SIGNIFICANT AREAS OF POLICY NOT REGULATED - LEFT TO DISCRETION OF STATES

I. Key Definitional Issues

The NPRM allows the State to define:

- the meaning of each of the work activities listed in section 407(d)
- the workload reduction factor
- what constitutes an administrative cost under the 15% cap
- what constitutes a hardship under the 20 caseload exemption.

In the above areas, do we have the authority to regulate if we choose? What are the consequences of not regulating, i.e. gaming on the workload reduction calculation?

II. Waivers

The NPRM allows the State to continue administering a waiver program, even when the waiver policy is inconsistent with the provisions in the law.

III. State MOE programs

The NPRM makes reporting on the State only program optional. What are the consequences?

-

Bill Clinton
FOR PRESIDENT COMMITTEE

Welfare Reform: Making Work Pay

Excerpts from recent speeches by Governor Bill Clinton

The New Covenant can break the cycle of welfare. Welfare should be a second chance, not a way of life. In a Clinton Administration, we're going to put an end to welfare as we know it. I want to erase the stigma of welfare for good by restoring a simple, dignified principle: no one who can work can stay on welfare forever.

The New Covenant must be pro-work. That means people who work shouldn't be poor. In a Clinton Administration, we'll do everything we can to break the cycle of dependency and help the poor climb out of poverty. First, we need to make work pay by expanding the Earned Income Tax Credit for the working poor, creating savings accounts that make it easier for poor people even on welfare to save, and supporting microenterprise grants for those who want to start a small business. At the same time, we need to assure all Americans that they'll have access to health care when they go to work.

We'll still help people who can't help themselves, and those who need education and training and child care. But if people can work, they'll have to do so. We'll give them all the help they need for up to two years. But after that, if they're able to work, they'll have to take a job in the private sector, or start earning their way through community service. That way, we'll restore the covenant that welfare was first meant to be: to give temporary help to people who've fallen on hard times.

P.O. Box 615 • Little Rock, Arkansas 72203
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DF

Waivers

Law says that:

(1) waivers granted before law passed are grandfathered with the entire law where inconsistent

(2) waivers submitted before law passed and granted before 7/97 are grandfathered as above <u>except</u> for work requirements (section 407) -- main area affected seems to be time limits

Reg says that:

<u>Work Requirements</u>:

- Section 407 doesn't apply to Type 1 waivers above (to the extent waiver's features are inconsistent with current law)
    - examples given are definition of work and hours of work required per week to be considered "engaged in work"
    - Section 407 includes work participation rates, caseload reduction credit, hours of work required, definition of work activities, the requirement for sanctions for refusal to work, and nondisplacement provisions.
- Question: Why do they single out only Section 407 (source of work requirements)? Probably makes sense because this area and time limits are the only places there could be inconsistencies.
- Question: May a state pick and choose among parts of Section 407 as to which to comply with? Or is it case-by-case only for those parts that are inconsistent?
- Question: Do any states have work participation rates that are less than the law's?

<u>Time Limits</u>:

- Applies to both old waivers and new waivers approved before 7/97 (clarify)
- State waiver must include a time limit (good)
- Federal and state clocks start together, but once the federal clock expires, the state may follow waiver rules until the end of the waiver period
- Instead of 20% exemption, states can use waiver extension policy
- Months that the person is exempt under a state waiver don't count on federal clock
- State can keep inconsistencies related to experimental control group as long as researching

Does state have to identify inconsistencies for them to count?

REG'S DEF OF WAIVER

at section 408(a)(7)(B)(iii) of the Act.

Waiver refers to a specific action taken by the Secretary under the authority of section 1115 of the Act to allow a State to operate a program that does not follow specific requirements of prior law. For the purpose of these regulations and section 415 of the Act, it consists of provisions necessary to achieve the State's policy objective. It includes the approved revised AFDC requirements, articulated in the State's waiver list. It also includes those provisions of prior law that: (a) did not need to be waived as part of the waiver package; and (b) were integral and necessary to achieve the State's policy objective for the approved waiver.

We (and any other first person plural pronouns) means the Secretary of Health and Human Services or any of the following individuals or organizations acting in an official capacity on the Secretary's behalf: the Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

Welfare-to-Work means the new program for funding work activities at section 403(a)(5) of the Act.

WTW means Welfare-to-Work.

