

GLOSSARY OF WORK PROGRAM TERMS

By Steve Savner

A wide variety of terms are used to describe work programs that may be operated under a state welfare program. Many of these terms are used (and in some cases defined) in current or former federal law, while others have developed in practice because of their descriptive power. Not surprisingly, terms in this latter group are likely to lack the precise definition often found in the terms contained in statutes and regulations.

Some commonly-used terms were used in the recently-repealed JOBS statute, and typically those terms were defined in the statute and regulations. Such terms include Community Work Experience Program (CWEP) and Work Supplementation.

Other terms are used in the TANF block grant provisions of the PRWORA, including work experience, community service, and subsidized employment (private or public sector.) However, none of the TANF terms are defined in the statute, nor has HHS defined any of these terms by regulation. Unless and until HHS provides definitions, states have broad discretion to define these terms for themselves and definitions may differ from one state to another.¹ The work activity terminology of the TANF statute is important because of its relationship to the participation rates established for state TANF programs. There are complex rules regarding the extent to which participation in any of the referenced activities will be countable, and a state's ability to count participation in some activities is more limited than its ability to count participation in other activities.² It will therefore be to states' advantage to categorize the activities it has included in its program in a manner that will maximize the number of individuals

¹ The U.S. Department of Labor (DOL) has issued a Guide entitled "How Workplace Laws Apply to Welfare Recipients" (May 1997). While the DOL Guide does not define any of the terms used in TANF, it does indicate that participants in TANF work activities are not exempt from coverage under federal laws pertaining to minimum wage, health and safety, unemployment insurance and non-discrimination in employment. The Guide states that a TANF participant who is determined to be an "employee" as defined in any of those laws will be entitled to the same protection as would be available to any other employee.

² For example, for any individual, participation in job search will generally be countable for only six weeks during his or her stay on assistance. For a detailed analysis of TANF participation rates, [see a Detailed Summary of Key Provisions of the Temporary Assistance for Needy Families Block Grant of H.R. 3734](#), (CLASP, August 1996).

who can be counted toward satisfying the applicable participation rate.

Finally, there are number of terms which have come into common usage but which are not derived from current or former federal welfare statutes. These include: community jobs program, community service employment, grant diversion, public service employment, supported work, wage subsidy, and workfare.

The following glossary provides the definitions most commonly intended when these terms are used, drawing upon statutory and regulatory definitions where possible.

These terms have usually been developed in an attempt to describe a particular approach in the design of work programs, and are most often intended to clarify a program's approach to one of the following three key design issues:

- C *Form of Payment:* A term may be intended to incorporate within its meaning a particular type of payment to the recipient, e.g., either payment as a welfare grant, or payment as wages for hours worked.
- C *Employee Status:* A term may be intended to incorporate within its meaning whether or not a participant is to be treated as an "employee" under state and federal law.
- C *Source of Funds:* A term may be intended to incorporate within its meaning information about the source of funds that are used in making a payment, e.g., payments are wholly composed of welfare funds, or payments are composed only partially of welfare funds.³

More detailed descriptions of a dozen of the most commonly used terms follow.

Community Jobs Program: Community Jobs is generally intended to describe a program in which participants do work that benefits their community, and as such, positions are likely to be limited to

³ As used here, and throughout, the term "welfare funds" is intended as a reference to four distinct sources of funds all of which relate to TANF. The four include:

- federal TANF block grant funds;
- state maintenance of effort (MOE) funds under TANF;
- federal Welfare-to-Work grant funds; and
- state spending required as a condition for receiving Welfare-to-Work block grant funds.

Significant program design implications will result depending upon which of these four sources of funds are used, including among others the applicability of the 60-month time limit that applies to federal TANF funds, and the targeting provisions that apply to federal Welfare-to-Work funds. For a more detailed discussion of these issues, see **Funding Community Service Employment in the TANF Framework**, (CLASP, November 1997).

public or non-profit entities. The use of the term “job” in the name is intended to convey that participants will be paid wages for hours worked, and have employee status. A participant’s wages may be wholly financed with the welfare benefit the family is eligible to receive, i.e., **Grant Diversion** (see below) or such welfare benefits might be supplemented with other welfare funds, other public funds, or by the entity for which work is performed.

