

Do New HHS Work Requirement Waivers Gut Welfare Reform? That Depends On Whether You Trust the Obama Administration

Peter Suderman | Aug. 8, 2012

Is the Obama administration “gutting” welfare reform by getting rid of its work requirements, as the Romney campaign claims in a recent ad? Not quite — or at least not yet. But the administration is asserting legally dubious authority to waive work requirements that have been crucial to the success of the reformed welfare system.

First, some background: In 1996, welfare reform legislation overhauled the program by turning what had been an entitlement into a more limited program that discouraged the endless mass dependency that had come to plague welfare. The reform bill converted the program into a system of state block grants and, crucially, tied funding to federal work requirements.

The resulting program was not perfect by any means, but nearly all observers agreed it was an obvious improvement over the old system, leading to vastly smaller welfare rolls: Total enrollees dropped from 12.2 million to 4.5 million over the next decade, and caseloads declined 54 percent. In a 2006 *New York Times* op-ed celebrating the law’s 10 year anniversary, President Clinton, who signed the overhaul into law, offered an explanation for the reform’s success:

At the time, I was widely criticized by liberals who thought the work requirements too harsh and conservatives who thought the work incentives too generous. Three members of my administration ultimately resigned in protest. Thankfully, a majority of both Democrats and Republicans voted for the bill because they thought we shouldn't be satisfied with a system that had led to intergenerational dependency....Sixty percent of mothers who left welfare found work, far surpassing predictions of experts. Through the Welfare to Work Partnership, which my administration started to speed the transition to employment, more than 20,000 businesses hired 1.1 million former welfare recipients.

The success, in other words, was the reduction in rolls and caseloads, and the push towards work, real work, was the key. As Mickey Kaus notes in a helpful welfare reform primer, “a great deal of effort was put into defining what qualified as work, and making sure that work actually meant work and not the various BS

activities (including BS training activities) the welfare bureaucracies often preferred to substitute for work.”

But in a July 12 memo, the Department of Health and Human Services issued a memo asserting the authority to waive those carefully determined work requirements. The memo was at least partly in response to written requests from two states with GOP governors, Nevada and Arizona, for more leeway to pursue welfare reform’s employment goals.

So what’s the big deal? The problem is not so much with the particular requests from Nevada and Utah, which aren’t likely to undermine the work focus of welfare reform, but with HHS's assertion of authority to waive the law’s work requirements. That authority doesn’t really exist in the statute, and is therefore of questionable legality.

The long-term reason to worry is about what HHS will do with that authority. As Cato Institute Senior Fellow Michael Tanner tells me, “It really is a question of how much you trust the Obama administration. They have unilaterally granted themselves a waiver authority that does not actually exist in the legislation — surprise! — but say that we shouldn’t worry: They won’t use it to actually weaken work requirements.”

Now, as we all know, it's usually the case that when executive agencies claim legally dubious new powers they only use them to do good things, especially when they promise not to abuse their new authority. But still I have to ask: Why claim authority to waive the work requirements if not to undermine them? HHS insists that the whole point is to strengthen the law’s promotion of work, and points to a requirement that any waiver must be tied to a plan to increase the number of people moving to work by at least 20 percent. But of course the easiest way to do that is just to enroll far more people in the program. And as Clinton pointed out in his 2006 op-ed, the biggest success of welfare reform was reducing the rolls. The Obama administration may not have actually gutted welfare reform. But it has put a big, sharp machete up to its belly.