

Evaluating Policy Proposals

This is the first of four chapters devoted to policy as product. It addresses an elemental task of policy analysis—namely, getting a handle on what the policy states about who gets what and under what circumstances. The chapter identifies and discusses criteria for evaluating policy proposals and asks several basic questions, answers to which provide a descriptive summary of policy products. Upon completion of the chapter, students will have learned that (1) policy analysts need to be alert to which and how criteria for assessing the merits of a policy are used; (2) policy analysts have a responsibility to assist clients sort through the relative weights attributed to evaluative criteria, including effectiveness, efficiency, equity, liberty/freedom, political feasibility, social acceptability, administrative feasibility, and technical feasibility; and (3) asking and answering such basic questions as “Who gets what?” “For what reasons?” and “Under what conditions?” will provide a working descriptive summary of the policy under scrutiny, particularly about types of benefits and eligibility requirements.

Students will also develop a skill set enabling them to (1) identify and apply criteria for assessing the merit of eligibility rules, including those based on prior contributions, administrative rules and regulations, private contracts, professional discretion, administrative discretion, judicial decisions, means testing, and attachment to the workforce; (2) identify and apply criteria for evaluating the merit of linking policies to social problems and eligibility rules, including fit of analysis to the social problem, correspondence between social problem theory and social policy or program theory, correspondence between eligibility rules and target specifications of the social problem analysis; and (3) identify and assess the merit of applying criteria specific to eligibility rules, including stigmatization, off-targeted benefits, as well as trade-offs in evaluating eligibility rules.

Upon successful completion of the skill building exercises of Chapter 4, students will have mastered the following CSWE Competencies and Practice Behaviors:

Chapter 4 CSWE Core Competencies	
#	Description
2.1.2	<p>Apply Social Work Ethical Principles to Guide Professional Practice</p> <p>Make ethical decisions by applying standards of the NASW Code of Ethics</p> <p>Tolerate ambiguity in resolving ethical conflicts</p> <p>Apply strategies of ethical reasoning to arrive at principled decisions</p>

(Continued)

Chapter 4 (Continued)

#	Description
2.1.3	Apply Critical Thinking to Inform and Communicate Professional Judgments Demonstrate effective oral and written communication in working with individuals, families, groups, organizations, communities, and colleagues
2.1.4	Engage Diversity and Difference in Practice Recognize the extent to which a culture's structures and values may oppress, marginalize, alienate, or create or enhance privilege and power
2.1.5	Advance Human Rights and Social and Economic Justice Understand the forms and mechanisms of oppression and discrimination
2.1.7	Apply Knowledge of Human Behavior and the Social Environment Utilize conceptual frameworks to guide the processes of assessment, intervention, and evaluation Critique and apply knowledge to understand person and environment
2.1.8	Engage in Policy Practice to Advance Social and Economic Well-Being and to Deliver Effective Social Work Services Analyze, formulate, and advocate for policies that advance social well-being
2.1.9	Respond to Contexts That Shape Practice Continuously discover, appraise, and attend to changing locales, populations, scientific and technological development, and emerging societal trends to provide relevant services

Source: Adapted from Council on Social Work Education (2012). *Educational policy and accreditation standards*. Washington, DC: Author. Retrieved from <http://www.cswe.org/file.aspx?id=13780>

GENERAL CONSIDERATIONS ABOUT POLICY AS PRODUCT

Policy products include tangible documents such as legislation, bills, policy manuals, administrative guidelines, codified rules, and regulations. When examining policy products, analysts function at times like journalists, asking who, what, and why types of questions and providing a descriptive summary of the document's contents based on those questions. Analysts go beyond journalistic description, however, by assessing the merits of policy objectives in light of evaluative criteria and arguing or showing how well or to what extent the particular policy product under consideration meets these criteria. In general, evaluative criteria are used to weigh policy options or judge the merits of existing or proposed policies or programs (Kraft & Furlong, 2010). As policies are argued and debated, evaluative criteria function as justifications or rationales for a policy or government action. They are used to assess the worth of proposals aimed at addressing social problems that warrant public action.

At the very least, according to the classic formulation of political philosopher Charles W. Anderson (1979), to be regarded as "reasonable," a policy recommendation must be justified as lawful and be

plausibly argued as equitable and as entailing an efficient use of resources. Such evaluative criteria as authority or lawfulness, the public interest, equitability, efficiency, and justice are not merely personal preferences in the economic or positivist sense of the terms nor norms of conduct, but rather inherently necessary or “obligatory criteria of political judgment” (Anderson, 1979, p. 713). Chosen criteria should fit the policy area and the set of circumstances under consideration: efficiency for example may be inappropriate or less important than equity when deliberating about health care services versus agricultural subsidies. In addition, the stipulation, ordering, and choice of evaluative criteria are invariably influenced, as is the case with policy analysis in general, with “real-world” contingencies related to the political and institutional context at the time of policy debates, as well as by available resources and time.

It should be noted, as do Kraft and Furlong (2010), that at times policymakers, interest groups, and analysts favor the use of one criterion over others without being clear why they do so and at other more partisan or ideologically driven times may explicitly privilege one criterion, claiming for example that self-determination or freedom trump all others. Politically, policymakers and others who seek to shape policies in general and policy analysts who view themselves as advocates use arguments to make their case without necessarily attempting to address every consideration or every criterion, instead focusing on those that support their cause or point of view. When this occurs, the credibility of the policy and related analysis is considerably reduced: the purported benefits of a proposed policy are likely to flow or be inferred from highly dubious assumptions, regardless of how strongly they are held (Manski, 2013).