Community Service: Community Service is one of the listed work activities under TANF. (Section 407(d)(7)) As used in TANF, community service has generally been understood to mean an activity involving work that benefits the community, typically at either a public or non-profit agency, during which the participant continues to receive a regular welfare grant. However, as the term is not defined in the statute, nor by regulation, there is nothing to bar a structure in which participants are paid wages based on the hours they work.

The DOL. Guide indicates that the Department will use established factors and tests to determining whether a participant is an “employee” for purposes of coverage under the Fair Labor Standards Act, the Occupational Health and Safety Act, Unemployment Insurance, and various antidiscrimination laws. However, an amendment to the Internal Revenue Code included in the Taxpayer Relief Act of 1997 (Section 1085) specifies that payments made to participants in community service programs under Section 407(d)(7) of TANF are not to be considered earned income for purposes of calculating an individual’s eligibility for the Earned Income Tax Credit, but only to the extent the payments are subsidized under the state’s TANF program.

Community Service Employment (CSE): Community Service Employment is generally intended to describe a program in which participants are paid wages to perform work that benefits their community, typically in positions at public or non-profit agencies. The use of the term “employment” is intended to convey that participants will be paid wages for hours worked, and have employee status. A participant’s wages may be wholly financed by the welfare benefit the family is eligible to receive, i.e., **Grant Diversion** (see below) or welfare benefits might be supplemented with other welfare funds, other public funds, or by the entity for which work is performed. There is no substantive difference between the terms Community Service Employment and Community Jobs (above).

Community Work Experience Program (CWEP): CWEP, as defined in the JOBS statute and regulations, was a program in which a participant performed work at a public or non-profit entity in exchange for his or her welfare benefits. CWEP is frequently described as **Workfare**, see below. A CWEP participant could not be required to work more hours than the number derived by dividing the welfare grant (minus any amounts reimbursed to the welfare agency as child support paid by a non-custodial parent) by the higher of any applicable state minimum wage or the federal minimum wage. (A different calculation was specified for individuals if participation continued beyond nine months.)

Payments to participants were made through the regular welfare grant, and participants did not typically receive any additional payment from either the welfare agency or the entity for whom the work was performed. The JOBS statute specified that a CWEP participant was not entitled to a salary under any other provision of law, and that benefit payments made were not to be considered compensation for work performed. As a result of these provisions, participants were generally not considered to be employees under federal minimum wage laws, and the benefits they received while participating were not considered to be wages for Social Security purposes, nor taxable income for purposes of federal income tax or the Earned Income Tax Credit.

The JOBS statute and regulations barred discrimination against JOBS participants, including those in CWEP, and specified that participants were entitled to protection under applicable federal, state and local laws prohibiting discrimination.

Grant Diversion: Grant Diversion means the use of funds that would otherwise be paid to a program participant's family as a welfare grant to reimburse some or all of an employer's costs for the wages and benefits paid to the participant, and in some cases, for some of the additional costs of employment-related taxes and insurance.

Public Service Employment (PSE): Public Service Employment was the term used to describe the publicly-funded jobs component of the CETA program during the mid- and late- 1970's. The program as operated at that time was generally consistent with the definition of **Community Jobs** and **Community Service Employment**, above.

Subsidized Employment: Subsidized private sector employment and subsidized public sector employment are among the listed work activities under TANF. (Section 407(d)(2-3)) Although not defined in the statute or by regulation, these terms are generally understood to describe programs in which welfare funds, and perhaps other public funds as well, are used to reimburse an employer for all or a portion of the wages, benefits, and employment-related tax and insurance payments made to or on behalf of a program participant. Funds used to provide the subsidy might, but need not include funds made available through **Grant Diversion**. The use of the word employment indicates that participants in such positions would have regular employee status.

Supported Work: Supported Work was a program operated in the late 1970's in various sites as a demonstration project, and subsequently under the WIN statute and regulations pursuant to OBRA of 1981. The initial demonstration and subsequent state programs provided paid employment to long-term AFDC recipients. (The demonstration program also served other disadvantaged groups.) The program placed participants in wage-paying jobs in public and nonprofit agencies as well as private companies, and in some instances businesses were created specifically to provide jobs for program participants. Participants received intensive supervision, with graduated increases in workplace

expectations designed to improve work habits and job-related skills, and job search and job placement assistance to promote transitions into unsubsidized employment. Participants generally had employee status. The wages, benefits, and costs of employment-related taxes and insurance were paid for with a combination of funds, including **Grant Diversion**, and in various instances included other welfare funds, other public funds, funds provided by foundations, and contributions from employers.

