



Two-Thirds of States Qualify for Extended Counting of TANF Job Search and Job Readiness Assistance

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The changes made by the Deficit Reduction Act of 2005 and the corresponding regulations have increased pressure on states to place TANF recipients in federally countable activities.

“Needy states” may qualify for extended counting of job search and job readiness assistance toward the TANF work participation rate.

Section 407(c)(2)(A)(i) of the Social Security Act and corresponding regulations at 45 CFR §261.34 limit the period of time for which an individual may be counted as engaged in work based on participation in job search and job readiness assistance for purpose of the participation rate calculation. HHS has just issued a Program Instruction ([TANF-ACF-PI-2006-04](#)) describing this provision and how it will be implemented.

Ordinarily, the limit on counting job search and job readiness assistance is six weeks in a fiscal year, no more than four of which may be consecutive, but the limit is extended to 12 weeks in a fiscal year (still limited to four consecutive weeks) under two circumstances:

- The state has an unemployment rate at least 50 percent greater than the unemployment rate of the United States as a whole; or
- The state qualifies as a “needy state” under the provisions of the Contingency Fund section of the law.

The definition of a “needy state” is contained at §403(b)(5) of the Social Security Act and regulated at 45 CFR §260.30. A state qualifies as a needy state for a month where either of the following triggers is met:

- The average rate of seasonally adjusted total unemployment for the most recent three-month period is greater than or equal to 6.5 percent, AND the average is greater than or equal to 110 percent of the average rate for either of the corresponding three-month periods in the two preceding calendar years (known as the unemployment trigger); or
- The average number of individuals participating in the Food Stamp program has grown at least 10 percent in the most recent three-month period for which data are available compared to the corresponding period in FY 1994 or 1995, as adjusted for certain eligibility changes made by PRWORA and related legislation (known as the food stamps

trigger). The threshold levels have been calculated by the Department of Agriculture, and are included in a table provided with the Program Instruction.

These provisions were not affected by the TANF changes in the Deficit Reduction Act of 2005 or by the Interim Final Rule published by HHS on June 29, 2006. However, they take on increased significance because the DRA substantially increased the effective participation rate requirement on states. Also, the regulations stated that many barrier removal and labor force attachment activities—previously counted under other work activities—could only be counted toward the participation rate as part of “job search and job readiness assistance.”

Two-thirds of states have qualified for extended counting in FY 2006.

As we previously reported, two-thirds of states and territories have qualified for extended counting of job search and job readiness assistance during at least one month in FY 2006. Along with the Program Instruction, HHS issued [a list of states that have qualified through June 2006](#). This list indicates that 26 states or territories qualified every month from October 2005 through June 2006, and an additional seven states qualified during at least one month of FY 2006. States qualified primarily because of growth in Food Stamp caseloads. (Some states qualified under more than one provision, and Mississippi qualified based only on having unemployment 50 percent higher than the U.S. as a whole.)

Unfortunately, HHS has chosen to interpret this provision narrowly, indicating that a state may only count extended participation in job search and job readiness activities during the *actual month* in which the state qualifies as needy or has high unemployment. Because of the lags in reporting data, states will not know officially that they qualified under this provision until well after the end of the month. However, HHS suggests that a state will be able to “predict with reasonably high accuracy whether it will qualify” in a given month by using its own trends and projections of Food Stamp participants and unemployment rates and comparing them to the thresholds. Certainly, states that exceed the threshold by significant amounts can plan their programs on the assumption that they will continue to do so.

States that are close to the thresholds may also wish to consider implementing Food Stamp outreach and simplification options that promote participation by eligible families. Such policy changes do *not* affect the thresholds at which states qualify as “needy.”

Strategic reporting of hours of participation can maximize flexibility.

In the preamble to the Interim Final Rule published on June 29, 2006, HHS stated that, for the purpose of this requirement, a “week” is considered a period of seven consecutive days. If a state reports even one hour of job search and job readiness assistance as counting toward the participation rate calculation during such a seven-day period, it uses up a full week toward the limit.

However, there is no requirement that all hours of participation in job search and job readiness assistance be reported to HHS. States should consider being strategic about which hours to report

in order to maximize their flexibility in designing appropriate job search and job readiness activities for TANF recipients. As HHS says in the Program Instruction:

We believe Congress envisioned those weeks as concentrated participation in job search or job readiness activities, not an hour here or there, because the idea was to focus people on preparing for or getting a job. We encourage States to consider counting on those weeks in which clients primarily engage in job search or job readiness assistance activities with sufficient hours to meet their participation requirements.

Specifically, states may use the “excused absence” policy to cover short periods of time spent in job search and job readiness by an individual primarily engaged in a different work activity, rather than counting this time as job search and job readiness. In addition, if an individual does not participate for enough hours in a month to count toward the participation rate, or participates in other countable activities for the required number of hours, there is no benefit to the state in reporting any hours they have participated in job search and job readiness. In the Program Instruction, HHS clearly endorses such an approach, and it recognizes that a state may need to go back and adjust a month’s participation rate data if the state has incorrectly counted additional weeks of job search and job readiness assistance, or if it has failed to count weeks to which it is entitled.

The provision allowing needy states to count job search and job readiness assistance for 12 weeks a year does *not* affect the provision limiting the counting of this activity to four consecutive weeks. However, this limit does not mean that a state must interrupt a client’s participation after four weeks. As HHS wrote in the preamble to the regulations that originally implemented TANF:

We hope that a State would not, as the commenter suggests, withhold access to job search and job readiness—or any activity, if it were the most appropriate for a recipient—and require participation in another activity, solely for the purpose of meeting the participation rate.

If recipients are successfully participating in a job search or job readiness program, it would be unreasonable and counterproductive to interrupt their progress. If the client is participating for more than the minimum number of hours, one possibility is for the state to continue the activity but not claim it toward the participation rate requirement.