



Temporary Assistance for Needy Families

Recommendations for Reauthorization

December 2010

Prepared by

The National Association of State TANF Administrators
an affiliate of the American Public Human Services Association

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A NOTE FROM THE CHAIR of the National Association of State TANF Administrators

The Temporary Assistance for Needy Families program is critical to the provision of income supports and other services for low-income families throughout the nation. When established in 1996, TANF represented a milestone in the evolution of American anti-poverty policy and produced profound changes in the culture of cash welfare for clients and caseworkers alike. TANF also permitted states the flexibility needed to better address the needs of families in ways other than providing an ongoing cash welfare grant. The TANF program remains central to efforts to provide for needy families and promote family stability.

The creation of the TANF program came at a time when public confidence in cash assistance programs was at an all-time low and caseloads had reached historic heights. Today, it is broadly understood that cash support is intended to be time limited and that recipients are expected to take steps to improve their economic condition, including efforts to secure employment by those able to work. Due to TANF's strong work focus and the flexibility afforded states through its four purposes, public confidence in the program has been restored, individuals are actively engaged in activities to improve outcomes for their families and necessary supports other than monthly cash benefits can be provided to support low-income workers and otherwise address the needs of families.

The National Association of State TANF Administrators urges President Obama and Congress to act to reauthorize the TANF program and to build upon its success. The enclosed recommendations for TANF reauthorization reflect work conducted by state leaders to identify areas that continue to have strong support and those where program improvements are needed. NASTA asks that the positions outlined in this document be given very serious consideration, since they represent the thinking of those on the front lines of America's effort to support low-income families.

We look forward to continuing our collaborative work with the Administration and members of Congress to effectively advance the TANF program.

Sincerely,

A handwritten signature in black ink, appearing to read "RS", is written over a light blue horizontal line.

Russell Sykes

Chair

National Association of State TANF Administrators

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The **American Public Human Services Association**, founded in 1930, is a nonprofit, bipartisan organization of state and local human service agencies and individuals. APHSA pursues excellence in health and human services by supporting state and local agencies, informing policymakers, and working with our partners to drive innovative and efficient solutions in policy and practice.

The National Association of State TANF

Administrators is an affiliate of APHSA. NASTA is membership driven and devoted to strengthening the national TANF state block grant program and fostering the capacity of TANF administrators. NASTA's mission is to:

- Enhance the professional development of state and county TANF Administrators and TANF leadership staff;
- Share promising practices among state and county members;
- Help guide the development of APHSA policy in the areas of TANF and poverty-related concerns;
- Influence national legislation and social policy that supports and enhances the ability of states to administer the TANF block grant program to meet the unique needs present within each state.

NASTA's work is conducted through regular meetings and ongoing discussions about the law, policy, regulations and innovations that define the TANF program and how it functions today. NASTA also exists to provide its members with opportunities for peer-to-peer networking and technical assistance. NASTA is committed to asserting its voice in the realm of national legislation, federal regulation and social policy to the benefit of the TANF state block grant program and the dedicated professionals who run it.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM RECOMMENDATIONS FOR REAUTHORIZATION

Prepared by the National Association of State TANF Administrators
an affiliate of the American Public Human Services Association

EXECUTIVE SUMMARY

Overview

The National Association of State TANF Administrators (NASTA), an affiliate of the American Public Human Services Association, believes strongly that the Temporary Assistance for Needy Families program should be reauthorized with adequate funding; additional flexibility for states; and a continued emphasis on preparing clients for work, moving clients into employment, and facilitating access to work supports by low-income workers. The specific recommendations can be framed by four overarching priorities for the reauthorization of TANF:

- Adjust the TANF block grant to reflect current purchasing power and index funding going forward.
- Maintain a focus on work as the expected avenue for most program participants to attain economic security, while providing the necessary ability to tailor work preparation activities in a manner that is often necessary to help stabilize families and most appropriately prepare parents to both enter and maintain employment.
- Restore and enhance areas of state flexibility that were greatly undermined in the Deficit Reduction Act.
- Provide a state option to develop additional performance measures over and above the work participation rate (WPR).

The recommendations themselves are the product of a year of work by state TANF administrators who met regularly to review the current program and develop recommended changes to the TANF statute and regulations that will help states and localities effectively serve their varied clientele. To better focus this effort, NASTA divided the recommendations into four broad categories:

- Appropriate level of TANF funding;
- Allowable uses of TANF funds;
- Employment services and outcome measures; and
- Special program and population concerns related to TANF.

Considerable weight should be given to the recommendations advanced by TANF state administrators, since they have clear first-hand experience regarding TANF's attributes as well as its shortcomings with respect to serving low-income families throughout the nation. They operate the programs and have developed these recommendations based on the operational realities associated with state TANF administration. The flexibility within the original 1996 TANF block grant legislation allowed states to develop programs to address the self-sufficiency needs of each family on assistance, not just those who may be most ready for full-time employment. The TANF program also provided states the needed flexibility to provide non-assistance services to low-income families to help avoid the need for assistance and to support work efforts. Unfortunately, the 2005 Deficit Reduction Act (DRA) greatly reduced the very state flexibility that made the program successful.

Perhaps most importantly, TANF has changed the cultural message of financial assistance for the better, as clients recognize that although a temporary safety net exists, they are ultimately held responsible for acting on their own behalf and on behalf of their children. Public perception of the program has been greatly enhanced by this sense of mutual responsibility and the focus on work for able-bodied recipients. The recommendations included in this report are intended to further advance these efforts.

Level of TANF Funding

The amount of the TANF block grant was established in the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) statute based on historical state spending. This amount has not been adjusted to take into account the declining purchasing power of the dollar since that time and the enormous change in the populations served under the block grant. Today, states continue to try to meet current needs with funding fixed at 1996 levels. The work focus under TANF has helped numerous households move to employment and to be better off economically, while the success of caseload reduction has enabled states to make significant investments to help stabilize families in the workforce through such means as child care, transportation, expanded employment services, earnings disregards, and state tax credits that supplement low wages and other critical work supports. Currently, as caseloads begin again to rise in response to the severe recession, the resultant increased costs of cash assistance payments could jeopardize these post-TANF investments for working poor households if overall funding is not increased. Without adequate funding it will be very difficult to sustain this important dual focus of providing a cash safety net and stabilizing other low-income families in employment. It is critical that the level of funding available to states under the TANF block grant be sufficient to reflect current realities and the multiple services and supports the program provides to those on assistance as well as to economically struggling working families. The following changes should be included in reauthorization:

- Maintain the base TANF funding and formula allocation, and fold current supplemental funds into each eligible state's base.
- Increase the current level of overall funding for the basic TANF block grant using the Consumer Price Index (CPI) increase since 1996 and employ reasonable allocation methodologies for new funds.
- Ensure that emergency funding, similar to the Emergency Contingency Fund, remains available through FY 2011.
- Replenish the base Contingency Fund and create reasonable access during emergency periods.

Use of TANF Funds

TANF began in 1996 as a very flexible state block grant that shifted both expenditure and policy choices to states within a defined level of funding. Over the past several years the program has become more narrowly defined. Additionally, erosion of the real dollar value of available funds, inflexible restrictions on the allowable uses of TANF funding, and limitations of countable state maintenance-of-effort (MOE) funding have become an increasing barrier to states looking to effectively (1) work with a varied caseload on assistance, some of whom have complicated barriers to employment and (2) serve post-TANF households to help them avoid the need to return to TANF. Additionally, a disturbing trend has been the reemergence of a quality control-based (QC) evaluation of TANF that was expressly eliminated in favor of measuring work preparation and work participation program outcome measures in the 1996 legislation. This QC approach interferes with the program's core goals and diverts valuable staff resources away from an outcome focus.

NASTA recommends the following changes should be included in TANF reauthorization:

- Establish a standardized MOE requirement at 75 percent.
- Restore counting MOE under TANF purposes 3 and 4 without restriction to "eligible families."
- Oppose establishment of a national error rate for TANF and child care under the Improper Payments Information Act (IPIA).
- Exclude transportation and child care expenditures from the definition of "Assistance."
- Align Income Eligibility Verification System (IEVS) mandates for TANF with the SNAP program and/or allow alternative verification methods.
- Revise regulatory penalty provisions, thus making the option of appeal more viable for states.

