demonstration projects by 100 public housing authorities over seven years. HUD’s original timeline was to publish a notice in the Fall of 2016, but that has changed to notifying housing authorities in the Winter of 2016/2017, allowing up to four months for submissions, and make selections by Spring or Summer of 2017.⁴⁰

In 2014, the 2.2 million households served by housing choice vouchers were double the 1.1 million households served by public housing. An additional 1.5 million households were served by project-based rental assistance programs consisting of rental assistance for the disabled (Section 811) and for the elderly (Section 202).⁴¹ Project-based rental assistance programs provide subsidized rent in privately owned but federally-contracted properties.⁴²

Georgia State Administrative Role

O.C.G.A. § 50-8-3.1 (power and duty of department) provides authority to the Department of Community Affairs “to investigate fraud and abuse in the Section Housing Choice Voucher Program administered by the department...” Although no other statutory authority was found enabling the department to undertake the program, this section implies such authority. No state regulations were found.

The DCA housing choice program is administered according to an administrative plan available online (http://dca.state.ga.us/housing/RentalAssistance/programs/downloads/DCA_AdminPlan_2015.pdf).

O.C.G.A. § 50-8-4 establishes a Board of Community Affairs that establishes “policy and direction for the department.”

³⁶ Ibid, pp. 4-5.

³⁷ Ibid, p. 5.

³⁸ Ibid, p. 7 and also footnote 43 text on p. 29.

³⁹ The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134, 110 Stat 1321), dated April 26, 1996. (<https://www.gpo.gov/fdsys/pkg/PLAW-104publ134/pdf/PLAW-104publ134.pdf>), and HUD webpage on “History of Moving to Work (WTW)”, accessed May 23, 2016.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw/history.

⁴⁰ HUD webpage: “Moving to Work Expansion, accessed May 23, 2016:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw/expansion. See also “Notice of establishment of the Moving to Work Research Federal Advisory Committee”, April 26, 2016, Federal Register: <https://www.federalregister.gov/articles/2016/04/26/2016-09754/notice-of-establishment-of-the-moving-to-work-research-federal-advisory-committee>.

⁴¹ Congressional Budget Office, “Federal Housing Assistance for Low-Income Households,” September 2015, p. 11: <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/50782-LowIncomeHousing.pdf>.

⁴² Ibid, pp. 1 and 4.

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Recent Basic Program Data

Public Housing 2015: 178 housing authorities, 355 projects, \$150,400,458 operating fund eligibility, and \$58,918,383 in capital allocations.⁴³

Housing Choice Vouchers for CY 2015 was \$469,291,390.⁴⁴ Source:

Georgia Housing Assistance Data: June 2016

Description	Vouchers		Public Housing		Total count
	Count	Percent	Count	Percent	
Total Households	44,104	60%	28,957	40%	73,061
Total Number of People	123,292	65%	66,350	35%	189,642
Average household size	2.8		2.3		2.6
Average Annual Income	\$12,223		\$12,033		\$12,148

Source: HUD⁴⁵

Georgia Housing Assistance Household Members by Age: June 2016

Description	Vouchers		Public Housing		Total	
	Count	Percent	Count	Percent	Count	Percent
Age 0-5 years	14,227	12%	12,049	18%	26,276	14%
Age 6-17 years	47,219	38%	19,082	29%	66,301	35%
Age 18-50 years	45,354	37%	22,019	33%	67,373	36%
Age 51-61 years	9,041	7%	6,012	9%	15,053	8%
Age 62-82 years	6,785	6%	6,547	10%	13,332	7%
Age 83+ years	666	1%	640	1%	1,306	1%

Source: HUD⁴⁶

Georgia Housing Assistance by Household Type: June 2016

Description	Vouchers		Public Housing		Total	
	Count	Percent	Count	Percent	Count	Percent
Elderly No Children Non-Disabled	2,229	5%	3,647	13%	5,876	8%
Elderly With Children Non-Disabled	162	0%	200	1%	362	0%
Non-Elderly No Children Non-Disabled	5,904	13%	3,636	13%	9,540	13%
Non-Elderly With Children Non-Disabled	22,650	51%	12,903	45%	35,553	49%
Elderly No Children Disabled	4,038	9%	2,757	10%	6,795	9%
Elderly With Children Disabled	398	1%	145	1%	543	1%
Non-Elderly No Children Disabled	5,690	13%	4,319	15%	10,009	14%
Non-Elderly With Children Disabled	3,033	7%	1,350	5%	4,383	6%
Female Headed Household with Children	25,612	58%	13,996	48%	39,608	54%

Source: HUD⁴⁷

⁴³ 2015 Operating Fund Program Final Eligibility Report as of 8/18/2015 and Capital Distribution by Project.

⁴⁴ Over the phone I was given \$256,230,224 for CY 2016 from a HUD official. Also, HUD PIH, CY 2015 Housing Choice Voucher Program Renewal Allocation.

⁴⁵ HUD PICS data, Residential Characteristic Reports, as of June 30, 2016.

⁴⁶ Idem.

⁴⁷ Idem.

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Analysis

Although the housing choice voucher program is fairly prescriptive on how the program must be run, the Congressional trend has been moving toward more experimentation, especially in promoting work and self-sufficiency. Additionally, rental assistance programs have supplanted public housing, i.e., government-owned and -operated housing, as the preferred program since the 1970s. Since the 1990s, HUD has been prohibited from entering into new contracts for public housing. Even as the year 2015 closed, Congress again authorized an additional 100 housing authorities to become moving-to-work authorities, providing more experimentation with the goal of achieving employment and self-sufficiency.

Recent flexibility given to HUD through annual federal appropriation bills opens the possibility that a Georgia plan for systemic welfare reform could receive flexibility, at least through HUD, through an appropriations bill.

In general, housing support programs have been plagued from the beginning with inadequate funds to truly address the need for decent housing for a large number of citizens. That explains why today the income thresholds are fairly low to qualify and typically there are waiting lists to receive an apartment in public housing or a housing choice voucher. However, for families that do receive housing assistance encounter one of the worst welfare cliffs, and a family may be worse off if they receive a voucher because they can become trapped in poverty, as welfare-cliff modeling has demonstrated. This conclusion is further shared by members of Congress who have been pushing and expanding MTW.

Therefore, perhaps no other means-tested welfare program cries out more for innovative thinking than housing. The money is simply not available to subsidize housing for all citizens identified as needing subsidies, and it creates the worst welfare cliffs for those who receive assistance. Logically speaking, the only way out of the conundrum is to find more cost-effective ways to provide housing. The best solutions will likely come from market-based solutions and a rolling back of governmental policies that have limited options for poor people and caused the price of housing to increase.⁴⁸ For this effort, housing authorities can be re-tasked to identify barriers, utilize market principles, and find ways to lower costs.

Strategies for Reform without Changes in Federal Law

Flexibility with the current housing choice voucher system appears to be whether or not the public housing authority has been designated as a moving-to-work authority. Already two Georgia housing authorities—Atlanta Housing Authority and Housing Authority of Columbia—received these designations. President Obama signed legislation in December 2015 allowing HUD to expand the program to include up to 100 authorities nationwide. There may be an opportunity for Georgia to expand the number of authorities, including the Department of Community Affairs that handles the housing choice voucher program for 149 counties. However, the exact parameters of the program are not yet known.

In the meantime, the goal of welfare redesign would be to move families' incomes above the low-income thresholds currently in place to qualify for housing choice vouchers, thus helping families to become more self-sufficient. Thus, it would be easier to work with moving-to-work public housing authorities that are given greater flexibility to administer their housing programs. Also, as a state agency, the Department of Community Affairs can easily coordinate with other state programs to attain the same goal, although the flexibility to change program parameters is more limited because it lacks the MTW designation.