Case in Point 4.1: Advocacy, Credibility, and Educational Vouchers

Free market theorist and Nobel prize laureate Milton Friedman, who died in 2006 (Noble, 2006), was a long-time proponent of government supplying educational vouchers rather than government operated free public schools. From the outset, he assumed “a society that takes freedom of the individual, or more realistically the family, as its ultimate objective, and seeks to further this objective by relying primarily on voluntary exchange among individuals for the organization of economic activity” and Friedman (1962/1982) provided three reasons for government intervention: “natural monopoly,” “neighborhood effects,” and “paternalistic concern for children and other irresponsible individuals” (pp. 85-86; see Chapter 2 for these and related economic concepts). For purposes here, a focus on his discussion of neighborhood effects or externalities is sufficient. Friedman (1962/1982) acknowledged the force of arguments for “nationalizing education,” namely the otherwise impossibility of providing “the common core of values deemed requisite for social stability” (p. 90). He then asserted that it was not clear that the argument was valid. Friedman provided no evidence to that effect, nor did he call for related research. His argument placed the burden of proof on free public schooling, asserting that supplying vouchers was the preferred policy in the absence of evidence. As Manski (2013) contends (correctly in my view), Friedman’s advocacy eclipsed his scientific or objective analysis. An advocate for educational vouchers could easily reverse the burden of proof, arguing that the existing educational system should be retained in the absence of proof. Each scenario is equally faulty, giving rise to dueling uncertainties. A more credible approach would start from acknowledging the limits of drawing any optimal design of education systems and stress that the merits of alternative designs depend on the magnitude and nature of market imperfections and neighborhood effects.

Given cost and time constraints, it would probably be unreasonable to expect policy analysts to account for more than a few criteria, such as effectiveness, efficiency, or equity, for any specific project. Policy analysts in general and social workers in particular nonetheless need to be alert to which and how select criteria are used, which may under certain circumstances become part of the analysis itself, as Case in Point 4.1 above suggests. In addition, as Stone (2011) notes, interpretations of evaluative criteria and their limitations are fraught with ambiguities and paradoxes that need not preclude their use for practical purposes of policy analysis, but underscore the need to be alert to limitations in how they are applied.

Case in Point 4.2: Universal Versus Targeted Approaches to Poverty Reduction

As you read through the remainder of this section about select criteria for evaluating the merits of policy proposals, think of the historical tension in social welfare provisioning that involves a choice between universalism versus selectivity through targeting. Over the past several decades, there has been a marked shift away from universalism, whereby the entire population is the beneficiary of social benefits as a basic right (e.g., Social Security in the United States or health care in Canada), and more toward targeting, usually on the basis of means or income testing (e.g., TANF [Temporary Assistance for Needy Families] in the United States, SA [Social Assistance] in Canada, or Bolsa Família in Brazil). Which of the two approaches might better address the social problem of poverty and how might the criteria for evaluating policy proposals discussed below favor one approach over the other? Thandika Mkandawire (2005), Professor of African Development, Department of International Development, London School of Economics (LSE), and former director of the United Nations Research Institute for Social Development (UNRISD), contends that universalism is the better approach to addressing poverty, particularly in “developing” countries. Speculate about which evaluative criteria discussed below would be more consistent with Professor Mkandawire’s ideas, then read his article to verify your hunches and to discern his rationale.

SELECT CRITERIA FOR EVALUATING POLICY PROPOSALS

Kraft and Furlong (2010, pp. 151–161) discuss eight criteria for evaluating public policy proposals: effectiveness, efficiency, equity, liberty/freedom, political feasibility, social acceptability, administrative feasibility, and technical feasibility. Chambers and Wedel (2005) also discuss stigmatization, target efficiency, trade-offs, and substitutability. The relative weight of each criterion is context dependent. Policy analysts are expected to know these criteria. One of the main functions of the policy analyst is to assist clients in identifying which criteria are appropriate for consideration and sort through the relative weight that should be assigned accordingly.

Effectiveness

Effectiveness is the likelihood of achieving policy goals and objectives or demonstrated achievement of them. It is limited by our capacities to estimate uncertain projections of future events and to link the policy and anticipated outcomes in a causal relationship. Identification and development of suitable indicators or measures are requisites for assessing effectiveness of policies or programs in existence—for a proposed policy or program, likelihood estimates that stated goals and objectives would be met if adopted. Determination and agreement about what constitutes appropriate indicators of effectiveness can be problematic for political as well as technical reasons.

Many policies and programs have multiple goals, which are usually broadly stated, and objectives, which may lack the degree of specificity more familiar to researchers when operationalizing variables. This lack of clarity about goals and objectives is in part a function of political processes that enable adoption or increase the likelihood of adoption. In addition, some goals and objectives may succeed, whereas others may fall short. Goals achievable only in the long term, say more than a generation, preclude the efficacy of short-term assessment. Forecasting is inherently problematic, given uncertainties about future events and conditions. Politicians may also exaggerate success or failures of policies and programs to enhance their prospects for remaining or obtaining public office. Acknowledging such difficulties, Congress passed the Government Performance and Results Act of 1993 (GPRA, P.L. 103–62) to encourage agencies to focus on results, service quality, and public satisfaction. GPRA also mandated annual performance plans and reports about each program activity in an agency's budget. Reports of the Board of Governors of the Federal Reserve System (2011), for example, include goals, objectives, performance measures, and resources for monetary policy, its supervisory and regulatory function, and its payment system and oversight function, in addition to a statement about mission, values, and goals of the board as a whole.

Efficiency

Efficiency entails an assessment of achieving program goals or providing benefits in relation to costs. It can mean either least cost for a given benefit or largest benefit for a given cost. Efficiency encourages analysts to think about overall costs and benefits of existing programs and alternative proposals to change them or substitute something different. Efficiency serves as a way of justifying government action on the basis of economic concepts, often expressed in terms of relative virtues of government intervention and the operation of a free market in promoting social welfare. With efficiency in mind, policy analysts consider possible alternative uses of labor, capital, and materials that are forgone or might be lost when costs of a policy or program exceed actual or anticipated benefits. To the extent government underwrites prescription drug expenses under Medicare *more than is needed to gain better health for senior citizens*, for example, it will have fewer resources available for other services, such as public education, low-income households, and national defense. At the state level, the two largest expenditure programs, Medicaid (which targets low-income families and destitute senior citizens in nursing homes) and public education, are often pitted against each other to maintain their respective shares of total expenditures (National Association of State Budget Officers, 2011).

Weighing the costs and benefits of one program's expenditures against the other can be problematic. What constitutes a cost (to whom) and a benefit (for whom) over what period of time, and estimated or assigned values, should be subject to public debate prior to reducing such concerns to technical

matters amenable to formulaic calculations. Measuring all costs and benefits is not necessarily easy, nor is it always possible, thereby limiting its usefulness. Determining what constitutes an appropriate measure can also be problematic. This is not to suggest abandoning attempts to calculate costs and benefits, but rather to highlight the need to make costs and benefits of adopting a policy more explicit and understandable so the public at large and policymakers in particular can be better informed than they would be in the absence of such information. Who benefits and who bears the costs of adopting a policy are distributional issues that go beyond efficiency, raising equity issues that warrant critical analysis and public scrutiny.

