

# CRS Issue Brief for Congress

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## Welfare Reform: An Issue Overview

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## Welfare Reform: An Issue Overview

### SUMMARY

The program of Temporary Assistance for Needy Families (TANF), enacted in August, 1996, as a replacement for Aid to Families with Dependent Children (AFDC), provides fixed grants (\$16.5 billion annually through FY2002) for state-designed programs of time-limited and work-conditioned aid to families with children. The 107<sup>th</sup> Congress must decide what changes, if any, to make in reauthorizing TANF.

To promote work, state TANF programs use tougher work sanctions, "Work First" policies, financial rewards for work, and diversion of applicants from enrollment. Family welfare numbers have plunged 50% since TANF was created, employment by single mothers has soared, and poverty of mother-headed families, although still very high, has declined.

The 106<sup>th</sup> Congress changed welfare. It liberalized eligibility for the Welfare-to-Work (WtW) program, grants added to TANF for disadvantaged recipients, and gave states 2 more years in which to spend WTW funds; it extended application of charitable choice rules, which forbid discrimination against religious organizations as service providers and were first applied to TANF) to substance abuse treatment under the Public Health Service Act. In making FY2001 appropriations, it increased funding for the Child Care and Development Fund (CCDF) to \$2 billion; provided \$1 million to promote fatherhood; provided \$25 million for demonstration Individual Development Accounts (IDAs) for TANF families and others with low income. Congress also restored the option for states to transfer up to 10% of TANF funds to the Social Services Block Grant (SSBG) and funded SSBG at \$1.725 billion (down \$50 million from FY2000).

On December 16, the Department of Health and Human Services announced award of \$200 million to 28 states for high performance in FY1999 on TANF work measures: job entry, job retention, and earnings gain.

Under new rules, states may guarantee three months of unreduced food stamps to families leaving TANF (November 21 regulation) and apply to all food stamp households their TANF limits on auto value, if higher than food stamp limits (P.L. 106-387).

In FY1999, state TANF programs spent 49% of \$22.9 billion in federal funds available to them (including carryovers from 2 earlier years) and transferred 16%. Spending of federal TANF funds totaled \$11.3 billion, two-thirds of which went for cash and work-based payments (\$6.5 billion) and work activities (\$1.2 billion). Addition of state outlays brought total FY1999 TANF spending to \$21.7 billion, slightly above the FY1998 level.

At the start of FY2000, \$2.2 billion of TANF funds remained unspent. Also unspent was \$1.7 billion in WtW formula grants to help severely disadvantaged TANF recipients. Funds have built up while the caseload has shrunk. In June 2000, at 2.2 million families, numbers were the smallest since 1970.

Issues that may arise when Congress takes up reauthorization include the level and allocation of funding, the role of education and training, required state funding, waiver of rules for domestic violence victims, data reporting, circumstances of TANF "leavers," and the implicit conflict between time limits and work incentives that enable working recipients to remain on welfare at higher earnings levels.

## MOST RECENT DEVELOPMENTS

*On January 11, 2001, the Labor Department issued final regulations for the Welfare-to-Work grant program. On December 16, HHS announced award of \$200 million to 28 states for high performance in FY1999 on TANF work measures: job entry, job retention, and earnings gain. On December 15, Congress passed the Consolidated Appropriations act for FY2001, (P.L. 106-554). The new law restores the option for states to transfer up to 10% of TANF funds to SSBG; gives states 2 more years in which to spend WtW funds; eliminates the WtW high performance bonus, appropriates \$1 million to two national organizations that seek to promote "fatherhood;" increases funding from \$10 million to \$25 million for IDAs under the Assets for Independence Act and requires means-tested programs to ignore amounts in these IDAs; and forbids discrimination based on education and training of its personnel against a religious organization as a provider of substance abuse treatment under Title V of the Public Health Services Act if the training is substantially equal to that required by state/local rules. The Act omits the Clinton budget proposal to freeze TANF supplemental grants for (16 states) at their 1998 level.*

## BACKGROUND AND ANALYSIS

### System of Family Welfare

Enrollment in AFDC/TANF has been falling since spring of 1994. The June 2000 TANF caseload held 2.208 million families, down 2.9 million (57%) from the March 1994 record-high level (5.084) and the smallest since 1970. Recipients numbered 6.3 million. Average monthly caseloads in FY1999 fell 46% below the FY1995 average; for states with so large a drop the caseload reduction credit will erase the FY2000 all-family work requirement of 40%. Food stamp rolls also have dropped sharply. In December 2000, 17 million persons were enrolled, 39% fewer than the peak number of March 1994 (28 million). According to the Kaiser Commission on Medicaid and the Uninsured, enrollment of "families and children and pregnant women" in Medicaid declined 1.1% from December 1997 to December 1998, but climbed 5% in the next year. TANF enrollment normally qualifies a family also for food stamps and free school meals, as did AFDC. However, TANF does not confer automatic eligibility for Medicaid. A TANF family must be given Medicaid only if it would qualify for AFDC if that program still were in existence. The EITC is the largest form of income-tested federally funded cash aid for families (*see CRS Report 94-399*). The labor force participation rate of women maintaining families with children soared 21% from 1994 (62%) to 1999 (75%). The 1999 annual report of the Council of Economic Advisers indicated that up to 60% of the increase in work by single mothers since 1984 could be attributed to EITC expansions and 30% (of the 1984-1996 increase) to changes in the welfare system. In August 1999 CEA estimated that about one-third of the 1996-1998 AFDC-TANF caseload drop was due to Federal and state welfare policy changes, from 8% to 10% to the strong economy, 10% to the higher minimum wage, and from 1% to 5% to the lower real value of cash welfare benefits. FY1999 estimated spending for low-income children and their families by selected major income-tested programs that give cash, food, medical, and housing aid reached \$143.9 billion, up \$12.3 billion (9%) from FY1998. (**Table 1**). Most of the increased spending was for medical aid, up \$10.4 billion, and housing aid, up \$1.5 billion.

