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Using TANF for Early Childhood Programs

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May 10, 2006

In recent years, states have made significant investments in pre-kindergarten programs in order to help young children enter school ready to learn. In 2005, spending on state-funded pre-kindergarten was \$2.8 billion in state and federal funds.¹ Most of these programs target children most at-risk for school failure, including those living in families with low incomes. As states created and expanded these programs, access to adequate funding has been an ongoing concern.

A number of states have looked to federal funding sources to support some or all of their early childhood initiatives. Such sources have included Title I education funds for high-poverty schools, the Individuals with Disabilities Education Act (IDEA), Even Start, the Child Care and Development Block Grant (CCDBG), and Temporary Assistance for Needy Families (TANF).²

This brief focuses on how states can use TANF funds to support early childhood programs. It draws on CLASP's previous report, *Financing Universal Pre-Kindergarten: Possibilities and Technical Issues for States in Using Funds Under the Child Care and Development Fund and Temporary Assistance for Needy Families Block Grant*,³ and subsequent federal guidance. Federal regulations and guidance make it clear that TANF funds can be used to support or expand a broad range of child care and early education initiatives in a state.

A state's ability to spend TANF funds on child care and early education efforts depends, of course, on the availability of funds. In February, Congress passed the fiscal year 2006 federal budget (called the Deficit Reduction Act of 2005), which included significant changes to the TANF program. As a result, many states will have to increase the number of families receiving TANF who participate in work activities. While the Act provided an additional \$1 billion over five years in child care funding to help states meet the new TANF requirements, the Congressional Budget Office estimates that there is a shortfall of approximately \$11 billion to

¹ National Institute for Early Education Research. *The State of Preschool: 2005 State Preschool Yearbook*. 2006.

² For information about how states are using these funds to support early care and education programs, see: Ewen, D., Mezey, J. and Matthews, H. *Missed Opportunities: The Possibilities and Challenges of Funding High-Quality Preschool through Title I of the No Child Left Behind Act*. CLASP. 2005. See also: Mezey, J., Neas, K. B., and Irish, K. *Policy Brief: Coming Together for Children with Disabilities: State Collaboration to Support Quality, Inclusive Child Care*. CLASP. 2003; and Schumacher, R., Irish, K. and Greenberg, M. *Untapped Potential? How States Contract Directly with Providers to Shore Up Child Care Choices for Low-Income Families*. CLASP. 2003.

³ This report is available at http://www.clasp.org/publications/universal_prek.pdf.

meet the costs of the bill and keep pace with inflation.⁴ States now face the challenge of moving families from welfare to work with limited funds to provide the supports they need to remain employed. These new requirements, together with spending patterns in previous years, mean that states differ with respect to the availability of TANF funds. The following sections describe the rules under which funds can be used for child care and early education. Whether and the extent to which a state can actually increase its use of TANF for such purposes will depend on circumstances in the state.

Background: Allowable Uses of TANF Funds

In understanding the rules governing use of TANF funds, the following concepts are helpful to keep in mind.

The Four Purposes of the Law. Each year, states receive a block grant of federal TANF funds. The funds can be used by states to operate a program designed to serve at least one of four purposes.⁵ These are to:

1. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
2. End the dependence 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.

Allowable Use of TANF Funds. A state may use its TANF funds in any of the following ways.

- TANF funds can be spent in any way reasonably calculated to accomplish any of the four purposes of the law listed above.
- A state can transfer up to 30 percent of its funds to its CCDBG program(s), in which case the transferred funds become subject to CCDBG rules. A state can also transfer up to 10 percent of its funds to the Social Services Block Grant (SSBG) for services to families with incomes below 200 percent of poverty. However, the total amount transferred to CCDBG and SSBG may not exceed 30 percent of a state's block grant.
- Under a "grandfather clause," a state can also allocate TANF funds for certain purposes allowable under the state programs that preceded the enactment of TANF.

⁴ See Matthews, Hannah and Ewen, Danielle. *Toward a Decade of Indifference: Administration Ignores Child Care Needs of Working Families*. CLASP. 2006. Also, Ewen, Danielle. *Families Will Lose Child Care Assistance under House Ways and Means Committee Welfare Reauthorization Bill*. CLASP. 2005.

⁵ In discussions of the use of TANF funds, it is common to refer to "Purpose 1," "Purpose 2," and so forth.