Reform Options Allowing for Changes in Federal Law

Recent trends on finding ways to make housing more affordable, moving individuals to work, and budgetary constraints open up opportunities to get federal legislation enacted to provide Georgia with needed flexibility. In fact, recent reports by the Congressional Budget Office make recommendation on ways for the federal government to save money by reducing federal housing programs.⁴⁹ For example, as already explained, because recent flexibility relating to moving-to-work initiatives with the housing choice vouchers came through appropriation bills, it opens up the possibility to gain additional housing flexibility through the annual appropriations process.

⁴⁸ For example, see Ryan McMaken's blog "The Government's War on Affordable Housing," Mises Wire, the Mises Institute, May 12, 2016: <https://mises.org/blog/government%E2%80%99s-war-affordable-housing>.

⁴⁹ See, for example, Congressional Budget Office, Federal Housing Assistance for Low-Income Households, September 2015: <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/50782-LowIncomeHousing.pdf>.

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Sources

HUD websites do provide good information, but they tend to be disorganized and difficult to navigate. Public housing and housing choice vouchers fall under the purview of the Office of Public and Indian Housing. The following websites are on Housing Choice Vouchers and Public Housing:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv and http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph. Moving to work has its own website: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw. HCV data was extracted from CY 2015 Housing Choice Voucher Program Renewal Allocation, in Excel: <http://portal.hud.gov/hudportal/documents/huddoc?id=CY15RenewalFundforPosting.xlsx>

Operating Fund (Public Housing) provides funding to public housing agencies for the operation and maintenance of public housing. Instead of funding each PHA, HUD now funds projects. Information is found here: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am/funding and here: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am. The last annual report for the operating fund is Calendar Year 2009: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9186.pdf. The 2009 report showed Georgia had 185 PHAs with 372 projects with 47,204 units for \$165,130,598.

The Final Operating Fund eligibility report is found here: <http://portal.hud.gov/hudportal/documents/huddoc?id=2015FinalEligibility.pdf>. HUD also provides capital grants, but the last year of information on its cap funding website is for FY 2010: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/funding. The distribution is found on this page: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/2015pi

HUD provides resident characteristic reports for those who live in public housing and housing vouchers. It is based on information submitted to HUD per Form 50058: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/50058/rcr. These reports enable researchers to pull down data through the PICS⁵⁰ to list units, income percentages, average income, distribution of income, sources of income, total tenant payments (TTP), average TTPs, family type, race/ethnicity, household size, and length of stay per national, state, field office, metropolitan area, county, city/locality, public housing agency, project, or congressional district. The options are Public Housing, Tenant Based Vouchers, Project Based Certificates, Project Based Vouchers, Combined Project Based, Certificates and Project Based Vouchers, Homeownership Vouchers, All Voucher Funded Assistance, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation Single Room Occupancy, and All Relevant Programs. RCR Report help guide is here: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/50058/rcr/help.

The Georgia Department of Community Affairs has its own website on the Georgia Housing Choice Voucher Program, which the department administers in 149 counties: http://dca.state.ga.us/housing/RentalAssistance/programs/hcvp_program.asp. However, no program data was found.

Housing authorities run public housing, and some run HCV programs. However, there are about 188 such authorities in Georgia. The housing authorities that run their own HCV programs are the Atlanta Housing Authority (www.atlantahousingauth.org); Americus Housing Authority (www.americuspha.org); Housing Authority of DeKalb County (www.dekalbhousing.org); Macon Housing Authority (<http://www.maconhousing.com>); Savannah Housing Authority (www.savannahpha.com); Jonesboro Housing Authority (<http://www.jonesborohousing.com>); Marietta Housing Authority (www.mariettahousingauthority.org); Brunswick Housing Authority (<http://brunswickpha.org/index.htm>); Columbus Housing Authority (www.columbushousing.org); and the Augusta Housing Authority (www.augustapha.org).

The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The housing choice voucher program can be found on the following link: <https://www.law.cornell.edu/uscode/text/42/1437f-1>.

⁵⁰ PICS is an acronym within an acronym: PIH Information Center (PIC). PIH is the Office of Public and Indian Housing.

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The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>. Housing authority is implied in O.C.G.A. § 50-8-3.1

Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov>. No housing choice voucher regulations were found.

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Program: Low Income Home Energy Assistance Program

Federal administrating agency: Division of Energy Assistance, Office of Community Services, ACF, HHS

State administrating agency: Division of Family and Children Services, Georgia Department of Human Services

Local administrating agencies: Georgia Community Action Agencies

Applicable federal law: 42 US Code Chapter 94, Subchapter II: <https://www.law.cornell.edu/uscode/text/42/chapter-94/subchapter-II> Energy Policy Act of 2005 (<http://www.gpo.gov/fdsys/pkg/PLAW-109publ58/pdf/PLAW-109publ58.pdf>). See also <http://www.acf.hhs.gov/ocs/resource/liheap-statute-and-regulations#Section2602>.

Applicable state law: Although there is no specific Georgia statute to LIHEAP, DHS has general powers to receive and expend federal funds. O.C.G.A. § 49-2-5, § 49-2-6, § 49-2-9, § 49-2-10 and § 49-2-11.

Applicable federal regulations: Title 45 (Public Welfare) of the Code of Federal Regulations, Part 96 (Block Grants), Subpart H (LIHEAP) (<http://www.gpo.gov/fdsys/pkg/CFR-2013-title45-vol1/xml/CFR-2013-title45-vol1-part96.xml#seqnum96.80>), cited as 45 C.F.R. § 96. Subparts A-F of the HHS block grant regulations also pertain to LIHEAP (<http://www.gpo.gov/fdsys/pkg/CFR-2013-title45-vol1/xml/CFR-2013-title45-vol1-part96.xml>); See also <https://www.gpo.gov/fdsys/pkg/CFR-2000-title24-vol4/pdf/CFR-2000-title24-vol4-part982.pdf> and <http://www.acf.hhs.gov/ocs/resource/liheap-statute-and-regulations#Section2602>.

Applicable state regulations: none. DHS regulations are found in G.A. R&R Department 290.

GA Program Participation: 122,161 households (FFY 2016)

GA Program Cost: \$54,484,552 (FFY 2016)

Summary

The Low Income Home Energy Assistance Program (LIHEAP) is a federal block grant currently giving flexibility to the states. Because LIHEAP is one of the smallest programs with limited impact, it gives Georgia several options relative to welfare reform. First, it could be ignored and not incorporated into welfare reform. Second, Georgia could wrap its funding into welfare reform by amending its LIHEAP state plan. Third, Georgia could redirect LIHEAP funds to personal heating and cooling emergencies, such as repair costs for heating and cooling units.

Background

LIHEAP was initially authorized by title XXVI of the Omnibus Budget Reconciliation Act of 1981 as a block grant.⁵¹ In addition to regular block grant allocations, states have also received contingency allocations during emergencies, such as natural disasters, weather-related and supply-shortage emergencies, and other significant increases in the cost of energy, as determined by the HHS Secretary.⁵²

Annual appropriation bills from Congress determine the funding amounts, which are then allocated to the states based on rules outlined in federal statute.⁵³ States are required to submit applications, which may be in the form of a state plan, to the HHS Secretary consistent with statutory parameters.⁵⁴

Weatherization programs help households by subsidizing activities, such as caulking and adding insulation, and states may spend up to 15 percent of LIHEAP funds on weatherization.

If a household receives housing assistance that includes utility costs, that household is ineligible to receive LIHEAP.

Georgia State Administrative Role

LIHEAP is a block grant that gives states considerable latitude to administer the program within program parameters. DFCS administers the program but delegates the operation of the program to community action agencies.

⁵¹ HHS, ACF, Office of Community Services Division of Energy Assistance. Low Income Home Energy Assistance Program Report to Congress for Fiscal Year 2010: http://www.acf.hhs.gov/sites/default/files/ocs/fy10_liheap_rtc_final.pdf.

⁵² 42 U.S. Code § 8622: <https://www.law.cornell.edu/uscode/text/42/8622>.

⁵³ 42 U.S. Code § 8623: <https://www.law.cornell.edu/uscode/text/42/8623>.

