

Taking action to end poverty



September 4, 2007

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Illinois Department of Human Services
100 South Grand Avenue East
Harris Building, Third Floor
Springfield, IL 62762

By fax to 217.557.1547
and U.S. Mail

Re. Notice of proposed amendments,
Temporary Assistance for Needy Families
31 Illinois Register, Issue 29, July 20, 2007,
Pages 10404-45

Dear Ms. Drew:

The following comments are submitted in response to the notice of proposed amendments to the TANF program published on July 20, 2007 in 31 Illinois Register, pages 10404-45.

The Sargent Shriver National Center on Poverty Law is a national law and policy center that takes action to end poverty through policy development, communications, and impact litigation. The Shriver Center staff has worked on public benefits issues in Illinois for 30+ years. We had substantial involvement with the Illinois General Assembly as it drafted the state laws implementing the original TANF statute, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and we have had ongoing conversations and correspondence, including making recommendations for rulemaking and commenting on proposed rules, with the Department of Human Services over Illinois' TANF program for the past decade. Several members of the Shriver Center staff serve on and have served on various advisory committees to IDHS, including the Social Services Advisory Committee, Access to Benefits Task Force, Child Care and Development Advisory Council, and Food Stamp Participation External Advisory Council. We also were involved in the multi-year federal TANF reauthorization process and have paid careful attention to the U.S. Department of Health and Human Services directions to the states implementing TANF reauthorization.

Operating from that background, we submit comments regarding the proposed amendments. The first set of comments addresses the proposed elimination of educational activities for TANF recipients. This proposed rule change constitutes an unwise and unnecessary change to Illinois TANF program that will, if implemented, impede participants' achievement of self-sufficiency. The second set of comments track specific provisions in the proposed

amendments, noting where they may be out of compliance with federal law or regulations, with state law, incomplete, unclear, or otherwise in need of modification.

I. Comments Concerning the Restriction of Permissible Education Activities for TANF Participants

Education is the key to alleviating poverty—it prevents unemployment and is the best route to higher earnings. Although low-skill, low-wage jobs will remain, over the next decade the number of jobs requiring some sort of post-secondary credential is projected to grow at rates that outpace jobs requiring a high school education or less by 60 percent. Education has gained increasing value in the labor market, and the demand for jobs requiring postsecondary credentials and degrees will increase faster than the total U.S. job growth. Earnings increase significantly by levels of education attained above a high school diploma, with persons with Associate degrees earning almost \$6,000 a year more than those with only a high school diploma or GED, and persons with a Bachelor's degree earning nearly \$16,000 a year more than those with only a high school diploma or GED.¹ The value of increasing levels of education for women is even more important. While education reduces the likelihood of being poor for both men and women, women are much more likely to be poor than men with the same level of education. In 2005, women with a high school diploma but no college were 52 percent more likely to be poor than men with a high school diploma but no college, with a poverty rate of 14.3 percent compared to 9.4 percent for men. The poverty rate of 10.2 percent for women with college, but less than four years, is 44 percent greater than the 7 percent poverty rate for men with the same educational level. And the 4.5 percent poverty rate for women with a bachelor's degree (or more) was 24 percent greater than the 3.6 percent rate for men with such a degree.² In addition, workers with postsecondary credentials are more likely to be employed than those with a high school education or less (this is especially true for African-Americans and women) and experience shorter unemployment spells.³

The most successful welfare-to-work programs do not rely on one activity, and include education and training. Those that helped recipients obtain higher-paying jobs have typically made substantial use of longer-term training and education. In Portland, Oregon, a National Evaluation of Welfare-to-Work Strategies (NEWS) site, where the emphasis was on job quality, over half of those with a high school diploma attended a community, two-year, or four-year college. The three NEWS sites that most increased hourly pay—Portland, Columbus and Detroit—also boosted participation in longer-term training.⁴ California's community colleges

¹ Christopher Mazzeo, Brandon Roberts, Christopher Spence, Julie Strawn, *Working Together: Aligning State Systems and Policies for Individual and Regional Prosperity*, Workforce Strategy Center (Dec. 2006) at 1-2, available at http://www.workforcestrategy.org/publications/WSC_workingtogether_12.1.06_3.pdf.

² *Reading Between the Lines: Women's Poverty in the United States, 2005*, Legal Momentum (Sept. 2006), available at http://legalmomentum.org/legalmomentum/publications/womens_poverty/.

³ Julie Strawn, *Why Congress Should Expand, Not Cut, Access to Long-Term Training in TANF*, Center on Law and Social Policy (Feb. 2004), available at http://www.clasp.org/publications/TANF_Postsec.pdf.