Employment Services, Data Reporting and Penalties

Since enactment of PRWORA, TANF has been a program predicated on employment but also cognizant of the need for individualized activities that help stabilize families, promote full engagement, and support job retention. It has often been difficult to balance the expectation of work and personal responsibility and the need to provide critical services to families so that children are best served. It is vital that cash assistance should be underpinned in both good and

bad economic cycles by the fundamental goals of employment, job retention, and the provision of TANF work supports for those who can work. This powerful work message has led to major cultural changes that have effectively helped clients and gained broader acceptance for the program. A complementary goal is to ensure that those who are eligible for federal disability benefits seek and are assisted in accessing those benefits, since they are more likely to require long-term cash assistance. The Work Participation Rate in TANF is an important measure that should be maintained, but must be tempered with the recognition that many reasonable work preparatory activities are no longer countable as they were prior to the DRA. Additionally, the provision of TANF work supports, which comprise over 60 percent of TANF expenditures, is often not reflected in the basic WPR measurement that states must achieve. The following changes would be most beneficial for the TANF program going forward:

- Maintain a focus on work in balance with individualized activities that help stabilize families and prepare able-bodied adults for employment.
- Restore and enhance state flexibility regarding activities that are countable toward the WPR.
- Maintain the Caseload Reduction Credit (CRC) and Excess MOE credit.
- Establish a pro-rata credit for partial work/hourly participation for all countable hours, including non-core activity hours, with the condition that such credit shall only be granted if at least 10 hours of core activities are satisfied.
- Eliminate the 90 percent two-parent rate and maintain the 50 percent all-families rate.
- Restore the pre-DRA exclusion of families without an aided adult from the WPR calculation.
- Allow states, on a case-by-case basis, to remove cases from the WPR during the month of application and the month following application.
- Expand countable work hours to include activities such as Voc Ed for up to 24 months; Job Search/Job Readiness training for longer periods of time; and ESL as Job Readiness training.
- Exclude teens and low-income working families from the 30 percent cap on countable vocational education activities.
- Establish additional performance measures for employment wages and job retention and provide states the option to utilize alternative performance measures to mitigate WPR penalties.
- Add language requiring that the Administration for Children and Families (ACF) must negotiate with states to waive penalties for failing to meet the WPR for the current recessionary period of FYs 2008–2010, if the failure is clearly attributable to the economic environment and/or the state's status as a "needy state."
- Modify work verification plan requirements and related penalties.

Related Population and Policy Considerations

As a state block grant with a broad mission outlined by the program's four purposes, TANF touches many of the other human service programs. Some additional recommendations of related concern include the following:

- Establish TANF law that would encourage collaboration and give states the option to share basic information between TANF and child welfare agencies.
- Enact child support reforms including restoration of federal 66 percent match for reinvested child support incentive funds; encouraging "family first" distribution of child support at state option; providing temporary 90 percent FFP in child support for automated systems upgrades; and eliminating the assessment of child support penalties to TANF.
- Enhance responsible fatherhood programs and employment training programs for low-income non-custodial parents by increasing overall funding.
- Continue to address avenues to prevent teen pregnancy.

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FUNDING

Ensuring that states, territories and Tribal TANF grantees have access to adequate federal funding is key to the continued success of TANF. Funding for the basic block grants allocated to states has essentially remained frozen at the amount originally authorized under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). The recent national recession has demonstrated that the current Contingency Fund is woefully underfunded and overly complicated to access. The TANF Emergency Contingency Fund (ECF) offered some relief during the current recession. However, the ECF is proving to be beyond the reach of many states faced with decreasing state revenues to spend in those areas qualifying for the ECF. This report outlines a number of measures to ensure there is adequate funding now and in the future.

■ **Need for increased funding of the TANF Block Grant and adequate funding of associated programs**

The following recommendations highlight areas in which the TANF Block Grant requires increased funding.

RECOMMENDATIONS

1. Retain the current block grant amount and structure to assure there is no decrease in the current level of the grant to states and territories as well as the ability to maintain unexpended dollars. States will continue to be responsible for MOE to this part of the grant.

Justification: Maintaining a stable core block grant amount ensures that a solid foundation of funding exists. Having a guaranteed minimum level of funding better enables states and territories to make critical funding decisions concerning key services and partnerships with other funding sources, employers, community and faith-based organizations, and other state and local government services to achieve common goals. Retaining the current block grant amount also allows states to continue braiding TANF with other funding to advance a shared principle.

2. In addition to the existing block grant, increase the funding availability at a level adjusted to the Consumer Price Index (CPI) as indexed from the original passage of TANF in 1996 and employ reasonable allocation methodologies for new funds.

Justification: Over time, inflation has significantly reduced the value of the 1996 funding level of basic block grants under TANF. Using the CPI as an adjustment factor is a reasonable way to maintain the “buying power” of any funds over time.

Basing an increased funding level on the CPI does not address the increase in the populations and the many rising service demands states have faced over the years or the increased costs in administering the program due to the compulsory administrative requirements in the 2005 TANF reauthorization. However, using the CPI is a rational way to right-size the purchasing ability of the funds appropriated in 1996 in terms of today’s dollar value. This method avoids any complications caused by including the impacts of the various legitimate choices in how dollars are currently spent in each state.

3. Recognize the importance of other funding resources necessary to support TANF families.

Justification: Child Care Development Block Grant, Child Welfare IV-B, and Social Service Block Grant funding are examples of important supports frequently accessed by TANF families to achieve success. A family’s access to the services offered by other funding sources has become an integral part of a family’s course toward self-sufficiency. Maintenance and enhancement of such funding is critical and reduces the need for states to use TANF funds in these areas to essentially make-up for inadequate funding.

■ **Improve Contingency Fund Provisions**

The following recommendations address needed changes in TANF Contingency Funding.

RECOMMENDATIONS

1. The funding of the Contingency Fund should be sufficiently adequate so that it is available to all states in economic downturns and not funded on a first-come, first-served basis until the money runs out.

Justification: The current recession has clearly demonstrated that the Contingency Fund funding level is not adequate to meet the demands of a sustained nationwide economic crisis. The need to fund and implement the American Recovery and Reinvestment Act's TANF Emergency Contingency Fund emphasizes this. Originally designed to address natural disasters or regional recessions, the current experience with the nationwide economic crisis has confirmed the critical need to help bridge the gap in the TANF program when the need exceeds the capacity of the individual block grant in each state. Sufficient funding is critical because historically it is the poor who "recover" last in an economic crisis.

2. The U.S. Department of Health and Human Services should review the adequacy of the fund at least every three years.

Justification: Since this is a capped fund, its adequacy is important. It is reasonable to periodically conduct a formal evaluation of the sufficiency of this fund and report the results to Congress for action.

3. Eliminate the requirement that a state must meet a MOE level of 100 percent of the historic state expenditures for federal fiscal year 1994 and allow states to count the same MOE expenditures that are allowable in TANF MOE rules.

Justification: At a time of severe human and monetary distress, it has proven unreasonable to expect a state to find the additional MOE dollars and expenditures to access the Contingency Fund. This fund is designed to be available in times of difficulty and to avoid any serious drop in services when they are needed most. Requiring MOE expenditures at the 100 percent level is prohibitive. Special provisions and disallowances of what can be counted as the MOE for Contingency are likewise prohibitive and should be eliminated as well. Any expenditures counting toward a state's basic MOE requirement should apply toward the Contingency Fund MOE requirement without exception.

4. Simplify contingency processes to support efficiencies.

Justification: The current initial "triggers" for Contingency funds are suitable. However, the current process to qualify for, receive, spend and reconcile contingency funds is entirely too cumbersome and complex. For example, the data processing requirements to determine the "trigger" for funds is an administrative burden with the current timeframes. While the Administration for Children and Families periodically publishes a list of states meeting the triggers, the timing of the updates limits their usefulness.

