

Recommended Changes to Temporary Assistance for Needy Families (TANF) Provisions of the Deficit Reduction Act (DRA)

The 1996 TANF legislation gave states the flexibility to design programs that moved families towards self-sufficiency in keeping with local needs. This flexibility has been put to excellent use by Washington's WorkFirst program; reducing the TANF caseload by 42 percent since July 1997 and moving tens of thousands of families into the labor market.

Given such success, expectations were high that the TANF block grant reauthorization would retain this flexibility, and that changes would be focused on helping states address the serious barriers to employment of those families remaining on assistance. Unfortunately, the reauthorization contained in the DRA of 2005 fell short of these expectations.

With the 110th Session of Congress approaching, I would like to take this opportunity to share with you my thoughts on improving the DRA, starting with a short list of changes that could be implemented immediately and without additional cost.

- Eliminate the separate 90 percent two-parent participation rate
 - Exempt Separate State Programs from TANF participation requirements
 - Repeal the DRA work verification requirements and penalties
 - Give states adequate time, without penalty, to implement TANF changes
 - Allow greater flexibility in Maintenance of Effort (MOE) spending
 - Allow greater flexibility in the use of TANF funds
-
- Two-Parent Families: With the loss or drastic decline in the caseload reduction credit, few if any states are expected to meet the two-parent rate for the foreseeable future. This guarantees that nearly all states will face significant financial penalties they can ill afford. Many two-parent families face significant barriers to employment, and there has long been bipartisan support for abolishing the separate two-parent rate.
 - Separate State Programs (SSP): It has been policy that SSP, programs funded exclusively with state funds but claimed as MOE, were not subject to TANF work participation requirements. The DRA reversed this long-standing policy. It is proper for Congress to regulate the use of federal TANF dollars, but not the use of what are strictly state funds.
 - Work Verification Requirements: The DRA's work verification requirements represent a dramatic shift toward federal micro-management; transferring the focus away from state flexibility and client outcomes, and onto issues of pure process. This forces states to divert resources into verification that would be better spent on actually moving families towards self-sufficiency. States at least need a clear

"tolerance level" for compliance with verification requirements. There must be a reasonable and common standard ensuring that federal penalties are not assessed for minor errors.

- The requirement for supervised and documented study time is an example of verification gone overboard. If a TANF recipient is progressing in school, it is evident he is spending time studying. It is burdensome to both the student and to the institution to devote time and resources to such verification. Provided a TANF recipient is making satisfactory progress, states should have the option to replace the supervised study time requirement with an allowance of two hours of unsupervised study time for one hour of class time, which is the commonly accepted standard.

Effective Dates and Penalties: Changes to the TANF program in response to the DRA's work participation provisions will require state legislative action, information technology changes, contract modifications, and staff re-training. The three months (June 30 to September 30) provided by the statute is insufficient to meet these requirements. The Department of Health and Human Services (HHS) should be directed to take the more sensible approach it took to the work verification provisions, allowing states until FFY 2008 to be fully in compliance with participation rate targets. At the very least, HHS should recognize "reasonable cause" and not impose penalties on states unable to meet the rates due to the short implementation timeframe or acting on reasonable interpretation of the interim final TANF regulations.

- Maintenance of Effort: State expenditures on foster care or juvenile justice services should be countable as MOE. Current MOE rules restrict states' ability to claim MOE for needy children not living with a parent or caretaker relative, yet foster care arrangements are intended to be transitional toward the permanency of adoption or return to the biological parent. The requirement that states apply income standards to these families should not be a barrier as these standards are already waived for "child-only" families.
- Cash Management and Use of TANF Funds: There are three cash management "fixes" to the TANF law that were non-controversial when proposed prior to the DRA and would now ease operation of the program.
 - States that fail to meet one of the federal participation rates are required to boost their MOE expenditures from 75 percent to 80 percent the same year they failed to meet the rate. To help keep the focus on assisting families to become self-sufficient, this MOE requirement should be imposed in *the* year following a state's failure to meet the rate.
 - While states are permitted to use current year TANF funds for both "assistance" and "non-assistance" purposes, carry-over funds can only be

used for "assistance." This restriction serves no discernible policy purpose, is unduly restrictive of state flexibility, and should be eliminated.

- Prior to the DRA, there was bipartisan support for removing child care and transportation from the definition of "assistance." HHS itself has acknowledged that there are good arguments for narrowing the definition of "assistance" to exclude work supports such as these.

