

BEYOND WELFARE: NEW OPPORTUNITIES TO USE TANF TO HELP LOW-INCOME WORKING FAMILIES

By

**MARK H. GREENBERG
CENTER FOR LAW AND SOCIAL POLICY**

JULY 1999

OVERVIEW

In recent months, three stories have emerged about the experience of states in implementing programs under the Temporary Assistance for Needy Families (TANF) Block Grants:

- C there has been a dramatic decline in TANF caseloads;
- C half or more of the families that have left assistance are now working but typically in jobs with earnings below the poverty level; and
- C many states have substantial amounts of unspent TANF funds.

Looking at these stories together, it seems clear that there is both a need and an opportunity to commit resources to addressing needs of low-income working families. However, states have sometimes been hesitant to commit TANF or state maintenance of effort (MOE) funds to new initiatives for working poor families, in part because states have been unsure about what was allowable or concerned that under proposed federal regulations there were significant difficulties in using TANF or MOE funds for such initiatives.

New federal regulations and guidance make it significantly easier for states to use TANF and MOE funds for initiatives to help low income working families. It is now clear that:

- C States can use TANF and state maintenance of effort funds for an array of services and benefits in addition to running the state's basic welfare program;
- C States can use TANF and MOE funds to help low-income working families even if those families have incomes above the welfare eligibility level and even if those families have never received welfare; and
- C States can use TANF and MOE funds to help working families outside the welfare system through programs and initiatives that are not restricted by the rules of the welfare system.

As a result of this new flexibility, states can develop new initiatives to help working families meet work expenses, meet basic needs, benefit from their child support, and participate in education or training to advance in the workforce. And, states can develop new nonwelfare approaches to help working families between jobs.

Until now, states have often thought of TANF as a funding stream that finances a program of basic cash assistance for poor families and a set of initiatives to help families enter or reenter the workforce. Under the new policies, TANF can also become a funding stream to finance efforts to help low-wage families retain employment, escape poverty, and advance in the workforce. And, states can choose whether they wish to provide supports for working families through the welfare system, outside the welfare system, or in some combination of the two.

In framing these possibilities, the point is not that states should shift funds away from basic income support or reduce efforts to help families enter employment. There are still 2.8 million families receiving TANF assistance and unknown numbers of families that have left welfare without finding work, many of whom could benefit from state help. While these needs are substantial, state TANF block grant amounts were set at a time of historically high caseloads and many states have had large caseload declines since that time. As a result, many states now have the capacity to expand both services for those families with the greatest barriers to employment and new supports for working poor families.

This document briefly summarizes the evidence about TANF caseload declines, families entering low-wage employment, and the extent of available TANF and MOE funds in many states; explains how the new and clarified policies that make it more possible to use TANF and MOE funds to help low-wage working families; and offers some examples of initiatives that states can more readily undertake in the new policy environment.

The Policy Context: Caseload Decline, Low-Wage Working Families, Available Resources

The nation's caseload began to decline two years before TANF was enacted, but the decline accelerated sharply after the law was passed. At its peak, in March 1994, five million families were receiving AFDC; the number fell to 4.4 million by the time TANF was enacted in August 1996, and dropped to 2.8 million by December 1998, a 37% decline since the law was enacted.

State studies of families that have left TANF offer a fairly consistent picture: the studies typically find that about one-half to two-thirds of those no longer receiving assistance are working, and typically in jobs paying more than minimum wage but in which earnings are

not sufficient to reach the federal poverty level.¹ Moreover, a recent analysis concluded that while the likelihood that prior year AFDC/TANF recipients were working had gone up in recent years, so had the likelihood that they were in jobs with earnings below the poverty level: the analysis concluded that three fourths of the growth in employment among prior-year AFDC/TANF recipients in the last ten years was attributable to below-poverty employment.²

There is only limited information about employment retention and wage mobility for the families that have left TANF, but prior research suggests that employment loss and limited wage mobility are serious problems for AFDC/TANF families entering employment. One recent study (using pre-TANF data) found that 40% of those who had entered employment were no longer working six months later, and that only 1/3 of those who entered employment worked for 75% of the time over the two year period after entering employment.³ Another recent study (also using pre-TANF data) concluded that 55% of former AFDC recipient families were in poverty in the year after leaving AFDC; by the fifth year after leaving AFDC, 41% were in poverty. Over that period, median wages grew by only \$.09/hour each year.⁴