Eligibility for the Contingency Fund should be determined for a calendar year quarter or longer and once eligible for that time period, states should be able to carry forward the Contingency Funds received. It is reasonable that once a period of eligibility has been established for Contingency Funds, states should be able to plan for spending those dollars. Currently states have to develop alternative plans to address the potential of not being able to retain the funds once received.

5. Extend availability of existing Emergency Contingency Funds through FY 2011 and explore adding funds prior to reauthorization.

Justification: It is logical to assume the additional funds allocated in the ARRA will be needed for as long as the effects of the current economic crisis are felt. Historically it is the poor who recover last in an economic crisis. Consequently, states will likely continue to have high demand for services over the next few years.

■ Adjust the Supplemental Funding Provisions

RECOMMENDATION

1. Incorporate the current Supplemental Grant into the receiving state's original base block grant allocation and eliminate the concept going forward.

Justification: States that receive the Supplemental Grant must contend with a separate expiration date. This has made it difficult to plan for services if a significant portion of the state's total funding may not be renewed. Holding the fund separate seems to have outlived its purpose. Supplemental Grant states appreciate that the fund was intended to distribute TANF more equitably when first designed. Congress has demonstrated over the years its intent for states to have these funds by renewing them. To simplify the block grant, it makes

sense to incorporate these funds in the supplemental states' regular block grant so they are held harmless. The recommended block grant funding increase provisions will then be for all states without any additional consideration of supplemental provisions, thus simplifying the process. The Supplemental Grant could then be eliminated.

■ Tribal TANF Awards

RECOMMENDATION

1. Amend the statute to include language that would require the governing agency (ACF in this case) to develop a process correcting an erroneous TFAG amount.

Justification: Current law [42 U.S.C. 612(a)] establishes a process when parties do not agree on the initial TFAG determination. It is recommended that the process be expanded to include "post-agreement" errors in TFAG amounts when both parties do not or cannot agree that an error occurred or on the amount of the error. A second option would be that a separate but similar process be added to the statute for correction of an erroneous TFAG. It is further recommended that any added or amended language clearly ensure that no party can unilaterally have the TFAG amount changed without notification to the other party and that the other party be allowed to input data and or justification for their position before a determination is made.

USE OF FUNDS

Flexibility in using federal TANF and state maintenance-of-effort funds is the cornerstone of maintaining and expanding the success of the TANF block grant. States, territories, and Tribal TANF grantees have used this flexibility to design TANF programs to best meet their own unique circumstances. This flexibility has allowed for maximizing the use of limited state and federal resources across related areas, strengthening the network of social service programs supporting those in need. This report identifies key aspects regarding the use of funds that should be maintained, as well as changes to further enhance flexibility in using funds.

■ Aspects of the Program that Should Be Maintained

The following areas in the current TANF statutes or regulations provide necessary flexibility to states. These aspects of the program support successful administration and outcomes and should be maintained.

RECOMMENDATIONS

1. Maintain spending flexibility in unobligated funds, transfer authority, and administrative spending.

Justification: States applaud the increased flexibility provided by Section 2103 of ARRA that allows unobligated TANF funds to be used for any TANF purpose without fiscal year limitation until expended. Although the modification is described as permanent, any future attempt to rescind the provision should be strongly resisted. Since most states are suffering significant budget crises due to the economic recession, this added flexibility for TANF spending is of great importance.

States also support the continuation of the current authority and allowable percentages for transferring funds to the Child Care and Development Block Grant (CCDBG) and the Social Services Block Grant, and oppose any effort to restrict or limit this provision. As federal funding under the CCDBG has not kept pace with the increasing need, states have used this flexibility to increase funding for their child care programs. Using transfer authority rather than direct TANF funding for child care offers states more flexibility due to the more stringent TANF requirements that apply when using TANF directly for child care provided to non-working families.

Finally, the current allowable uses of funds for administrative purposes in the Social Security Act Section 404(d) and 45 CFR, Part 263.13 provide sufficient flexibility for states in their administration of the program. In general, the administrative spending rules are reasonable and have not given rise to any major problems for states.

These are important provisions that provide states with necessary spending flexibility and should be maintained in reauthorization of TANF.

2. Maintain existing time limit exemptions for hardship.¹

Justification: While the federal rules are definitive as to the length of time federal TANF assistance may be provided to families, the rules are equally definitive as to the flexibility allowed states in extending that limit. This flexibility, characterized as hardships, applies only after cases have reached 60 months. This option to extend the time limit and to whom it will be extended is solely at the discretion of the state. States are allowed to extend TANF-funded assistance for up to 20 percent of the average monthly number of families to which assistance is provided during the fiscal year or the immediately preceding fiscal year as the state may elect. This flexibility allows states to address specific issues relative to their caseloads and the barriers affecting those families and their ability to become self-sufficient. This choice provides sufficient flexibility for states and should be maintained.

3. Continue to allow states flexibility to focus on prevention, including prevention of teen and unplanned pregnancy, in keeping with the purposes of TANF and as a way to help reduce poverty, promote self-sufficiency, and improve child well-being.

Justification: There is a direct link between teen and unplanned pregnancy and family well-being. Children born to teen mothers are more likely to end up in poverty, on welfare, and in the child welfare system. Reducing early and unplanned pregnancy will help improve educational attainment and earnings, strengthen families, and reduce public sector costs. An analysis by the National Campaign to Prevent Teen and Unplanned Pregnancy found that teen childbearing costs taxpayers at least \$9 billion a year. At the same time, every dollar invested in family planning results in \$4.02 saved in public sector maternal and infant care costs. TANF funds should continue to be available to help states and localities address teen and unplanned pregnancy in a variety of ways.

■ Aspects of the Program that Should Be Changed

The following areas in the current TANF statute or regulations have been problematic for states. Serious consideration should be given to modifying the program in these areas if we are to maximize the ability for states to meet the needs of needy families and children in the upcoming years.

RECOMMENDATIONS

1. Establish a standardized maintenance-of-effort requirement at 75 percent.² Set the required MOE expenditure level permanently at 75 percent of the state's historic expenditures regardless of work participation rate (WPR) and eliminate the 80 percent statutory and regulatory provisions.

Justification: States are required to expend 80 percent of FY 1994 expenditure levels for MOE, or 75 percent if the state meets WPRs in a given year. Prior to TANF Reauthorization under the Deficit Reduction Act of 2005 nearly all states operated under the 75 percent MOE level by consistently meeting the WPR requirements year after year. Changes to work participation and verification requirements under the DRA have substantially eroded the ability of states to meet work participation rates, particularly the separate two-parent rate. States failing to meet the work rates are not only subject to a penalty for failing to meet the rate, but must also meet an 80 percent MOE requirement. Unlike the penalty for failing to meet the work rate, there is no statutory relief for states that have to move from the 75 percent to 80 percent expenditure level. This 5 percent increase in MOE translates into millions of additional state funds states must expend or face further penalties. Given the current economic recession, states are hard pressed to come up with these additional funds.

Currently, the MOE requirement for any given year is dependent on whether or not the state meets work rates for the same year. Linking the MOE level required to meeting the work rates in the same year is counterintuitive. It places states in the position of either taking the chance that they will meet the rates, thereby qualifying for the 75 percent MOE level, or always budgeting at the 80 percent level. The issue is exacerbated by the timing of federal verification and pronouncement of the official participation rates for states which, based on past experience, has taken a minimum of two years. Not knowing the required MOE level until after the program year has ended creates major budgeting issues for states.

Many states require TANF funds to be a part of their legislative appropriation process and it is extremely difficult for program administrators and legislators to plan budgets around an "either/or" provision for state funds. With most states currently experiencing severe budget shortages, there is an increased need to be able to project expenditures with a degree of certainty. The current two-rate MOE provision greatly constrains state budget

processes even without the added specter of the potential for a large penalty and the requirement to backfill—all from funds a state does not have. A standardized 75 percent MOE requirement should be established for TANF and the 80 percent requirement should be eliminated from statute and regulation.

