

Subcommittee Meeting:

Income, Imputation, and the Self-Support Reserve

Date | time 5/16/2019 9:00 AM | Location via WebEx

WebEx Information:

[WebEx Meeting Link](#)

Meeting number: 802 308 547

-or-

Call the audio connection: (240) 454-0887

Facilitator	Matthew Parascand	Attendees [Attendees] Janelle Wilson Kris Amblad Terry Price Jeff Manson Chrissy Anderson
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KA--Where to go from here?

MP—making a decision about full-time definition seems where you all are going. Trying not to direct the priorities of the group. I think you are close to determining what could be done about “full-time.”

KA—Three things that we are working on: 1) refining the concept of full-time; 2) refining of definition of minimum wage imputation section; 3) trying to decide whether 32 hours as presumptive assigned hours has a justification or do we need to think of another number? Ultimately we need to come up with a reason why we picked 32 hours as opposed to a different number. Is that what everyone else agrees on? If so, is there one issue we can deal with today?

JW—that sums up where we are.

TP—what about SSR?

KA—two weeks ago, I would have said to leave that alone. But now the Trump Admin has decided to change the formula from Consumer Price Index to Chained CPI formula. It will reduce the number of people eligible for public benefits, and the SSR will not increase with inflation like it historically has been. It depends on how federal poverty level is determined. If people see prices increase, then they will switch products. If you change the formula, then what is poverty and what people need to survive will be much lower than the current formula. This can be done through administrative process so they might be able to change it by next year. It’s created a rumble in the legal aid circles. It may be too early to look at this but we need to be fully informed.

JM—this is the first I've heard of this. I wonder if this hasn't gone into effect yet, I wonder if it's worthwhile to change the SSR now, or would 4 years from now be early enough in the effect that we can change the SSR then. How important is it to get ahead of this now? Do you know what the amount each year would be—the inflation amount? Trying to anticipate what it would look like in 4 years.

KA—This might be something that we just delay. I haven't done thorough research on this. We could suggest changing to 150% instead of 125% as a reference point. They probably wouldn't suddenly reduce it, but there's probably a \$50 loss per year with inflation. The whole basis for this is to keep people off the public benefits. One way to do this is to make eligibility really low, so only the most extremely poor qualify. Under the current formula, if you're under 200%, you're still really poor.

TP—This would affect so many things at the Legislature that they probably would have to make statutory change, not wait for a four-year workgroup.

JW—maybe we could change the marker to something in Washington.

MP—RE: "Federal Requirements of Child Support Guidelines"—This document raises the question—why do we not consider the basic subsistence needs of the people when we consider the imputation level? The Feds have charged us to ponder this. Do you agree with this document, and how do you think we do from your respective vantage points?

JM—has anyone taken a stab at a "full-time" definition yet?

KA—I haven't—my goal was to look at what others had done and provide revisions.

JM—I just came up with some language now re: "Full-time" means the customary number of maximum, non-overtime, hours worked in an individual's historical occupation, industry, and labor market. Full-time does not necessarily mean 40 hours per week.

KA—that sounds incorporates the Federal Flexibility Rule.

JM—do "occupation, industry and labor market" capture what we want?

JW—and what happens if someone has no documented work history? We need a definition for those folks.

KA—does the Federal Flexibility Rule provide guidance on that set of people?

MP—only to consider the individual situation of that person.

JM—we talked about taking the Montana rule—making full-time = 32 hours/week. Should we use that for this situation?

JW—I don't think that would appropriate if they cannot work.

JM—if this is the first job?

JW—this might not be the first job, just history of under-the-table work. This is not saying that they have never worked. We don't want to put the burden on the other party to prove that this person has an occupation. What did AVS say were the average hours in work hours in WA? 34.5? They are probably working 34.5 hours but just paid under the table.

JM—if someone has no work history at all, my office goes to full-time minimum wage.

JW—full-time minimum wage sounds fair enough.