Equity

Equity refers to fairness or justice in the distribution of a policy's cost, benefits, and risks across population subgroups. In policy debates, equity has two different meanings: process equity, often referred to as procedural justice, and outcomes equity, often referred to as social justice. **Process equity** refers to decision-making procedures or processes—that is, the extent to which they are voluntary, open, and fair to all participants. Adherents of process equity such as Robert Nozick (1974) contend that guaranteeing and protecting individual and property rights are the primary responsibility of government. Process equity adherents are likely to resist government efforts to promote equality beyond ensuring equal opportunity to participate in society's decisions. Adherents of **outcome equity** such as John Rawls (1971) contend that equity or fairness refers to the fair distribution of societal goods, such as wealth, income, or political power. Adherents of *outcome equity* tend to favor government intervention to promote more equitable distribution of society's resources than seems possible when market forces are the primary or final arbiters, even those outcomes resulting from dynamics of process equity. Measuring equity is inherently problematic given disagreements about the composition of the "basket of social goods" that ought to be more equitably distributed than is the case and given the requisite technical challenges that invariably accompany them.

Equity is likely to be central to any consideration of redistributive policies, such as tax reform, access to education and health services, and assistance to low-income persons and families. It invariably arises in any policy area where debate and decisions turn on who gains and who loses as a consequence of adopting a policy and modifying an existing policy. The "who" of the gains/losses refers to different groups or categories of people, that is, the targets of the policy: wealthy, middle class, or poor, whether families, neighborhoods, or individuals; urbanites or suburbanites; tax-filers or non-filers; homeowners or renters, and the like. As a contender for the 2012 Republican nomination for president, Herman Cain advocated a tax plan, known as the 9-9-9 tax plan, that mixed a flat tax and a national sales tax, both of which were viewed as regressive—that is, more adverse to those at the lower end of the economic ladder and disproportionately advantageous to more affluent persons and families (Fletcher, 2011; Kucinich, 2011).

Liberty

Liberty or freedom refers to the extent to which public policy extends or restricts privacy and individual rights and choices. Cash benefits associated with the Temporary Assistance for Needy Families (TANF) program or the Supplemental Security Income (SSI) program maximize individual choice, whereas food stamp, housing, and education vouchers are more restrictive since they must be used for designated purposes. Public money supporting family planning or counseling organizations that include information about abortion services or provide such services affirm women's right to privacy, ensuring

access for low-income women on more equitable terms with more affluent women than would be the case otherwise.

Political Feasibility

Political feasibility refers to the likelihood that a policy would be adopted—that is, the extent to which elected officials accept and support a policy proposal. It can be difficult to determine, contingent in part on perceptions of related issues, changing economic and political conditions, and the climate of opinion about related issues. Highly visible programs targeting “deserving” populations such as low-income elderly or children, and those with severe mental or physical health problems usually carry relatively low political risk, since helping such economically vulnerable populations of people projects an image of a social and moral conscience (Chambers & Wedel, 2005). Politicians are also likely to assess the potential for failure/success to reduce the impact of the social problem a policy or program is meant to address. Much of the debate leading up to the welfare reform legislation, for example, focused on how best to end dependence on government benefits and to prevent or reduce the incidence of out-of-wedlock pregnancies, both of which were incorporated into the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA, P.L. 104–93) (Caputo, 2011). Note that one of the two primary purposes of PRWORA was to end dependence on government benefits for low-income persons and families, not to reduce poverty. What constitutes failure/success is debatable and may prove contentious or problematic when discussing existing programs and policies, particularly during election years when candidates want to accentuate differences with their opponents. For new or proposed programs lacking a track record, demonstration or pilot projects (in cities or counties at the state level) or in several states (at the national level) may be more politically feasible than full-scale adoption in a state or for the entire country. Experimental failures, should they occur, are less risky politically, whereas program failures, for which success has been advertised or highly touted, could prove politically disastrous.

Social Acceptability

Social acceptability refers to the extent to which the public at large will accept and support a policy proposal. Whether the public views a policy or program as appropriate and responsive can be difficult to determine, even when public support can be measured. Partisans of an issue may grab media headlines, giving the appearance of greater public support or opposition for their pet cause than is warranted, as can be gleaned from Caputo (2011), Medvetz (2012), and Lens (2000) in regard to PRWORA. Ambivalence, uncertainty, or on many issues even indifference may be more the norm.

Administrative Feasibility

Administrative feasibility refers to the likelihood that a department or agency can implement the policy or deliver the program well. It entails an assessment of a department’s or agency’s capacity, a projection of available resources and agency behavior that may be difficult to estimate. Chambers and Wedel (2005) note that administrators will invariably favor a benefit that is simple rather than complicated to administer. Cash benefits and subsidies place responsibility on the beneficiaries (or parents and legal guardians when beneficiaries are children or incapacitated adults) for obtaining needed products or services, thereby avoiding *administrative complexities* and perhaps even higher administrative costs of service

provision. Lower administrative cost is one of the more consistently persuasive rebuttals against privatizing Social Security, since brokerage fees for fund management of individual private accounts are avoided (Congressional Budget Office, 2004).

Technical Feasibility

Technical feasibility refers to the availability and reliability of technology needed for policy implementation. It is often difficult to anticipate technological change that would alter feasibility. Technological advances in data collection, storage, and retrieval, for example, made it feasible for the federal government to require states to establish case registries to enhance the prospects of successful child support enforcement by enabling authorities to locate and track parents who owed such support, not only within states but between states as well. Title III, Subtitle B of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104–93) required states to create and maintain such automated systems.

Stigmatization, Target Efficiency, and Trade-Offs

Acquisition and consumption of many income- or means-tested social welfare benefits that are public or overtly visible to others often carry negative or *stigmatizing* attributions or connotations, such that recipients of such benefits are associated, for example, with “being on welfare” (e.g., see Stuber, 2003). Recipients of in-kind benefits such as food stamps and WIC (Special Supplemental Nutrition Program for Women, Infants, and Children), whether in the form of debit card look-alikes or vouchers, are also often subject to disparaging or stigmatizing comments by cash-paying or debit/credit-card customers when purchasing groceries.