⁵⁴ 42 U.S. Code § 8624: <https://www.law.cornell.edu/uscode/text/42/8624>.

Recent Basic Program Data

Georgia LIHEAP Households, Federal Funding and Benefit Limits

FFY	Households	Federal block grant	Heating and cooling benefit limits		Crisis benefit maximum
			Minimum	Maximum	
2016	122,161	\$54,484,552	\$310	\$350	\$350

Sources: HHS⁵⁵

Analysis

LIHEAP is a federal block grant, and, as with all block grants, flexibility is limited by program parameters in federal statute. States may choose the range of benefits, whether they are provided directly to clients or to utility companies, and they may decide which agencies or local agencies may administer the program. States must coordinate with other low-income programs and establish fiscal controls and accounting procedures.⁵⁶

States may use LIHEAP funds to help with energy crises, direct assistance to households, and up to 15 percent may be used for weatherization, unless the state receives a waiver to use up to 25 percent for weatherization. Up to five percent may be used to reduce the need for energy assistance, such as energy conservation education or activities.⁵⁷

States are required to conduct outreach, make sure that vulnerable citizens are served, especially TANF, SSI and SNAP recipients. Additionally, states are required to have public input into their plans. Federal law also acknowledges that states may work with local administrative agencies but gives priority to nonprofit agencies, such as community action agencies.⁵⁸

Because benefit limits are capped at \$350 for utility bills, LIHEAP is the one of the smallest benefit programs. It also contributes little to the problem of welfare cliffs.

Strategies for Reform without Changes in Federal Law

Because the amount of LIHEAP money is insignificant compared to the other welfare programs, there are several options available for reform. First, the program could remain intact without wrapping it into the overall reform, considering the small amount of benefits and its insignificant contributions to welfare cliffs. However, although the amounts for heating and cooling assistance are insignificant compared to the other programs and can be excluded from overall welfare reform, these grants may still be meaningful to low-income households on a tight budget to reduce their energy costs.

As a second option, Georgia could write into its state plan its intention to incorporate the program into wider reform. This option would eliminate the need to delegate administration of the program to community action agencies. The plan would still need to demonstrate to the HHS Secretary that the target groups mentioned in federal statute will be able to reduce their energy burdens from the funds.

A third option is to redirect all LIHEAP funds to another permissible usage, such as helping with personal emergency repair costs, such as when furnaces breakdown in the middle of winter or air conditioning units that breakdown during a heat wave in the summer.

Reform Options Allowing for Changes in Federal Law

LIHEAP already provides considerable latitude to states. However, it would not hurt to include LIHEAP in any federal legislation that gives states broad-based authorization to adopt systemic reform.

⁵⁵ HHS, LIHEAP Clearinghouse State Snapshots, online page on Georgia: <https://liheapch.acf.hhs.gov/profiles/Georgia.htm>.

⁵⁶ 42 US Code § 8624 (<https://www.law.cornell.edu/uscode/text/42/8624>). See also Libby Perl, LIHEAP: Program and Funding, Congressional Research Service RL31865, February 7, 2014: <http://www.ncsl.org/Portals/1/Documents/cyf/LIHEAPProgramFunding.pdf>.

⁵⁷ Idem.

⁵⁸ Idem.

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Sources

The Office of Community Services, ACF, HHS, has a website dedicated to LIHEAP:

<http://www.acf.hhs.gov/ocs/programs/liheap>, which also includes links to federal statutes and regulations. The Office also provides a LIHEAP Clearinghouse giving information on state programs, state snapshots and other information:

<https://liheapch.acf.hhs.gov>. Georgia's state plan can be found here:

https://liheapch.acf.hhs.gov/stplans/2016/GA_STPLAN_2016.pdf. See also HHS, ACF, Office of Community Services Division of Energy Assistance, Low Income Home Energy Assistance Program Report to Congress for Fiscal Year 2010:

http://www.acf.hhs.gov/sites/default/files/ocs/fy10_liheap_rtc_final.pdf.

DFCS has dedicate website on its Energy Assistance Program: <http://dfcs.dhs.georgia.gov/energy-assistance>.

The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. LIHEAP is found in 42 US Code Chapter 94, Subchapter II.

<https://www.law.cornell.edu/uscode/text/42/chapter-94/subchapter-II>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website:

<http://www.lexisnexis.com/hottopics/gacode/Default.asp>. LIHEAP falls under the general authority of DHS in Title 49, Chapter 2. Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov/>, but no regulations were found for LIHEAP.

Georgia Community Action Association (GCAA) represents twenty Community Action Agencies. Information can be found on the GCAA website: <http://www.georgiacaa.org>. The member agencies providing energy assistance are Central Savannah River Area Economic Opportunity Authority, Clayton County Community Services, Coastal Georgia Area Community Action, Coastal Plain Area Economic Opportunity, Community Action for Improvement, Concerted Services, Inc., Economic Opportunity Authority for Savannah-Chatham County Area, Enrichment Services Program, Fulton Atlanta Community Action Authority, Heart of Georgia Community Action Council, Macon-Bibb County Economic Opportunity, Middle Georgia Community Action Agency, Ninth District Opportunity, Inc., North Georgia Community Action, Overview, Inc., Partnership for Community Action, Inc., Southwest Georgia Community Action, Tallatoona Community Action Partnership, and West Central Georgia Community Action. Their websites can be found on the GCAA website listed above.

The Campaign for Home Energy Assistance is a non-partisan advocacy group for LIHEAP based in Washington, D.C., that provides limited information on LIHEAP for each state: <http://liheap.org>.

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Program: Subsidized Child Care Assistance

Federal administrating agency: Office of Child Care, Administration for Children & Families, U.S. Department of Health & Human Services: <http://www.acf.hhs.gov/programs/occ>

State administrating agency: Division of Family and Children Services, Georgia Department of Human Services administers subsidies for recipients; and Georgia Department of Early Care and Learning regulates providers.

Local administrating agency: Georgia's Child Care Resource and Referral System (CCR&R) consists of six regions managed by four entities: North Georgia (Quality Care for Children); Metro Atlanta (Quality Care for Children); Central Georgia (Georgia Regents University); Southwest Georgia (Albany-Darton College); Southeast Georgia (Savannah Technical College); East Georgia (Quality Care for Children).

Applicable federal law: 42 U.S. Code § 618 - Funding for child care and 42 U.S. Code Chapter 105-Community Service Programs, Subchapter II-B (Child Care and Development Block Grant) Sections 9857 through 9858r.

<https://www.law.cornell.edu/uscode/text/42/618> and <https://www.law.cornell.edu/uscode/text/42/chapter-105/subchapter-II%E2%80%9393B>.

Applicable state law: O.C.G.A., Title 20 (Education), Chapter 1A (Early Care and Learning), Article 3 (Childcare Council); i.e., O.C.G.A. 20-1A-60 through 20-1A-64.

Applicable federal regulation: 45 CFR Part 98 - Applicable federal regulations: 45 CFR Parts 98 and 99:

<https://www.law.cornell.edu/cfr/text/45/part-98>, <https://www.law.cornell.edu/cfr/text/45/part-99>. and <http://www.acf.hhs.gov/sites/default/files/occ/fr072498.pdf>

Applicable state regulation: Other than regulations on child care provides, none found for the CAPS program.

GA Program Participation: 35,200 households; 61,800 children (SFY 2014)

GA Program Cost: \$260 million (SFY 2014)

Summary

Current federal support for subsidized child care is already a block grant, that is, the Child Care and Development Block Grant. This block grant allows states to design the program with considerable latitude within certain broad parameters. Georgia may alter its sliding fee schedule, build into the program incentives for parents to choose lower cost settings, and impose requirements for parents to seek child support. Additionally, federal legislation reauthorizing the program in 2014 created a waiver process that may afford Georgia even greater flexibility.