**Table 1. Estimated Income-Tested Outlays for Children and Their Families from Selected Major Programs, FY1998 and FY1999<sup>a</sup>**

	Federal Funds (\$ in billions)		State-local Funds (\$ in billions)		Recipients <sup>b</sup> (in millions)	
	FY1998	FY1999	FY1998	FY1999	FY1998	FY1999
<b>Cash aid</b>	<b>\$46.6</b>	<b>\$47.0</b>	<b>\$10.2</b>	<b>\$10.4</b>	—	—
(TANF) <sup>c</sup>	(11.3)	(11.3)	(10.2) <sup>d</sup>	(10.4) <sup>d</sup>	8.9 <sup>e</sup>	7.2 <sup>e</sup>
(EITC) <sup>f</sup>	(30.4)	(30.8)	0	0	19.4	19.4
(SSI) (children only)	(4.9)	(4.9)	N.A.	N.A.	.89	.85
<b>Food benefits</b>	<b>28.0</b>	<b>27.8</b>	<b>N.A.</b>	<b>N.A.</b>	—	—
(Food stamps) <sup>g</sup>	(16.5)	(15.8)	(1.1)	(1.1)	17.0 <sup>e</sup>	15.5 <sup>e</sup>
(Subsidized meals) <sup>h</sup>	(7.6)	(8.0)	N.A.	N.A.	17.0	17.2
(WIC)	(3.9)	(4.0)	N.A.	N.A.	7.4 <sup>e</sup>	7.3 <sup>e</sup>
<b>Major medical aid</b>	<b>16.0</b>	<b>22.5</b>	<b>12.8</b>	<b>16.7</b>	30.0	32.5
(Medicaid) <sup>i</sup>	(15.9)	(21.5)	(12.8)	(16.2)	29.0 <sup>e</sup>	30.5 <sup>e</sup>
(S-CHIP) <sup>j</sup>	(0.1)	(1.0)	N.A.	(0.5)	1.0	2.0
<b>Major housing aid</b>	<b>16.9</b>	<b>18.4</b>	<b>0</b>	<b>0</b>	4.8	4.8
(Public housing and Section 8)	(12.1)	(13.8)	k	k	(4.7) <sup>l</sup>	(4.7)
(USDA programs) <sup>m</sup>	(4.8)	(4.6)	0	0	(0.1) <sup>n</sup>	(0.1)

a. Includes administrative costs where available. Excludes education, job training, Title XX social services, Child Care and Development Block Grant (CCDBG), energy aid, and numerous smaller programs.

b. *Caution:* Average monthly number of individuals, *except:* subsidized meals, estimated daily average participation in school meals and child care programs by children from lower-income families; Medicaid, *yearly total* estimates of enrollment; FY1998 S-CHIP, enrollment in December 1998; EITC, *yearly total* number of *families*; and housing, number of *households* at end of year.

c. Of total expenditures reported for TANF, 62% were for cash benefits; the rest were for administration, child care, work program activities, supportive services, and unclassified "other" uses.

d. Spending countable toward the TANF maintenance-of-effort (MOE) requirement except expenditures that also could be counted toward the CCDBG MOE.

e. Includes parents. Child totals: food stamps, 10.7 million in FY1998, 10.2 million in FY1999; WIC, 5.6 million each year; TANF, 6.3 million in FY1998, 5.2 million in FY1999; Medicaid, 20.2 million and 21.6 million, respectively.

f. Credit earned in calendar year preceding the fiscal year (example, CY1998 for FY1999). Direct payments, \$24.4 billion for CY1997; \$ 26.3 billion for CY1998. Reduced tax liability, \$6.0 billion and \$4.5 billion, respectively.

g. Includes Puerto Rico's nutritional assistance program

h. Includes income-tested parts of school lunch, school breakfast, and child care food programs; also summer food service program. (Excludes cost of commodities.)

i. Spending estimates are for the year *preceding* the one named.

j. S-CHIP (State-Children's Health Insurance Program) began in FY1998.

k. Localities accept below-tax payments in lieu of property taxes on public housing projects.

l. Based on estimated percentage of households with children: FY1998, public housing, 45 %; Section 8, 66 %; FY1999, public housing, 43%; Section 8, 68%.

m.. Subsidized loans to low-income persons for homeownership (Section 502) and rental aid (Sections 515/521).

n. Represents housing units, each of which generally can accommodate one family. USDA does not collect data on children in households.

## **TANF Trends and Data**

To promote work, TANF state programs use tougher work sanctions, “Work First” policies, financial rewards for work, and diversion of applicants from enrollment. Welfare-to-work efforts have urgency because the law restricts federally funded TANF aid for an adult to 60 months (lifetime limit), and many states impose shorter limits. Nationally, caseloads continue a decline that began in 1995. Persons now on the rolls include rising proportions of long-term recipients and minorities. Nationally, TANF has more than doubled the fraction of adult recipients who have earnings (28% in FY1999, compared with 11% in FY1996); their FY1999 earnings averaged \$598 monthly. Cash benefits in FY1999 averaged \$357 monthly (98% of TANF families also received medical assistance; 81%, food stamps; 13%, subsidized housing; and 4%, child care). Available data indicate that in some states from 50-65% of persons who leave the rolls have jobs then or a short time later (compared with a general work exit rate of almost 50% before TANF) and that the jobs generally pay wages around \$6.00 to \$7.50 per hour. *See CRS Report 98-369*. The 1999 poverty rate among children in female-headed families (with no spouse present) was 41.9%, compared with 49.3% in 1996 and 52.9% in 1994, when AFDC numbers were record high. Combined Federal and state TANF spending (excluding state child care funds that are countable also toward required state spending for the child care block grant) totaled \$21.7 billion in FY1999, up slightly from FY1998 (\$21.5 billion), but down 23% from comparable FY1996 spending for AFDC and related programs (\$28.2 billion). As of September 30, 1999, states had an unobligated TANF balance of \$2.2 billion.

