

WELFARE FAMILY CAPS PUNISH PARENTS AND INCREASE CHILD POVERTY

by Jill E. Adams, JD and Elena Gutiérrez, PhD

For all the benefits of childbearing, there are also financial costs. Families who are cash poor and those living in poverty are pushed deeper into poverty when a new child is born. And, if a child¹ is born into a family that receives cash assistance in a state with a welfare family cap, the birth will also likely trigger food and housing insecurity and worsening health and social outcomes.² Welfare family caps, also referred to as child exclusion policies, are a form of population control that discourages childbearing by denying cash aid to babies born into families already receiving cash assistance for basic needs.³ When states withhold this much-needed cash assistance through welfare family caps, financially strapped parents must search desperately for ways to support their children on less per-person funding.

Welfare family caps are a critical reproductive justice issue because these policies stem from, and have perpetuated, false stereotypes and racist myths about welfare beneficiaries, and they attempt to coerce reproductive decision-making in marginalized communities. These policies have failed to achieve their proponents' purported primary objective of lowering the number of children born into families receiving public assistance and have, instead, only destabilized families' housing and food security while threatening the health and wellbeing of the poorest children and families.

At the height of their popularity in the 1990s, twenty-four states implemented welfare family caps.⁴ As of 2017, seventeen states have some variation of a welfare family cap in place. Of these seventeen states, twelve deny eligibility for basic needs cash grants to babies born into families already in receipt of this particular public benefit. Two others,

Connecticut and Florida, significantly reduce the grant size for a newborn with an older sibling(s). Idaho and Wisconsin provide a flat cash grant rate regardless of the size of the family. South Carolina only gives a newborn additional assistance in the form of food and clothing vouchers.⁵

Welfare family cap policies are rooted in the idea that certain people have children irresponsibly, parent badly, and drain society and, therefore, must have their reproduction controlled by authorities. As the theory goes, if cash aid encourages poor women to have more children outside of marriage; by cutting off aid, states can deter unmarried women from having more children or force them to marry, thus lowering poverty and/or welfare dependence. These caps cause symbolic harm by perpetuating the devaluation of parenthood among people of color and people living in poverty. Rooted in racist, classist, and sexist sentiments and based on unproven theories of behavior modification, these policies divert attention from our nation's real, structural sources of inequality and poverty.

Not surprisingly, research conducted within and across states proves that denying cash aid to newborns does not, in fact, alter their parents' behavior. Several studies confirm this by showing no clear⁶ relationship between family caps and a reduction in births. The only time⁷ the research has demonstrated a connection between welfare caps and birth rates is in states where state Medicaid funds were available to cover abortion.⁸

Research also shows that although the caps have been ineffective at modifying parental behavior, they have pushed mostly young, poor, single mothers and their children into dire poverty.⁹ This is because even with the support of cash assistance, families frequently cannot afford to take care of their daily needs. While the would-be increase in a capped family's cash aid is not

enough to incentivize childbearing, much less enough to lift a family out of poverty, it does make a difference in the family's security and ability to function -- covering some newborn essentials, like diapers and wipes. By denying aid to a newborn, states with family caps make poor families even poorer and worsen all of the effects of poverty, including housing and food insecurity. One study found that family caps increase the poverty rate of children by 13.1%,¹⁰ while other research demonstrates that children living in poverty experience more mental (cognitive and emotional) and physical health challenges than do children from affluent families. As poverty is a known contributor to childhood disease, it is very likely that a child's lack of access to basic necessities leads to ill health. Infants and toddlers in families that face grant reductions experience a 30% increase in hospitalization and a 90% higher risk of hospitalization when they visit the emergency room than in families that receive full grants.¹¹

As criticism of welfare family caps mounted around the turn of the century, advocates began to agitate for repeal of the failed policies through legislative and budgetary advocacy, as well as legal challenges.¹² Since 2002, seven states have repealed their family caps, and four other states have considered doing so.¹³ The most recent legislative victory was in California, which after more than five attempts over a decade fully repealed its welfare family cap in 2016.¹⁴ This recent success in California may provide hope for struggling families and fodder for advocates in other states to ignite or revive their own repeal efforts.

Welfare family caps, which attempt to coerce reproductive behavior and, in failing to do so, punish poor parents and children, must be eliminated everywhere they exist.

NOTES

¹ Signe-Mary McKernan & Caroline Ratcliffe, Urban Institute, Events That Trigger Poverty Entries and Exits 18 (2002), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/410636-Events-that-Trigger-Pover-ty-Entries-and-Exits.PDF>. See generally Amy Traub et. al, DEMOS, The Parent Trap: The Economic Insecurity of Families With Young Children (2016), <http://www.demos.org/sites/default/files/publications/Parent%20Trap.pdf> (discussing how having young children may impact earnings of families).