In short, there is reason for concern about low earnings, employment retention, and wage mobility over time for former AFDC/TANF recipients. However, concerns about the needs of low-earning working families should not be limited to a focus on former AFDC/TANF recipients. The welfare caseload has declined more rapidly than has family poverty in recent years. Between 1995 and 1997, the share of poor children receiving AFDC/TANF dropped from 61.5% to 52%. It will not be surprising if 1998 or 1999 data indicates that most poor children are no longer receiving TANF assistance. Thus, the need to address poverty among working families is not just a matter of addressing the transition needs of families leaving welfare, but of recognizing that as welfare becomes smaller, the share of poor families with children outside the welfare system has become larger.

¹ See U.S. General Accounting Office, **WELFARE REFORM: Information on Former Recipients' Status**, GAO/HEHS-99-48 (April 1999); Braunder and Loprest, **Where Are They Now? What States' Studies of People Who Left Welfare Tell Us** (Urban Institute, May 1999); Parrott, **Welfare Recipients Who Find Jobs: What Do We Know About Their Employment and Earnings?** (Center on Budget and Policy Priorities, November 1998).

² Children's Defense Fund and National Coalition for the Homeless, **Welfare to What? Early Findings on Family Hardship and Well-Being** (1999), Appendix B.

³ Rangarajan, Schochet, and Chu, **Employment Experiences of Welfare Recipients Who Find Jobs: Is Targeting Possible?** (Mathematica Policy Research, Inc., August 1998.)

⁴ Cancian and Meyer, **Work after Welfare: Women's Work Effort, Occupation, and Economic Well-Being** (University of Wisconsin, Institute for Research on Poverty, unpublished manuscript July 1998).

As TANF caseloads decline, states can choose to redirect resources that were previously spent on welfare assistance. There is no straightforward way to estimate the amount of funding available in a state as a result of caseload decline and the amounts vary from state to state, but it is clear that the amounts potentially available are substantial. One way to measure potentially available funding at state reporting to the federal government of unexpended or unobligated TANF funds. In FY 98, \$2.7 billion in TANF funds was not obligated by the end of the fiscal year and an additional \$2.2 billion was obligated but not spent within the fiscal year.⁵ However, the amount of resources available for redirection in states is potentially a much larger figure. Nationally, the combination of state TANF grants and state MOE obligations total at least \$27 billion.⁶ When Congress enacted TANF, block grant amounts were generally determined by federal spending for AFDC and related programs in a base period -- the higher of federal spending in 1994, 1995, or the 1992-94 average. State MOE levels were set at 75% or 80% of state spending for AFDC and a set of related programs in 1994. In 1994, a total of \$22.7 billion in federal and state funds were spent on AFDC cash assistance payments, and this amount or more was reflected in state block grants. But in 1998, only \$14 billion in state and federal funds was spent on cash assistance. Thus, almost \$9 billion was available for redirection in 1998. In many states, decisions have already been made about expenditure of some or much of the freed-up funds, but the fact that the funds are no longer committed to cash assistance allows for ongoing discussions in states about how to best use these resources.

Because state financial reporting to the federal government is often uninformative, policy makers and advocates in a state may need to actively seek to determine the amount of available funds within their state, but it is clear that in the aggregate, billions of dollars are now potentially available for state initiatives in the next few years. The block grant structure is authorized through 2002, and it is not yet clear what Congress will do during reauthorization, but the best way to ensure sustained funding will likely be for states to use available funds in a constructive way between now and 2002.

New Opportunities to Help Working Families Under Final TANF Regulations

When the 1996 law was first passed, many people primarily viewed TANF as a redesigned AFDC program, with time limits, work requirements, and broader state discretion. However, it is helpful to think of the law not as establishing a program, but rather as establishing two funding streams: a state's TANF block grant and the state's

⁵ State reports on TANF spending and unspent and unobligated funds may be found at <http://www.acf.dhhs.gov/programs/ofs/data/index.html>.