### **The 1996 Welfare Law, P.L. 104-193**

(As modified in 1997 and 1998 by P.L. 105-33 and P.L. 105-185)

#### **Replacement of AFDC by Temporary Assistance for Needy Families**

TANF is a fixed block grant for state-designed programs of time-limited and work-conditioned aid to families with children. Enacted on August 22, 1996, it repealed AFDC, Emergency Assistance for Needy Families, and the Job Opportunities and Basic Skills Training (JOBS) program. It combines recent federal funding levels for these three programs into a single block (\$16.5 billion annually through FY2002) and entitles each state to the sum it received in a recent year. It also provides an average of \$2.3 billion annually in a new child care block grant (more than double the FY1996 federal funding level for AFDC-related child care). The TANF law appropriates extra funds for loans, contingencies, bonuses for “high performance” and for reducing out-of-wedlock births, and supplemental grants for states with historically low federal welfare funding per poor person and/or rapid population gain. (Citing the caseload decline, the President’s FY2001 budget proposed to freeze supplemental grants at their FY1998 level, but Congress rejected this in passing H.R. 4577.) As amended by the Balanced Budget Act of 1997 (P.L. 105-33), TANF law also provided a \$3 billion program in FY1998-FY1999 for welfare-to-work (WtW) grants, most of which require state cost sharing, to help states achieve required work participation rates.

TANF greatly enlarged state discretion in operating family welfare, and it ended the entitlement of individual families to benefits. Under TANF States decide what categories of needy families to help and whether to adopt financial rewards/penalties to induce work and other desired behavior. They set asset limits (pre-TANF law imposed an outer limit), and continue to set benefit levels. TANF explicitly permits states to administer benefits and provide services through contracts with charitable, religious, or private organizations, a provision that has come to be known as Charitable Choice.

Attached to the TANF block grant are some federal conditions. To receive full grants, states must achieve minimum work participation rates and maintain at least 75% of their "historic" level of state welfare funding (FY1994 state spending on AFDC and AFDC-related programs), increased to 80% if the state fails the work participation rate. States must require parents and other caretaker recipients to engage in work after a maximum of 24 months of benefits (work-trigger time limit) and must impose a general 5-year time limit on federally-funded benefits (benefit time limit). They may exempt single parents with a child under age 1 from required work (and from the calculation of work participation rates). In FY2001, 45% of all families with an adult recipient must work (including 90% of families with two parents); the all-family rate peaks at 50% in FY2002 (these rates are to be lowered for caseload declines from FY1995 levels). States are forbidden to give TANF aid to unwed parents under 18 unless they (and their children) live under adult supervision, and, if high school dropouts, attend school. States may continue pre-TANF state reforms begun under waivers from AFDC rules (until the waivers expire) even if terms are inconsistent with the new law. (*For TANF provisions, as compared to AFDC, see CRS Report 96-720; for summaries of state TANF programs, see CRS Report RL30695 and CRS Report RS20708.*)

## **Medicaid and TANF**

Although the 1996 law ended AFDC, it retains AFDC eligibility limits for Medicaid use. It requires states to provide Medicaid coverage and benefits to children and parents who would be eligible for AFDC cash aid (under July 16, 1996 terms) if that program still existed. For this purpose, states may lower AFDC income and resource standards to those in effect on May 1, 1988, and may increase them by the percentage rise in the consumer price index since July 16, 1996, and may change the method of determining income and resources. The law also requires states to extend medical assistance for 12 months and four months, respectively, to those who lose TANF eligibility because increased earnings or child/spousal support lift their income above July 1996 AFDC limits. *See CRS Report RS20552.*

## **Child Care**

The 1996 welfare law created a mandatory block grant for child care to low-income families. Individual states are entitled to what they received for AFDC work-related child care, transitional child care, and at-risk child care in a recent year. States that maintain the higher of their 1994 or 1995 spending on these programs are entitled also to extra funds at the medicaid match rate. Appropriated for the block grant is \$13.9 billion over 6 years, more than \$4 billion above spending levels estimated by CBO for the replaced programs. The law also provides another \$7 billion in discretionary funding under an expanded Child Care and Development Block Grant (CCDBG). The combined funding streams provided by the 1996 law are referred to as the Child Care and Development Fund (CCDF). States must use at least 70% of the entitlement money for welfare families that are attempting to become self-sufficient through work, or that are working but at risk of becoming dependent on welfare. The new block grant program took effect October 1, 1996. *For state CCDF programs, see*

*CRS Report 98-875.* The President's FY2001 budget proposed to increase CCDF funding to \$2 billion, \$0.8 billion above the FY2000 level, and Congress appropriated this sum. *See CRS Report RL30021.*

## **Alien Eligibility for Welfare**

The 1996 law barred legal immigrants from Food Stamps and SSI unless they have worked 10 years or are veterans, certain active duty personnel, or families of veterans or active duty personnel. However, Congress since has restored SSI and food stamps for some immigrants. The 1997 Balanced Budget Act (P.L. 105-33) restored SSI for legal aliens enrolled on August 22, 1996, when the ban was passed, and those who were here then and later become disabled; and P.L. 105-185 has restored food stamp eligibility for some immigrants, (see *Food Stamps*). The 1997 law continued a state option to extend TANF, Medicaid, and Title XX social services to legal immigrants who arrived before the 1996 law and (for persons arriving later) a ban on these and many other need-tested benefits during their first 5 years of U.S. residence. For a summary, *see CRS Report 96-617*. At passage, CBO estimated that the 1996 alien provisions would reduce direct federal outlays over 7 years by \$23.7 billion, but P.L. 105-33 and P.L. 105-185 have been estimated to restore more than half of this over 5 years (\$9.5 billion in SSI, \$2 billion in Medicaid and \$800 million in food stamps). The 107<sup>th</sup> Congress failed to pass FY2001 and FY2001 budget proposals to restore SSI (and derivative Medicaid) to legal immigrants who came after August 1996, have been here 5 years and become disabled after entry; and to permit states to extend Medicaid to some legal immigrant children and pregnant women who entered after August 1996 (see CRS Report RS20061).

