

Public Assistance Provisions for Navajo and Hopi Indians: Public Law 474

by WILBUR J. COHEN*

ON April 19, President Truman approved Public Law 474, providing for the rehabilitation of Navajo and Hopi Indians. Section 9 of this law provides for increasing the Federal share of public assistance payments for needy Indians of these tribes who reside on reservations or on allotted or trust lands and who are recipients of old-age assistance, aid to dependent children, or aid to the blind. The new law becomes effective July 1, 1950. It provides that with respect to assistance payments for these Indians the Federal Government will pay, in addition to its regular share under titles I, IV, and X of the Social Security Act, 80 percent of the State's regular share. The maximums for individual payments specified in the Act apply to these payments.

Thus, in a payment of \$20 to a needy individual, the regular State share is \$5 and the Federal share is \$15. For Navajo and Hopi Indians the Federal Government will pay \$4 additional (80 percent of the \$5 State share) or a total of \$19 out of the \$20 payment. The Federal share in such a payment would thus be increased from 75 percent to 95 percent. In a \$50 payment the Federal share would be increased from \$30 to \$46, or from 60 percent to 92 percent.¹ The accompanying table illustrates the effect of section 9 on public assistance payments to Navajo and Hopi Indians.

*Technical Adviser to the Commissioner for Social Security.

¹The above figures and those in the table are used only as general illustrations of the amount of Federal participation. They are based on hypothetical individual payments, whereas actually, under the basic formula of the Social Security Act, the Federal percentages are not applied to individual payments but rather to the average payments of a State under each title. That part of any payment for a month in excess of \$50 to an aged or blind recipient and in excess of \$27 with respect to one dependent child in a home and \$18 with respect to each of the other dependent children in a home is not counted in computing the averages.

Legislative History

The first form (S. 1407) of the legislation that became Public Law 474 was introduced on March 25, 1949, by Senators O'Mahoney, Hayden, Chavez, McFarland, and Anderson. Companion bills, H. R. 3476 and H. R. 3489, were introduced in the House of Representatives.² S. 1407 passed the Senate on July 6, 1949, with amendments, and passed the House with some further amendments on July 14, 1949.³ In the Conference Committee a new provision dealing with increased Federal grants to the States for public assistance to Navajo and Hopi Indians was included in section 9. The Conference Report was accepted in both the House and the Senate on October 3, and the bill was then sent to the President. The President vetoed the bill on October 17, 1949,⁴ but his veto message did not contain any objection to the public assistance provisions of the bill.

The Senate deleted the provisions of the bill to which the President objected and passed a new bill, S. 2734, on October 18, the day after the veto was received. Immediate consideration of the bill in the House on October 19 was objected to by Representative Kean, a member of the House Committee on Ways and Means.⁵

With the adjournment of Congress, S. 2734 went over to the second session in 1950. The House passed the bill on February 21, 1950, with several amendments, one of which

²For the history of legislative proposals before 1949 see *Hearings Before a Senate Subcommittee of the Committee on Interior and Insular Affairs on S. 1407* (81st Cong., 1st sess.), pp. 3-7. Hearings were also held on H. R. 3476 by the House Committee on Public Lands.

³For proceedings in the House see *Congressional Record* (daily edition), July 14, 1949, pp. 9682-92.

⁴*Ibid.*, Oct. 17, 1949, pp. 15119-20.

⁵*Ibid.*, Oct. 19, 1949, pp. 15243-46.

changed the method of determining the Federal share of public assistance payments to the two tribes. However, this amendment was based upon an erroneous interpretation of section 9 and in effect made the entire public assistance provision inoperative.⁶ The Conference Committee therefore deleted certain language from the amended section 9 and thus restored the section's effectiveness.⁷ The Conference Report was adopted by the House on April 6, 1950, and by the Senate on April 10. The President signed the bill on April 19, 1950.

The basic issue as to whether Indians should be given public assistance entirely at Federal expense or on the same basis as other individuals has been the subject of lengthy debate. When the House added the provision to S. 1407 to make all Indians within the Navajo and Hopi reservations subject to the laws of the State in which they live, it became necessary to consider whether this same principle should be applied to public assistance recipients or whether it should be modified in some way. The following quotation from the Conference Committee Report describes the difference of opinion between the two houses:

The House conferees insisted upon section 9, but the Senate conferees wanted it eliminated for the reason that the extension of State laws would obligate the States to make available the benefits of the State social security laws to reservation Indians, an obligation which has not been assumed by New Mexico and Arizona for two reasons: First, they have not admitted their liability, claiming that under the enabling acts and Federal laws the Indian was an obligation of the Federal Government. Second, because of the large Indian population, the States strenuously urged

⁶*Ibid.*, Feb. 21, 1950, p. 2129.