§270.40 When are these provisions in effect?

(a) The TANF statutory requirements go into effect no

WAIVERS + WORK REQS

provisions at §272.6 of this chapter applies to this penalty.

Subpart F -- Waivers

§271.60 How do existing welfare waivers affect the participation rate?

(a) If a State is implementing policies in accordance with an approved waiver that meets the provisions of section 415(a)(1)(A) of the Act and the definition of a waiver at §270.30 of this chapter, the provisions of section 407 of the Act do not apply, to the extent that they are inconsistent with the waiver.

—Work partic. rates
—Caseload red. cred.
—hours of work
—def of wk activities
—Sanction for refusal to work
—nondisplacement

(b) We will recognize inconsistencies in the following areas:

diff from def of inconsist above?

(1) a waiver specifying work activities, including provisions of prior law, in which an individual may participate in order to be "engaged in work" and count toward the minimum participation rates (as specified at §271.30); and

(2) minimum average hours of work per week necessary to be "engaged in work" for a month (as specified at §§ 271.31 and 271.32).

so 5 hrs ok?
Do waivers actually do this?

(i) The waiver must specify that a State is to set an individual's mandated hours of participation in accordance

Are areas listed only parts of 407 that don't apply? No with his/her particular circumstances, either as specified by criteria described in the waiver or under an individualized plan or similar agreement for achieving self-sufficiency.

(ii) Prior law standards are not part of the waiver where the waiver was approved to increase the mandatory work hours for a class of recipients under the former JOBS program.

(c) Except as applicable to research cases in paragraph (d), we will not recognize any prior law exemptions as part of the waiver with respect to the denominator of the participation rates, found at §§ 271.21 and 271.23.

(d) If a State is continuing research group policies in order to complete an impact evaluation of a waiver demonstration, the demonstration's control group may be subject to prior law and its experimental treatment group may be also subject to prior law, except as modified by the waiver.

Subpart G -- Non-displacement

<u>§271.70 What safeguards are there to ensure that participants in work activities do not displace other workers?</u>

(a) An adult taking part in a work activity outlined

Waiver questions:

- 271.60/page 359 (also applies to 271.4(e)): Draft says that the provisions of section 407 of the law do not apply to states that have an approved waiver to the extent those provisions are inconsistent with the waiver. Why does the draft limit potential inconsistencies to section 407 of the law?

  Section 407 includes work participation rates, the caseload reduction credit, hours of work required, the definition of work activities, the sanction for refusal to work, and nondisplacement provisions. What constitutes a provision for the purposes of this section? May a state opt out of or modify the work participation rates, but still take advantage of the caseload reduction credit?

  How will HHS determine what it will consider inconsistent? HHS asked states to identify those inconsistencies in their state TANF plans, but states varied in the thoroughness of their responses. Does HHS have a compendium of these responses, including an evaluation of whether in fact it considers them to be inconsistencies? Does HHS plan to survey them again? How and when will HHS notify states that they their proposed inconsistencies are accepted or not accepted? What is the penalty for a state that continues a waiver provision that is not inconsistent with the law but differs from the law?

  271.60(b)(1) Which states have waivers with work activities that differ from current law? What are examples of waivers with provisions of prior law that you would still consider inconsistent even though they did not require waivers (see definition of waiver in 270.30)?

  Do any states have waivers with inconsistent "minimum average hours of work per week necessary to be 'engaged in work' for a month" (271.60(b)(2))? Which ones? Why wouldn't all such cases be prohibited as inconsistencies under 271.60(b)(2)(ii) because they were increases in work requirements over prior law?

  What is the draft's legal basis for 271.60(c), which prohibits waiver inconsistencies that affect the denominator of the participation rates?

- 271.60(b) - (d) and 274.1(e)- (i)/page 391-92: How will HHS monitor these provisions? Will HHS monitor states to ensure that they are following their own waiver policies? How?

- 274.1(e)/page 390: How many waivers granted by HHS fall into the second category in the law -- submitted before law passed and granted before 7/97?

- 274.1(g) and (h)/page 391-92: What is the difference between (g) and (h)? They both apply to extensions, and yet they lay out separate procedures.

  Do any state waivers have time limits in excess of 60 months? Which states have waivers with extension and exemption policies more liberal than current law that you believe qualify as inconsistencies?