Background

Enacted as part of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), the Child Care and Development Block Grant Act of 1990 created the Child Care and Development Block Grant (CCDBG), providing funding to states for administering child care programs. The Personal Responsibility and Work Opportunity Act of 1996, known as the welfare reform act of 1996 that also established TANF, repealed three child care programs associated with the former welfare program Aid to Families with Dependent Children found in Title IV-A of the Social Security Act, transferring these programs to the Child Care and Development Block Grant in section 418 of the Social Security Act.^{59 60}

Congressional intention for creating CCDBG was to streamline federal rules, unify child care programs, and to give states "maximum" flexibility with spending the federal funds. Consistent with the goals of TANF, Congress intended the new child care program to support self-sufficiency for work. The law required states to provide parents with choices as to their child care

⁵⁹ Karen E. Lynch, "The Child Care and Development Block Grant: Background and Funding", Congressional Research Service, RL30785, September 27, 2012, p. 2:

http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/2012/documents/RL30785%20v2_gb.pdf.

⁶⁰ See Background in the Final Rule for the Child Care and Development Fund, Federal Register, Vol. 63, No. 142, July 24, 1998/ Rules and Regulations, p. 39936: <http://www.acf.hhs.gov/sites/default/files/occ/fr072498.pdf>.

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settings, established a goal of providing assistance to parents seeking self-sufficiency, and to assist states in establishing health, safety, licensing and registration standards.⁶¹

The Child Care and Development Fund (CCDF) was reauthorized in 2014 when President Barack Obama signed the Child Care and Development Block Grant Act of 2014 into law. While still maintaining “maximum flexibility to the states, the reauthorization made numerous changes to the original act. For example, it added the goals of improving child care and development as well as increasing the number of children in “high-quality” settings. It also requires states to collect more information and make monitoring and inspection reports publicly available. It requires states to have training and professional development requirements and put resources toward improving care. It also requires criminal background checks. Finally, and importantly, it added a waiver process to allow the Secretary to waive any provision of the CCDBG law where states find conflicting or duplicative requirements and that the waiver, by itself, will improve the State’s ability to carry out CCDBG purposes.⁶²

Georgia State Administrative Role

The Georgia Child Care Council remains in existence as long as there are federal funds to support such a council. However, as of June 2012, no federal funds were available.⁶³ Responsibility for child care is split between the Department of Early Care and Learning (DECAL) that regulates providers and the Department of Human Services, which is designated as the “lead agency” to administer the federal program and run the Childcare and Parents Services (CAPS) program. Because the Board of Human Services has policy oversight, it may also influence the CAPS program.

The Division of Family and Children Services of the Department implements the program pursuant to state plans submitted to the Office of Child Care, Administration for Children & Families, U.S. Department of Health & Human Services.

Recent Basic Program Data

CAPS families, children and program cost

Description	Children	Families	Financial Data	
Monthly Average funded through CCDF for SFY 2014	61,800	35,200	\$260,212,120	program cost
Monthly average as reported by DHS for SFY 2016	67,778		\$199,552,385	total payments

Sources: HHS and DHS⁶⁴

Although the Childcare and Parent Services program is run by the Department of Early Care and Learning (DECAL), there is no program information available on its website.⁶⁵

The Department of Human Services handles the intake through the COMPASS system, and childcare data is included in some of their reports. The most recent Descriptive Data by Count Report shows a monthly average for children receiving childcare payments as 112,471 in SFY 2015 with total payments of \$199,552,385. However, the Office of Family Independence Outcome Measures Report shows a monthly average of children receiving subsidized childcare as only 67,788 for SFY 2016. An inquiry was sent to DFCS to get clarification on the difference, and this is the explanation. The reason for the discrepancy is that the first measure, that is, the higher number, represents the number of vendors used for each child. And because many children

⁶¹ Lynch, pp. 3-4.

⁶² 42 U.S. Code § 9857 et seq., and National Women’s Law Center, “The Child Care and Development Block Grant Reauthorization: Changes to Previous Law,” no date on document, accessed May 25, 2016: http://nwlc.org/wp-content/uploads/2015/08/ccdbg_reauthorization_comparison_chart_final_12_01_14docx_2.pdf.

⁶³ Lexis-Nexis’s editor’s note to O.C.G.A. Title 20, Chapter 1A, Article 3.

⁶⁴ Office of Child Care, Administration for Children and Families, HHS, online Child Care and Development Fund Statistics, accessed July 2016, <http://www.acf.hhs.gov/occ/resource/ccdf-statistics>, and DFCS, DHS, Office of Family Independence Outcome Measures Reports, latest accessed August 2016: <http://dfcs.dhs.georgia.gov/family-independence-outcome-measures-report>.

⁶⁵ Requests to DECAL for additional information were unmet.

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have more than one vendor, the number is inflated. Thus, on average, a child has approximately 1.5 vendors providing childcare services per any month.

The federal website on statistics shows an average of 61,800 for SFY 2014 for 35,200 families. According to the federal spreadsheet, state and federal expenditures for SFY 2014 equaled \$260,212,120 for Georgia. These numbers are submitted to the federal government using the Federal ACF-801 Data Submission Summary Data Assessment Report

Analysis

Federal support for child care is already a block grant, giving states latitude in how they design their programs. However, there are still parameters that states must meet, and the U.S. Secretary of Health and Human Services may disapprove a state's application for funding. Parents must be provided choices with their providers, states must regulate safety, health and quality, establish training and provider development programs, have and update sliding scales, base costs on market surveys and fulfill other requirements.

Nonetheless, federal law does not mandate income thresholds or reimbursement rates. Given this flexibility, states can design plans to influence outcomes and costs. For example, there are no provisions that would prevent a state from encouraging families from choosing lower-cost settings in order to help stretch the money so more families may receive subsidies. This is an important criterion because many states have waiting lists to receive the child care subsidies.

The challenges that child care brings should not be understated. While federal law now emphasizes improving quality, which was the standard in most states for years, enthusiasm for these improvements have come with additional costs. In Georgia, administration of the child care program is split between two agencies. The Department of Early Care and Learning (DECAL) has been working hard to improve quality of care, and the Department of Human Services (DHS) runs the subsidy program for low-income parents. In working with providers, DECAL needs to help providers find ways to improve quality while lowering costs, or at least not adding to the costs. Any progress in this area will help DHS to spread benefits to more families and reduce the impact of welfare cliffs.

In this regard, any progress that can be made to encourage family formation will reduce program costs, reduce the cliff, and increase family income. One area where federal law with child care is silent is child support. A number of states require recipients of subsidized child care services to seek child support. This policy helps ensure that absentee parents share in the cost of childcare. It also mitigates the marriage penalty where it is better to be separated and receive the subsidies, which can be substantial, than to be married or living together. Often, certain advocacy groups object to requiring child care recipients to seek child support, but all their objections can be answered. For example, seeking child support is a TANF requirement without any problems that cannot be addressed by effective policy.

The 2014 reauthorization act added a new untested waiver provision. 42 U.S. Code Section 9858e(c) provides that the HHS Secretary may waive any provision or sanction provided a state can show that there is one or more conflicting or duplicative requirements preventing effective delivery of child care services, such circumstances prevent compliance to federal statute or regulations, the waiver will contribute or enhance the state's ability to carry out the purpose of the subchapter, and, finally, the waiver will not contribute to the inconsistency of the objectives of the law. The Secretary has ninety days to approve or disapprove the waiver request.

Strategies for Reform without Changes in Federal Law

The federal block grant gives Georgia considerable flexibility to modify its subsidized child care program. Because childcare creates a significant welfare cliff, it is important to address the program. The sliding scale can be modified to encourage lower cost settings that will not only reduce the cliff but also extend funds so that other families may receive subsidized assistance.

If the federal government would oppose any such changes, current federal law allows Georgia to seek a waiver if it can show conflicting objectives. Because the primary purpose of the program is linked to helping parents work and become self-sufficient, it could be shown that the welfare cliffs created by subsidized childcare conflict with this essential program goal. Subsequently, Georgia could draft a waiver request showing how changes to the state plan would reduce those barriers consistent with the objectives of the program.