⁴ *Id.*

found that the more education TANF recipients attain, the greater their earnings, even for those who entered college without a high school diploma or GED. In particular, the longer a vocational program, the greater the economic payoff.⁵

Raising education levels not only benefits individuals, increasing the average level of education of a state benefits its economic development. More and more states recognize that education is key to remain competitive economically. For example, to ensure its populace has access to postsecondary education, the state of Michigan created the Promise Scholarship which provides up to \$4,000 to high school graduates to attend an approved Michigan post-secondary institution in order to complete an Associate's degree, a two-year certificate, a vocational education program, or 50 percent of the academic requirements for a Bachelor's degree.⁶ While a program like Michigan's is beyond the scope of what IDHS can do, IDHS can allow TANF recipients to participate in education and training programs, regardless of the length and the credential obtained. The TANF program gives the State of Illinois the opportunity to ensure that even the poorest among us can take advantage of and positively contribute to the economic development of Illinois and its increasingly global and growing economy.

In the face of this reality, closing off the option for TANF recipients to attend long-term vocational training (at least 24 months) regardless of the credential awarded upon completion, and post-secondary education with the goal of an Associate's degree, in addition to a Bachelor's degree, is simply wrong. The choice for recipients should not be school or TANF, but what is the best route off welfare, out of poverty and toward career path employment. While we are sympathetic that the recent changes in federal law and rules make it more difficult for Illinois and all states to meet the federal work participation rates, it does not require such drastic action. Illinois does not have to have 100 percent of its TANF adult population in countable work activities, only 50 percent (and this percentage may decrease over time). To foreclose the opportunity of attending long-term vocational training and post-secondary education for those recipients who are able to take advantage of it is a serious mistake. And while we appreciate and applaud that the pursuit of a Bachelor's degree remains a permitted activity, if finalized as written, these proposed amendments will make this Administration the first since the inception of TANF in 1996 to bar TANF recipients from pursuing all of the best options to transition from welfare to work, including long-term vocational training and Associate degree programs.

Therefore, the Shriver Center suggests the following changes to the proposed amendment.

⁵ Anita Mathur with Judy Reichle, Julie Strawn, and Chuck Wiseley, *From Jobs to Careers: How California Community College Credentials Pay Off for Welfare Participants*, California Colleges Chancellor's Office and the Center for Law and Social Policy (May 2004), at 19-28, available at http://www.clasp.org/publications/Jobs_Careers.pdf.

⁶ *Michigan Promise Scholarship Fact Sheet: Academic Year 2007-08*, Office of Scholarships and Grants, Michigan Department of Treasury, available at http://www.michigan.gov/documents/mistudentaid/FactSheetPromiseFY07_192865_7.pdf.

Section 112.70, page 10417 (deletion of the word “education” in employment and work activity requirements)

The rule should be written as follows: “The purpose of TANF is to provide temporary assistance to needy individuals and families and assist them in attaining skills, education, and training needed to become employed and help avoid long-term welfare dependence.”

Section 112.78(a), page 10420 (limiting vocational training programs)

Approvable vocational training programs should not be limited to 12 months, but up to 24 months in length. Also, TANF recipients should be allowed to participate in more than one shorter-term vocational training program, with a maximum of 24 months of participation allowed. The rule should be written as follows:

“Education and Training Directly Related to Employment (Below Post-Secondary)

Adult clients who have not received a high school diploma or GED and need further education or training to obtain a specific occupation, job, or job offer are placed in this program. It consists of Adult Basic Education (ABE), General Equivalency Diploma (GED), English-as-a-Second-Language (ESL), and one or more vocational training programs with a maximum participation of 24 months.”

Section 112.78(a)(3)(F), page 10422

Delete all references to 12 months and 12-month limit and replace with 24 months and 24-month limit in this paragraph.

Section 112.78(b), page 10423

In the first paragraph, the sentence beginning on line 5, should be written as follows: “Participants who are not working are limited to 24 months of Vocational Training programs and may be required,”

Section 112.78(b)(1)(F), page 10423

Delete “12-month” and replace with “24-month.”

Section 112.78(i), (i)(1), (i)(1)(B), (i)(1)(N), and (i)(1)(O), page 10433

Delete “Bachelor Degree program” and replace with “post-secondary education.”

II. Comments on Other Specific Provisions of the Proposed Amendments

Sections 112.1(b)(2); 112.78(a)(3)(F), (b)(1)(F), (c)(3)(C), (i)(1)(L), (n)(1) (work requirements for 04 cases with a child under age six)

These sections set forth the requirement that Category 04 cases (single parents) must participate in work-related activities for 30 hours per week. These sections (and all other sections that reference this requirement) should further specify that in Category 04 cases that include a child under age six, the participation requirement is 20 hours per week. This reflects

federal law and Department policy as most recently reiterated in the notice to TANF families, “Notice Concerning a Change in TANF Rules,” dated August 8, 2007.

Sections 112.70(e), 112.78(k) (deletion of self-employment as training activity)

Self-employment training remains an appropriate training activity for certain TANF recipients and should not be eliminated as an approvable work-related activity.

Section 112.71(a)(4), page 10419 (exemptions for “child only” cases)

The proposed change deletes the language “are adults in families when only children are receiving TANF benefits” from the list of individuals who are exempt from TANF Employment and Work Activity Requirements. We think this deletion without the addition of more specific language regarding which adults in child only cases are exempt violates the federal regulations in two ways.

