



August 28, 2006

Office of Family Assistance
Administration for Children and Families
5th Floor East
370 L'Enfant Promenade SW
Washington, DC 20447

Re: Comments on TANF regulations

The Sargent Shriver National Center on Poverty Law (Shriver Center) is a legal and policy research, communications, and advocacy organization that, among other activities, represents low-income families in Illinois on public policy issues. We have been deeply involved in Temporary Assistance for Needy Families (TANF) policies and their implementation in this state since 1996. We see these issues mostly from the families' point of view and submit these comments on the Interim Final Rule for the TANF program (published at 71 Fed. Reg. 37,454, June 29, 2006) on their behalf.

I. Work activities

In general, the regulations provide narrow definitions of work activities—narrower than many states, including Illinois, have utilized over the last ten years. These definitions limit the set of work activities that states can get credit for toward their participation rate. In particular, the regulations limit the extent to which activities designed to address barriers to employment can count toward the participation rates and impose significant limitations on education and training. While we understand the U.S. Department of Health and Human Services (HHS) concern about inconsistent data because of lack of uniformity, this concern should not override the far more pressing need for the flexibility necessary to support the ultimate goal of moving TANF applicants and recipients into unsubsidized jobs that provide a living wage and benefits, so that not only current but also future need for public assistance is eliminated. The number of former recipients working in low-wage jobs without opportunity for wage or career advancement is discouraging, and the growth of the “no welfare, no work” population is alarming. Greater, not less, flexibility and creativity in tailoring work activities to the needs of the TANF population is required—rigid definitions will impede the welfare-to-work transition.

Concern over requiring work activities to be consistent to enable comparisons is misplaced and far too limiting. Using instead four measures of success of TANF programs in general and the work requirements in particular would demonstrate both meaningful and beneficial outcomes for low-income families. These four measures are as follows:

- the percent of people who live in a state at or below 200 percent of the federal poverty level and who receive all the public benefits for which they are eligible



- (including a separate number of former recipients who have reached the five-year time limit);
- the percent of recipients and former recipients employed, increases in income over time, and those earning at least 200 percent of poverty and benefits;
 - the percent of applicants and recipients enrolled in education and training programs and those who have completed education and training programs which lead to a job with a median income of at least 200 percent of poverty; and
 - the percent of applicants, recipients, and former recipients who have earnings at or below 200 percent of poverty and are engaged in barrier-reduction services, such as domestic violence counseling, mental health counseling, and vocational rehabilitation services.

An analysis of these measurements and the work activities offered by a state against the backdrop of the health of the relevant area labor market would yield a much better tool for evaluating the success of any state's TANF program and the work activities it offers rather than whether the state implements and a recipient participates in activities that satisfy fixed definitions. We already know that programs featuring a mix of services tailored to the circumstances of individual recipients (various combinations of adult basic education, remedial education, English as a Second Language (ESL) instruction, and barrier remediation with vocational training, work, and job search) best meet the needs of those with limited experience or low skills or disabilities or all three, and such programs are the most successful.

A. Allow broader definitions of work activities

The regulations discourage innovative workforce development models that blend on-the-job experience with classroom training, education, job readiness, and barrier remediation. The desire for mutual exclusivity should not outweigh the strong evidence that programs with the most successful outcomes combine services and approaches. This policy will hinder the ability of program providers to offer integrated programs that adequately prepare participants for particular trades or occupations and that help them become self-sufficient. It also will prevent employers from filling jobs in demand occupations with TANF recipients who have been trained in programs designed to meet the changing needs of the labor market.

Such integrated services are typical of the Transitional Jobs model and work experience programs. The regulations do not support the ultimate goal of subsidized employment and work experience programs—to move participants into unsubsidized jobs. What does not make sense is to discourage combining subsidized employment or work experience with activities that will enable participants to be hired into unsubsidized jobs and leave welfare. HHS should expand the definition of subsidized employment, work experience, and community service to allow the counting of job search and development and barrier-reduction activities as well as education and training when they are an integral part of a subsidized employment, work experience, or community service program. States should be allowed to count activities that supplement the main focus of a program as participation in the predominant activity.