⁶ In FY 98, state TANF grants were \$16.6 billion; state MOE obligations totaled \$11.1 billion if states maintained an 80% MOE level, and \$10.4 billion if all states were at a 75% MOE obligation level.

MOE obligation. With those funding streams, all states have chosen to operate a TANF cash assistance (welfare) program for poor families, but states can use both funding streams for an array of additional activities. In some states, expenditures for the TANF cash assistance program now involve less than half of the available funds.

Recently issued TANF regulations and federal guidance clarify and expand state flexibility.⁷ The regulations clarify allowable spending, broaden the circumstances under which a state may help families without that help being tied to TANF restrictions, and remove warnings and cautions that had made some states fearful of more creative uses of MOE funds. Under the new regulations and guidance, it is now clear that a state may spend TANF and MOE funds for an array of benefits and services for low-income working families, that a state may help low-income working families even if those families have incomes above welfare eligibility levels and even if the families have never received welfare, and that the state may use its resources to design programs to help working families outside the welfare system.

A state may use its TANF block grant and state MOE funds for a broad array of benefits and services. Expenditures for the state's TANF cash assistance program are one of a number of possible uses of TANF and MOE funds. Except when some part of the law prohibits a state from doing so, a state can spend its block grant funds in any manner reasonably calculated to accomplish the purposes of TANF. The purposes of TANF are to:

- (1) provide assistance to needy families so that the children may be cared for in their homes or in the homes of relatives;
- (2) end the dependency of needy parents on government benefits by promoting job preparation, work, and marriage;
- (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- (4) encourage the formation and maintenance of two-parent families.

A state can also transfer TANF funds to other block grants. Up to 30% of TANF funds can be transferred to the Child Care and Development Block Grant and to the Social Services Block Grant (Title XX), provided that no more than 10% can be transferred to Title XX, and Title XX transfers must be for services to children and their families below 200% of

⁷ The TANF regulations were published at 64 Fed. Reg. 17720 (April 12, 1999). HHS' funding guidance, **Helping Families Achieve Self-Sufficiency: A Guide on Funding Services for Children and Families through the TANF Program**, is located at <http://www.acf.dhhs.gov/programs/ofa/funds2.htm>. For a more detailed discussion of the final regulations, see Greenberg and Savner, **The Final TANF Regulations: A Preliminary Analysis** (Center for Law and Social Policy, May 1999), available at <http://www.clasp.org/finalregs.PDF>.

poverty. (Beginning in FY 2001, no more than 4.25% of TANF funds may be transferred to Title XX.) In addition, a state can (unless otherwise prohibited) use TANF funds in any way that was permitted under the programs that were repealed at the time the block grants were established.

A state can spend TANF funds on a range of supports for needy working families because such supports are reasonably calculated to accomplish one or more purposes of TANF. For example, a state can use TANF funds to help offset work expenses such as child care and transportation. A state can provide housing subsidies or additional food assistance. A state can provide cash, in the form of refundable earned income tax credits, wage subsidies, work expense allowances, or other forms of direct help. If the state wishes to encourage post-employment participation in education and training activities, the state can pay for the cost of those activities, pay for supportive services costs, pay a participation stipend, or make incentive payments to employers to encourage on-the-job training or to ensure release time for participation in the activities. If a state wishes to support asset formation, the state can use TANF funds to provide matching contributions for a program of Individual Development Accounts, or provide matching funds for other purposes such as helping a family purchase an automobile or move to a new residence.