## **Food Stamp Revisions**

The 1996 law expanded states' food stamp role, added new work rules, restricted benefits, and barred eligibility for most legal aliens. At passage, net federal food stamp outlay savings over 5 years were estimated at \$23.3 billion. P.L. 105-33 provided \$1.5 billion over 5 years for provisions that moderated the new work rule. P.L. 105-33 and P.L. 105-18 dramatically increased funds for food stamp work and training programs and allowed states to pay for food stamps for persons made ineligible for federally financed stamps by the 1996 law. In 1998, P.L. 105-185 restored food stamp eligibility for immigrant children, aged, and disabled aliens here before August 22, 1996; it also reduced funding for employment and training costs (but did not wipe out the 1997 gain) and administrative costs. Congress rejected a FY2001 budget proposal to restore eligibility for certain legal alien parents of citizen children. H.R. 4461, passed on October 18, allows states (effective July 1, 2001) to apply to all food stamp households their TANF rules for vehicle ownership, provided they are more liberal than food stamp rules (general limit of \$4,650 in fair market value); it also increases benefits for those with high shelter costs. *See CRS Report 98-59*. The Administration on November 21 issued a final regulation allowing states to guarantee 3 months of unreduced food stamp benefits to families who leave TANF.

## **Social Services Block Grants**

The 1996 Act reduced the \$2.8 billion entitlement ceiling for Social Services Block Grants (SSBG) under title XX of the Social Security Act by 15% and entitles states to \$2.38 billion annually in FY1997-FY2002. However, Congress later appropriated \$2.5 billion for FY1997, \$2.3 billion for FY1998, \$1.9 billion for FY1999, and \$1.8 billion for FY2000.



Beginning in FY2001, P.L. 105-178 reduced the entitlement ceiling from \$2.38 billion to \$1.7 billion and decreased to 4.25% the share of TANF funds that states may transfer to SSBG. *See CRS Report 94-953*. However, in passing the Consolidated Appropriations Act for FY2001 (P.L. 106-554) Congress restored the SSBG transfer cap to 10% and appropriated \$1.725 billion (down \$50 million from FY2000) for SSBG.

## **TANF Issues**

### **Reauthorization of TANF**

Most appropriations for TANF expire at the end of FY2002. However, two grants end on September 30, 2001 and will require attention by the first session of the 107<sup>th</sup> Congress: supplemental grants for 17 states with above-average population growth and/or below-average federal welfare funding per poor person, and the contingency fund for states that become “needy.” Pointing to the sharp reduction in welfare rolls, the Clinton Administration proposed freezing supplemental grants (rather than allowing scheduled increases), but Congress rejected this proposal. A decision to reauthorize supplemental grants probably would reopen the question of what conditions should qualify a state for extra funds. The contingency fund provides capped matching grants for states with high and increasing unemployment rates or increased food stamps caseloads. A total of \$1.960 billion was appropriated for FY1997-FY2001. To qualify for the fund a state must meet a special high state spending requirement, and a state’s entitlement cannot be determined until the year is over. Critics maintain that terms of access are complex and restrictive, and President Clinton’s FY2000 budget proposed to repeal existing contingency fund authority and create a new uncapped fund that could “more effectively respond” to an economic downturn.

Reauthorization of the basic program also is likely to raise less pressing issues. Should the level of funding remain at \$16.5 billion annually? Should it be reduced because of caseload shrinkage? Should the formula for making state allocations of block grant funds be changed to reflect changes since the program was established? (Current allocations are based on federal funding received by each state for programs replaced by TANF when the state’s AFDC caseload was record large). Should the level of required state spending be kept at a minimum of \$10.4 billion annually (75% of each state’s historic spending level)? Should Congress endeavor to stop states from using TANF dollars to replace state funds used for non-TANF purposes (known as supplantation)? Should the law be changed to extend eligibility for federally funded benefits beyond 5 years for families who are working but still in need? Some have proposed that the federal time limit be suspended during months of minimum work. *See CRS Report RS20766*.

Discussed below are other TANF issues: definition of work activities, application of minimum wage laws, work participation rates and penalties; “charitable choice” and privatization; WtW grants; transfer of funds; victims of domestic violence; transportation; housing vouchers; employer tax credits; IDAs; unspent funds; and child support collection.

### **Definition of “Work Activities” and the Role of Education**

What activities are countable in calculating a state’s work participation rate? In contrast to JOBS, which allowed states to treat postsecondary education as a countable activity, TANF law includes only three educational activities: vocational *educational* training (for no more than 12 months), secondary school attendance (or equivalent) and education directly

related to employment (adult high school dropouts and teen-aged parents only). The law now allows 30% of the persons in all TANF families and in 2-parent TANF families, respectively, who are treated as engaged in work to consist of persons who are participating in vocational educational training or who are teenage household heads engaged in schooling (until October 1, 1999, the law placed no limit on the number of teenage household heads who could be counted as workers by virtue of educational activity). Even though it is not listed as a countable activity, many state TANF programs now include postsecondary education, as the sharp drop in caseloads has cut or eliminated the risk of penalty for failing work participation rates, which are lowered by caseload reduction credits. *See CRS Rept. RL30767.*

## **Application of Minimum Wage Laws**

JOBS law directed that work hours in community work experience programs (workfare) be calculated at the minimum wage (higher of the federal or state rate) and specified that welfare recipients whose wages were subsidized with their benefit were not to be treated as “employees.” This meant they were not covered by the Fair Labor Standards Act (FLSA), which sets wage and hour standards. Unlike JOBS law, TANF law is silent on these issues. Thus, a critical issue is whether or not TANF participants in work programs are held to be “employees” with “earnings.” Another issue is whether workfare “wages” are subject to payroll taxes, unemployment insurance and federal income taxes. Over objections of the National Council of State Human Service Administrators and some governors, but with the support of organized labor, the administration holds that the FLSA generally applies to community service and work experience positions. In a May 22, 1997 memorandum, the Labor Department said most welfare recipients in ‘workfare’ arrangements would be classified as ‘employees’ under the FLSA’s broad definition and, hence, must receive the minimum wage rate. It said food stamps could be counted under a food stamp workfare program or a food stamp work supplementation program (where wages are subsidized by food stamps) toward meeting minimum wage requirements, but that credit could not be taken for health insurance or other benefit payments excluded under the FLSA. Congress has acted on the issue of the EITC for workfare. The Taxpayer Relief Act (P.L. 105-34) disallows the EITC for TANF payments made to participants in work experience or community service.