2. Restore counting MOE under TANF Purposes Three and Four without restriction to “eligible families.”³ Restore state flexibility for use of MOE funds by reinstating the regulatory provision that allowed expenditures serving TANF Purposes Three and Four to count toward MOE without restriction to “eligible families” and by providing statutory clarification. This proposal would require statutory clarification and would revise the countable MOE provisions at 45 CFR 263.2(a)(4)(ii) as follows:

“Pro-family activities that are consistent with the goals at §§ 260.20(c) or (d) of this chapter, but do not constitute ‘assistance’ as defined in § 260.31(a) of this chapter.”

Justification: The 2005 reauthorization of TANF initially expanded MOE spending flexibility to include state-funded programs for pro-family activities by allowing non-assistance expenditures that serve Purposes Three and Four (pregnancy prevention and the formation of two-parent families, respectively) to be counted as MOE regardless of whether the expenditures are provided to “eligible families.” This was reflected in the interim regulations. However, the final regulations rescinded that additional flexibility by limiting the expanded countable MOE expenditures only to the certain activities defined in the healthy marriage promotion and responsible fatherhood sections of statute. State spending on other activities count as MOE only if the expenditures are provided to or on behalf of eligible families, which are defined based on financial need and family composition. As a result, many states that expanded their programs with the flexibility provided under the Deficit Reduction Act of 2005 and interim rules have had to revise their state programs. The use of MOE funds for Purposes Three and Four became more restrictive than the use of federal TANF funds, which are not restricted to eligible families, and states lost the ability to stretch their increasingly scarce dollars.

Maximizing the ability to count expenditures toward MOE is important in the effort for states to meet MOE. It is also critical in the effort to maintain essential supports to families that would otherwise be at risk of elimination in the face of limited resources and state budget deficits. A strong state-federal partnership was central to the development of the TANF block grant. That partnership should not be eroded by increasing a state’s financial burden generated by restrictive MOE rule.

States should be encouraged to initiate programs promoting healthy family formation and maintenance, participation by fathers in children’s lives, and the reduction of out-of-wedlock births to all families. These are programs that are critical for families and contribute to the success of TANF as a whole. Moving TANF forward, it is vital that the flexibility for allowable uses of state MOE funds provided by the DRA be restored. In order to ensure this flexibility, reauthorization should include statutory clarification for supporting the use of state MOE under Purposes Three and Four of TANF without restriction to eligible families and restoration of the regulatory provision.

3. Oppose the establishment of a National Error Rate for TANF under the Improper Payments Information Act.⁴

Justification: The IPIA of 2002 (P.L. 107-300) requires federal agencies to identify their programs and activities that may be susceptible to significant improper payments and to estimate and report to Congress on the annual amount of improper payments in their programs, the causes of the improper payments, and the corrective actions taken. The federal law also mandates that each federal agency implement the IPIA requirements in accordance with guidance prescribed by the Director of the Office of Management and Budget. As authorized by the IPIA, the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) has in past years reviewed a sample of TANF cash assistance cases in eight states to serve as the basis for the establishment of a national TANF improper payment estimate and error rate. It has based its findings on a review of both federal and state TANF program requirements.

The Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193) that established the TANF program, however, provided significant flexibility to states to implement programs that meet the needs of low-income families, provided such programs are consistent with one or more of the goals of the TANF program.

The eligibility requirements of these programs as well as their benefit amounts, budgeting, and sanction policies differ from state to state in order to best meet the needs of their particular populations. Due to this variation among states, the establishment of a national error rate simply is not appropriate in a block grant environment. Further, the methodology used by the OIG will not result in a valid national improper payment estimate or error rate because the audits are based, in part, on elements that are not consistent among states. The establishment of a national error rate should be opposed for TANF.

- 4. Exclude Transportation and Child Care expenditures from the “assistance” definition.⁵ Amend the regulatory definition of assistance by broadening the exclusion of expenditures for supportive services, such as transportation and child care, provided for families who are employed to also exclude such services provided to families who are unemployed. The amended rule at 45 CFR 260.31(b) would read as follows: It excludes: (3) Supportive services *provided as work supports* such as child care and transportation to families who are employed *and to families who are unemployed, but who are participating in education, training, job search, and other employment-related activities.***

Justification: The purpose of the federal definition of assistance is solely to determine the type of federal or state TANF benefit that triggers applicable TANF programmatic requirements, such as time limits, data and work requirements, and child support assignment. The initial intent behind excluding supportive services provided to families who are employed from the definition of assistance was to allow states greater flexibility in spending, particularly for working families, without imposing TANF program requirements. The assistance definition is consistent with historic consideration of the traditional payments under Title IV-A prior to the block grant. The definition is also consistent with the exclusion of non-recurrent, short-term benefits to provide relief for discrete family problems and other diversion activities. However, supportive service activities to assist unemployed families are increasingly work-focused and therefore are consistent with the TANF provisions for self-sufficiency. The argument that work supports for the unemployed look more like traditional welfare is flawed. The value of such supports cannot be converted or traded for cash items that historically were considered in the itemized assistance payment standards or basic needs standards. Providing supportive services to unemployed families will assist them to become re-employed and will result in shorter stays on assistance.

- 5. Align Income Eligibility Verification System mandates for TANF with the Supplemental Nutritional Assistance Program and/or Allow Alternative Verification Methods.⁶ Improve program compatibility by eliminating IEVS as a mandate for TANF, allowing states the option of using alternative verification methods consistent with the requirement in SNAP.**

Justification: States are mandated to use IEVS to verify the accuracy of financial information provided by clients for public assistance. HHS-ACF has issued guidance clarifying that the IEVS requirement applies to all TANF benefits, including both TANF assistance and non-assistance programs. States may receive a penalty for not performing IEVS matching for some non-assistance programs, despite complying with the requirement for assistance programs, and may be vulnerable to penalties from the single state audit process for non-assistance programs for which they may not be performing these matches. Non-assistance programs, such as many TANF Purpose Two employment- or marriage-related programs and programs operated under other purposes that may contain a needs-based component, are frequently operated by non-profits and other non-state entities. The logistics of performing and following up on IEVS matches for participants in these programs can create significant administrative burdens that far outweigh the benefit to be derived from the matching process.

Congress has already made IEVS optional for SNAP and has allowed alternative verification methods. In the interest of program compatibility and consistency it therefore makes sense to align the requirement (in statute and regulation) for TANF. At the same time any potential, associated penalties for states should be eliminated. In addition, various matches are more cost-effective than others in the context of the TANF program. States should have the flexibility to determine which matches are most effective and only perform those that are likely to benefit their programs.

- 6. Revise the regulatory penalty provisions to make the appeal option more viable for states by (1) reducing the interest rate penalty, (2) delaying the application of interest until all appeals are exhausted and the state and HHS agree on the finding of misused funds, and (3) allowing states more opportunity to pursue reasonable cause and corrective compliance.⁷**

Justification: TANF regulations describe the method to be used to determine if a state is subject to penalty. If an audit finds that the TANF funds paid to a state for a fiscal year have been used in violation of the law governing use of the funds, the state's grant for the immediately succeeding fiscal year quarter shall be reduced by the amount of funds misused. Failure to prove that the funds were unintentionally misused, result in an additional 5 percent penalty reduction. Other penalties apply to failures by the state to comply with additional statutory or regulatory requirements. Federal rules provide states with the following options in response to certain proposed penalties: [1] Dispute the penalty, [2] Make a claim for a reasonable cause exception, [3] Enter into a corrective compliance plan to correct the "violation," [4] Appeal to the Health and Human Services Appeals Board, or [5] Accept the finding.

States, however, are unlikely to pursue the appeal option because the cumulative interest penalty is so prohibitive. A reduction of the interest rate and delay in the application of the interest until all appeals are exhausted and the state and HHS agree on the findings would make the appeal option more viable for states to pursue. In addition, reasonable cause and corrective compliance provisions do not apply to certain penalties. States should have the opportunity to address any penalty via reasonable cause, argue that the penalty should be reduced or withdrawn, or provide a corrective compliance plan to address noncompliance.

EMPLOYMENT SERVICES

Employment is at the heart of the TANF program, and states have universally designed their TANF programs to help parents and relative caregivers secure and retain employment. Striking the proper balance between state flexibility and accountability is key to the success of the next phase of the TANF program. The following recommendations are intended to re-establish that balance and thereby enable states to focus on the critical work of helping low-income parents and relative caregivers move from welfare to work to self-sufficiency.