A state can also spend MOE funds on an array of supports for needy working families. MOE must be spent on needy families but (as described below) states can determine the income level at which a family is considered needy, and expenditures on needy families that are reasonably calculated to accomplish TANF purposes can count toward MOE.⁸

States can use TANF and MOE funds to assist low-earning working families even if those families have incomes above the welfare-benefit eligibility level and whether or not those families have ever received welfare. Under the law, many TANF expenditures and all MOE expenditures must be for “needy” families. Under federal rules, a “needy family” must be a family in which a child is living with a relative and in which the family is “needy” according to state financial eligibility standards. A state must set an income limit for financial eligibility, and may also choose to impose a resource limit, but it is up to each state to determine the appropriate income eligibility limits for each benefit or service. A state may have different income eligibility limits for particular benefits or services, and the income eligibility limits may be substantially higher than the income eligibility limits that apply in the cash assistance program. For example, a state could choose to use TANF or MOE funds to provide child care benefits, refundable earned income tax credits, or education and training support for working families with incomes below 150% or 200% of poverty, even if the eligibility level for welfare assistance is substantially below that level. The state could also choose to set one income eligibility

⁸ For more detail on MOE rules, see Greenberg, **The TANF Maintenance of Effort Obligation** (Center for Law and Social Policy, rev., June 1999)

level for transition benefits for families leaving TANF cash assistance, while another income eligibility level applies to other working families. For example, the state might say that transitional child care is available to families with incomes up to 200% of poverty, while other child care subsidies for working families are generally available to families with incomes below 185% of poverty.

States can use TANF and MOE funds to create ways to help working families outside the welfare system. Until now, states have sometimes been hesitant to use TANF funds to assist working families because under previous interpretations, such help was considered “TANF assistance,” and an array of troubling consequences would have followed. Under proposed rules, benefits such as child care, transportation vouchers and matching contributions to Individual Development Accounts were considered “TANF assistance.” When a benefit is considered TANF assistance, a family receiving that benefit is counted as part of the state’s welfare caseload, the months of help count against lifetime time limits (if paid with federal TANF funds), the family is subject to TANF work and participation requirements, and the family must turn over its child support to the state.

Under new regulations, a number of supports for low-earning working families are not considered TANF assistance. Under final regulations, “TANF assistance” is defined to include benefits designed to meet ongoing basic needs (and includes child care and transportation subsidies for people who are not employed). “Assistance” does not include:

- C Nonrecurrent short-term benefits that:
 - C are designed to deal with a specific crisis situation or episode of need;
 - C are not intended to meet recurrent or ongoing needs; and
 - C will not extend beyond four months;
- C Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- C Support services such as child care and transportation provided to families who are employed;
- C Refundable earned income tax credits;
- C Contributions to and distributions from Individual Development Accounts;
- C Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- C Transportation benefits provided under a Job Access or Reverse Commute project to an individual who is not otherwise receiving assistance. Thus, states are free to use TANF and MOE funds for these supports without fearing that doing so will hurt the families or disadvantage the state.

Because these benefits are not considered TANF assistance, a state may use TANF funds to provide the listed benefits without fearing that the individuals receiving such “nonassistance” will be counted as part of the welfare caseload or be subject to time limits or other requirements that apply to the families receiving TANF cash assistance.

States can use MOE funds to help working families in programs not restricted by TANF rules. Even with the new narrower definition of TANF assistance, there are times in which a state will want to provide help to working families that falls within the definition of TANF assistance. For example, if a state wants to design a wage supplement program for low-earning parents, or put in place a child support assurance program (under which the state makes a back-up payment in months in which a family's child support is not paid), such help would fall within the definition of "assistance." A state may want to provide such supports, but may not want to have months of such support count against federal time limits, or may want to provide such support completely outside the welfare system. A state can accomplish either of these goals by using state MOE funds rather than federal TANF funds.

Even before the new policy interpretations, a state was free to structure help for working families without having the help count against time limits. This is because federal TANF time limits only apply to months in which a family receives federally-funded TANF assistance, and states may choose to "segregate" state funds from federal TANF funds, so that working families are only receiving state-funded TANF assistance. For example, under Illinois' program, when a family is working at least 25 hours a week, the assistance is paid from segregated state funds so that the month of assistance does not count against federal time limits. However, such families are still considered to be receiving TANF assistance for all other purposes.