MP—would you want to tweak RCW 26.19.071(6)(D)?

JW—that might solve the problem. Adding “or has never worked” –that might make sense if they are not forthcoming with the information. If we add that to (D), we might need to say that if (E) doesn't apply.

TP—they're read hierarchically, so we might have to reverse order of the subsections.

JW—I think it matters what kind of work they are able to do.

KA—there's a difference between those who have a BA and have the privilege to not work vs. someone who has not entered the workforce.

MP—do we need more flexibility?

JW—perhaps in Jeff's definition, we need “occupation or ability to work.”

MP—similar to the factors listed in RCW 26.19.071(6).

KA—I'm inclined to reference what is already in the statute. This does tend to track with the Federal Flexibility Rule. The FFR has more factors listed. The follow-up question is whether we should include similar factors that are in the FFR?

MP—I added a sample definition with additional language from the FFR. This captured more of the big exhaustive list from the CFR: including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal [record](#) and other employment barriers, and [record](#) of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case. From 45 CFR 302.56(c)(iii) and includes the specific reference to the criminal record, which is inline with recent CFR requirements. From my organization's focus on race equity and criminal justice reform, this is also good to focus on.

JW—I think this would be good to have this language in imputing or in the full-time definition.

KA—I'm thinking it should replace the RCW 26.19.017(6) factors—this seems to apply to the overall concept of imputation.

JM—this seems to make sense to discuss full-time in the preliminary section rather than try to define it in a subsection.

MP—that's where I landed.

KA—I've been trying to think of what legitimate objections there could be to being this thorough.

JW—I think being thorough is important for following what the federal government wants us to to.

KA—the only factors that I can come up with are—the more thorough that you are, there is a restriction on discretion, which makes people bristle. The momentum of this requires a more fact-based analysis, but that's what the federal dictates are asking to do. I don't think what I'm going to discuss comes up in the administrative arena—they are doing this more likely, unlike in the court process. When you have more factors, the more possibility it can increase litigation over smaller issues. Often proposals are creating swords for people. Not sure if he agrees with that. We do consider both custodial and noncustodial parents—this has to apply to both for other calculations, like uninsured medical expenses.

JW—I absolutely agree that everyone be treated the same.

TP—these FFR factors don't belong in the deviation statute?

KA—these could belong in the deviation statute.

JW—Assets come in where there are things listed in the schedule where they don't take money from a business.

KA—usually if I'm arguing assets, I'm generally looking at voluntary underemployment, not unemployment. One thing we haven't talked about this morning is the 32 hour concept, especially if we are going to maintain this as the presumptive for special categories of folks.

MP—I'm working hard to release the information to the workgroup and if there are challenges or I'm unable to permission to release the work history report for TANF recipients, I will work with CSD and ESA counterparts to find a TANF expert to speak to this directly.

KA—I will look for some information. My gut tells me the correct number is 30-35 hours.

MP—Table it until tomorrow, and we'll try to get someone there.

JM—at what point do we need final statutory language?

MP—that is not a clear requirement for tomorrow. Preferably before the public forum.

JM—would we as a subcommittee have to present statutory language to the whole group?

KA—it's ideal to have statutory language sooner, but historically they haven't gotten to final language until the final 2 months. It's useful to have something for the larger group to look at sooner rather than later to look at potential edits or raise concerns. Reality is often the proposed statute doesn't come until the last months.

JW—my first opportunity to meet in person with my folks will be June 7, so I haven't gotten feedback from them.

KA—I'll ask some trusted colleagues with experience about our thoughts. There's a group of us that will review subcommittee proposals. That will happen next week.

MP—I will bring printouts from the Dropbox tomorrow. What all would you need? Do we need to change the statute about people without a work history?

JM—if we wanted to add people with no earning history, then put that below (E).

KA—We can work on this tomorrow. My inclination is 1) don't abandon the hierarchy, and 2) switch (D) and (E).