■ Basic Structure of the Work Participation Rate

RECOMMENDATIONS

1. Maintain a work-focused work participation rate requirement of 50 percent for all families and eliminate the unrealistic 90 percent rate for two-parent families.

- Maintain a requirement that states engage 50 percent of all work-capable adults in job preparation activities and employment.
- Eliminate the separate unrealistic 90 percent work participation rate for two-parent families.
- Maintain the current 30 hours per week (or 35 or 55 for two-parent families) participation standard, with the 20-hour standard for single-parent households with a child under six years of age.
- Maintain the requirement that, to count as *fully* participating, individuals participate in a "core" work-based activity, including employment, work experience, community service and time-limited full-time job search, job readiness training, and time-limited vocational training. In addition to this work-based participation, up to 10 hours weekly may include "non-core" activities such as education and job skills training.

Justification: The work focus of the TANF program is critical to the program's foundation and should be maintained throughout both good and difficult economic times. The work participation rate ensures that program agencies will continue to place a high priority on full engagement strategies, increasing the extent to which services meet the range of participant needs so agencies do not focus services toward only the most job-ready individuals.

The two-parent rate is unrealistic since two-parent families often face the same barriers to employment as single parents; therefore, a single 50 percent benchmark for the WPR should be established for all recipients regardless of family composition. The 90 percent WPR for two-parent families is not reasonable or achievable; further, it can undermine the TANF program's goals of promoting marriage and strengthening two-parent families by creating a strong disincentive for states to serve two-parent families through their TANF program.

■ Work Participation Rate Credits

RECOMMENDATIONS

1. Maintain the Caseload Reduction Credit and Excess Maintenance-of-Effort provision allowing states the ability to reduce the required WPR based on caseload declines since 2005 and based on expenditures in excess of the required MOE level of spending.

Justification: Most states would have been subject to TANF penalties for failure to meet the WPRs, absent caseload reduction credits that recognize their success in moving families towards economic independence. The Caseload Reduction Credit (CRC) calculation should therefore continue with the existing 2005 base year. Additionally, the excess MOE provisions should continue, since they recognize and reward states for spending more of their own funding than is required under TANF. Particularly since the absolute value of the TANF block grant and MOE requirements have not been adjusted for inflation and have therefore eroded over time, and since caseloads are increasing due to the current economic environment, states should be encouraged to continue to spend additional state funds to support the four purposes of TANF.

2. Establish a credit that reduces a state's WPR based on its unemployment rate and allow states the ability to choose either the unemployment insurance credit or CRC and Excess MOE credits.

Justification: The current economic crisis has made it increasingly difficult for states to reduce welfare caseloads; in fact, historically high unemployment has resulted in additional families seeking assistance and increased caseloads. Any credit intended to reward a state's efforts in helping families achieve self-sufficiency should take the state of the economy and the availability of employment opportunities into consideration. Therefore, in any given year, states should have the option to select an Unemployment Rate credit in lieu of the Caseload Reduction Credit.

Under the Unemployment Rate credit, for every 1 percent increase in a state's average monthly unemployment rate above the average monthly unemployment rate in either [at state option] the prior year or the Caseload Reduction Credit base year [currently FY 2005], a state's required WPR should be adjusted downward by a specific number of percentage points, which would be established in regulation.

3. Establish an employment credit to recognize state success helping individuals enter employment and leave assistance.

Justification: The WPR should recognize state efforts to ensure that TANF families exit TANF with ongoing employment. Such efforts may not be reflected in the Caseload Reduction Credit, particularly given the degree of caseload decline since TANF was implemented and the impact of the current recession on TANF caseloads. Therefore, in addition to the Caseload Reduction Credit, an employment credit should be established which, at state option, would be added to the state's WPR based on the number of former recipients meeting both of the following conditions:

- ongoing cash assistance ended in the last three months; and,
- the individual is employed in the quarter after ongoing cash assistance ended.

■ Exclusions from the Work Participation Rate

RECOMMENDATIONS

1. Maintain current exclusions from the WPR denominator and exclude additional categories of individuals who cannot reasonably be engaged.

The following current exclusions should be maintained:

- minor parent who is not the head of household;
- non citizens ineligible to receive assistance due to immigration status;
- on a case-by-case basis, recipients of SSI/SSDI;
- parents providing care for a child under the age of one up to 12 months [lifetime];
- parents providing care for a disabled family member living in the home, provided that there is medical documentation to support the need for the parent to remain in the home to care for the disabled family member;
- individuals receiving MOE-funded assistance under an approved Tribal TANF program; and,

- parents subject to sanction no more than three months during the preceding 12 months.

In addition to current exclusions, the work participation rate calculation should exclude (with state option to include any participating individuals):

- Individuals who the TANF agency has determined are appropriate to apply for federal disability benefits during the period of time that the federal decision of eligibility is pending;
- Individuals under the age of 16 or individuals 60 years of age or older;
- Individuals on reservations who are also exempt from the 60-month TANF time limit due to high unemployment; and,
- Individuals in receipt of a federally recognized employment waiver under the Family Violence Option.

Justification: The current exclusions from the WPR denominator should be maintained. These are groups of individuals for which participation in federally countable activities is much more difficult. Excluding these groups of individuals provides states the flexibility to serve these populations as they best see fit, whether or not the individuals are participating in federally countable activities.

The TANF program is designed to provide an important safety net for individuals who are unable to otherwise financially support themselves. At times, this safety net is for those who simply cannot engage in substantial work due to severe medical conditions, age, domestic violence or the isolation of Native American reservations and Tribal lands. States should not be expected to routinely engage these populations in countable work activities.

Individuals for whom the TANF agency determines it is appropriate to apply for federal disability benefits based on medical evidence should not be expected to work or participate in work-readiness activities. States should not be penalized for providing assistance to these individuals while they are awaiting an eligibility decision from the federal government. Individuals under 16 and age 60 or older should also be categorically exempt from federal work expectations. While some individuals over age 60 do work, the barriers to employment for aged, low-income parents and caretaker relatives are sufficiently high that states should have the option to exempt such individuals from work requirements without risk of a federal penalty.

Although the Family Violence Option allows states to waive TANF program requirements (including work requirements) when domestic violence poses a barrier, states are still required to count individuals that receive these waivers in the WPR. Such individuals should be excluded from the WPR denominator up front, instead of after the fact, in cases where a state fails to meet the WPR.

TANF already exempts individuals on reservations with particularly high unemployment from the 60-month TANF time limit. The rationale for this time limit exemption applies equally to the Work Participation Rate. Many reservations and Tribal land areas have extremely high unemployment rates. According to the latest available Bureau of Indian Affairs Labor Force Report (2005)⁹, the national average unemployment rate in Indian lands was 49 percent. Sixteen of the 33 states listed in the report have unemployment rates on Indian lands of 50 percent or higher. The lack of proximity to jobs, education, training, transportation and other services makes this population particularly hard to serve and engage in countable work activities

2. Exclude non-recipient parents living with a child receiving assistance under TANF or a separate state program from the WPR denominator.

Justification: TANF allows states flexibility in use of funds and program design to address the needs of the various populations that reside in each state. As such, some states have exercised that flexibility to provide assistance for needy children whose parents are sanctioned or have lost aid due to reaching the State's time limit. Prior to enactment of the DRA, these child-only cases were excluded from the WPR denominator; however, regulations implementing the DRA defined these unaided parents as "work-eligible adults," thereby bringing these cases into the WPR denominator.

The requirement to count unaided adults in the WPR puts states that have such policies and program designs at a severe disadvantage for meeting the federal WPR requirements. Furthermore, this requirement pressures states to impose drastic policy changes that can have deleterious impacts on families and children, simply for the sake of the WPR. States should not be penalized for applying the flexibility afforded by TANF in designing state programs and using funds to serve child-only families.

The pre-DRA rule, which was in effect for the first eight years of the TANF program, should be restored.

3. Remove all cases from the WPR during the month of application and the following month (with state option to include participating individuals).