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An important reform Georgia can adopt immediately is to require recipients to seek child support payments where feasible. This requirement will help single parents with not only their childcare costs, but it could also provide additional funds to the parent. Additionally, the requirement imposes responsibility on absentee parents.

Reform Options Allowing for Changes in Federal Law

Federal law already provides considerable flexibility, but including child care in an omnibus federal bill on welfare reform would likely simplify approval procedures and timeframes and would also reduce the risk of being challenged on needed changes.

Sources

The Office of Child Care of the Administration of Children & Families of the U.S. Department of Health and Human Services has the following website that includes data and program resources: <http://www.acf.hhs.gov/programs/occ>. Expenditure data is found here: <http://www.acf.hhs.gov/programs/occ/resource/ccdf-expenditure-data-all-years>. Allocations here: <http://www.acf.hhs.gov/programs/occ/resource/ccdf-funding-allocations>. And statistics here: <http://www.acf.hhs.gov/programs/occ/resource/ccdf-statistics>

The Division of Family and Children Services of the Georgia Department of Human Services administers the subsidized child care assistance program, i.e., the Childcare and parent Services Program (CAPS). Information can be found on its website: <http://dfcs.dhs.georgia.gov/subsidized-child-care-assistance>. The Division of Family and Children Services, Department of Human Services, annually publishes Descriptive Data by County Reports, which are available here: <http://dfcs.dhs.georgia.gov/descriptive-data-county-reports>.

DFCS also publishes Office of Family Independence Outcome Measures & Results Reports. These give CAPS active caseload, TANF recipients, food stamp cases, Medicaid cases, TANF work participation rates, food stamp participation rates, Medicaid ABD Standard of Promptness, and Medicaid Family Standard of Promptness. These reports are available here: <http://dfcs.dhs.georgia.gov/family-independence-outcome-measures-reports> and are fairly current. However, not all months are available online.

Although the reports refer to various datasets, more detailed information is not regularly published online. Therefore, more detailed data will require an open records request or cooperation with the department. For example, the Descriptive Data by County report identifies “County Statistical Reporting System (COSTAR)” as a data source, and the OFI Outcome Measures also identifies the MAXSTAR –Active Caseload Report I, Federal ACF-801 Data Submission Summary Data Assessment Report as a data source.

The Georgia Department of Early Care and Learning (DECAL) has the following website dedicated to child care services: <http://decals.ga.gov/CCS/Default.aspx?m>. A spokesman for the department said that no annual reports are available for CAPS, but they have the information internally and can provide the information upon request.

The Child Care Resource and Referral Agencies (CCR&RS) provides referrals to parents to find quality child care in addition to training and other resources to providers of child care services: <http://www.allgakids.org/new/providers/child-care-resource-and-referral-agencies-ccrrs>. Georgia is broken into six CCR&RS regions.

An advocacy group for women’s issues, the National Women’s Law Center provides information on state childcare programs, including an analysis of the CCDBG, including annual reports reviewing programs of all states and a section-by-section analysis of the 2014 CCDBG reauthorization act: <http://nwlc.org/issue/child-care-assistance>.

DFCS provides links to child data and statistical resources. Although these do not provide subsidized childcare data, they do provide data on children, families and other breakouts by state and county: <http://dfcs.dhs.georgia.gov/child-care-data-resources>. They include university of Georgia statistics (<http://www.georgiastats.uga.edu> and <http://www.fcs.uga.edu/hace/gafacts/old/index.html>), Kids Count, a project of the Annie E. Casey Foundation (<http://datacenter.kidscount.org/data#GA/2/0/char/0>), and ChildStats.gov, an federal interagency forum on child and family statistics (<http://www.childstats.gov/>).

The Legal Information Institute of the Cornell University Law School also provides text of federal statutes, including notes and statutory changes: <https://www.law.cornell.edu/uscode/text>. The child care development block grant can be found on the

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following links: <https://www.law.cornell.edu/uscode/text/42/1437f-1> and <https://www.law.cornell.edu/uscode/text/42/chapter-105/subchapter-II%E2%80%9393B>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>. The child care program was established by the Child Care Council, which no longer exists, and is found in O.C.G.A. 20-1A-60 through 20-1A-64.

Rules and Regulations of the State of Georgia are available online: <http://rules.sos.ga.gov>. Other than regulations for child care providers, none were found for CAPS.

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Program: Medical Assistance

Federal administrating agency: Center for Medicare and Medicaid Services (CMS) of the U.S. Department of Health & Human Services

State administrating agency: Georgia Department of Community Health is the lead agency. The Department of Human Services provides eligibility determination through the COMPASS system.

Local administrating agency: none

Applicable federal law: 42 U.S. Code Subchapter XIX - Grants to States for Medical Assistance Programs (<https://www.law.cornell.edu/uscode/text/42/chapter-7/subchapter-XIX>); 42 U.S. Code Subchapter XXI - State Children's Health Insurance Program (<https://www.law.cornell.edu/uscode/text/42/chapter-7/subchapter-XXI>); 42 U.S. Code Chapter 157 - Quality, Affordable Health Care for All Americans (<https://www.law.cornell.edu/uscode/text/42/chapter-157>); 26 U.S. Code § 36B - Refundable credit for coverage under a qualified health plan (<https://www.law.cornell.edu/uscode/text/26/36B>); see also the Affordable Care Act (ACA) (<http://housedocs.house.gov/energycommerce/ppacacon.pdf>)

Applicable state law: O.C.G.A.. Title 49 (Social Services), Chapter 4 (Public Assistance), Article 7 (Medical Assistance Generally); i.e., O.C.G.A. 49-4-140 through 49-4-157; and Chapter 5(Programs and Protection for Children and Youth), Article 13 (PeachCare for Kids); 49-5-270 to 49-5-273.

Applicable federal regulations: 42 CFR Chapter IV, Subchapter C - Medical Assistance Programs (<https://www.law.cornell.edu/cfr/text/42/chapter-IV/subchapter-C>); 42 CFR Chapter IV, Subchapter D - State Children's Health Insurance Programs (SCHIPs) (<https://www.law.cornell.edu/cfr/text/42/chapter-IV/subchapter-D>); 45 CFR Subtitle A, Subchapter B - Requirements Relating to Health Care Access, especially parts 152 through 159 (<https://www.law.cornell.edu/cfr/text/45/subtitle-A/subchapter-B>); 26 CFR Part 1 - Income Taxes, especially § 1.36B-0 through § 1.36B-5 (<https://www.law.cornell.edu/cfr/text/26/part-1>)

Applicable state regulations: None except for Chapter 111-3 Medical Assistance (<http://rules.sos.state.ga.us/gac/111-3>)

GA Program Participation: Low-Income Medicaid: 1,318,587 recipients (SFY 2015); PeachCare: 158,537 recipients (SFY 2015); Aged, Blind, Disabled Medicaid: 488,999 recipients (SFY 2015); Health Insurance Exchange subsidies: 587,833 individuals (2016)

GA Program Cost: Low-Income Medicaid: \$4.0 billion (SFY 2015); PeachCare: \$311 million (SFY 2015); Aged, Blind, Disabled Medicaid: \$5.0 billion (SFY 2015); Health Insurance Exchange subsidies: \$1.7 billion, estimated (2016)

Summary

The important medical assistance programs are Medicaid, PeachCare, and the Health Insurance Exchange (HIX) subsidies created by the Affordable Care Act (ACA). Consistent with the nation's complex and fragmented health care system, these programs are inconsistent and difficult to explain. Nonetheless, federal law provides that states may submit innovative plans and receive waivers from federal requirements. The most important waivers are found in §1115 of the Social Security Law and §1332 of the ACA. These waivers may allow for the redesign of health care programs.