On December 18, 1998, the Internal Revenue Service announced that it has decided to exclude TANF workfare payments from federal income and employment taxes, provided they meet three conditions: (1) the only payments received by the TANF recipient are received directly from the state or local welfare agency ( an entity with which a state or local agency contracts to administer the program would be treated as the state or local agency); (2) the person’s TANF eligibility is based on need and the only payments for his/her work activity are funded entirely under a TANF program; and (3) recipients are not required to participate more hours for their benefit than yield the minimum wage equivalent (hours may not exceed the TANF grant divided by the minimum wage rate). *See CRS Report 97-1038.*

How many state TANF programs might be affected by the Administration’s decision that most workfare recipients are covered by the minimum wage? TANF law sets minimum average weekly hours of work; for single parents, they started at 20 hours, but rose to 25 hours in FY1999 and to 30 hours in FY2000 ( 2-parent families must work 35 hours weekly). At the federal minimum wage (\$5.15), a 30-hour weekly workfare assignment equates to \$154.50 in benefits (\$669 per month). Only in New York (in Suffolk County), Alaska, and Wisconsin (Community Service program), are TANF maximum benefits for a 3-person family (as of Jan. 1, 2000) high enough to provide the required amount for 30 hours of work by a single-parent family. Many of the other states could observe the workfare minimum “wage”

by adding food stamps to the calculation, but some states would have to increase cash benefits. Pending bills to raise the federal minimum rate would increase the number of states whose workfare programs might have to be changed to meet FLSA and IRS standards. Both Houses of Congress have voted to increase the federal minimum wage to \$6.15 an hour, the Senate over 3 years, the House over 2 years. H.R. 2918 would permit a governor to suspend federal minimums above \$5.15 under certain conditions, including inability to achieve TANF work participation rates. For more on the minimum wage, see IB10039.

## **Work Participation Rates and Penalties**

The third annual TANF report shows that in FY1999, 15 states, more than double the 1998 number, served two-parent families in separate state-funded programs, which are free of TANF minimum work targets and time limits. The report says that nationally, 38.3% of all families with a TANF adult recipient were credited with work in FY1999 (by engaging in a recognized work activity for a weekly average of at least 25 hours – fewer hours for some groups). Among two-parent families, who were required to work at least 35 hours, the participation rate was 54.7%. The statutory minimums for FY1999 were 35% for all families and 90% for two-parent families, but actual state targets were adjusted downward to give credit for reductions in caseload from FY1995 to FY1998. All jurisdictions except Guam and the Virgin Islands achieved their adjusted all-family work rate in FY1999 (some met the standard without a caseload reduction credit), but 10 of the 38 jurisdictions subject to the 2-parent TANF work rate failed to do so, even after targets were adjusted for caseload reduction. Sixteen states were not subject to the 2-parent rate, 15 because the families were in separate state programs, and one (Vermont) because it is continuing a waiver inconsistent with TANF work rules. The 10 jurisdictions that failed the 2-parent work rate were Alaska, Arkansas, Colorado, District of Columbia, Guam, Minnesota, Nebraska, New Mexico, North Carolina, and West Virginia. For FY1999 work participation rates of each state, see [<http://www.acf.dhhs.gov/news/99rate.htm>]. States that fail minimum work participation rates are subject to a penalty (for first year's failure, loss of 5% of the TANF block grant, for second year's failure, 7% of the grant, with the penalty based on "the degree of noncompliance"), and under the law they must spend an amount equal to their penalties (in effect, replacing the lost funds); finally, their required state spending level (maintenance-of-effort [MOE] requirement) is increased to 80% of its historic level. The law permits states who fail to achieve work rates to submit a corrective action plan or appeal the penalty on grounds of reasonable cause. Of the 10 jurisdictions that failed to meet the FY1999 two-parent work rates, North Carolina and West Virginia accepted their respective penalties of \$3,817 and \$127,527. Alaska, Colorado and Guam requested penalty exemption on grounds of reasonable cause. Arkansas, D.C., Mississippi, Nebraska, and New Mexico filed corrective action plans (with target dates for achieving required work rates). In final TANF regulations, HHS said states that offered TANF to non-custodial parents could choose whether or not to include them in calculating work participation rates of two-parent families.

## **“Charitable Choice” and Privatization**

The 1996 welfare law permits states to “administer and provide services” under TANF, food stamps, Medicaid, and some other federal programs through contracts with charitable, religious, or private organizations. However, food stamp and Medicaid law effectively require *eligibility to be determined* by a public official. The purpose of what has come to be known as “charitable choice” is to allow religious organizations to provide services on the same basis as any other nongovernmental provider “without impairing their religious character” or diminishing the religious freedom of recipients. Since 1996, Congress has enacted other

charitable choice provisions—applying them to grants under the Community Services Block Grant (1998) and to substance abuse services under Title V of the Public Health Service Act (Children’s Health Act of 2000). Further, the Consolidated Appropriation Act for FY2001, passed on December 15, 2000, forbids discrimination against a religious organization (as a provider of substance abuse services funded by the Public Health Service Act) on the basis of the education and training of its personnel, provided the training is substantially equal to that required by state/local rules. The 106th House voted (H.R. 4678) to establish fatherhood grants within TANF and to extend the charitable choice option to them, but the Senate did not act on its companion bill (S. 3189). In passing H.R. 4577, Congress voted to appropriate a total of \$1 million for FY2001 to two national organizations that seek to promote fatherhood: the Institute for Responsible Fatherhood and the National Fatherhood Initiative. *See CRS Report RS20712.* Using its new privatization authority, Wisconsin has contracted out the administration of its TANF program (W-2) in some counties.

## **Welfare-to-Work (WTW) Grants**

The basic TANF block grant earmarks no funds for any program component, benefits or work programs. In response to a presidential budget proposal, the 1997 Balanced Budget Act established a \$3 billion welfare-to-work grant program for FY1998-FY1999, administered by the Secretary of Labor. It required 75% of funds (after set-asides) to be used for 33% state matching formula grants, allocated on the basis of state shares of the adult TANF population and the poverty population; it required the remaining 25% of WtW funds to be used for competitive grants. By the end of FY1999, all available WtW funds had been awarded. Over the 2 years, formula grants totaled almost \$2 billion, and competitive grants, \$712 million. The original law set aside \$100 million for performance bonuses, but they have been eliminated in two stages (by P.L. 106-113 and H.R. 4577, the Consolidated Appropriations Act for FY2001). At the start of FY2000, states had spent only \$220 million of their formula grants, and, as requested by the President, Congress extended the WtW spending deadline (from 3 years to 5 years from the date of award) in passing H.R. 4577 on December 15, 2000.