The Shriver Center also recommends the following:

- Vocational education training—continue the flexibility that states have had on whether bachelor degree programs constitute vocational education training.
- On-the-job training (OJT)—change the definition of OJT to include training that is combined with work experience. This may be classroom-based vocational instruction.
- Subsidized employment—remove the language suggesting that the employer receiving the subsidy is expected to hire program participants. In Illinois the employers most willing to take on the responsibility of training and supervising participants are nonprofit organizations and government. They cannot be expected to hire participants. Replace the language to suggest that participating employers are expected to provide services, including appropriate supervision and skill development, in exchange for the subsidy. At a minimum, limit the hiring expectation to private employers and require states to describe in the Work Verification Plan how the program will link participants to unsubsidized jobs and how it will avoid displacement of current workers.
- Job search and job readiness assistance—de minimis inclusion of job search and job readiness activities (e.g., less than ten hours per week) should not be considered as using up a week of the time limit. Eliminate the language that limits substance abuse treatment, mental health treatment, life-skills training, or rehabilitation activities to those who are “otherwise employable.”
- Supervised study time—in order to complete any educational program, study time is necessary (at the postsecondary level two or more hours of preparation time for each hour of class time is commonly expected as necessary). If a TANF recipient is progressing in school, the recipient evidently is spending time studying. Families at every economic level struggle with family obligations. The only time for study is often late at night after the children are in bed or early in the morning before they rise. The requirement that study time be monitored is burdensome and costly to the student, service provider, and states. HHS should allow states to count, at a minimum, one hour of unsupervised study time for one hour of class time if a student is making satisfactory progress, or allow states to count actual study time if it is monitored.
- ESL instruction—allow states to count stand-alone ESL programs as either a vocational education training activity or work experience. This is particularly helpful for those recipients whose main barrier to employment is lack of proficiency in English.

B. Encourage education and training at every skill level

An increase in economic well-being with each additional level of education and training is well documented. Blended programs are an effective way for lower-skill recipients to start up that path. Some of the most successful vocational education training programs designed for lower-skill adults integrate basic skills with vocational skills training, making the combined program longer than if each component were offered separately. Because of the success of Transitional Jobs and bridge programs in Illinois and elsewhere, the Shriver Center is working to increase the number and reach of these programs. Some of them target particular populations, such as the

formerly incarcerated, those not proficient in English, and public housing residents. We would like to create programs that specifically target TANF recipients, especially parents with young children. But HHS' emphasis on "limited duration" of basic skills as part of a vocational skills program disregards the need to integrate basic skills for successful outcomes. And, just like basic skills, ESL can be a necessary requirement to participate in vocational education training or the labor market. HHS should eliminate the requirement that basic skills integral to vocational education training programs be of "limited duration" and clarify that ESL activities integrated into vocational training programs can count as vocational education training. The preamble should explicitly note that ESL, like basic skills, is an acceptable component of vocational education training programs. The preamble should clarify that hours in a vocational education program that follows a Transitional Jobs or bridge program model in which recipients may first receive more basic skills training or ESL instruction equipping them with the prerequisites for the occupational training are considered vocational education training in their entirety.

Programs that integrate barrier remediation with education and skills training are often more effective than stand-alone programs completed either simultaneously or sequentially. The combination of treatment and healing with real economic opportunity is a powerful one and serves to reinforce each other, spurring on participants to success.

Recipients should not be denied the opportunity to work toward a baccalaureate degree. Workers with bachelor degrees earn more and are more likely to be economically self-sufficient in the long run. Most new jobs in the near future are projected to be filled by those with at least a bachelor's degree. HHS should allow states to count under vocational education training TANF participants working toward a baccalaureate degree. At a minimum, such course work should be allowed so long as the recipient is within 12 months of completing the degree. Also, HHS should specify that an associate degree program is a countable vocational activity.