A state can also use state funds to structure income supports for working families wholly outside of the TANF program. Under the federal TANF law, a state can choose whether to spend its state MOE dollars as part of the state's TANF program or in one or more "separate state programs." A separate state program is one that receives no federal TANF funds and therefore is not subject to the same rules that apply to programs that receive TANF funds. For example, suppose a state wishes to design a program of wage subsidies for working poor families. If the program is funded with TANF dollars, the families would be counted as receiving TANF assistance, because the benefits are ones that fall within the definition of "TANF assistance" (since they are designed to meet ongoing basic needs.) However, if the benefits are funded in a separate state program that receives no federal TANF funds, the families will not be considered part of the state's TANF caseload, will not be subject to TANF time limits or required to turn over their child support, and need not be considered "welfare recipients."

When TANF was first enacted, states were often hesitant to use their MOE funds to finance initiatives to help working families outside the welfare system or other separate state programs, because previous federal guidance had suggested that states taking such an

approach could be at greater risk of facing federal penalties.⁹ Under the new regulations, these problems have been resolved, and the federal government has made clear that a state will not face an increased risk of penalty if the state spends MOE funds in separate state programs outside of TANF. As a result, a state wishing to design a separate state program for working families or other families is now free to do so without facing a greater risk of federal penalty.

State Choices: Some Examples

The rules governing allowable uses of TANF and MOE sometimes seem, and sometimes are, complicated. At the same time, a state with available TANF and MOE funds that wishes to structure an initiative for working poor families should begin by deciding what would be sensible and appropriate policy, and the state will likely find that it is often possible to effectuate that policy through the state's choices in structuring its resources. The following examples illustrate the types of choices now possible for states:

Helping Working Families Meet Work Expenses: As noted, a state may use both TANF and MOE funds for child care, transportation subsidies, and work expense allowances for working families. Federal rules expressly state that child care and transportation for employed families are “nonassistance.” A reasonable reading of the rules also leads to the conclusion that a reasonable work expense allowance would also be nonassistance. In this framework, there is an important difference between a payment intended to meet basic needs (which is assistance) and a payment intended to offset work expenses (which is not assistance). In addition, a state can also provide initial help in the first months of employment or provide other short-term benefits that will not be considered “assistance” if the benefits fall within the exception for nonrecurrent, short-term benefits or are otherwise not designed to meet ongoing basic needs.

Under this structure, a state can use its TANF or MOE funds to provide a set of nonwelfare, nonassistance supports for some or all low income working families. In many states, where cash assistance benefits are low and are further reduced when a family enters employment, the state could readily structure a set of nonassistance supports that will make it possible for families who enter employment to leave welfare and receive work supports instead. Such an approach can clearly benefit families, because the families can leave welfare and its stigmas, receive help which does not count against federal time limits, and receive the full benefit of their child support (since they are no longer receiving TANF assistance). A state will likely need to weigh additional considerations, including the

⁹ The federal government had been fearful that states might use separate state programs as a means of circumventing TANF requirements, and so proposed rules had said that a state electing to use separate state programs would not be eligible for the same relief from TANF penalties that was available to other states.

impact of such an approach on meeting federal work participation rates, but the policy advantages in making it possible for working families to leave welfare will often be considerable.¹⁰

Helping Working Families Meet Basic Needs: In many situations in which parents are engaged in low wage work, a family will need more help than just addressing work expenses. A state may want to provide temporary or ongoing income support to reduce the poverty of families in low wage jobs and to help those families meet their basic needs. A state wishing to do so has several choices.

First, TANF and MOE funds may be used to fund or expand refundable state earned income credits for working families.¹¹

Second, if a state wishes to provide income support within its TANF cash assistance program, the state can segregate state from federal funds and fund the supports with state MOE dollars, in which case the families will not have the months of assistance count against federal time limits but will be TANF recipients for all other purposes.

Third, if the state wishes to structure other income supports outside of TANF, the state can use MOE funds in a separate state program. The state might design needs-based payments on an ongoing or transitional basis and could provide the benefits to all low-income families, a subgroup of those families, or for families leaving TANF. The state might structure the program to provide a flat amount, a percentage of earnings, a percentage of a target wage, or another approach of the state's choice. Note that because a payment designed to meet basic needs falls within the definition of TANF assistance, the state would need to use a separate state program if the state does not want participating families to be subject to the TANF assistance-related requirements.