Needy Families. Some TANF expenditures must be for needy (low-income) families, while others are not limited in this way; this requirement is based on which purpose of TANF justifies the expenditure. When a state uses TANF funds for expenditure “reasonably calculated” by the state to accomplish one of the four TANF purposes, the specific purpose also affects who can receive particular benefits or services. Expenditures that are allowable because they further Purposes 1 or 2 of TANF must be for needy (low-income) families or parents. Expenditures that are allowable because they further Purposes 3 or 4 are not limited to needy families; they could target members of the general population. Under U.S. Department of Health and Human Services (HHS) regulations, states have wide discretion in setting their own income levels for determining when a family is considered needy.

Assistance and Non-Assistance. Under TANF, it matters whether an expenditure is considered “assistance” or “non-assistance.” Generally, “assistance” is defined to include benefits designed to meet ongoing basic needs, and also includes supportive services such as transportation and child care for unemployed families.⁶ Under the regulations, child care is considered non-assistance when accessed by an employed family, and assistance when provided to an unemployed family, unless it can be considered a non-recurrent short-term benefit.

If a benefit or service is considered assistance, then a set of federal requirements apply—for example, assistance must be for members of needy families (or pregnant women), TANF time limits apply, and families must meet child support cooperation requirements.

Carryover Funds. Under the TANF structure, current-year funds can be transferred or spent, and can be used for any allowable TANF expenditure. Any TANF funds not spent in a year remain available for future years. These “carryover funds” are reported in two categories: unliquidated obligations, and unobligated balances. Funds are considered unliquidated obligations if, in their current year, they were legally committed for a particular purpose—for example, subject to a binding contract to spend the funds for goods or services. Unobligated funds are those that have not been designated for a specific purpose.

In general:

- Obligated funds can be spent for any allowable TANF use; but
- Funds not obligated in their current year can be spent only for assistance or its attendant administrative costs in subsequent years.

Although unobligated carryover funds must be spent on assistance, it is possible to use the funds indirectly for non-assistance. States can use carryover funds to pay current-year assistance costs, thus freeing up current-year TANF funds for non-assistance expenditures. For example, suppose the state has \$50 million in unobligated carryover funds, and is incurring annual assistance costs of \$20 million. The unobligated carryover funds can only be used for assistance. The state could choose to pay its \$20 million of assistance costs in 2006 by spending its unobligated

⁶ The regulatory definition of assistance is located at 45 C.F.R. 260.31.

carryover funds, thus “freeing up” \$20 million in current-year TANF funds for non-assistance expenditures.

Maintenance of Effort. In order to avoid a TANF penalty, a state must meet maintenance of effort (MOE) requirement each year. Generally, the MOE requirement provides that a state must spend a specified level of non-federal funds for benefits and services reasonably calculated to meet TANF purposes. Thus, expenditures for early education activities can count toward meeting MOE requirements. Non-federal expenditures that meet a TANF purpose can count toward a state’s MOE requirement, but the law provides that a state may not count educational activities or services which are generally available to other residents of the state without cost and without regard to income.

Applying the Rules: Using TANF Funds for Child Care and Early Education

Given the limitations on the uses of TANF funds, there are several ways in which states may choose to use the funds to support child care and early education.

TANF Transfers to CCDBG. As noted above, one way that a state can use TANF funds to expand child care and early education is by transferring up to 30 percent of its TANF funds to the CCDBG program each year. CCDBG funds can be used to provide child care subsidy assistance to families with incomes below 85 percent of state median income, regardless of their participation in the TANF program.⁷ A state must also spend at least 4 percent of its CCDBG funds for quality initiatives—these are not limited to families receiving CCDBG subsidies, and may serve all families in an area.

TANF Spent Directly. In addition, states can directly spend an unlimited amount of TANF funds for child care for needy families. Such expenditures are considered allowable under TANF Purposes 1 and 2 (providing assistance to needy families, and ending dependence on government benefits by promoting job preparation and work). Such expenditures can provide child care both to families who are working and those participating in work-related activities, such as education and training.

TANF funds spent directly on child care are considered non-assistance when the recipients are employed families, and assistance when used by unemployed families (unless the expenditures are considered non-recurrent short-term benefits). Thus, while a state can spend an unlimited amount of its current-year block grant for child care, it can spend only unobligated carryover funds for child care that meets the definition of assistance—in other words, child care provided to unemployed families.