² Rebekah J. Smith, Family Caps in Welfare Reform: Their Coercive Effects and Damaging Consequences, 29 *Harvard Journal of Law & Gender* 151, 191 (2006); Harry J. Holzer et al., The Economic Costs of Poverty in the United States: Subsequent Effects of Children Growing Up Poor (January 24, 2007). https://cdn.americanprogress.org/wp-content/uploads/issues/2007/01/pdf/poverty_report.pdf

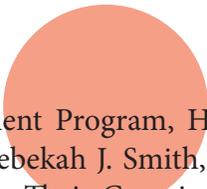
³ Center on Reproductive Rights and Justice at Berkeley Law, Bringing Families out of 'Cap'tivity: the Path Toward Abolishing Welfare Family Caps, https://www.law.berkeley.edu/wp-content/uploads/2015/04/2016-Caps_FA2.pdf (August 2016). ⁴

Jodie Levin-Epstein, Lifting the Lid Off Family Caps: States Revisit Problematic Policy for Welfare Mothers, Center for Law and Social Policy Brief 1 (2003): 1.

⁵ For a full analysis of these 17 states' policies, see Center on Reproductive Rights and Justice at Berkeley Law, Bringing Families out of 'Cap'tivity: the Path Toward Abolishing Welfare Family Caps, https://www.law.berkeley.edu/wp-content/uploads/2015/04/2016-Caps_FA2.pdf (August 2016).

⁶ Diana Romero and Madina Agenor, "US Fertility Prevention as Poverty Prevention: An Empirical Question and Social Justice Issue," *Women's Health Issues* 19 (2009): 361; Diana Romero and Liza Fuentes, "The Welfare Family Cap Policy: Fertility Restriction as Poverty Prevention," Different Takes Issue Paper Series, Population and Devel-





opment Program, Hampshire College 66 (2010): 2; Rebekah J. Smith, "Family Caps in Welfare Reform: Their Coercive Effects and Damaging Consequences," *Harvard Journal of Law & Gender* 29 (2006): 157, 174.

⁷ Michael Camasso, *Family Caps, Abortion and Women of Color: Research Connection and Political Rejection*, (London: Oxford University Press, 2007); Wendy T. Dyer and Robert W. Fairlie, "Do Family Caps Reduce Out-of-Wedlock Births? Evidence from Arkansas, Georgia, Indiana, New Jersey and Virginia," *Population Research and Policy Review* 23 (2004): 441–473; General Accounting Office (GAO), *Welfare Reform: Research Needed on TANF Family Caps and Other Policies for Reducing Out-of-Wedlock Births*, Report to Congressional Requesters (Washington D.C, 2001). Ted Joyce, et al., "Family Cap Provisions and Changes in Births and Abortions," *Population Research and Policy Review* 23 (2004): 475–511; Romero and Aguinar, "US Fertility Prevention as Poverty Prevention"; Melissa S. Kearney, "Is There an Effect of Incremental Welfare Benefits on Fertility Behavior? A Look at the Family Cap," *Journal of Human Resources* 39 (2004): 295-325.

⁸ Michael J. Camasso and Radha Jagannathan, "How Family Caps Work: Evidence from a National Study," *Social Service Review* 83 (2009): 389-428.

⁹ Ethnographic data collected by the California Department of Social Services to point out that among households impacted by California's then-welfare family cap, 57 to 60% were Latina and 17 to 24% were African-American. As such, in some states, these policies may also disproportionately impact people of color and immigrants.

¹⁰ Signe-Mary McKernan & Caroline Ratcliffe, "The Effect of Specific Welfare Policies on Poverty," *The Urban Institute*, (2006): 19.

¹¹ "Effects of Poverty, Hunger, and Homelessness on Youth and Children," *American Psychological Association*, last accessed Apr. 12, 2015, <http://www.apa.org/pi/families/poverty.aspx>; Joyce, et al., "Family Cap Provisions and Changes in Births and Abortions," 475–511.

¹² Jill E. Adams and Melissa Mikesell, And

Damned if They Don't: Prototype Theories to End Punitive Policies Against Pregnant People Living in Poverty, *The Georgetown Journal of Gender and the Law*, 18 *Geo. J. Gender & L.* 283 (Symposium Issue, 2017).

¹³ To identify the seven states that have successfully repealed welfare caps, the four states that have proposed repeals, as well as the strategies advocates used in repeal efforts, we conducted original research using legislative databases, news databases, and by conducting interviews with advocates and legislators between May 2015 and July 2016. See Center on Reproductive Rights and Justice at Berkeley Law, *Bringing Families out of 'Cap'tivity: the Path Toward Abolishing Welfare Family Caps*, https://www.law.berkeley.edu/wp-content/uploads/2015/04/2016-Caps_FA2.pdf (August 2016).

¹⁴ For a full discussion of California's repeal effort, see Center on Reproductive Rights and Justice at Berkeley Law, *Bringing Families out of 'Cap'tivity: the Path Toward Abolishing Welfare Family Caps*, https://www.law.berkeley.edu/wp-content/uploads/2015/04/2016-Caps_FA2.pdf (August 2016)