C. Encourage states to work with the entire universe of TANF recipients

HHS should encourage states to work with a broad group of TANF recipients, including those with disabilities. As written, the regulations provide a disincentive to states to engage persons with disabilities and other barriers to employment in work activities. Credit toward the work participation rate should be granted for modified activities and participation hours that enable such recipients to participate. For people with disabilities, individualized treatment and effective and meaningful opportunity are required and should be required for all. HHS should

- allow states to adopt broader definitions of work activities, particularly for disabled individuals in need of accommodations under the Americans with Disabilities Act (ADA) or Section 504;
- recognize accommodations on hourly requirements (a recipient may not be able to participate for the required hours per week because of a barrier or disability, or caring for a disabled child or other family member; HHS should allow states to deem less than full hours of participation to count for the full required number of hours to make accommodations under the ADA and for individuals with other employment barriers);



- recognize the obligations of parents caring for a school-age child with a disability even if the child is enrolled in school full-time and exclude those parents from the work-eligible definition;
- recognize the obligations of parents caring for a disabled family member not residing in the household and exclude them from the work-eligible definition (the need for care must be medically documented, so there is no need to distinguish between residing and not residing in the household—the availability of the recipient is the same); and
- exclude those awaiting Supplemental Security Income approval and those with severe but temporary disabilities from the work-eligible definition.

II. Counting, tracking, and verifying hours of participation

The proposed intensive real-time monitoring and record keeping as to work activities are an unwise use of personnel and money not justified by any evidence of a need. Without that evidence, these intensive requirements are insulting to participants, service providers, welfare departments, and states. The requirements assume that all of these players are trying to cheat in some way. Rather than these provocative and expensive methods in the proposed rule, we suggest another approach—that participants self-verify. Service providers can be asked to supply backup records once a month. And the state welfare agency can be asked to establish a system of periodic random audits to back-check on the information from service providers and periodic random site visits to check on day-to-day operations. Further, tracking daily attendance in vocational education training programs and other educational programs is unnecessary. Educational programs monitor progress. States should be permitted to document hours of participation for those in vocational and other education and training activities on the basis of satisfactory progress in those programs. Also, requiring providers to track and report hours of participation in integrated programs under different work activities increases the reporting burden. States and service providers are already overtasked. HHS should strike a balance between holding states accountable and imposing overly burdensome administrative requirements on states and, in turn, individuals and service providers.

The Shriver Center recommends the following:

- Allow states flexibility to develop plans to monitor participation (including participant self-verification), allow states to project future hours based on documented actual hours, and allow progress in assigned programs as evidence of participation.
- As long as participants are making satisfactory progress in an education and training program, use the providers' definitions of holidays and excused-absence procedures.
- Clarify that distance learning programs are countable and that electronic records of student participation are adequate evidence of supervision.
- Recipients in subsidized employment and OJT should be assumed to be working a full number of hours for which they are paid, even if some of these hours reflect paid



- leave. This will make the policies regarding the three types of paid employment parallel and similarly reduce the burden on employers.
- Allow job search and job readiness assistance to be documented biweekly, consistent with other activities.
 - Clarify that daily supervision means that someone with responsibility for oversight of the individual's participation has contact with the recipient but that the supervision does not have to be done by the TANF agency itself or an employment services contractor.
 - Urge states to develop verification procedures that do not unduly burden recipients and service providers.
 - Expand the excused-absence policy so that states may use a providers' definition of holidays and excused absences for those engaged in subsidized employment, education, and training. And allow states to count those who nearly reach the required hours but miss due to "good cause" such as their own or their child's illness and court or school appointments.

III. Conclusion

It is time to take the steps necessary to ensure that the TANF-eligible population is fully integrated into the nation's workforce and economic development pipeline—that the TANF-eligible population is helped not just with obtaining employment but with a meaningful opportunity to gain the skills necessary to enter and advance in well-paying jobs crucial to each state's and the national economy. Access to education and skills training are essential elements for success. The incentives to achieve caseload reduction through a work-only mentality and red tape are counterproductive. States need encouragement to create the blended programs that will achieve success for the TANF program and for TANF families. Overly restrictive definitions and unduly burdensome monitoring and paperwork hinder progress. The Shriver Center urges the Department of Health and Human Services to incorporate our recommendations, and those of our colleagues at the Center on Budget and Policy Priorities, the Center for Law and Social Policy, and the Chicago Jobs Council, so that the TANF regulations promote the kind of success low-income people deserve.

Respectfully submitted,
The Sargent Shriver National Center on Poverty Law