Despite the stigma associated with in-kind benefits, as a policy option they are notable for their *target efficiency*—that is, benefits such as food, education or housing vouchers, or medical subsidies go directly to the specific social problem of concern: nutrition, schooling, shelter, or health. Whereas cash as a type of benefit increases consumer sovereignty, in-kind benefits restrict choice, suggesting there may be *trade-offs* between various evaluative criteria, relaxing or extending social control. Invariably, increasing choice or enhancing self-determination over what to consume, which is often associated with cash benefits, is a worthwhile evaluative criterion, especially to the extent it is accompanied by decreasing the prospect of stigma.

In general, a *trade-off* occurs when some disadvantage occurs in order to get another advantage. Obtaining *target efficiency* with in-kind benefits extends social control, thereby diminishing to some unspecified extent a recipient’s self-determination about the nature of the benefit and how to use it. The provision of cash assistance, however, though less visible than in-kind benefits, did little to mitigate the generalized stigma attributed to low-income “welfare” mothers who participated in the Aid to Families with Dependent Children (AFDC) program (established as Aid to Dependent Children in the Social Security Act of 1935 and designed primarily for low-income widows) between the 1960s and 1996, or afterward when the federal government replaced AFDC with TANF, which placed time limits on receipt of federal cash payments and instituted work requirements and other conditions for benefits (Hartzell, 2007; Kim, 2009; Soper, 1979). Economists often debate the likelihood of *trade-offs* between labor force participation and inflation rates: greater labor force participation increases the likelihood of consumption, and the increased demand for goods and services increases the likelihood of greater willingness to pay

higher prices. The *trade-off* need not be exact or zero-sum, as the 1994–1998 period of historically low unemployment rates and low inflation demonstrated, but does become a point of contention in related policy debates.

Substitutability

Substitutability refers to the possibility that a public policy or program may be used in such a way so as not to produce desired effects (Chambers & Wedel, 2005). Food stamps, for example, whose recipients are meant to increase their food purchases and consumption, may instead forgo such purchases and consumption and use the money “released” by their availability to purchase other commodities of choice. The net gain is not necessarily food items: some alternative purchases may nonetheless be deemed socially acceptable (such as books or other essential items), but others may not be (such as illegal drugs).

DESCRIPTIVE SUMMARY OF POLICY PRODUCTS

Who Gets What?

One of the first tasks of the policy analyst is to identify who benefits from the policy under consideration, what type of benefits they get, what if any criteria and their accompanying or underlying rationales are used to determine eligibility for those benefits, and how well do the benefits fit with the definition of the problem they are meant to address (Chambers & Wedel, 2005; Gilbert & Terrell, 2005). **Universal benefits** are available to an entire population and for the most part are not *means tested*—that is, they are provided regardless of income levels of recipients, their families, or households. Examples in the United States include the Old Age, Survivor, and Disability Insurance (OASDI) program, commonly referred to as Social Security, primarily for retirees and their dependents, and public education for the young. Fostering social solidarity is a commonly understood rationale for providing universal provisions such as OASDI and public education. **Selective benefits** are available on the basis of individual need, usually determined by a means test. Examples in the United States include the Temporary Assistance for Needy Families (TANF) program, Medicaid (health care for low-income families and destitute elderly or disabled people in nursing homes), and the Supplemental Nutrition Assistance Program (SNAP), commonly referred to as food stamps. Targeting intended beneficiaries and lower costs than universal programs are common rationales for such selective programs. Within these two broad categories of benefits, there are a variety of types.

Types of Benefits

Cash, vouchers, in-kind services, opportunity, and credits

Types of benefits include *cash* (Social Security, TANF, and Unemployment Insurance), *vouchers* (SNAP, the Housing Choice Voucher Program or Section 8 Housing), *in-kind services* such as Medicare’s Program of All Inclusive Care for the Elderly (PACE), and *opportunity* or *positive discrimination* directed to protected groups to redress past inequities (Affirmative Action). Benefits can also take the form of

credits. When government directly pays a hospital, for example, to cover costs of providing care to a low-income individual in need of medical or psychiatric services rather than giving cash to the recipient to pay the hospital, a credit is issued from the public treasury into the recipient's account at the hospital. Credits are like vouchers in that both are payments to a supplier of benefits or services, but they are more restrictive in regard to consumer choice. Vouchers are written authorizations to receive a benefit or service, leaving the choice of purveyor to the beneficiary. A credit is prearranged such that the benefit or service can be received only by the service provider chosen for this purpose by the government or its delegated agency. This type of credit also differs from the benefits of such government programs as the Earned Income Tax Credit (EITC) or the child tax credit administered by the Internal Revenue Service (IRS) as part of the tax system.

The EITC, for example, is an annual lump or monthly sum of money sent by the U.S. Treasury in the form of a check to many workers with children and, to a lesser extent, childless workers whose income falls below official poverty thresholds (Caputo, 2006, 2009). Both the EITC and the child tax credit are "refundable tax credits." That is, unlike other tax preferences that reduce the amount of taxes owed to the government, refundable credits may result in net payments from the government: if the amount of the refundable tax credit exceeds a filer's tax liability before the credit is applied, the government pays the excess to the person or business (Congressional Budget Office, 2013). There are two major groupings of refundable tax credits: earnings-based, such as the EITC and child tax credit, and expenditure-based, such as the health coverage tax credit and adoption tax credit. A third grouping involves those refundable tax credits associated with the Alternative Minimum Tax (ATM). Table 4.1 shows the start dates (i.e., the first year that the credit became refundable) and expiration dates of all types of refundable tax credits.