⁷See Conference Report on S. 2734, *Congressional Record* (daily edition), Apr. 5, 1950, p. 4835.

their financial inability to meet this obligation.⁹

The Conference Report also explains the justification for the "80-percent formula":

Less than 20 percent of the Navajo and Hopi Indians speak the English language. The States have indicated their willingness to assume the burden of administering the social security laws on the reservations with this additional help. The Conference Committee was of the opinion that this was a fair arrangement particularly in view of the large area of tax-free land and the difficulty in the administration of the law to non-English-speaking people, sparsely settled in places where there are not adequate roads; and that it would be of particular advantage to the Indians themselves. This arrangement can and no doubt will be changed as soon as the Indians are rehabilitated. Both States assume full responsibility for nonreservation Indians at the present time.

The percentage to be paid by the States under this section, other than the cost of administration, is the same as was worked out in a conference at Sante Fe, New Mexico, between representatives of the Federal Security Agency, Bureau of Indian Affairs, the offices of the Attorney General of the States of Arizona and New Mexico, and the State Department of Welfare of the States of Arizona and New Mexico, on April 28 and 29, 1949. At this conference, it was agreed that the net cost to the State would not exceed 10 percent of the total cost incurred by the Federal and State Governments in aid to needy Indians (aged, blind, and dependent children). This is the agreement under which the States are now operating. However, it is the opinion of the Conference Committee that the Indians would be greatly benefited by the States' assuming full responsibility for the administering of this law, and it would assure a continued assistance which would not be dependent upon appropriations through the Bureau of Indian Affairs from year to year.

Before the passage of the Social Security Act, the Federal Government assumed full responsibility for needy reservation Indians, and there is strong argument that the Federal Government still has full responsibility for their care. The additional

⁹ House Report 1338 to accompany S. 1407, Sept. 22, 1949, p. 7.

Federal share of illustrative public assistance payments to needy members of the Navajo and Hopi tribes

Law	Federal share of payment, by specified amount							
	To aged or blind individual				To 1 dependent child		To 3 dependent children	
	\$20	\$40	\$50	\$60	\$27	\$54	\$63	\$106
Social Security Act Amendments (1948)	\$15.00	\$25.00	\$30.00	\$30.00	\$16.50	\$16.50	\$40.50	\$40.50
Public Law 474 (1950)	19.00	37.00	46.00	46.00	24.90	24.90	58.50	58.50

cost of the extension of social security benefits not heretofore assumed by New Mexico and Arizona is only part of the cost of the extension of State laws to the reservations. Therefore, the Conference Committee is of the opinion that the amendment which was adopted is a fair and equitable division of the expense.⁹

The 80-percent formula embodied in Public Law 474 is based upon a formula proposed in bills S. 691 and H. R. 1921, introduced in both houses on January 27, 1949, for all Indian "wards" in any State. Testimony was given before the House Committee on Ways and Means in favor of H. R. 1921,¹⁰ but the Committee did not report that bill out nor did it include any special provision for Indians in the social security bill, H. R. 6000, reported out by the Committee.

Historical Background

On several occasions Congress has given consideration to legislation affecting Indians receiving public assistance under the Social Security Act. In 1935 when the original social security bill was being considered in the Senate, a provision for payment by the Federal Government of the full cost of Indian pensions was passed by the Senate as an amendment to the pending bill. The proposed amendment provided for a new title in the Social Security Act making payments to Indians "a pension from the United States in the sum of \$30 per month."¹¹ This amendment was

⁹ *Ibid.*, pp. 7-8.

¹⁰ *Hearings before the House Committee on Ways and Means on H. R. 2892* (81st Cong., 1st sess.), pp. 791-801.

¹¹ *Congressional Record*, June 18, 1935, p. 9540; see also letter from the Commissioner of Indian Affairs stating that he was "in sympathy with this proposal," pp. 9540-41.

sponsored by Senator Norbeck of South Dakota. It was dropped, however, by the Conference Committee and was not included in the final law.

In a special report of the Social Security Board on proposed changes in the Social Security Act, which President Roosevelt submitted to the Congress in January 1939, the Board stated as follows:

A number of States have a considerable Indian population, some of whom are still wards of the Federal Government. The Board believes that, with regard to certain Indians for whom the Federal Government is assuming responsibility in other respects, and who are in need of old-age assistance, aid to the blind, or aid to dependent children the Federal Government should pay the entire cost. If this provision is made, the Board should be authorized to negotiate cooperative agreements with the proper State agencies so that aid to these Indians may be given in the same manner as to other persons in the State, the only difference being in the amount of the Federal contribution. The Board believes that it should also be given authority to grant funds to the Office of Indian Affairs for this purpose, if that appears more desirable in certain circumstances.¹²

The House Committee on Ways and Means, however, did not include any provision concerning Indians in the 1939 social security bill. The Senate Committee on Finance considered an amendment affecting Indians but did

¹² *Hearings Relative to the Social Security Act Amendments of 1939 Before the House Committee on Ways and Means* (76th Cong., 1st sess.), February 1939, p. 15. The Secretary of the Interior also urged that "social security benefits for Indians be administered as a part of the general plan for the citizens of the United States" (*Hearings Before the Senate Committee on Finance on H. R. 6635*, 76th Cong., 1st sess., June 1939, p. 272).

not report it out. On the floor of the Senate, an amendment was offered which provided that "notwithstanding any other provisions of law, the Social Security Board shall not disapprove any State plan under titles I, IV or X of this act because such plan does not apply to or include Indians."¹³ This amendment passed the Senate but was deleted by the Conference Committee and was not included in the final 1939 law.