As originally enacted, 70% of funds had to be used for the benefit of TANF recipients (and non-custodial parents) with at least two specified barriers to work who themselves (or whose minor children) were long-term recipients (30 months of AFDC/TANF benefits) or were within 12 months of reaching the TANF 5-year time limit or a shorter state time limit. The target groups had to have at least two of three specified work impediments. WtW eligibility was liberalized by P.L. 106-113. Effective July 1, 2000, states may incur obligations for payment from formula grant allotments (and use state matching funds) on behalf of four new groups: long-term TANF recipients without specified work barriers, former foster care youths 18 to 24 years old, TANF recipients who are determined by criteria of the local private industry council to have significant barriers to self-sufficiency, and custodial parents with income below the poverty line. The new law also changed rules concerning WtW for non-custodial parents. Eligible under the new rules are noncustodial parents who are unemployed, underemployed, or having difficulty paying child support, provided their minor child meets certain standards and the non-custodial parent is in compliance with an oral or written personal responsibility contract. The expanded eligibility rules took effect on January 1, 2000 for competitive grants (and, as noted above, on July 1, 2000 for formula grants). However, federal expenditures from formula grants for the newly eligible groups could not be made until October 1, 2000. Activities that may receive WtW funds are the conduct and administration of community service or work experience programs; job creation through wage subsidies, on-the-job training, contracts with providers of

readiness, placement, and post-employment services, job vouchers for placement, readiness, and post-employment services, job retention or support services if these services are not otherwise available; and, added by P.L. 106-113, effective on July 1, 2000, up to six months of vocational educational or job training. *See CRS Report RS20134.*

## **Transfer of TANF Funds**

The law allows states to transfer up to 30% of TANF funds to the Child Care and Development Block Grant (CCDBG) and the Title XX social services block grant (SSBG), but sets a limit of 10% on the share that can go to SSBG. Cumulative transfers from TANF awards through the first half of FY1999 totaled \$3.5 billion, 9.3% of awards. During FY1998, states transferred 10.5% of 1998 awards (6.5% to SSBG and 3.9% to CCDBG). P.L. 105-178 cut the share of funds that can go to SSBG to 4.25%, effective in FY2001, but the Consolidated Appropriations Act for FY2001, passed December 15, restored the 10% cap. P.L. 105-200 allows states to use TANF funds, within the overall 30% transfer limit, as state matching funds for job access grants to provide transportation services to TANF recipients and ex-recipients, noncustodial parents of TANF children, and those at “risk” of becoming eligible for TANF. **Victims of Domestic Violence**

The 1996 law allows states to certify in their TANF plans that they have adopted standards to screen and identify TANF recipients with a history of domestic violence, refer them to services, and waive program requirements in some cases. *See CRS Report 97-1032.* The Senate several times voted to allow unlimited TANF waivers for victims of domestic violence and to disregard these persons in computing a state’s work participation rate, but the House has disagreed. S. 1069 revives these provisions. *See Final TANF Regulations* for penalty exemption provision. Also, see CRS Report RS20662.

## **Transportation for TANF Recipients**

The 1998 transportation act (P.L. 105-178) authorized \$750 million in 50% matching funds over 5 years for matching grants for job access and reverse commute grants for welfare recipients, of which no more than \$10 million annually can be for reverse commute projects. It said funds were to be used to develop services to move welfare recipients and other low-income persons (income not above 150% of the poverty level) to and from jobs and work-related activities. As noted immediately above, states may use TANF funds, within limits, as state matching funds for these grants. Appropriations for FY1999 and 2000 were \$75 million annually (half the amount sought by the Administration). The FY2001 budget again proposed \$150 million, but Congress provided \$75 million in passing H.R. 4577. On May 13, 1999, the Department of Transportation (DOT) announced award of \$71 million for 170 job access and reverse commute projects, and on October 19, 2000, it announced the second round of awards—\$73 million for 216 communities in 39 states and the District of Columbia. For details of FY2000 awards, see [<http://www.fta.dot.gov/library/legal/fr1019000.htm>].

## **Housing Vouchers for TANF Recipients**

The President’s FY1999 budget proposed tenant-based housing assistance to help eligible TANF families move to work (\$283 million, sufficient for 50,000 vouchers). Congress included these vouchers in the FY1999 HUD appropriation act (P.L. 105-276) but specified that at least \$32 million of the \$283 million total be made available for initiatives in eight localities (Anchorage, Charlotte, Cleveland, Kansas City, Miami/Dade County, New

York City and two counties in California and Maryland). The law made sweeping changes in subsidized housing, including: Reducing the share of units reserved for very poor families in an effort to achieve an income mix; requiring housing agencies to set minimum rents (not above \$50 monthly); allowing public housing tenants to choose a flat rent or income-adjusted rent; forbidding housing agencies to increase the rent for one year of TANF recipients (or some other previously unemployed persons) who take a job; and requiring adult public housing residents, for 8 hours monthly, to participate in a self-sufficiency program or in community service. *See CRS Report 98-868*. The FY2000 budget included \$427 million for WtW housing vouchers, a 50% increase from FY1999. However, the FY2000 appropriation provided no increase for WtW housing vouchers. The FY2001 budget requested \$183 million for 32,000 new WtW housing vouchers, but the FY2001 appropriation (P.L. 106-377) denied new WtW housing vouchers. For a general discussion of housing for the poor, *see CRS Report 98-860*.

### **Tax Credits for Hiring Welfare Recipients**

In 1997, Congress established a Welfare-to-Work (WTW) Tax Credit for hiring persons who had received AFDC/TANF for 18 months. It also extended an existing credit called the Work Opportunity Tax Credit (WOTC) for hiring certain persons, including those who had received TANF for 9 months. In late 1999, Congress extended both credits retroactively and through December 31, 2001 (P.L. 106-170). *See CRS Report RL30089*. The Consolidated Appropriations Act for FY2001, passed December 15, 2000, adds “renewal communities” to the areas where a tax credit is offered for hiring resident youth.