Subsidy

Another type of benefit is a *subsidy*, a payment to a third party. To encourage hospitals to provide expert services to low-income individuals and families in need of medical or psychiatric care, for example, states may give 50 percent of start-up costs and 70 percent of net operating costs (or some fixed percentage of each) in return for guaranteeing that their facility would serve all or a specified portion of such clients. The state thereby increases the likelihood of getting services to categories of people in need, *indirectly* through such institutional subsidies. Examples of such public subsidies include government payments to purchase computers for educational centers; passenger railroad service operations; national, state, and local highway construction; the operation of community mental health centers and day care centers; the education of developmentally disabled children; and to employers to hire specified groups of workers, such as unemployed veterans and long-term unemployed individuals. More specifically, the Medicaid program, which subsidizes medical expenses for low-income patients, also benefits the hospital industry by picking up costs for services that hospitals cannot deny, services for which they cannot expect low-income patients to pay. Hospital employees, including professionals such as physicians, nurses, and social workers, as well as support staff such as administrators, aides, orderlies, and janitors, also benefit indirectly from such subsidies. Pell Grants, which are made available through the U.S. Department of Education (2003) and awarded primarily to undergraduate students in financial need, are a form of subsidy. The grant goes directly to the student's educational institution, which in turn can credit the student's account for any educational expenses, such as tuition or books. The institution may also pay the student directly by check or cash, for which the school gets a signed receipt.

Table 4.1 Start Dates and Expiration Dates of Refundable Tax Credits

Credit	Start Date	Expiration Date
Earnings-Based Credits		
Earned Income Tax Credit	January 1, 1975	None
Child Tax Credit	January 1, 1998	None
Economic Stimulus Payments	January 1, 2008	December 31, 2008
Making Work Pay Credit	January 1, 2009	December 31, 2010
Expenditure-Based Credits		
Health Coverage Tax Credit	December 1, 2002	December 31, 2013
First-time Homebuyer Tax Credit	April 9, 2008	April 20, 2010
COBRA Premium Assistance Credit	September 1, 2008	May 31, 2010
American Opportunity Tax Credit	January 1, 2009	December 31, 2017
Adoption Tax Credit	January 1, 2010	December 31, 2011
Small Business Health Care Tax Credit	January 1, 2010	None
Health Premium Assistance Tax Credit	January 1, 2014	None
Other Credits		
Prior-Year Alternative Minimum Tax Credit—Individuals	January 1, 2007	December 31, 2012
Prior-Year Alternative Minimum Tax Credit—Corporations	April 1, 2008	December 31, 2013

Source: Adapted from Congressional Budget Office. (2013). *Refundable tax credits*. Washington, DC: Author, p. 26.

Positive Discrimination

Positive discrimination is a form of benefit that provides special treatment now to remedy unequal treatment in the past. Examples are health-related benefits for Native Americans through the Indian Health Service and Social Security retirement benefits for Japanese Americans who spent part of their working years in internment camps during World War II. *Positive discrimination* was launched as the

concept of affirmative action by an Executive Order of President John F. Kennedy in 1961 and codified in the 1964 Civil Rights Act to ensure nondiscrimination in employment on the basis of race, creed, color, or national origin (Caputo, 1994). Increasingly, affirmative action came to mean and be practiced as giving special treatment to individual members of “protected groups,” not only in regard to employment-related hiring and workplace treatment but also in access to education, in part to redress past wrongs. Affirmative action laws that make benefits available to protected groups such as racial and ethnic minorities, disabled persons, and women are controversial in part because membership, which is assigned by policy, is deemed *prima facie* evidence of past employment-related discrimination (e.g., in hiring or promotions).

On February 16, 2011, the Equal Employment Opportunities Commission (EEOC) held hearings to examine the treatment of unemployed job seekers in light of reports indicating that employers and agencies refused to consider unemployed persons for openings (“The Unemployed Need Not Apply,” 2011) and about specific job postings indicating that employers would consider or at least give strong preference only to those currently employed or recently laid off (Rampell, 2011a). Under current law, unemployed persons are not a protected group. President Obama reportedly had endorsed legislation, The Fair Employment Opportunity Act of 2011 (H.R. 2051, introduced on July 7 by Representative Rosa L. DeLauro, D-Conn.), barring discrimination against the jobless (Rambell, 2011b). The District of Columbia has passed such legislation and New York City is considering it, with Christine C. Quinn, speaker of the City Council, reportedly in favor (“We want to do everything we can to help people work”), and Mayor Michael Bloomberg opposed, contending that lawsuits would deter companies from hiring anyone at all (Hu, 2013). If such legislation were more widely adopted and favorably ruled on by local, state, federal, and ultimately the U.S. Supreme Court, as a protected group, unemployed persons would fall under the protective umbrella of positive discrimination. Even in the absence of a finding that unemployed persons are a protected group, judicial decisions and state legislators have grappled with challenges to affirmative action laws, particularly in regard to admission to colleges and graduate schools, with the Supreme Court likely to take up the matter again in the future (Arizona Civil Rights Initiative, 2011; Billups, 2011; Edelman, 2011; Garfield, 2005; Kahlenberg, 2011; Malos, 2011).

Case in Point 4.3: The Supreme Court and Affirmative Action

The term of the Supreme Court beginning October 1, 2012, had affirmative action on the docket. On October 10, 2012, the Supreme Court heard arguments in *Fisher v. the University of Texas*, which challenged affirmative action in higher education. Abigail Fisher, a white woman, charged she was denied admission to the University of Texas on the basis of race. To ensure racial diversity, race is one of several factors the University of Texas takes into account when selecting its incoming class. Nine years ago the Supreme Court had endorsed this approach in a 5-to-4 vote, in *Grutter v. Bollinger*. Writing for the majority, Justice Sandra Day O'Connor, who has since retired, said she expected affirmative action to remain in place another quarter of a century (Liptak, 2012a; Overview, 2013).