Background

Government assistance for health care is fragmented in America, consisting of different programs targeting different subgroups of the population with very different eligibility requirements and benefits. Medicare is the program for senior citizens and workers who have paid into Medicare who become disabled, Medicaid is a program for other disabled individuals and certain low-income children and parents based on varying age and income criteria. In some states but not in Georgia, Medicaid covers all persons with family incomes at 138 percent of the federal poverty level or less. The Children's Health Insurance Program, which is PeachCare in Georgia, is for children who do not qualify for Medicaid but whose families have incomes no more than 247 percent of the FPL. This threshold varies by state. The Affordable Care Act created subsidies for families and small businesses who purchase health insurance over government-created health insurance exchanges. Veterans receive care through facilities owned and operated by the U.S. Veterans Administration. In addition to these programs, many individuals have private insurance purchased by their employers or by themselves. Yet, despite all these programs and variations, the United States does not have universal coverage. For purposes of this analysis, Medicaid, PeachCare and HIX subsidies will be analyzed.

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Medicare and Medicaid were created at the same time by amending the Social Security Act in 1965 as part of President Lyndon Johnson's war on poverty. Medicaid initially targeted persons with disabilities not covered by Medicare and was expanded numerous times to cover other groups that became "categorically eligible." In Georgia, children from families with very low income and parents with even lower income thresholds were added, although parents have different eligibility thresholds than the children, and eligibility for the children changes with the age of the children.

Medicaid is principally a state program that receives federal matching dollars. However, federal requirements are quite specific in order for states to receive those matching funds, meaning that the federal requirements are prescriptive and restrictive. However, states may request and receive waivers to vary from those federal requirements, but these waivers have typically been used to expand coverage to new groups or allow for in-home or community-based care.

In 1997, President Bill Clinton expanded the federal government's participation in health care when he signed into law a program that provides matching funds to states to run health insurance programs for children whose families earn too much income to qualify for Medicaid. This program is federally known as the Children's Health Insurance Program (CHIP), sometimes referred to as the Separate Children's Health Insurance Program (SCHIP), i.e., being separate from Medicaid. Note that some states combine their children's health program with Medicaid, but most, including Georgia, do not. Georgia's SCHIP is PeachCare.⁶⁶

In 2010, President Barack Obama signed into law the Affordable Care Act as a thousand-page bill intended to reduce health care costs and address the chronic problem of the uninsured. The law itself was enacted as the Patient Protection and Affordable Care Act (Public Law 111-148) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152). Major parts of the bill included requirements for large employers to provide health insurance plans for their employees, mandates for individuals to be covered by health insurance or face financial penalties, government-run health insurance exchanges for individuals and small businesses to purchase insurance or be referred to government-run programs if they qualify, and the expansion of Medicaid to cover persons with incomes up to 138 percent of the poverty level. A court challenge ended with the U.S. Supreme Court affirming that the individual mandate was constitutional in a five-to-four decision, thus preserving the law, but also voiding in a seven-to-two decision the Medicaid expansion provision because the requirement exceeded the authority of Congress when it attempted to force states to expand their Medicaid programs. Universal coverage was not achieved not only because several states chose not to expand Medicaid but also because of other inherent problems with the law, such as increasing medical costs despite or because of the law, persons refusing to enroll in Medicaid, and persons choosing, perhaps because of affordability, not to purchase coverage despite the mandate, and finally, persons losing health care coverage because of rising costs.

Georgia State Administrative Role

Statutory authority (§ 49-4-142) has been given to the Department of Community of Health to adopt and administer a state plan for medical assistance. However, the General Assembly has reserved the power to expand Medicaid eligibility (§ 49-4-142.2). PeachCare is specifically created in statute (§ 49-5-273), and the department is designated to implement the program. The Board of Community Health is empowered to establish general policy (§ 49-4-143). Georgia choose not to establish a state exchange pursuant to the Affordable Care Act, thereby relying on the federal exchange.

The Department operates the program using care management organizations (CMOs) as opposed to the traditional fee-for-service program. The general contract is available online:

http://dch.georgia.gov/sites/dch.georgia.gov/files/imported/vgn/images/portal/cit_1210/27/43/164261788CMO_Restatements_12-General.pdf. The department implements the Medicaid program pursuant to a state plan submitted to the federal government, which is available online through the department (<http://dch.georgia.gov/medicaid-state-plan>) or on Medicaid.gov (<https://www.medicaid.gov/medicaid-chip-program-information/by-state/georgia.html>).

Georgia did not establish its own HIX and relies on the federal government to administer HIX.

⁶⁶ See Georgia Department of Community Health, Fact Sheet PeachCare for Kids, December 2015: http://dch.georgia.gov/sites/dch.georgia.gov/files/related_files/site_page/16PCKs.pdf.

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Understanding subsidized health care program waivers

The U.S. Secretary of HHS has the ability to waive federal requirements governing the healthcare programs of Medicaid, PeachCare, and HIX, upon application by the states and provided they meet certain criteria. In general, these waivers are intended to give states flexibility to depart from the federal requirements if they can come up with better ways of fulfilling defined objectives of the programs. In some ways, it is odd that Congress relied on these waiver provisions as opposed to redefining programs goals elsewhere in statute.

There are five waiver provisions in the Social Security Law that can be utilized for health care programs.⁶⁷ Section 1115 allows for experimental and demonstration projects; Section 1915(b) allows states to adopt managed care delivery systems as opposed to the standard fee-for-service model; Section 1915(c) allows for home and community-based services as opposed to institutional care; and the newest provision adopted as part of the ACA, Section 1332 allows states to implement innovative healthcare solutions. CMS on its Medicaid.gov site lists a fifth waiver type, which combines Sections 1915(b) and 1915(c).⁶⁸

Section 1115 may be the most important waiver because states may submit experimental, pilot or demonstration projects that “in the judgment of the Secretary” of Health and Human Services will promote the objectives of the Medicaid program. In such cases, the Secretary may waive any compliance rules of section 1396a that requires states to submit Medicaid plans to receive federal matching funds. As explained earlier in this document, these proposals need to be budget neutral to the federal government, although it is permissible from the federal perspective for the state to incur additional costs.⁶⁹

Section 1332 is a new waiver that will become available on January 1, 2017. According to CMS’s Center for Consumer Information & Insurance Oversight, states may pursue innovative strategies to provide high quality and affordable healthcare without sacrificing protections in the ACA. States may receive waivers to provisions relating to qualified health plans (Title I, Subtitle D, Part I), consumer choice and competition through healthcare exchanges (Title I, Subtitle D, Part II), premium tax credits and subsidies to insurers (Internal Revenue Code § 36B and ACA § 1402); employer shared responsibility (Internal Revenue Code § 490H), and individual shared responsibility (Internal Revenue Code § 5000A).⁷⁰

Georgia currently has six approved waivers under Section 1915(c) allowing Georgia to spend federal matching dollars on home and community-based services, such as its Comprehensive Supports Waiver Program for persons with intellectual disabilities. In addition, Georgia has one Section 1115 for Planning for Healthy Babies, that was extended until March 30, 2017 and is pending approval for renewal.⁷¹

⁶⁷ Not consider here are administrative waivers, such as allowing CMS to test innovative payment and service delivery models to reduce program expenditures. See section 1115A of the SSA: https://www.ssa.gov/OP_Home/ssact/title11/1115A.htm.

⁶⁸ See CMS webpages on Medicaid.gov and CMS.gov: “Waivers” ([https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/Waivers.html?filterBy=\(b\)\(c\)#waivers](https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/Waivers.html?filterBy=(b)(c)#waivers)); “Combined 1915 (b)/(c)” (<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/combined-1915-b-c.html>); and The Center for Consumer Information & Insurance Oversight, “Section 1332: State Innovation Waivers” (https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html), accessed May 26, 2016.

⁶⁹ Section 1115 allows for these waivers for seven means-tested assistance programs found in the Social Security Act: https://www.ssa.gov/OP_Home/ssact/title11/1115.htm or <https://www.law.cornell.edu/uscode/text/42/1315>.