### **Individual Development Accounts (IDAs)**

The 1996 law permits states to use TANF funds to carry out a program of individual development accounts (IDAs) established by (or on behalf of) persons eligible for TANF, with no dollar limit. Accounts are to contain deposits from the recipient’s earnings, matched by a contributions from a not-for-profit organization, or a state or local government agency in cooperation with the organization. Withdrawals are allowed only for postsecondary educational expenses, first home purchase, and business capitalization. All means-tested programs must disregard amounts, including accruing interest, in TANF-funded IDAs. Some states mention IDAs in their TANF plans. In 1998, Congress established a 5-year program of IDA demonstration projects (Assets for Independence Act [AIA], Title IV of P.L. 105-285) for TANF-eligible persons and certain other low-income workers. Appropriations for FY1999 and FY2000 were \$10 million each; for FY2001, \$25 million (budget request) was appropriated (Consolidated Appropriations Act, H.R. 4577). In determining means-tested eligibility, states originally were allowed to count deposits by the account holder into these IDAs, but H.R. 4577 requires that means-tested programs disregard amounts in these IDAs. Announced at the end of September, 2000 were second year awards of \$8.3 million for AIA demonstration projects (\$4.5 million to 25 new grantees, \$2.1 million in supplements to 14 previous grantees, and \$1.7 million to state departments in Indiana and Pennsylvania that had begun IDAs before AIA was passed). *See CRS Report RS20534*.

### **Unspent TANF Funds**

At the end of FY1999, HHS reports that states had an unspent and unobligated balance in the U.S. Treasury of \$2.248 billion in TANF funds, from FY1997, FY1998, and FY1999 TANF grants. A total of 35 states (including D.C.) had unobligated TANF balances. Largest

reserves were held by New York, \$684 million; Ohio, \$150 million; Massachusetts, \$146 million; and West Virginia, \$145 million. States may draw TANF funds from the Treasury only for reimbursement of expenditures. One bill, H.R. 635, proposed to permit use of TANF funds for building classrooms and hiring public school teachers. The law sets no fiscal year deadline for expenditure of TANF funds for “assistance.” The narrow definition of assistance adopted in final regulations (see below) means that reserve funds that are carried forward cannot be used for many activities and services for employed families.

## **Child Support Collections**

To receive TANF, parents must assign any child support rights to the state. In FY1999, child support enforcement offices collected \$6 billion assigned by TANF and former TANF families. Of this sum, \$3.8 billion was distributed to former TANF families and \$0.1 million to TANF families; almost all of the rest was used to repay federal and state administrative costs. The House on September 7, 2000 voted (H.R. 4678) to require states and local offices to distribute more child support to ex-welfare families (with federal funding) and to allow states to give child support collections to TANF families without having to repay the Federal government for its share of the money under certain conditions. The bill also proposed “fatherhood” grants to promote marriage and “successful parenting” and applied Charitable Choice rules to them, but the Senate did not act on counterpart legislation. FY2001 appropriations (H.R. 4577) include \$1 million to two national organizations that seek to promote fatherhood.

## **Final TANF Regulations**

Final TANF regulations, issued April 12, 1999, took effect October 1, 1999. The rule defines “assistance” to include cash, payments, vouchers and other forms of benefits directed at ongoing, basic needs; it also includes supportive services such as child care and transportation to families who are *not employed*. It excludes non-recurrent, short-term benefits for crisis situations (needs extending no more than 4 months). It also excludes child care, transportation, and other supports provided to *employed families*, IDA benefits, refundable earned income tax credits, work subsidies to employers, and services such as education and training, case management, job search, and counseling. The final rule contrasts with the original (1997) proposal, which defined assistance broadly, encompassing most forms of support, excluding only services without direct monetary value and one-time, short-term assistance. The final rule retains the requirement that a state must report data on individuals and families receiving assistance (as now defined) under separate state programs (and on former recipient families in separate state programs) in order to qualify for a “caseload reduction credit” against its required work participation rate or to receive a high performance bonus.

The regulations also retain proposals to permit a state that has adopted the Family Violence Option (FVO) to receive “reasonable cause” exceptions to penalties for failing work and time limit rules if the state had granted domestic violence waivers that met certain standards. The rule provides that States must submit a financial report quarterly (ACF Form 196) showing expenditure of Federal funds, state maintenance-of-effort (MOE) funds in TANF, and state MOE expenditures in separate state programs. These reports are to show expenditures on assistance (basic aid, child care, other supportive services, assistance

authorized solely under pre-TANF law) and on specified categories of non-assistance. The regulations and preamble can be found in the *Federal Register*, April 12, page 17720-17918.

## Federal Jobs for Welfare Recipients

President Clinton on March 8, 1997, ordered federal agencies to hire TANF recipients into available jobs. *See CRS Report 97-466*. In response, agencies made commitments to hire 10,638 welfare recipients. As of August 22, 2000, the Office of Personnel Management (OPM) reported that hires totaled 49,803, 468% of the target. More than 75% of the hires were made by the Commerce Department, presumably for the Census.

## TANF Bonus Funds

On September 15, 2000, HHS announced award of \$100 million in bonuses to five of the six jurisdictions that achieved reductions in the percentages of births to unwed women between 1995 and 1998; in all other jurisdictions non-marital birth ratios increased. The winners of \$20 million bonuses (and the share of their 1997-99 births to unmarried women): D.C., 63.2%, down 4.1% from 1995-96; Arizona, 38%, down 1.4%; Michigan, 33.6%, down 1.3%; Alabama, 34%, down 0.29%; and Illinois, 33.8%, down 0.02%. Oregon was the sixth state with a decline; its ratio was 29.3%, down 0.001%. For the U.S. as a whole, the non-marital birth ratio was up slightly, 32.6%, compared with 32.3%. Bonuses go to the 5 states with the largest declines; Alabama, D.C., and Michigan also were winners of initial bonuses, awarded last year.