Loan Guarantee

A loan guarantee is another type of benefit. A common example is the Federal Housing Administration (FHA) Program, which provides federal government guarantees of mortgage loans for private dwellings. Should a homeowner default, the U.S. government pays off the loan, thereby enabling banks to make loans that they might not have made, or perhaps would have made but at higher interest rates, without the guarantee. The beneficiaries of loan guarantees often result from multiplier effects of the loan. This is to say that benefits go well beyond homeowners, the primary intended beneficiary, to include the home builder, the banker, the materials supplier to the home builder, and so on. Loan guarantees are also given to businesses. In 1990, for example, the government bailed out the U.S. savings and loan (S&L) industry, to the tune of \$293.3 billion (in 2008 U.S. dollars). In 2008, the Federal Reserve provided a \$30 billion line of credit to ensure the sale of Bear Stearns to JP Morgan Chase. To stem the financial crisis of 2008, in October of that year Congress passed the Emergency Economic Stabilization Act, authorizing the Treasury to spend \$700 billion. An additional \$280 billion of federal guarantees were extended to Citigroup in 2008 and \$142.2 billion in 2009 to Bank of America (Sorkin & Thomas, 2008; Nankin, Umansky, Kjellman, & Klein, 2009). The federal government also makes a number of guaranteed loans to students at relatively low and/or fixed interest rates, including Stafford Loans (which may or may not also be subsidized) made to college and university students to supplement personal and family resources, scholarships, and work-study grants: \$31,000 lifetime limit (up to \$23,000 unsubsidized) for dependent undergraduates; \$57,500 for independent undergraduate students; and for graduate or professional students \$138,500 (up to \$65,000 unsubsidized) and \$224,000 for health professionals (StudentLoanNetwork, 2011).

Eligibility Criteria and Types of Eligibility Rules

All social programs in the United States have eligibility criteria that are inherently exclusionary in some sense, even the universal programs. Social Security benefits, which require an accumulated work history and related percentages of salary contributions from workers and employers (in most cases), for example, apply to retirees or their beneficiary dependents; public education is free to everyone only through high school, not beyond. Child allowances are available to everyone with young children, but granted only to those who file federal income tax returns, thereby excluding many low-income families who are not required or perhaps are reluctant to do so. The Earned Income Tax Credit (EITC) targets low-income workers who must also file federal tax returns to claim the benefit, excluding those who do not file whether by intent or ignorance, as well as some married couples who file jointly and whose combined income lifts them above the eligibility threshold for their family size. It is important to note that eligibility for a service or benefit differs from who actually receives the benefit or service (Gilbert & Terrell, 2005, pp. 125–128). Take-up rates frequently fall well short of those who meet eligibility requirements for many means-tested social welfare programs, as Caputo (2006) has shown in the case of the EITC and as Ratner (2012) has shown for SNAP (or food stamps). Reasons vary, from ignorance among those eligible about the programs to diversionary or exclusionary practices on the part of the service agencies and providers.

Drawing on and elaborating upon Titmuss (1976), Chambers and Wedel (2005) identify eight types of eligibility rules meant to capture the bewildering variety of rules and regulations for determining who gets what, how much, and under what conditions, given the decentralized disarray of social welfare in the United States: prior contributions, administrative rules, private contracts, professional discretion, administrative discretion, judicial decision, means testing (needs minus assets and/or income), and attachment to the workforce.

Eligibility Rules Based on Prior Contributions

Social welfare programs such as Social Security and Unemployment Insurance (UI) are examples of providing benefits based on prior financial contributions from individual recipients, others on their behalf, or some combination of the two. The rationale behind the method of prior contributions as the basis of benefit receipt is similar to principles that lie behind all private insurance schemes, namely (1) advance payment provides for the future, and (2) protection against the economic consequences of personal disasters or misfortune is better achieved by spreading risk among large numbers of people. The nature and amount of prior contributions vary by the age at which the benefit is drawn and the type of benefit. To draw Social Security benefits, for example, at least 40 quarters of coverage (10 years) are generally required, although for disability benefits 20 quarters in the 10 years prior to determination of the disability are required, with special insurance status for those who are disabled before age 31. Prior contributions come from both the individual workers and the employers, a matched amount expressed as a percentage of workers' wages. As of 2012, the established rates for Social Security and Medicare were 6.2 percent and 1.45 percent of wages (up to \$110,100), respectively, paid by both employee and employer (12.4% and 2.9% respectively for self-employed individuals) (U.S. Social Security Administration, 2012). To be eligible for Unemployment Insurance benefits, an unemployed worker must have worked in covered employment for a period of time specified in *state law* (in most states, the first four of the last five completed calendar quarters). Contributions come from a tax on wages paid by employers in covered employment, with funds credited to each state's unemployment trust fund, which the federal government maintains. An individual who has had no contributions made on his or her behalf by a covered employer is ineligible for unemployment cash benefits.

Eligibility by Administrative Rule and Regulation

Administrative rules are meant to clarify eligibility rules laid out in the law. On one hand, they provide social workers and other human service staff a means by which to administer the program benefit or service evenhandedly and reliably, such that people similarly situated are provided with similar benefits. On the other hand, administrative rules restrict social workers' and other human service staffs' discretion or judgment about the need for the benefit or service in individual circumstances. The eligibility rules for the Supplemental Nutrition Assistance Program (SNAP), or food stamps as it is more commonly known, are specified in the law: the exact amount of assets and income is specified by family size in the text of the act, along with definitions of what constitutes a household (U.S. Department of Agriculture, 2012). The administrative rules for TANF (Temporary Assistance for Needy Families), in contrast, are quite numerous and cover many different topics, resulting in tome-like manuals that include state and federal statutes relevant to the program as well as how those laws are to be interpreted by the staff members who sign the eligibility documents. Administrative rules govern how to count assets and income and may specify whether a child's paper route income is to be counted as family income or whether an inherited item such as a piano is to be counted as an asset. Further, TANF gives states more discretion in how to spend federal cash assistance, so state laws and administrative rules and regulations governing the service mix (job training, child care, education, etc.) and noncompliance sanctions vary accordingly. Administrative rules are created with the understanding that they can change over time as circumstances warrant. Changes in administrative personnel may also result in changes to eligibility rules. If devised by administrators, such rules can also be changed by administrators. In addition to discerning what are permissive versus mandatory rules, it behooves the policy analyst to know whether the entitlement or eligibility rule originates with judicial decision, administrative rule, or individual staff

discretion, given that the probability of change varies accordingly. Staff decisions, to the extent they can be observed and monitored with any consistency, may be easier to change than formal rules or statutes.

Eligibility by Private Contract

Private contracts are involved in purchase-of-service contracting (POSC). Over the past several decades more and more social welfare services, such as counseling, legal advocacy, special education, day care, and some transportation services (e.g., for the elderly or disabled), are delivered by private agencies and organizations that contract with the public agencies. State, county, or city governments usually pay the bill or some portion of it directly to the private purveyor of the contracted service. State and local governments, as well as private charitable organizations, often insert conditions into the contract—about who can get what services under what conditions (Faith et al., 2010; Martin, 2004, 2000; McBeath, 2006; Wedel, 1991; Wedel & Colston, 1988).