Other Recommended Changes

Two important changes with budgetary implications, both for states and the federal government, also deserve your attention. These recommended changes are detailed below, in addition to a number of other changes that would better serve families working toward self-sufficiency:

- Child Support: One child support provision of the DRA clearly amounts to an unfunded mandate and should be rescinded. Under the DRA, states are prohibited from using Federal Child Support Performance Incentive Award dollars toward the federal Title IV-D match. This provision shifts costs to the states at a time when they are also being directed by the federal government to take on new responsibilities such as medical enforcement against custodial parents, and collection of annual user fees. This provision alone is estimated to cost Washington's child support enforcement program about \$27 million annually, impeding efforts to establish paternity, and to establish and enforce child and medical support orders. The result will be foregone child support collections, which families leaving or avoiding TANF depend on for economic survival.
- Social Services Block Grant (SSBG): Washington relies on its SSBG funding primarily for services to maintain children in their own homes and for placement in alternative care when this is not possible. This funding, which is critical to the health and safety of these children, has been cut 37 percent since 1995. It should be restored to its pre-TANF level of \$2.8 billion.
- Employment Credit: While the TANF caseload reduction credit needs to be updated, I am disappointed that Congress did not take this opportunity to substitute a credit in keeping with the underlying purpose of TANF – moving families into sustainable employment. The current rule makes little sense from a public policy perspective – states should get credit for moving parents into employment, not just for reducing the caseload. Several proposals for an employment credit, such as giving states credit against their participation rate targets for successfully moving parents into jobs, were floated during the TANF reauthorization debate. These deserve to be reconsidered at this time. Congress should also consider giving states credit for "diversion" from TANF when it is based on employment, and also granting extra credit when a TANF recipient gets a job after resolving major employment barriers.

- Partial Work Participation Credit: The current all or nothing approach to participation means that a family falling only an hour or two shy of the standard is considered “not participating” for federal reporting purposes. This makes no sense, either for the families themselves who are clearly making a good faith effort, or the states which are investigating significant resources in these families. Prior to passage of the DRA, a common sense proposal was on the table that would grant partial credit for these families which are participating in earnest. This proposal should be reconsidered.
- Activities to Address Employment Barriers: Many of the parents currently on assistance face significant barriers to employment, including mental health problems, substance abuse, domestic violence, and homelessness. While these issues clearly need to be addressed before parents can be successful in the workforce, the regulations issued in June actually hinder these efforts. Services to address the issues are not fully countable under the new regulations but are instead included in the very time-limited job search/job readiness category.

HHS overstepped its mandate in restricting the countability of barrier removal activities and I encourage Congress to step in and clarify that this was not its intent. The most straightforward solution would be to create a separate “core” participation category for these and other barrier removal efforts. Alternately, HHS could allow states to “blend” barrier removal activities into existing categories where appropriate; including subsidized employment, community service, and training or education directly related to employment. Washington State currently runs a very successful transitional (subsidized) jobs program – Community Jobs – which integrates barrier-removal activities into total activity hours. This type of flexibility has allowed Washington to be successful in moving families from welfare to work of the last ten years.

- Parents or Dependents with Disabilities: The DRA directs HHS to define “who is [and is not] a work-eligible individual” for purposes of calculating federal participation rates. HHS has too narrowly defined those populations excluded from “work-eligibility,” particularly with regard to parents with disabilities. In addition to Social Security Insurance (SSI) recipients, individuals with medically certified disabilities should be excluded from the definition, including Social Security Disability Insurance recipients, and SSI applicants. These applicants sometimes wait two years for approval. There is no logical reason to exclude some individuals with medically certified disabilities and not others.
- Other “Work-Eligible” Exclusions: Washington State is home to a large immigrant population which adds greatly to our cultural diversity and richness. Some of these legal immigrants, which include refugees, need TANF assistance until they can get on their feet economically. Unfortunately, the DRA regulations make inadequate allowance for addressing the additional barriers experienced by people who cannot speak English, have little education, and low levels of literacy. Washington State has proposed to amendments to accommodate the needs of these individuals.

- o For refugees and others of comparable status, such as victims of human trafficking, I propose they not be considered "work-eligible" for up to 12 months.
 - o For other legal immigrants, I propose that those who score below a certain level of English proficiency and literacy be excluded from the definition of "work-eligible" for up to 12 months. States should be allowed to apply these exclusions on a case-by-case basis.
- Adult Basic Education: TANF reauthorization was an opportunity to recognize and accommodate the importance of education in preparing families to become truly independent of public assistance. Basic skills and English as a Second Language programs are key components of training necessary for lower-skilled individuals to succeed in the labor market. Adult Basic Education should be added as a "core" countable TANF activity.
 - Expanding Vocational Education: Research indicates that in order to reach the "tipping point" to economic self-sufficiency, a minimum of one year of college-level work and a credential are required. Most vocational education programs have pre-requisite courses that must be completed prior, and the current one-year lifetime limitation on vocational education inhibits access to these programs. Expanding vocational education to two years as a "core" countable activity would ensure that parents are prepared to benefit from this training and that the largest number possible can access it.
 - "Deeming" Issues: One very positive feature of the DRA interim final regulations is the provision to "deem" hours of participation in certain unpaid work activities governed by the Fair Labor Standards Act (FLSA). This allows parents in unpaid work activities who are restricted to less than 20 hours under the FLSA still get credit for 20 hours of "core" activities. I believe this "deeming" should be expanded to the full 30 hours of federally required participation, where appropriate. I also believe "deeming" should be expanded to college work study programs. States should be allowed to "deem" 16 to 19.5 hours of work study (unsubsidized employment) per week as 20 hours in order to satisfy the minimum requirement of 20 hours in a "core" activity.