HHS has also explicitly stated that states can spend TANF funds for early education under Purposes 3 and 4 (preventing out of wedlock pregnancies and promoting the formation and maintenance of two-parent families). However, HHS has clarified that such expenditures are

⁷ Each state sets its own eligibility requirements for child care assistance. For a state-by-state analysis, see Schulman, Karen and Blank, Helen. *Child Care Assistance Policies 2005: States Fail to Make Up Lost Ground, Families Continue to Lack Critical Supports*. National Women’s Law Center. 2005.

allowable only if they are not part of the state’s free public education system. In particular, HHS has outlined the following.

If, under State law, the educational activity is not part of the free public education system, then Federal TANF funds may be used for preschool, school readiness, or early childhood education programs. States may use Federal TANF funds to pay for pre-kindergarten, kindergarten, or other educational costs under Purpose 3 or 4 if these activities are not part of a State’s general free education system. However, we recommend limiting the use of program funds in this way to low-income, at-risk children. Over the past several decades, a fairly extensive body of research has demonstrated the positive effects of quality early childhood programs for disadvantaged children’s school success, as well as their health, cognitive, social and emotional development. Some additional long-term outcomes for disadvantaged children (reported primarily from one study) include less contact with the criminal justice system, higher earnings as adults, less reliance on social services as adults, and fewer out-of-wedlock births.⁸

The expenditures are allowable under Purposes 3 and 4, and thus need not be limited to needy children, although HHS urges that states target their TANF funds in this manner. The funds could be used to support a universal early learning program, but HHS recommends that TANF funds be used only for the part of the program that serves low-income children or families.

In addition, because the spending falls under Purposes 3 and 4, it need not be tied to the goal of promoting job preparation and work—in other words, the services can be provided to all low-income children (or a broader group of children) without regard to their parent’s work status, and without regard to whether they are living with a parent or other relative.

In using TANF funds for an early education initiative, one important consideration is whether those expenditures will be considered “TANF assistance.” In general, a state would want such expenditures to be considered non-assistance, so that federal time limits, child support requirements, and work participation rate requirements do not apply.⁹

It appears that HHS has never expressly stated whether a state can treat expenditures in a pre-kindergarten or early education program as non-assistance, but there are a number of strong arguments that that is the case. First, such spending is not designed to meet ongoing basic needs. And, in contrast to child care, an early education program is a service to a child that is not, or need not be, contingent on a parent’s work status. Moreover, when HHS wrote the final TANF regulations in 1999 and specified data reporting requirements, it drew an express distinction between child care and early education: “Do not include expenditures on pre-K activities or other programs designed to provide early childhood development or educational

⁸ Temporary Assistance to Needy Families Program Instruction No. TANF-ACF-PI-2005-01 (April 14, 2005). Downloaded from <http://www.acf.hhs.gov/programs/ofa/pi-ofa/pi2005-1.htm>

⁹ If the expenditures are considered non-assistance, unobligated carryover funds cannot be used to pay for such expenditures—although, as noted, this is not a substantial restriction if the state can use carryover funds to pay current assistance costs and free up corresponding current-year funds.

services (e.g., following the Head Start model); such activities should be reported as ‘other’ and identified as such in a footnote to that category in the 4th Quarter Financial Report.”¹⁰

Treating early education expenditures as non-assistance affects the extent to which unobligated carryover funds can be used, since such funds can only be spent on assistance. As explained above, a state remains free to use its unobligated carryover funds for current-year assistance costs, thus freeing up current-year TANF funds for the non-assistance expenditures, but the state will need to be mindful of this constraint.

Different Rules for Maintenance of Effort Spending. State expenditures on early education may count towards a state’s MOE requirement. However, federal law also provides that a state may not count toward MOE educational activities or services that are generally available to other residents of the State without cost and without regard to income.¹¹ In policy guidance issued in 2005, HHS explained the following.

We believe a quantified benchmark is one method of establishing whether a State may claim public education costs for or on behalf of eligible family members toward its MOE requirement. For example, if a particular public education activity is available to more than 50 percent of the appropriate age group throughout the State for that grade, or course, then it would be reasonable to consider that grade, or course to be “generally available” to everyone without regard to cost and without regard to their income. In determining the appropriate age group(s), States must follow the State law or other official State policy.