Eligibility by Professional Discretion

Professional discretion by individual practitioners plays an inordinately large role in the determination of eligibility of social welfare benefits. (See Chapter 9 for a discussion of the role of professional discretion in implementing social welfare policies and programs.) Nearly every licensed professional controls part of the process for assessing and determining eligibility for social welfare benefits: medical benefits are contingent upon the discretion of the physician or her or his surrogate; dental care for children in TANF program families is entitled in part by dentists; legal advocacy for low-income persons is determined in part by the judgment of lawyers and judges; foster care for children is decided in part by social workers. The requisite professional judgment in each of these cases is presumed to be based on their expertise about the matter. It is important that social workers and other professionals realize that their judgments can be challenged in an administrative or judicial hearing and that they have a professional obligation to help their clients with any such challenge they deem unwarranted or prejudicial. At times, professional discretion is the leading evidence or final arbiter of very difficult sets of circumstances. Removing children from their parents' care is a case in point, as in child physical abuse, sexual abuse, or neglect cases: judgments of physicians, clinical psychologists, and social workers are commonly used. Social workers and other professionals are advised to be wary of blanket assumptions about the validity of these difficult judgments.

Case in Point 4.4: Child Protective Services and Professional Discretion

In a study of the Norwegian Child Welfare Service (CWS) workers, Christiansen and Anderssen (2010) reported that social workers' long-term back-and-forth processes—that is, experiences with their cases and, in particular, interactions with parents—were determinative in shaping their judgments and reaching decisions about placing children in out-of-home care. In the absence of any national guidelines for how assessments in child welfare cases should be resolved, the Norwegian Child Welfare Act of 1992 provided a wide berth for professional discretion in such matters.

Eligibility by Administrative Discretion

As noted above, discretion is an integral component of professional practice when assessing the eligibility of individuals and families for social welfare services. Administrators also exercise discretion that affects eligibility for services. In many county public welfare offices, staff workers distributing small amounts of cash and credits for food, housing, and utilities for low-income individuals and families as part of the General Assistance program financed by the local government, account for the funds only in a fiscal sense, with little accounting about the requisite judgments and limited if any systematic effort to document accuracy. More generally, organizational policies and administrative rules entail interpretation and application to specific situations, invariably involving significant personal judgment by the staff member. Think of a state patrol officer who while driving past a motor vehicle witnesses an adult spanking a five-year-old child in a car stopped at the side of the highway. Is what the officer witnessed a case of acceptable discipline of a disobedient or otherwise unruly child? Or is the discipline too harsh, perhaps to the point of leaving black and blue marks or breaking the skin of a defenseless child? The discretion in this example is about how to interpret the state's child abuse law. Such statutes seldom reveal rules for interpretation—no mention of how inflamed the bruises must be, or even whether black and blue rather than red bruises count. Nor will such statutes necessarily protect the officer from consequences if the parent claims illegal detainment or false arrest. Social workers and medical personnel face similar situations in emergency rooms, but with a slight difference in the type of discretion exercised. The source of authority differentiates the administrative discretion in the case of the state patrol from professional discretion of the social worker and medical personnel in emergency rooms: professionals exercise discretion on the basis of the authority of their professional preparation and training, whereas administrators exercise authority because they are appointed by their superiors to do so.

At times, administrative discretion has gone amok, with the effect of preventing access to services for individuals and families who are eligible. Chambers (1985) provides a telling example of efforts during the early 1980s Reagan administration to terminate Social Security Disability (DI) and Supplemental Security Income (SSI) benefits for chronically mentally ill individuals. The Social Security Disability Amendments of 1980 (P.L. 96-265), signed into law by President Jimmy Carter on June 6, 1980, had several administrative features that the Reagan administration used to terminate DI/SSI beneficiaries: (1) institution of "Continuing Disability Investigation," which scheduled re-review of all DI/SSI beneficiaries, giving the Social Security Administration (SSA) discretion to set policy guidelines by which state personnel awarded DI/SSI benefits; (2) for the first time permitted SSA to arrange its own private medical consultation for evaluating disablement (thereby making SSA independent of claimants' personal physicians); and (3) gave SSA the right to contest disability decisions even after they were appealed to SSA's own administrative law judges, so SSA could exercise administrative control throughout the disability award process (Chambers, 1985; Congressional Research Service, 2011). The expected termination rate of 20 percent increased to 47 percent by mid-1982; the 40 percent approval rate of 1979 declined to 29 percent in 1981; and the 71,500 beneficiaries terminated by continuing disability investigations in 1980 were reported to have increased to 98,800 in 1981, to 121,404 in the first five months of 1982, and were projected to reach 360,000 per year by 1984. Thousands of appeals ensued, with judicial decisions (e.g., *MHA of Minnesota v. Schweiker*, 1982) overturning about 80 percent of terminations, highlighting the importance of advocacy efforts on behalf of clients and of the judiciary as an influential actor in the policy arena.

Eligibility by Judicial Decision

As noted above in the example of overturning DI/SSI terminations in the early 1980s, judicial decisions affect determinations of eligibility for social welfare benefits. Generally, they occur after a program

has been in operation for a period of time and a question arises as to whether the enabling legislation or whether an administrative rule or discretionary judgment was faithful to the spirit and intention of the law under which the program was established. Appeals to the judiciary for clarification of the law are routine and they can become as important as legislative and administrative rules themselves. Paternity determinations, for example, are a source of judicial entitlement to child support payments by non-supporting fathers. Many courts use the human leukocyte antigen (HLA) test, which will rule out, with 97 percent accuracy, whether a given individual is the father of a particular child. Judicial decisions also play a large role in the family court system, particularly in the area of protective services when making determinations about foster care and about child abuse and neglect cases, at times using the expert testimony of social workers and other helping professionals (Calkins & Millar, 1999; Strand, 1994).