On December 16, 2000, HHS announced award of the second TANF high performance bonus: \$200 million to 28 states, based on state rankings (absolute and relative) in FY1999 on work-related measures rates of job entry and success in the workforce (job retention and earnings gain). Winners ranked among the top 10 states in at least one of the categories. Bonuses ranged from \$0.6 million in South Dakota for improvement in workforce success to \$36.1 million in California (also the top FY1998 winner) for workforce success. For details, see [<http://www.acf.dhhs.gov/programs/opre/hpb/table1.htm>]. On August 30, 2000, HHS issued final rules for high performance bonuses, effective for awards beginning in FY2002. The new rules add four non-work performance measures: “family formation and stability”—percentage of children in married couple families; health insurance coverage—percentage of TANF leavers with health insurance (Medicaid or S-CHIP); food stamp coverage—enrollment percentage among households with children, earnings equal to half-time year round minimum wage (\$5,396 in 2000) and income below 130% of the poverty guideline); and child care coverage—percentage of eligibles served plus affordability.

For food stamps and health insurance, bonuses will total \$20 million each, awarded to the 3 states with highest absolute scores and the 7 with highest improvement scores; for family formation and child care, bonuses will total \$10 million each, awarded to the 10 states with highest absolute scores. For work performance, bonuses will total \$140 million, allocated as follows: job entry rate, \$56 million; workforce success, \$35 million; increase in job entry rate, \$28 million; and increase in workforce success, \$21 million. Under the final rules, however, improvement rates are measured in percentage points, not percentages, so as not to disadvantage states with a high baseline level of performance. The regulations, with background discussion, are available at [<http://www.acf.dhhs.gov/programs/opre/hpb>]. On July 1, 1999, the Senate adopted a Wellstone amendment (S.Amdt. 1212) to change the high



performance bonus and require some tracking of ex-TANF recipients, but this was deleted by conferees from H.R. 2490 before passage.

## LEGISLATION

### **P.L. 106-113**

**Consolidated Appropriations Act for FY2000.** Law broadens eligibility for WtW grants and adds limited vocational educational or job training to allowable activities. Signed into law November 29, 1999.

### **P.L. 106-310**

Extends application of charitable choice rules to substance abuse services under Title V of the Public Health Service act. Signed October 17, 2000.

### **P.L. 106-387**

**Agriculture Appropriations for FY2001.** Permits states to apply to all food stamp household their ANF rules for vehicle ownership, provided they are more liberal than food stamp rules; increases benefits for those with high shelter costs. Signed October 28, 2000.

### **P.L. 106-554**

**Consolidated Appropriations Act for FY2001.** Appropriates \$25 million for demonstration IDAs, \$1 million for two national organizations promoting fatherhood, \$2 billion for CCDF, \$1.725 billion for SSBG, and restores option to transfer up to 10% of TANF funds to SSBG. Signed December 21, 2000.

## FOR ADDITIONAL READING

CRS Report RL30401. *Cash and Noncash Benefits for Persons with Limited Income: Eligibility Rules, Recipient and Expenditure Data, FY1996-FY1998*, by Vee Burke.

CRS Report RS20712. *Charitable Choice and TANF*, by Vee Burke.

CRS Report RL30021. *Child Care Issues in the 106<sup>th</sup> Congress*, by Melinda Gish and Karen Spar.

CRS Report 97-86. *Indian Tribes and Welfare Reform*, by Vee Burke.

CRS Report 96-720. *TANF Block Grant Program: Current Provisions Compared with AFDC*, by Vee Burke.

CRS Report RS20534. *Temporary Assistance for Needy Families and Individual Development Accounts*, by Vee Burke.

CRS Report RS20662. *Welfare Law and Victims of Domestic Violence*, by Jacqueline Cooke and Vee Burke.

CRS Report 97-1038. *Welfare Recipients and Workforce Laws*, by Vee Burke.

CRS Report RS20708. *Welfare Reform: Brief Summary of State Programs of Temporary Assistance for Needy Families (TANF)*. By Emilie Stoltzfus, Vee Burke, and Gene Falk.

CRS Report RL30490. *Welfare Reform: The Characteristics of TANF Families in FY1998*, by Gene Falk, Vee Burke, Melinda Gish, and Shannon Harper.

CRS Report 97-509. *Welfare Reform: Role of Education*, by Vee Burke.

CRS Report RL30579. *Welfare Reform: Financial Eligibility Rules and Cash Assistance Amounts under TANF*, by Craig Abbey, Vee Burke, Alice Butler, Christine Devere, Gene Falk, Thomas Gabe, Melinda Gish, Shannon Harper, Carmen Solomon-Fears, and M. Ann Wolfe.

CRS Report RL30675. *Welfare Reform Financing Issues: Supplemental Grants*, by Gene Falk, Holly Goodliffe, and Vee Burke.

CRS Report RL30595. *Welfare Reform: Financing and Recent Spending Trends in the TANF Program*, by Gene Falk.

CRS Report RS20766. *Welfare Reform Reauthorization: Brief Summary of Issues for the 107<sup>th</sup> Congress*, by Gene Falk, Vee Burke, Melinda Gish, Carmen Solomon-Fears, Joe Richardson, and Karen Spar.

CRS Report RL30695. *Welfare Reform: State Programs of Temporary Assistance for Needy Families (TANF)*, by Emilie Stoltzfus, Vee Burke, and Gene Falk.

CRS Report RS20552. *Welfare Reform and Medicaid: Brief Overview*, by Vee Burke

CRS Report 97-360. *Welfare Reform and Subsidized Public Sector Jobs*, by Linda Levine.

CRS Report 98-369. *Welfare Reform: TANF Trends and Data*, by Vee Burke.

CRS Report 98-932. *Welfare Reform: Time Limits under TANF (Temporary Assistance for Needy Families)*, by Gene Falk and Courtney Schroeder.

CRS Report RS20134. *Welfare Reform: Welfare-to-Work Legislation in the 106<sup>th</sup> Congress*, by Christine Devere.

CRS Report RL30724. *Welfare Reform Research: What Have We Learned Since the Family Support Act of 1988?* by Christine Devere, Gene Falk, and Vee Burke.

CRS Report RL30767. *Welfare Reform: Work Activities and Sanctions in State TANF Programs*, by Vee Burke.

CRS Report 96-882. *The Wisconsin Works Welfare Program: Concept and Experience*, by Vee Burke.