Helping Working Families Benefit from their Child Support: Under current law, a family receiving TANF assistance must turn over its child support to the state, and the retained child support is shared between the federal and state governments to offset the costs of assistance. In recent years, there has been increasing criticism of a structure in which children do not see the benefit of the support paid by their non-custodial parent, and parents cannot see the benefit of support paid to their children.

¹⁰ For a more detailed discussion, see Greenberg and Savner, **The Final TANF Regulations: A Preliminary Analysis** (Center for Law and Social Policy, May 1999).

¹¹ For a discussion of state EITCs, see Johnson and Lazere, **Rising Number of States Offer Earned Income Tax Credits** (Center on Budget and Policy Priorities, September 1998), <http://www.cbpp.org/9-14-98sfp.htm>.

If a state wants to ensure that working families benefit from their child support, the state has two principal choices. First, the state can design a framework of nonassistance supports for families using TANF or MOE funds, because so long as the family does not receive TANF assistance, the family can keep its child support. Alternatively, the state can provide help to working families in a separate state program; if the state does so, then even if the help falls within the definition of “assistance”, the families are not receiving TANF assistance, and can receive the full benefit of their child support.

Helping Working Families Participate in Education or Training: In implementing TANF, many states emphasized the importance of rapid labor force participation and restricted the availability of education and training for nonemployed families. States have frequently articulated their preference for families participating in education and training activities after entering employment. As a practical matter, though, it may be difficult or impossible for a parent to participate in existing programs on nights or weekends or in other available time while the parent seeks to balance working, caring for children, and participation in such activities.

A state wishing to promote educational opportunities for employed parents can, of course, use TANF or MOE funds to expand the availability of child care and transportation help for employed parents, and can also pay the costs of tuition or other costs of program participation. The state could also pay participation stipends for such parents. Such costs would be considered TANF assistance if paid with TANF funds, but could also be structured as a separate state program funded with MOE dollars. A state can also use TANF or MOE funds to expand the available offerings at community colleges or by other training providers to ensure that the curricula, schedules, and length of classes are responsive to the needs of working parents.

In addition, a state could pay subsidies to employers to encourage employers to provide on-the-job training or to allow release time to make it more possible for parents to participate in education activities. Work subsidy payments to employers are excluded from the definition of “assistance.” If, for example, a state provided an employer subsidy so that the parent was paid for a full-time work week, and the parent went to work four days and to school one day each week, the costs of the work subsidy would be considered nonassistance.

Helping Working Families Between Jobs: As states have implemented TANF, they have become increasingly aware that even with employment retention efforts, some amount of job loss is inevitable. When a recently employed parent loses employment, states can use TANF and MOE funds to structure different kinds of nonwelfare supports. For example, many states have developed “diversion” efforts, in which short-term benefits are provided to make it possible to avoid welfare; such diversion payments will be

considered nonassistance if they meet the “nonrecurrent, short-term” exception to the definition of assistance.

In addition, a state implementing its efforts under the Workforce Investment Act might consider using TANF or MOE funds to create a structure of reemployment assistance to supplement the state’s Unemployment Insurance program. Such a structure might be administered through the state’s one-stop structure and could provide temporary short-term help and reemployment services to families between jobs.¹²

Finally, a state wishing to provide subsidized employment opportunities as an alternative to welfare for recently unemployed parents (and other parents) may also make use of TANF and MOE funds to do so. Under final rules, subsidized employment, even if fully subsidized, does not fall within the definition of assistance, and can be provided to needy families instead of or in addition to welfare assistance.

Conclusion

States face an extraordinary opportunity in the next few years, because they have the chance to redirect substantial amounts of welfare funds into a sustainable structure of supports for working families. It is important that states not forget the families still in need of welfare, and the families that have seemingly disappeared from public systems during the caseload decline. At the same time, it is also important that states not measure the need for help by the size of their welfare caseloads, and that this opportunity be used to help those families now working but often deep in poverty.

¹² For more detail, see Greenberg and Savner, **Creating a Workforce Development Structure for All Working-Age Adults**, contained in Ganzglass and Glass, ed., **Rethinking Income Support for the Working Poor: Perspectives on Unemployment Insurance, Welfare, and Work** (National Governors’ Association, 1999).