Here’s an illustration of how a State may apply such a quantified benchmark. Per State law, public school half-day kindergarten is available to every 5- and 6-year-old child in the State. Therefore, none of these expenditures may count toward the State’s MOE requirement, as it is available free to State residents. However, the State also offers an additional half-day of public school kindergarten in certain areas of the State. These areas account for 40 percent of the 5- and 6-year-old children in the State. Because full-day public school kindergarten is only available to 40 percent of the appropriately aged children in the State, it is not considered “generally available” to State residents without cost and without regard to their income. Therefore, the State may claim the allocable share of expenditures for the extra-half day of kindergarten provided to or on behalf of children in eligible families residing in the State.¹²

Given this definition of “generally available,” it may be difficult for states to use MOE funds for universally available pre-kindergarten. However, states may be able to use other TANF funds for these purposes, as discussed earlier and in the examples below.

¹⁰ 64 Fed. Reg. 17917 (April 12, 1999).

¹¹ 45 C.F.R. 263.4(a)(2).

¹² Temporary Assistance to Needy Families Program Instruction No. TANF-ACF-PI-2005-01 (April 14, 2005).

Downloaded from <http://www.acf.hhs.gov/programs/ofa/pi-ofa/pi2005-1.htm>

State Examples: Using TANF Funds for Child Care and Early Education

Several states have provided descriptions of early education programs supported by federal and state TANF-related funds in annual spending reports. The following states are among those that used TANF or MOE funds in 2004¹³ to improve access to or expand the availability of early care and education programs.

- **Georgia** reported using MOE funds to transport low-income children to state funded pre-kindergarten programs (Purpose 1 and 2).
- **Idaho** reported using TANF and MOE funds to support early childhood programs and to expand Head Start services. The target population for Head Start services is families who are TANF-eligible or at risk of becoming eligible, and whose income does not exceed 200 percent of the Federal Poverty Guideline.
- **Indiana** used TANF and MOE funds to support the Healthy Families program, a statewide home visitation program for new parents intended to promote positive parenting and child health and development for at-risk families. Home visits focus on parenting skills, child development, child health, and other aspects of family functioning.
- **New Mexico** reported an agreement with the state Department of Education to use TANF funds in order to provide an Early Childhood Development Program that supports the TANF program.
- In **Ohio**, TANF funds supported the Help Me Grow program that promotes health, learning and child safety for children from birth to three years of age. TANF funds were also used to expand Head Start services, including providing full-day, full-year services for TANF-eligible children.
- In **Oregon**, MOE funds were used to support Head Start programs and the Oregon Pre-k program (Purpose 1 and 2).
- **Pennsylvania** used TANF funds to support a Head Start Collaboration Project, which is designed to create awareness and provide resources and technical assistance to support the development of full-day/full-year services through local Head Start child care partnerships. In addition to child care services, Head Start provides early education enrichment, literacy and intervention programs (Purpose 3).

¹³ Office of Family Assistance, State TANF and MOE Annual Reports—2004, <http://www.acf.hhs.gov/programs/ofa/MOE-04/>. HHS provided to CLASP the narrative explanations it received for TANF funds used in the “authorized under prior law” and “other non-assistance” spending categories in 2004. States are required to provide narrative explanations of the use of these funds each year when they report on TANF spending, but many do not. TANF annual reports do not require states to report what purpose is met by a particular activity or expenditure.

- **Virginia** used MOE funds for the Virginia Preschool Initiative, which provides supportive services to income eligible families with 4-year old children. Localities that participate must ensure that the program operates at least six hours per day and conforms to the school calendar year in order to meet the needs of working parents. Families participating in the Virginia Preschool Initiative may receive assistance with early childhood education and development, social services, children's health assessments, and parent education (Purpose 3 and 4).

Conclusion

It is clear from HHS guidance that TANF funds can be used for child care and early education programs, serving both families determined by a state to be low-income or “needy” and those families who may not meet these income definitions. Thus, when looking for funding sources to increase access to high-quality early education programs, states can consider TANF. Although states do need to prioritize their use of TANF funds to meet the new work and other requirements included in the TANF reauthorization provisions of the 2006 federal budget, states may want to include the creation or expansion of early care and education programs that support families and their children in plans for their TANF programs.