Justification: States should be able to remove cases during the month of application and the month following to allow them adequate time to conduct the assessments necessary to determine appropriate work activity assignments, to ascertain the need for and permit focus on family stabilization activities during this time as needed, and to arrange for support services such as child care that are necessary to enable parents to participate.

Given the nature of the program, individuals often apply for assistance following a crisis situation or after exhausting all other viable options, often leaving the family in a state of desperation. The vast range of situations facing applicants for assistance such as homelessness, depression/hopelessness, and possible loss of a partner sometimes require the TANF agency to initially focus on necessary stabilization services before expecting full-time work engagement. The work participation rate calculation must be amended to permit states additional time to address crisis situations or significant barriers before subjecting a family to employment requirements, without precluding applicant job search or other work requirements for applicants or other new recipients.

■ **Credit for Hours of Countable Participation**

RECOMMENDATIONS

1. Provide pro-rata credit for hourly participation; states should receive pro-rata credit for any hours an individual participates in federally approved work activities so long as an individual participates at least 10 hours in “core” activities as described below. For example, an individual participating 75 percent of time in countable activities should count as .75 toward the state’s work participation numerator.

Justification: The “all or nothing” approach to counting work participation is counter to the work-focused approach of federal welfare reform. States should receive partial credit for those individuals who are working part of the hours required by the federal standard.

Self-sufficiency does not happen overnight. An individual making progress toward self-sufficiency through participation should be viewed as a positive outcome, with credit for the progress that the individual is making, even if not full-time. Additionally, recognizing incremental efforts would have the effect of encouraging program providers to engage all participants in work-related activities to their maximum individual capacity.

2. In conjunction with the above partial credit proposal, modify the core hours requirement: (a) Reduce the number of hours that an individual must participate in “core” hours before any hours in “non-core” activities will count from 20 “core” hours to 10 “core” hours of participation; (b) Maintain the current limitation that “non-core” participation count for only up to 10 hours weekly for single parent families with a child over six and (c) allow up to 10 hours weekly of participation in “non-core” activities to count for single-parent families with a child under six and two-parent families.

Justification: Under current law, participation in “non-core” activities only counts up to 10 hours per week for single parent families with a child over six, and 5 hours per week for two-parent families. Additionally, participation in “non-core” activities only counts if the individual has also participated in “core” activities for at least 20 hours for single parent families and 30 hours for two-parent families (or 50 if the two-parent family is receiving federally funded child care). For single parents with a child under six, “non-core” activities are not counted at all under current rules, since the full 20-hour/week work requirement for such parents must be met with core hours.

This proposal would:

- maintain, but adjust, the requirement that an individual participate in a minimum required number of hours of core activity in order to count *fully*
 - 20 hours for single-parent households with a child over six
 - 10 hours for single-parent households with a child under six
 - 25 hours for two-parent households (or 45 hours for those receiving federally funded child care)
- maintain the 10-hour/week limit for single-parent families on “non-core” hours of countable participation;

- permit non-core hours to be counted toward partial credit if the individual participates in at least 10 hours in “core” activities; and
- permit parents with a child less than six years of age to engage in up to 10 hours of “non-core” activities within the 20-hour weekly work requirement and correspondingly reduce the core hour requirement for such parents from 20 hours/week to 10 hours/week
- permit two-parent families to engage in up to 10 hours of “non-core” activities within the 35 and 55 hour weekly work requirements and correspondingly reduce the core requirements for such parents from 30 and 50 hours/week to 25 and 45 hours/week.

Under this proposal, deeming provisions associated with work experience and community service would continue to apply.

Required Hours of Participation: Comparison of Current Law v. Proposed						
Case Type	Required Hours for Full Credit		Minimum “Core” Required before “NonCore” Hours Count		Maximum “NonCore” Countable Hours	
	Current Law	Proposed	Current Law	Proposed	Current Law	Proposed
Single Parent with Child Under 6	20	20	20	10	0	10
Single parent w/o Child Under 6	30	30	20	10	10	10
Two-Parent Family (not receiving federally funded Child Care)	35	35	30	10	10	10
Two-Parent Family receiving federally funded Child Care	55	55	50	10	10	10

Note: APHSA recommends the 90 percent work participation rate for two-parent families be repealed, but would maintain the higher hourly participation requirement for these families within the 50 percent WPR.

This change would simplify the rate calculation in combination with the pro-rata credit proposal and provide states increased flexibility, while maintaining the work focus by continuing to require participation in work-based “core” activities.

The charts below illustrate how the newly recommended minimum hours of core participation proposal and the pro-rata credit proposal would be reflected in the extent to which an individual’s work effort is counted in the work participation rate. Separate charts are provided for each case category: single parents with a child under six, single parents with *no* child under six, and two-parent families.

Single Parent With Child Under 6

Participation	Current Law—Percent Credit	Proposed—Percent Credit
20 hours “core”	100 percent	100 percent
10 hours “core” 10 hours “non-core”	Zero because “core” threshold of 20 hours not reached	100 percent (20 countable hours)
10 hours “core” 5 hours “non-core”	Zero because “core” threshold of 20 hours not reached	75 percent—15 countable hours (10 core and 5 non-core)
8 hours “core” 10 hours “non-core”	Zero because “core” threshold of 20 hours not reached	Zero—no partial credit allowed because 10 hour “core” threshold not met

Single Parent With No Child Under Six

Participation	Current Law—Percent Credit	Proposed—Percent Credit
20 hours “core” 10 hours “non-core”	100 percent	100 percent
18 hours “core” 12 hours “non-core”	Zero—because “core” threshold of 20 hours not reached	93 percent—28 countable hours of the 30 hours required (18 core and 10 non-core)
15 hours “core” 10 hours “non-core”	Zero—because “core” threshold of 20 hours not reached	83 percent—25 countable hours of the 30 hours required (15 core and 10 countable for non-core)
8 hours “core” 10 hours “non-core”	Zero because “core” threshold of 20 hours not reached	Zero—no partial credit allowed because 10 hour “core” threshold not met

Two-Parent Families

Participation	Current Law—Percent Credit	Proposed—Percent Credit
30 hours “core” 5 hours “non-core”	100 percent if 35 hours required Zero if 55 hours required because “core” threshold of 50 hours and minimum required hours not met	100 percent if 35 hours required 73 percent if 55 hours required
25 hours “core” 10 hours “non-core”	Zero if 35 hours required because 30 hour “core” threshold not met Zero if 55 hours required because 50 hour “core” threshold and minimum required hours not met	100 percent if 35 hours required 73 percent if 55 hours required
10 hours “core” 10 hours “non-core”	Zero if either 35 or 55 hours is required because 30/50 hour “core” thresholds are not reached	57 percent if 35 hours required 36 percent if 55 hours required No more than 10 hours “non-core” countable

■ Countable Work Activities

RECOMMENDATIONS

- 1. Permit additional activities to count toward federal work participation rates as a non-core activity under the category of Family Stabilization Services. Family Stabilization Services would include only the following activities to be fully defined by regulations: securing permanent housing, nutrition education, financial literacy instruction, court-ordered or child welfare required activities, and parenting skills instruction.**

Justification: The participation rate should permit limited hours (up to 10 hours weekly) of participation in Family Stabilization Services to reflect the fact that TANF parents need and are often encouraged to participate in certain activities that are deemed important to long-term financial stability and job retention. Parenting skills instruction would include structured parenting skills instruction intended to provide specific guidance on parenting, ranging from newborn care to effective discipline techniques for teens.

- 2. Permit limited Job Search and Job Readiness Training to count without time limit (statutory)**

- Job Search and Job Readiness activities should count fully as core hours of participation for up to 12 weeks in any year for all households, with any additional hours of participation countable as non-core.
- For administrative ease, states should be able to include job search and job readiness activities as a component part of any work activity definition so long as participation is less than 25 percent of average weekly participation.

Justification: The current restriction that permits job search for only six weeks in any year with only four consecutive weeks is overly cumbersome and only serves to reduce efforts to secure employment. Looking for work is an essential part of any work or training program and expecting six weeks to be sufficient, particularly for those who may have limited work histories or education, is not realistic. The current economic recession has demonstrated that even those with substantial work histories and job skills require considerable time to secure employment.