A 1969 ruling of the Supreme Court held that residence requirements (i.e., having to establish permanent residence in a state for a specified period, often for one year) to obtain cash benefits under the Aid to Families with Dependent Children (AFDC) program were unconstitutional infringements on citizens' (labor's) right to free movement between states. This ruling still applies to AFDC's successor, TANF, created in 1996 by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, P.L. 104-193). Judicial decisions have for the most part validated PRWORA provisions that made all lawful immigrants who arrived in the United States after August 22, 1996, ineligible for many federally funded social welfare benefits regardless of age, disability, or minor status, in addition to authorizing states to deny Medicaid, TANF, and Social Services Block Grant services to those residing in the United States and receiving benefits as of August 22, 1996 (Kim, 2001).

Case in Point 4.5: ACA and Judicial Decision

Sometimes judicial decisions have a bearing on legislation that barely has had any time for implementation. A prime example is the Patient Protection and Affordable Care Act (ACA, P.L. 111-148), signed by President Barack Obama on March 23, 2010. ACA extends medical insurance to more than 30 million people, primarily by expanding Medicaid and providing federal subsidies to help lower- and middle-income individuals buy private coverage (Health Care Reform, 2011). More than 20 court challenges have been filed against the law, resulting in a series of conflicting appellate decisions over an array of issues, the central one being whether Congress has the constitutional power to require people to purchase health insurance or face a penalty through the so-called individual mandate (Challenges to the Health Law, 2011; Liptak, 2011a). On November 14, 2011, the Supreme Court decided to hear a challenge to the law (Liptak, 2011b) and on June 28, 2012, the Supreme Court, in a 5-4 vote, upheld the law (Liptak, 2012a).

Eligibility by Means Testing

Eligibility by **means testing** is one of the most widely used of all eligibility rules. Income and assets are totaled to determine if they are less than some established standard for what a person or family needs. Those at or below the standard are deemed eligible for benefits. What constitutes countable income and assets for purposes of means testing varies by program and oftentimes also by state. Income, which

is often a matter of record and in the form of cash, is more easily determinable than assets, which are usually held in private and whose valuation can thereby be problematic. Programs such as TANF, SNAP (food stamps), and WIC (the Special Supplemental Nutrition Program for Women, Infants, and Children) count almost all wages and assets of household members, whereas SSI counts wages up to \$65 a month and half the amount above \$65 a month, and assets over \$2,000 for an individual/child and \$3,000 for an adult. Some forms of income are excluded from consideration. SSI excludes income tax refunds, the value of food stamps, loans that have to be repaid, grants, scholarships, fellowships, or gifts used for tuition and educational expenses, as well as the first \$20 of most other income received in a month. What constitutes need also varies by program and by state. Many programs use the official federal poverty thresholds (which establish an absolute minimum level for subsistence) or a multiple percentage of these levels (to establish nutritional adequacy) as a basis for determining need. SNAP sets a monthly income limit at 200 percent of the current poverty level; Medicaid is set at 100 percent plus \$25 (\$50 for couples), which is disregarded income in Illinois; energy assistance or LIHEAP is at 150 percent; senior employment assistance at 125 percent; and weatherization of housing at 200 percent of the 2009 poverty level (Government Programs, 2012). SSI does not rely on official federal poverty thresholds. Instead, benefit amounts are determined by that which brings an otherwise qualifying person's total monthly income up to a designated amount—up to \$674 in 2011 for individuals and up to \$1,100 for couples. The primary beneficiary focus also varies by program: the child for TANF; the household for SNAP; the pregnant or postpartum woman, infants, and children up to age 5 for WIC; the individual for SSI. As all this variation in programs suggests, when analyzing means-tested programs, it is helpful to examine them in light of the type of resource counted (wages and/or assets), the basis of need (minimum subsistence or nutritional adequacy), and the beneficiary (child, household, worker).

Establishing Attachment to the Workforce

Labor force attachment, such as being employed or actively seeking work, as a determinant of social welfare benefit eligibility is not to be confused with its desirability as an aim or consequence of a policy or program. Social Security and Unemployment Insurance (UI) both have requirements about minimum work-related contributions. As noted above, Social Security requires 40 quarters of coverage (a minimum of 10 years), although for disability benefits 20 quarters in the 10 years prior to determination of the disability are required, with special insurance status for those who are disabled before age 31. The UI program benefits those who have significant work histories, excluding from benefits those working part-time, only in casual employment, or only for insignificant wages. Specific rules vary by state. Typically, UI requires the worker to have received wages for at least six months and to have received at least \$200 in wages during each prior three-month period.

Other programs such as TANF or SNAP (food stamps) tie labor force participation, whether holding a job or looking for work, to benefit receipt. The labor force participation requirements of these types of social welfare programs are meant to ensure that recipients are making concerted efforts to achieve “self-sufficiency,” in order to minimize the length of time they participate in the social welfare programs.

Like TANF and SNAP, the Earned Income Tax Credit (EITC) has no specific prerequisite about length of time worked, such as number of quarters or full or part time for eligibility. Instead, having earned income below a specified amount (contingent on tax filing status and age and number of children), whether from wages, salaries, tips, or other taxable employee pay, net earnings from self-employment, or gross income received as a statutory employee, as well as strike benefits paid by a union to its members, is requisite

for EITC eligibility. EITC is meant to encourage continued labor force attachment among low-income workers by allowing wage-related earnings to reach levels of 125 percent, or in some cases around 200 percent, of official federal poverty thresholds before phasing out completely (Kneebone & Garr, 2011).

Skill Building Exercises

1. Provide a summary description of legislation currently under consideration by the U.S. Congress, a State Assembly, or a local municipality (county, city, or other local government).
 - a. Who gets what, under what circumstances?
 - b. How is the proposed bill to be funded?
2. What eligibility criteria were used to determine the beneficiaries of the policy described in skill building exercise #1?
 - a. What values are associated with these eligibility criteria?
 - b. Assess the merits and/or limitations of the eligibility criteria.
 - c. Given your understanding of human behavior and the social environment, what theoretical frameworks undergird these eligibility criteria and the values associated with them.
3. Discuss trade-offs likely to occur when considering modifications to or alternatives of eligibility criteria embedded in the legislation described in skill building exercise #1 and identified in skill building exercise #2.
 - a. Given that some trade-offs are likely to be more consistent with the professional mandate to advance social justice, rank each alternative trade-off on a scale of 0–10, with 10 signifying the greatest degree of consistency with the professional mandate for advancing social justice.
 - b. Taking the two extreme alternatives as ranked above (i.e., the lowest and highest ranked), provide a rationale for your rankings.