Wage Subsidy: Wage subsidy means the use of public funds to reimburse an employer, public or private, for all or a portion of the wages, compensation, and tax/insurance payments made to or on behalf of a program participant. Funds used to provide wage subsidies might be made available from **Grant Diversion**, from other welfare funds, other public funds, or some combination of these sources. A position for which an employer received a wage subsidy would fit within the definition of **Subsidized Employment** (above) if the position was made available to a TANF participant.

Work Experience: Work Experience is another of the listed work activities under TANF. (Section 407(d)(4)) As used in TANF, work experience has generally been understood to mean an activity in which the participant does some type of work that provides experience designed to improve employability. Work might be performed for any public or private agency or company. The term is generally understood to mean a program in which a participant would continue to receive a regular welfare grant. However, as the term is not defined in the statute, nor by regulation, there is nothing to bar a structure in which a participant is paid wages for hours worked.

The DOL Guide indicates that the Department will use established factors and tests to determine whether a participant is an “employee” for purposes of coverage under the Fair Labor Standards Act, the Occupational Health and Safety Act, Unemployment Insurance, and various antidiscrimination laws. However, an amendment to the Internal Revenue Code included in the Taxpayer Relief Act of 1997 (Section 1085) specifies that payments made to participants in community service programs under Section 407(d)(7) of TANF are not to be considered earned income for purposes of calculating an individual’s eligibility for the Earned Income Tax Credit, but only to the extent the payments are subsidized under the state’s TANF program.

Work Supplementation: Work Supplementation, as defined in the JOBS statute and regulations, was an activity in which funds that would ordinarily be paid as welfare benefits were used to reimburse, in whole or in part, the wages paid to a participant by an employer. Employers could be public, private for-profit, or private non-profit entities, however, in practice positions were predominately in the private, for-profit sector. These programs were sometimes referred to as **Grant Diversion** programs, because they involved diverting the welfare benefits that would otherwise be paid to the recipient as a welfare grant, to an employer to reimburse for wages. Welfare agencies were also permitted to use JOBS funds for work supplementation

purposes. These programs were also sometimes referred to as **Wage Subsidy** programs because the wages paid to participants were subsidized by welfare funds.

States had the option to continue to calculate an AFDC benefit for participants using the regular, time-limited "\$30 and 1/3" earnings disregard. Alternatively, states could reduce or eliminate those disregards for participants, or provide the "\$30 and 1/3" disregard without regard to the generally applicable time limit. In practice, a number of states that operated work supplementation programs took the option to eliminate all earnings disregards, and to establish a system to provide supplemental welfare payments in any month when gross wages minus payroll taxes and work expenses fell below the AFDC benefit the family would otherwise have been eligible to receive. The total amount of AFDC funds provided for a program participant, including direct payment to the family and reimbursement to an employer could not exceed nine times the maximum monthly AFDC grant that would be available to the family if it had no other countable income.

Participants were employees for purposes of protections under federal and state laws regarding minimum wages, non-discrimination, and health and safety. The state or local welfare agency that administered a program was not required to provide employee status to the participants. Companies at which jobs were subsidized were not required to provide employee status during the first 13 weeks of an individual's participation.

Beginning in 1993, a number of states received waivers from both HHS and the Department of Agriculture, to modify JOBS rules, and to include the value of the Food Stamp benefits that would otherwise be paid to a participating family in the funds that were used to reimburse employer costs. The Oregon JOBS Plus program was the first to receive a waiver to include Food Stamp benefits. Section 849 of the PRWORA amended the Food Stamp Act to create a state option to use a family's Food Stamp benefits to subsidize a wage paid by a participating employer.

Workfare: Workfare is a program in which participants perform work in exchange for their welfare benefits. Sometimes the term is used more broadly to refer to any program in which a recipient is required to participate in employment-related activities.

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