⁷⁰ CMS’s Center for Consumer Information & Insurance Oversight, “Section 1332: State Innovation Waivers” (https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html), accessed May 26, 2016

⁷¹ Medicaid and CHIP waivers are listed on CMS’s Medicaid.gov website, which can be sorted by state: https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/waivers_faceted.html. See also the March 30, 2016 correspondence from CMS director Eliot Fishman to Linda Wiant, Georgia’s Chief of Medicaid Assistance Plans, Department of Community of Health: <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ga/ga-planning-for-healthy-babies-ca.pdf>.

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Recent Basic Program Data

Georgia Medical Assistance Members and Expenditures SFY 2015

Description	Medicaid-Total	Medicaid-ABD	Medicaid-LIM	PeachCare
Members Average per Month	1,807,977	488,999	1,318,587	158,537
Member Months	21,691,037	5,867,989	15,823,048	1,902,447
Net Payment	\$5,377,079,158	\$4,938,236,184	\$438,842,974	\$14,676,747
Providers	101,818	73,509	95,272	38,889
Claims Paid	53,622,350	25,474,553	28,147,797	2,556,382
Capitation Amount	\$3,584,071,151	\$38,147,290	\$3,545,923,861	\$296,046,537
Total Payment ³	\$8,961,150,309	\$4,976,383,474	\$3,984,766,835	\$310,723,284
Total Payment Per Member Per Month	\$413	\$848	\$252	\$163

Source: DCH⁷²

Georgia Medical Assistance Enrollment per Federal Data: July 2016

- Total Medicaid and CHIP enrollment, July 2016: 1,744,095 (preliminary)
- Child Medicaid and CHIP enrollment: 1,260,367 (preliminary)

Source: CMS⁷³

ARM Medicaid is an acronym within an acronym: AFDC-Related Medicaid., where AFCD is Aid to Families with Dependent Children, the predecessor program to TANF. For State Fiscal Year 2015, the total average monthly enrollment in ARM Medicaid was 632,759, compared to 201,850 for ABD Medicaid (Aged, Blind and Disabled). ARM Medicaid is further broken down by "Right from the Start" Medicaid (RSM) with the majority of the recipients at 377,445, which is available for children born on or after October 1, 1983 and pregnant women. Low Income Medicaid includes benefits for children up to age 18 and adults who are not receiving SSI, which has 143,497 recipients. Other ARM include foster care, transitional medical assistance, four month extended child support increase, adoption assistance, newborns if the mother is Medicaid eligible, stepchild and medically needy for pregnant women or a child whose income exceeds RSM levels. Other ARM has 111,817 recipients.⁷⁴

Georgia HIX PTC Returns by Adjusted Gross Income for Tax Year 2014

Description	All returns	Size of adjusted gross income						
		Under \$1	\$1 to under \$10,000	\$10,000 to under \$25,000	\$25,000 to under \$50,000	\$50,000 to under \$75,000	\$75,000 to under \$100,000	\$100,000 to under \$200,000
Total Premium Tax Credit returns	116,220	4,080	16,740	55,520	33,370	5,580	850	80
Amount of PTC distributed	\$422,256	\$21,455	\$66,148	\$191,945	\$120,158	\$19,818	\$2,494	\$238
Average PTC per return	\$4	\$5	\$4	\$3	\$4	\$4	\$3	\$3
Advance PTC received	124,250	4,230	16,950	55,560	35,580	7,980	2,350	1,390
Amount of advanced PTC distributed	\$457,081	\$20,464	\$64,718	\$192,199	\$133,946	\$31,348	\$8,655	\$4,950
Average advanced PTC per return	\$4	\$5	\$4	\$3	\$4	\$4	\$4	\$4
Health care individual responsibility payment returns	261,510	1,150	10,520	121,890	92,440	22,600	6,990	4,920
Amount of payments	\$52,609	\$151	\$1,066	\$13,518	\$18,146	\$8,459	\$4,038	\$4,675
Average payments per return	\$0	\$0	\$0	\$0	\$0	\$0	\$1	\$1

Source: IRS SOI Tax Stats⁷⁵

⁷² Georgia Department of Community Health, Annual Report FY 2015:

<https://dch.georgia.gov/sites/dch.georgia.gov/files/AnnualReport-2015.pdf>.

⁷³ CMS, Medicaid & CHIP: July 2016 Monthly Applications, Eligibility Determinations and Enrollment Report, September 27, 2016: <https://www.medicaid.gov/medicaid-chip-program-information/program-information/downloads/july-2016-enrollment-report.pdf>.

⁷⁴ DFCS, Descriptive Data by County, SFY 2015.

⁷⁵ Statistics of Income Division, IRS, Individual Income Tax Return (Form 1040) Statistics, State Data, SOI Tax Stats-Historic Table 2 for 2014: <https://www.irs.gov/uac/soi-tax-stats-historic-table-2>.

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Reductions in Average Monthly Premiums from Advance Premium Tax Credits: 2016

Ttal Number of Individuals With 2015 (Sic, 2016) Plan Selections Through the Marketplaces	Percent of Plan Selections with APTC	Average Monthly Premium Before APTC	Average Monthly APTC	Average Monthly Premium After APTC	Average Percent Reduction in Premium After APTC	Calculation of Esitimated Total Premium Tax Credit Cost
587,845	86%	\$385	\$287	\$98	75%	\$1,741,102,835

Source: HHS⁷⁶

Health Insurance Exchange (HIX) Plan Selections for 2016 (as of February 1, 2016)

Description	Amount	Percent	Description	Amount	Percent
Applied Premium Tax Credits	506,534	86%	New enrollment	266,470	45%
No Applied Premium Tax Credit	80,173	14%	Actively selected enrollment	216,944	37%
Total Plan Selections	587,833		Auto (renewed) enrollment	104,419	18%
			Total Plan Selections	587,833	
Cost Sharing (Subsidized) Reduction	383,675	65%			
No Cost Sharing Reduction	204,158	35%	American Indian/ Alaska Native	198	0%
Total Plan Selections	587,833		Asian	53,753	9%
			Black	105,569	18%
Platinum	0	0%	Latino	28,563	5%
Gold	29,294	5%	Native Hawaiian/ Pacific Islander	107	0%
Silver	447,613	76%	Multiracial	4,657	1%
Bronze	98,648	17%	White	169,968	29%
Catastrophic	10,999	2%	Unknown	223,646	38%
Total Plan Selections	587,833		Total Plan Selections	587,833	
< 100% of FPL	20,219	3%	0-17	43,468	7%
≥ 100% and ≤ 138% of FPL	243,941	41%	18-25	76,963	13%
> 138% and ≤ 150 % of FPL	37,858	6%	26-34	105,492	18%
> 150% and ≤ 200 % of FPL	113,060	19%	35-44	108,108	18%
> 200% and ≤ 250% of FPL	56,334	10%	45-54	126,814	22%
> 250% and ≤ 300% of FPL	36,806	6%	55-64	122,763	21%
> 300% and ≤ 400% of FPL	31,490	5%	65+	3,128	1%
> 400% of FPL	9,418	2%	Unknown	0	0%
Unknown	37,098	6%	Total Plan Selections	587,833	
Total Plan Selections	587,833				

Note: "The data represent the number of unique individuals who have been determined eligible to enroll in a Qualified Health Plan and have selected a Marketplace plan by January 31, 2016 (including SEP activity through February 1, 2016)."

Source: CMS⁷⁷

Analysis

In order for reform to be successful in addressing the welfare cliff and helping individuals become more self-sufficient in regards to health insurance costs, several issues need to be addressed. Perhaps worst among them is the cost of health insurance can be prohibitively high, which is due to complex factors, not least of which are healthcare costs. Also, there needs

⁷⁶ Office of the Assistant Secretary for Planning and Evaluation, HHS, Health Insurance Marketplaces 2016 Open Enrollment Period: Final Enrollment Report: For the period: November 1, 2015 – February 1, 2016, ASPE Issue Brief, March 11, 2016: <https://aspe.hhs.gov/sites/default/files/pdf/187866/Finalenrollment2016.pdf>.