It is reasonable to have some limitation on stand-alone job search to ensure that additional strategies are pursued to help individuals secure employment, but six weeks is overly limiting. Current law permits up to 12 weeks for states that meet certain triggers, but 12 weeks should be the standard. Job search should be countable as part of any other activity, such as work experience or vocational training. The requirement that no more than four weeks be consecutive creates unnecessary administrative barriers to effective program development and implementation.

In addition to Job Search, Job Readiness activities are often needed to supplement work efforts as individuals continue to develop appropriate work habits or continue to participate in medically necessary treatment in addition to part-time work efforts. Failure to support this participation can have the unintended consequence of worsening the individual's medical condition, further limiting employability and even jeopardizing current employment.

- 3. Permit English for Speakers of Other Languages (ESOL) instruction to count as Job Readiness Training.**

Justification: The portion of the TANF population with limited English proficiency should be allowed to participate in ESOL instruction as a job readiness training activity because they face the significant barrier of not being able to effectively communicate in English which greatly limits their available employment opportunities. HHS has established that activities that ameliorate the effects of barriers to allow an individual to be able to work including mental health and substance abuse treatment can be considered to be job readiness training. That same logic should apply to language barriers, permitting up to 12 weeks of full-time language instruction if needed.

- 4. Eliminate the monthly limitation of 16 hours for countable excused absences and increase the number of hours of countable excused absences allowed in a 12-month period from 80 hours to 96 hours.**

Justification: Currently, individuals are limited to up to 80 hours (or about 10 days) as excused absences that are credited toward participation hours, with a limit that no more than 16 hours (or two days) may be missed in

any given month. The monthly limitation should be removed to address periods of extended absences due to issues such as illness of the participant or the participant's child, the need to travel due to family emergencies or other factors. The monthly limitation is arbitrary and not consistent with typical workplace policies. Additionally, allowing up to 96 hours of excused absences in a 12-month period more accurately reflects the needs of the population and is more consistent with sick and personal leave time policy in the private sector.

5. Permit additional Vocational Education for up to 24 months and remove from the 30 percent limit individuals under age 20 participating in secondary school or the equivalent and individuals concurrently engaged in paid employment.

Justification: Current law limits an individual's participation in vocational education to 12 months over the course of a lifetime, and limits to 30 percent the portion of families counted in a state's WPR numerator who can be engaged in vocational education. This proposal modifies these limits in two ways which are consistent with the employment focus of TANF:

(1) Vocational Education should be countable for up to 24 months over the course of a lifetime, rather than the current 12 months. [Experience has shown that 12 months of vocational training is often insufficient, and this limit may impede the ability of TANF participants to progress to self-sustaining employment.]

(2) Two categories of participants engaged in education-related activities should be excluded from the state's 30 percent limit:

(a) participants engaged in vocational education in combination with paid employment [research has shown that the combination of paid work with education/training often leads to the best employment outcomes]; and

(b) young adults under 20 who are pursuing their high school diploma or equivalent. [For young, low-income parents, securing a high school diploma or equivalent is key to their future prospects for achieving self-sufficiency and nothing in the design of the TANF program should be an impediment.]

■ **Penalties and Performance Measures**

RECOMMENDATIONS

1. Eliminate the fiscal penalty associated with current work verification requirements and permit additional flexibility for states to establish reasonable documentation standards.

Justification: States and education and training providers have invested significant resources to obtain detailed daily attendance records in a manner prescribed by federal regulations, to conduct internal quality control reviews and take other steps to meet the stringent work verification standards established by the DRA. Not only have these investments not contributed to improved program outcomes, but they are not cost-effective on an ongoing basis. States recognize the need for reasonable documentation standards to permit comparisons among states, but the current requirements are overly rigid and the associated penalties too high. The current significant fiscal penalties associated with work verification requirements should be eliminated, with reviews conducted to determine substantial compliance by states.

The currently rigid documentation standards are often impractical and often serve as a disincentive for providers to engage TANF participants and/or create an unnecessary burden and stigma for TANF recipients. For example, requiring educational agencies to document hourly class attendance is not reasonable and clearly establishes a burden for the TANF participant. Establishing hourly attendance that is consistent with the class schedule and reviewing progress at reasonable intervals should be acceptable. Another example is the determination that states cannot establish a reasonable approximation of the time required to prepare for and submit a job application, but must instead require participants to maintain logs of time spent. Individuals who are participating in the Volunteers in Service to America [VISTA] program should count fully based on enrollment confirmation without additional documentation since the federal government does not permit states to limit the VISTA assignment.

2. To better align program operations with program goals, establish the following new TANF employment services measures:

- Job Retention
- Wages of Jobs Attained

States should have the option to reduce any penalty for failure to achieve the WPR based on its success in one or both of the new measures.

Justification: Currently, only the work participation rate is emphasized by the TANF program. While high engagement is a cornerstone of the TANF program that should be maintained, additional measures should be established to increase focus on the program goals of employment, job retention, and higher wages. An emphasis on these program goals would encourage states to invest in services for adults that help them enter and retain jobs and provide incentives for skill development activities that help program participants obtain higher wage employment. A measure of wages (rather than wage gains) is considered a better reflection of TANF work efforts.

HHS should work with states to develop measurement goals that better reflect a state's efforts and not simply consider state rankings. Additionally, the alternative performance measures should be used to mitigate any WPR penalties. To achieve penalty reductions in these areas, states would be required to demonstrate improvement compared to a state's own performance in the previous year, and states should not be required to supply any additional data for the calculation of these measurements to the extent the needed data are already available to HHS. If states fail to reach the required WPR, penalties could be avoided or reduced by successfully reaching targets in the areas included above or other factors selected by a state and approved by HHS.

3. The penalty for failure to achieve the required WPR should be waived for a state if it would be imposed during a year that a state is a "needy state." In addition, due to the economic crisis, WPR penalties should be waived for any state subject to penalty during the current economic crisis.

Justification: HHS-ACF should waive penalties for failure to achieve the required WPR if it would be imposed for or during a year that a state meets at least one of the TANF Contingency Fund "Needy State" designations. Additionally, WPR penalties should be waived for all states for FY 2008 through FY 2010 because of the inherent barriers to achieving the WPR during periods of significant economic distress. Pursuing penalties for FYs 2008, 2009, and/or 2010 would mire HHS-ACF and states in a multi-year, time-consuming process that would divert state and federal attention from the pressing needs of low-income families struggling to overcome the effects of the recession.

4. Modify the adjustment factor described in paragraph (b)(4) of Section 261.51, which is a condition for receiving a penalty reduction, and for calculating the size of the penalty reduction for a state that qualifies for a reduction.

Justification: HHS should review the regulatory provisions regarding the ability to reduce a work participation penalty which currently require that a state achieve an increase in the absolute number of persons engaged in work to be eligible for any penalty reduction, even if the overall caseload has declined. The adjustment factor as described in paragraph (b)(4) of Section 261.51 is a vestige of the phase-in of increased participation targets in the original TANF legislation. Since the target participation rates are now static, this adjustment factor no longer has a valid basis.

Any adjustment factor, when used as a condition for receiving a penalty reduction, should not prevent a state from qualifying for a penalty reduction when that state has achieved an increase in its participation rate from the year preceding the penalty year. A multi-part adjustment factor that acknowledges participation rate improvement, as an alternative to an increase in the number of participants, would achieve that goal. In addition, given the fact that states have been operating TANF employment programs for many years now and have therefore achieved maturity in their programs, the adjustment factor should not require as significant an improvement as during the initial period of TANF.

5. HHS should make a statistical package available to states that would allow them to accurately estimate the WPR for internal calculations.

Justification: States have a need to calculate work participation rates independently to provide timely

performance feedback and simulate the impact of policy and contextual changes on the rate. Historically, however, states have had difficulty, even with a clear understanding of the components of the rate as defined in law and regulation, exactly replicating the rates calculated by ACF. The reasons for this include:

- The program used by ACF to calculate the rates is written in the SAS statistical package, but not all states employ SAS nor are they fluent in converting SAS code to the packages they use.
- While the rate formula is fairly well-prescribed in law and regulation, the calculation itself requires choices in assigning persons to groups when the law is silent, such as when a person can be simultaneously counted as participating or exempt, or when a person is participating in more than one activity, one of which may be time-limited.