First, regarding adults who are not the parents of the children receiving TANF. Under the federal TANF Reauthorization Interim Final Rules, the definition of “Work-eligible individual” is “an *adult ...receiving assistance* under TANF or a separate state program or a *non-recipient parent* living with a child receiving assistance unless the parent is...” 45 C.F.R. § 261.2(n)(1) (emphasis added). Under this federal definition, adults who are not receiving assistance and are not parents are not “work-eligible individuals.” Examples of such individuals include aunts, uncles, grandparents, adult siblings, and other relatives caring for and receiving TANF benefits for related children. Illinois has no authority to subject them to the work requirements and cannot count them in its work participation rates. Even if federal law allowed Illinois to subject such persons to the work requirement, doing so would serve no useful purpose. Most of these adults have sufficient earned or unearned income that they do not need to apply for TANF cash assistance for themselves. Subjecting them to the work requirements in these circumstances could discourage them from volunteering to take on the responsibility of raising their minor relatives, forcing the state to find and fund foster care for the children.

Second, regarding adults who are parents of the children receiving TANF but who do not themselves receive TANF. Here the federal regulations specifically set out which of these parents are not “work-eligible” individuals—minor parents who are not heads of households, ineligible immigrants, SSI recipients (at state option), parents providing care for disabled family members, and specified individuals in Tribal TANF programs. 45 C.F.R. § 261.2(n)(1) and (2).

We suggest that the proposed rule be amended to reflect the language of 45 C.F.R. § 261.2(n) defining “work-eligible individual.” We would draft the section as follows:

- 4) Is an adult ~~Are adults in families~~ a family when only children are receiving TANF benefits and the adult is not the parent of the TANF-receiving children.
- 5) Is a parent in a family when only children are receiving TANF benefits and the parent is a minor parent and not the head of household.

- 6) Is a parent in a family when only children are receiving TANF benefits and the parent is an alien who is ineligible to receive assistance due to his or her immigration status.
- 7) Is a parent in a family when only children are receiving TANF benefits and the parent is a recipient of Supplemental Security Income benefits.
- 8) Is a parent providing care for a disabled family member living in the home who does not attend school on a full-time basis.

Section 112.78(c), page 10425 (secondary school education requirements)

The proposed rule concerning education at secondary school appears to require minor parents under 20 who have not completed secondary school or received a GED to attend secondary school or take GED classes. Such a rule, however, would violate state law. 305 ILCS 5/4-1.9(b) requires parents under age 20 to be enrolled in high school or GED classes, but allows an exception to the requirement: “18 or 19 year old parents may be assigned to work activities or training if it is determined based on an individualized assessment that secondary school is inappropriate.” The exception wisely allows young parents who are unlikely to succeed in formal education programs at this point in their lives to be assigned to other work activities or training. We can find nothing in the federal TANF law or regulations in conflict with this exception created by state law. 45 C.F.R. § 251.2(l) defines “satisfactory school attendance at secondary school in a course of study leading to a certificate of general equivalence” defines when high school or GED courses are allowable activities; it does not mandate that parents under 20 be assigned to secondary school or GED as their work activity. We suggest that the proposed rule be amended so that it is consistent with state law.

Section 112.78(l), page 10438 (definition of community service)

The list of community service programs that serve a useful community purpose should add the words “including but not limited to” before the word “health” to cover other meritorious fields of service that may not be included in the list.

Section 112.78(l)(2)(B), page 10439 (job search requirements for community service participants)

The language regarding job search requirements for community service participants should be permissive, not mandatory. TANF participants assigned to community service are those who have little to no work experience and “need to build skills and confidence before entering a more structured work setting.” IDHS Policy Manual 21-02-02-a. It makes little sense to impose a blanket job-search requirement on these TANF participants who, for the most part, are not job-ready. Although job search activities might be appropriate for some community service participants, they will not be appropriate for others. The proposed rule unnecessarily constrains caseworkers’ ability to develop appropriate RSPs for TANF participants. The rule should therefore state that participants *may* be required to perform job search activities.

Sections 112.78(l)(2)(C), (m)(2)(C), pages 10439-40 (supervisor notification requirements for community service and Work First participants)

The requirement that participants “immediately” notify their Work Assignment Sponsors when they cannot report to their assignments on time should be clarified. The proposed rule fails to give clear guidance as to what is required in the vast majority of circumstances where it is impossible to make an “immediate” report (e.g., when a participant has no ready access to a telephone, is being delayed on an underground train, or is experiencing a medical emergency). We suggest that the rule be amended such that participants are required to “notify their Work Assignment Supervisors as soon as practicable.” This language makes it easier for TANF participants to understand what is expected of them. It is also more consistent with the “good cause” standard that applies to other TANF participation requirements.

Please contact Dan Lesser at (312) 263-3830 or danlesser@povertylaw.org if you need clarification or have any questions about the matters discussed in these comments. Thank you for your attention.

Very truly yours,

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