The Social Security Administration has consistently interpreted the Social Security Act to mean that a State public assistance plan could not legally be approved if that plan discriminated against any citizen of the United States on account of race. Twenty-four of the 26 States in which there are Indians residing on reservations provide public assistance under the Social Security Act to these individuals. In Arizona and New Mexico, however, questions have been raised over the years by both State agencies as to whether reservation Indians were to be included in the public assistance programs under the Social Security Act.

The immediate factors that led to the inclusion of the public assistance provisions in section 9 of Public Law 474 first made themselves felt on April 17, 1947. On that date the State Board of Public Welfare of New Mex-

ico refused the application of a Navajo Indian for old-age assistance on the grounds that reservation Indians were not a responsibility of the State Welfare Department "just as long as they are under the complete jurisdiction of the Indian service and insofar as the expenditure of State money for their welfare is concerned." At about the same time the Arizona State Department of Public Welfare also took a position that it would not make payments to reservation Indians.

The Social Security Administration discussed the subject with the State agencies in an effort to resolve the conflict between the position they had assumed and the requirement of the Social Security Act that assistance must be available to all eligible persons within the State. Discussions continued over a period of time, and the States were informed that the continued receipt of Federal funds for their public assistance programs was dependent on whether the State programs were operating in conformity with the principle that applications are to be accepted from all who apply and assistance granted to all eligible persons. During the same period the Bureau of Indian Affairs made some payments, as their funds permitted, to needy Indians in the two States.

Finally, after all efforts to bring the States into conformity with the requirements of the Social Security Act had failed, the Commissioner for Social Security, after due notice, held hearings to determine whether there

was a failure by New Mexico and Arizona to operate their plans in accordance with sections 4, 404, and 1004 of the Social Security Act. A hearing on New Mexico was held on February 8, 1949, and on Arizona on February 15, 1949. Before findings or determination based upon these hearings were made, the arrangements described in the quotations from the Conference Report on S. 1407 were completed at Santa Fe, New Mexico, on April 28 and 29, 1949, and assistance was provided for reservation Indians in these two States. It was the purpose of Public Law 474 to solve, by congressional action, the problems raised in the hearings before the Social Security Commissioner.¹⁴ As stated in the Conference Report on the bill, the Committee felt that efficient operation could be more definitely assured if the State were to administer the entire program for needy Indians rather than share the responsibility with the Bureau of Indian Affairs.

¹⁴ On December 27, 1949, the Arizona State Board of Public Welfare adopted a resolution stating that it would not discontinue its policy of excluding crippled reservation Indian children in the provision of treatment services. The Commissioner of the State department in transmitting the Board's resolution to the Chief of the Children's Bureau of the Social Security Administration stated that it was "necessary to sever our connections." No Federal funds have been paid to Arizona under part 2 of title V of the Social Security Act since December 22, 1949.

¹³ *Congressional Record*, July 13, 1939, pp. 9027-28.

VENDOR PAYMENTS

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Missouri and Virginia spent little money for this purpose.

Total Vendor Payments

Table 4 shows the total amount of vendor payments made by assistance agencies for services supplied to recipients of assistance and other needy individuals in 37 States. Assistance agencies in these States spent more than \$80 million for this purpose during the calendar year 1949. If data were available for all States, the total might be as much as \$85 million. In most of the States that did not report any expenditures for vendor pay-

ments for medical care, some expenditures for this purpose were made by local authorities from general assistance or other local public funds. In two jurisdictions, the District of Columbia and Maryland, recipients of assistance and other needy individuals received medical care under programs administered by public health agencies.

Expenditures shown in table 4 as medical assistance do not include the cost of medical eye-care programs or of services for crippled children, which are administered in some States by State public welfare agencies. Expenditures from appropriations for other specific types of medical services are included, if re-

sponsibility for administration rests with the same agency that administers the public assistance programs and if expenditures are made on behalf of recipients of assistance.

The amount reported for Arkansas, for example, represents State funds for hospitalization of needy persons. These funds are administered by the same State and local agencies that administer the public assistance programs and may be used to meet the cost of hospital care both for recipients of assistance and for other needy persons. Similarly, State hospital aid funds in Maine, local funds for the "afflicted adult hospitalization" program in Michigan, and county

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