As a result, states have independently pursued a time-consuming iterative process with ACF staff to come to agreement on the calculation formula, a process which must be repeated as changes in law, regulation and policy occur. In addition, it is inefficient for states to independently develop, or in some cases purchase from contractors, applications to do this work.

To avoid this problem in the future, provide cross-state efficiencies and ensure a clear and public methodology is available for states and others to review for accuracy, ACF should be required to develop and make available to states an application that allows the input of TANF disaggregated reporting data in the standard reporting format, and outputs accurately calculated work participation rates, participation and work activity detail, error flags and other data typically returned to states following ACF processing.

CHILD WELFARE, CHILD SUPPORT AND OTHER ISSUES OF CONCERN

■ Child Welfare/Kinship

The following recommendations highlight areas of the TANF block grant related to child welfare and kinship.

RECOMMENDATIONS

1. Establish TANF statutory language that would encourage collaboration and give states a specific option to share basic information between TANF and child welfare agencies.

Justification: Developing procedures to coordinate TANF and child welfare case plans for dual-system families would reduce inefficiencies and duplication of payments and services, and prevent conflicts. Traditionally, TANF and child welfare agencies have been reluctant to share basic case information, believing that such sharing is prohibited by confidentiality laws. Such a law would confirm that there are no federal confidentiality prohibitions to sharing information.

2. Maintain the flexibility in TANF provisions so that TANF funds can be used for child welfare services.

Justification: State discretion in using TANF funds for child welfare has provided much-needed flexibility. This flexibility should be maintained to allow states to decide the best use of TANF funds to meet each state's unique need. This flexibility includes both services "previously authorized" and services that meet any of the four statutory purposes of TANF.

■ Child Support

The following recommendations highlight the relationship between child support and the TANF block grant.

RECOMMENDATIONS

1. Encourage "Family First" distribution of Child Support.

Justification: Over the past 30 years, the child support program has evolved from a focus on cost recovery of public assistance expenditures to an income support program. Today, the majority of families receiving child support have never received TANF. PRWORA eliminated the mandatory \$50 pass-through and disregard of child support for public assistance recipients, but almost half the states continue to pass-through at least some part

of collections to public assistance recipients. The state share of child support passed through and disregarded for public assistance is countable toward a state's maintenance-of-effort requirement.

Child support collections are a vital source of income to millions of families across the country and can mean the difference between a family needing public assistance or not. For those in receipt of assistance, passing through more support may increase noncustodial parent payment compliance, encourage greater interaction between parent and child, and provide the support a custodial parent needs to raise a child without reliance on public assistance.

However, child support programs rely, to varying degrees, on retained collections to finance their operations and provide support services to custodial parents whether they are in receipt of public assistance or not. Retained collections may also be used to support other state programs, including cash assistance programs, which may count toward a state's maintenance of effort. For such states, the pass-through and disregard of child support collections may not negatively affect a state's maintenance of effort, but does have a negative impact on actual funding for the programs.

Increasing the amount of support distributed to public assistance recipients enhances the economic security of families and should be encouraged. However, this must be measured against the loss of income to the state. Congress should eliminate the \$100 and \$200 pass-through limits on federal cost sharing of collections passed through (and disregarded) to public assistance recipients while ensuring that the pass-through and disregard remain an option rather than a requirement for states.

2. Provide for temporary 90 percent FFP to meet medical support and other new federal mandates.

Justification: Federal regulations published on July 21, 2008, established new mandates on state child support programs to establish medical support obligations including cash medical support. These new mandates are extensive, impact a state's entire child support caseload, and require substantial resources. Program compliance (with new mandates) and medical support performance will be evaluated. A state's ability to fully and successfully implement federal mandates, and thus avoid potential federal financial penalties, is contingent upon available resources.

The sum of all new federal mandates on the child support program because of TANF reauthorization is not yet known. To enable states to achieve successful implementation, enhanced federal financial participation for a limited period of time is needed to address medical support, child support systems modernization, and any new federal legislation or initiatives.

3. Repeal the DRA requirement for an annual service fee for certain recipients of child support services and permanently repeal the DRA prohibition on states receiving federal matching funds in state child support programs.

Justification: Repealing the provision of the Deficit Reduction Act of 2005 that requires certain non-welfare families to pay a \$25 fee for child support enforcement services if at least \$500 per year is collected on their behalf is necessary to eliminate the inequity of imposing the fee on certain individuals but not others, and to eliminate the negative impact on families when collected child support is diverted to generate revenue for the government.

The permanent repeal of the DRA prohibition on states from receiving federal matching funds for federal "incentive payments" reinvested in state CSE programs is essential to the integrity of the performance-based incentive system under which child support programs operate and to ensure fiscal stability into the future. (The American Recovery and Reinvestment Act of 2009 temporarily repealed this DRA provision, but only through FY 2010.)

4. Eliminate the TANF penalty tied to child support performance.

Justification: TANF penalties include one that may be imposed against the TANF block grant [Section 409(a) (B) of the Social Security Act] if a state is determined to have submitted incomplete or inaccurate data or has not achieved the child support performance measures established by HHS.

In 1975, Title IV-D was created to address rising welfare costs. Federal rules require IV-A applicants/recipients to assign their rights to support to the state and cooperate in locating absent parents as a condition of eligibility.

Collections in current assistance cases can be retained to reimburse TANF costs.

These important program connections continue, but the continuation of the child support–related penalty against the TANF program is unnecessary. States under the TANF block grant program already have an incentive to reduce assistance costs by maximizing the child support collected on behalf of families receiving assistance. This helps states to use more of their block grant to support other critical services that help eligible families reduce their dependency on public funds. States will also continue to emphasize the importance of child support as an income support for dependent children including, in many instances, children who no longer receive or never received assistance and strive to achieve performance measures established by the HHS to be eligible to receive incentive funds.

[NOTE: If complete elimination of TANF penalties tied to child support is not possible, there should be alignment between Paternity Establishment Percentage (PEP) goals and sanctions and those for other incentive measures. Currently there are sanctions imposed if performance for the PEP goal drops below 90 percent and then does not improve within one year to prescribed levels. This is a much harsher requirement than what exists with the other incentive measures.]

5. Continue and enhance responsible fatherhood programs and employment and training programs for low-income non-custodial parents.

Justification: Grant programs that address barriers faced by low-income noncustodial parents (many of whom have been involved with the criminal justice system) are essential to creating and or restoring strong family relationships essential to the vitality of children. Attaining reportable employment is essential to the collection of child support. The current federal framework of providing competitive grants to states to carry out these kinds of programs is the right structure.

6. Continue the support of states as they work to prevent unintended pregnancies out of wedlock.

Justification: Through the TANF block grant, states have been able to make considerable strides in preventing unintended pregnancies. The third goal of the TANF program, “preventing out-of-wedlock pregnancies,” has been a bridge for TANF programs to work with various other programs in keeping unintended births among teens and young adults low.

Footnotes:

1. 45 CFR 264.1
2. SSA 409(7)(B)(ii); 45 CFR 263.1(a)(1),(2)
3. 45 CFR 263.2
4. OMB Circular A-123, Appendix C, part I.A, OMB Circular A-87, OMB Circular M-03-13; 45 CFR 263.11 (b), 45 CFR 261 and 262, 45 CFR 263.10 and 11(a) and (b), 45 CFR 205.30, 45 CFR sec. 98.92, 45 CFR sec. 98.100, 45 CFR sec. 98.101, and 45 CFS sec. 98.102
5. 45 CFR 260.31(b)
6. SSA 1137 (a) and (b); SSA 409
7. 45 CFR 262.3, .4, and .5; 42 U.S.C. 609; 42 U.S.C. 609(b) and (c), IPIA; OMB Circular 03-13 and OMB Circular A-87
8. 2005 American Indian Population and Labor Force Report, <http://www.doi.gov/bia/docs/laborforce/2005%20American%20Indian%20Population%20and%20Labor%20Force%20Report.pdf>