⁷⁷ CMS 2016 Federally-Facilitated Marketplace Health Plan Selections by County, as of 2/1/2016: https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/Plan_Selections_County.html.

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to be a smooth transition between modes of health care delivery systems that do not exist today. Addressing them will require a more robust market system allowing for innovation to bring down costs and also flexibility for states to smooth-out cost-sharing obligations for consumers. Current federal requirements do not allow sufficient flexibility for these steps to be taken.

However, and very fortunately, federal law provides for innovation and flexibility by allowing states to receive waivers from specific federal requirements. Currently, states have 407 active and approved waivers and 28 pending waivers for Medicaid and CHIP. 302 or nearly three-quarters of these waivers are § 1915 (c) waivers for home and community based services, 65 are § 1915 (b) waivers for managed care arrangements, and 68 are § 1115 waivers for demonstration and experimental projects.⁷⁸

Section 1115 waivers are the more important ones because they provide more flexibility. CMS through its Medicaid.gov site lists 40 approved waivers, 25 expired waivers, 27 pending waivers and only 1 disapproved waiver.⁷⁹ It is permissible for Georgia to develop a § 1115 waiver to change its Medicaid and PeachCare programs in concert with welfare reform.

Rhode Island used § 1115 to obtain a global waiver to Medicaid to reduce costs and create continuity of care, especially with long-term care. This waiver established a precedent for other states to develop global waivers to achieve broad-based reforms. However, it was the prior federal administration that approved the global waiver and the current administration might be less willing to approve such a waiver despite the precedent, although this has not been tested.⁸⁰

Waivers under the new and untested §1332 appear to be very promising. The provisions of the law that can be waived are quite extensive, including provisions of the U.S. Tax code. This waiver, in combination with § 1115 waiver, may provide Georgia with sufficient flexibility to devise a health-care solution in conjunction to a redesigned welfare system, with the obvious caveat that the degree of flexibility will need to be tested directly with the federal government.

As mentioned previously, waivers are negotiated between the federal government and the states. Typically states submit a proposal, the federal government reviews it with considerable back-and-forth between state and federal officials.⁸¹ If Georgia receives push-back from the federal government, it will be important for Georgia to be fundamentally sound in its analysis and persist in persuading federal officials.

Strategies for Reform without Changes in Federal Law

As described in the analysis, the combination of two waiver provisions in federal law may be sufficient for Georgia to achieve the flexibility needed to integrate Medicaid, PeachCare, and HIX into its redesign of the welfare system. Section 1115 of the Social Security Act allows the U.S. Secretary of HHS to approve state applications for demonstration and experimental programs. Rhode Island had successfully received a global waiver that set a precedent for states to submit comprehensive proposals.

In addition, the ACA created a new waiver process in § 1332 that will become operational January 1, 2017. The waiver is extremely broad, even allowing waivers for section of the Internal Revenue Code. Although untested, based on the scope of the new waiver, Georgia may have a tremendous amount of flexibility to redesign its health care programs.

Reform Options Allowing for Changes in Federal Law

Federal policies on healthcare have been very divisive and controversial, and future political leadership will determine the outcome. Nonetheless, prescribing flexibility in federal legislation to allow Georgia to include healthcare in a redesign of the welfare system will be helpful in achieving that goal. In the meantime, current law allows for significant flexibility through the waiver process.

⁷⁸ Website accessed May 11, 2016: https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/waivers_faceted.html.

⁷⁹ Website accessed May 11, 2016L https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/waivers_faceted.html. Note that the website also lists Section 1915 waivers, which are more numerous.

⁸⁰ Information in this paragraph is based on personally working with the author and chief administrator of the Rhode Island global waiver.

⁸¹ "Five Key Questions and Answers about Section 1115 Medicaid Demonstration Waivers," Kaiser Commission on Medicaid and the Uninsured, June 2011: <https://kaiserfamilyfoundation.files.wordpress.com/2013/01/8196.pdf>.

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Sources

The Centers for Medicare & Medicaid Services administers all federal healthcare programs, including the Children's Health Insurance Program and the Health Insurance Marketplace. Information can be found on its website: <https://www.cms.gov>. CMS also manages the Medicaid.gov website with information on Medicaid and CHIPs, including a page dedicated to Georgia: <https://www.medicaid.gov> and <https://www.medicaid.gov/medicaid-chip-program-information/by-state/georgia.html>. Medicaid and CHIP enrollment data can be found here: <https://www.medicaid.gov/medicaid-chip-program-information/program-information/medicaid-and-chip-enrollment-data/medicaid-and-chip-application-eligibility-determination-and-enrollment-data.html>. HIX plan selection data is found here: https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/Plan_Selections_County.html. Health Insurance Marketplaces 2016 Open Enrollment Period: Final Enrollment Report is available here: <https://aspe.hhs.gov/sites/default/files/pdf/187866/Finalenrollment2016.pdf>

The Social Security Administration provides an online compilation of the Social Security Law. Important Titles are Title XIX—Grants to States for Medical Assistance Program (https://www.ssa.gov/OP_Home/ssact/title19/1900.htm); Title XXI—State Children's Health Insurance Program (https://www.ssa.gov/OP_Home/ssact/title21/2100.htm); Title XI- General Provisions, Peer Review, And Administrative Simplification (https://www.ssa.gov/OP_Home/ssact/title11/1100.htm)

Georgia Department of Community Health has information on Medicaid and PeachCare: <http://dch.georgia.gov/medicaid> and <http://dch.georgia.gov/peachcare-kids>. In addition, PeachCare has its own website: <http://dch.georgia.gov/peachcare-kids>. The department's annual reports have useful data. The most recent (FY 2015) is found here: <https://dch.georgia.gov/sites/dch.georgia.gov/files/AnnualReport-2015.pdf>. The DCH webpage giving the most recent annual report also provides county maps with basic measures on Medicaid and PeachCare. However, the source data were not found elsewhere online.

The Division of Family and Children Services, Department of Human Services, annually publishes Descriptive Data by County Reports, which are available here: <http://dfcs.dhs.georgia.gov/descriptive-data-county-reports>.

DFCS also publishes Office of Family Independence Outcome Measures & Results Reports. These give CAPS active caseload, TANF recipients, food stamp cases, Medicaid cases, TANF work participation rates, food stamp participation rates, Medicaid ABD Standard of Promptness, and Medicaid Family Standard of Promptness. These reports are available here: <http://dfcs.dhs.georgia.gov/family-independence-outcome-measures-reports> and are fairly current, but not all monthly are available.

Although reports refer to various datasets, more detailed information is not regularly published online. Therefore, more detailed data will require an open records request or cooperation with the department. For example, the Descriptive Data by County report identifies "SUCCESS Report DMF8031I, AU Load Activity Report" as a data source, and the OFI Outcome Measures also identifies the same report as a data source, which are not available online.

The Henry J. Kaiser Family Foundation provides data on health policy, including state data. Its programs include the Kaiser Commission on Medicaid and the Uninsured, the Health Care Market Project, the Program on Medicare Policy, the State Health Reform and Data: <http://kff.org/our-programs>. Georgia data is found here: <http://kff.org/statedata/?state=GA>. While Kaiser has data, it is not always current. For example, latest Medicaid spending was for FY 2014 (\$9.485 billion), which came from an Urban Institute analysis of CMS Form 64s of June 2015. As another example, the latest Medicaid spending by enrollment group was FY 2011 (Aged 18%, Disabled 36%, Adult 16%, Children 30%).

The Robert Wood Johnson Foundation has collected datasets on healthcare, including HIX rates: <http://www.rwjf.org/en/library/collections/hix-silver-plan.html>.

The Georgia General Assembly provides free public access to its code of laws through LexisNexis on the following website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>. Medical assistance programs are found in O.C.G.A. 49-4-140 through 49-4-157; and 49-5-270 to 49-5-273.

Rules and Regulations of the State of Georgia are available online. <http://rules.sos.ga.gov>. No relevant state regulations were found for Medicaid or PeachCare.