WAIVERS + TIME LIMITS

<u>§274.1 What restrictions apply to the length of time Federal TANF assistance may be provided?</u>

(a) No State may use any of its Federal TANF funds to provide assistance (as defined in §270.30 of this chapter) to a family that includes an adult who has received assistance for a total of five years (60 cumulative months, whether or not consecutive).

(b) States must ~~not~~ count towards the five-year limit:

(1) Any month of receipt of assistance by an individual when she was a minor who was not the head of household or married to the head of household;

(2) Any month in which an adult lived in Indian country (as defined in section 1151 of title 18, United States Code) or Native Alaskan Village and at least 50 percent of the adults were not employed; and

WTW

(3) Funds provided under section 403(a)(5) of the Act.

[illegible]

(c) States have the option to extend assistance from Federal TANF funds beyond the five-year limit for up to 20 percent of their average monthly number of families receiving assistance during the fiscal year or the immediately preceding fiscal year, whichever the State elects. States are permitted to extend assistance to a family only on the basis of:

(1) Hardship, as defined by the State; or

(2) The fact that the family includes someone who has

been battered, or subject to extreme cruelty based on the fact that the individual has been subjected to:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual;

(ii) Sexual abuse;

(iii) Sexual activity involving a dependent child;

(iv) Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities;

(v) Threats of, or attempts at, physical or sexual abuse;

(vi) Mental abuse; or

(vii) Neglect or deprivation of medical care.

(d) If a State opts to extend assistance to part of its caseload as permitted under paragraph (c) of this section, it only determines whether or not the extension applies to a specific family once an adult in the family has received 60 cumulative months of assistance.

clock check at 5 yrs.

(e) If the five-year limit is inconsistent with a State's waiver, which was in effect on August 21, 1996, or should say submitted < 8/96 was approved by July 1, 1997, and was granted under section 1115 of the Act, the State need not comply with the inconsistent provisions of the five-year limit until the waiver expires. The five-year limit is inconsistent with the State's waiver only:

??

(1) If the State has an approved waiver that provides

for terminating cash assistance to individuals or families because of the receipt of assistance for a period of time, specified by the approved waiver; and

(2) The State would have to change its waiver policy in order to comply with the five-year limit.

(f) Inconsistencies applicable to a case that is in a control group or experimental treatment group will be maintained, but only to the extent a State continues its experimental research design for the purpose of completing an impact evaluation of the waiver policies.

(g) Generally, under an approved waiver, a State will count, toward the five-year limit, all months for which the adult subject to a State waiver time limit receives assistance with Federal TANF funds, just as it would if it did not have an approved waiver. However, the State may continue to provide assistance with Federal TANF funds for more than 60 cumulative months in accordance with the terms of the approved waiver for extending assistance beyond the State's time limit as long as the State's waiver authority has not expired.

20% t.l exemption

(h) In lieu of the provision of paragraph (c) of this section, the State may apply extensions of its time limit, without caseload limits, in accordance with the terms of its approved waiver.

(i) The State need not count, toward the five-year limit, any months for which an adult receives assistance

cont Jan 20

with Federal TANF funds while the adult is exempt from the State's time limit because of the terms of the State's approved waiver.

§274.2 What happens if a State does not comply with the five-year limit?

If we determine that a State has not complied with the requirements of §274.1, we will reduce the SFAG payable to the State for the immediately succeeding fiscal year by five percent of the adjusted SFAG unless the State demonstrates to our satisfaction that it had reasonable cause or we approve a corrective compliance plan.

§274.3 How can a State avoid a penalty for failure to comply with the five-year limit?

(a) We will not impose the penalty if the State demonstrates to our satisfaction that it had reasonable cause for failing to meet the five-year limit or it completes a corrective compliance plan pursuant to §§ 272.5 and 272.6 of this chapter.

(b)(1) In addition, we will determine a State has reasonable cause if it demonstrates that it exceeded the 20 percent limitation on exceptions to the time limit because of good cause waivers it provided to victims of domestic

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State Reports to HHS on their Waivers and Inconsistencies with Welfare Law			
Clear and important inconsistencies identified by state; state plans to continue waiver policy	State has waiver, but identified no inconsistencies, or says it doesn't know yet what it will do	Small waiver, or no apparent inconsistencies we would care about	No waiver, or state plans to terminate waiver
AZ	CA	AL	DC
CT	FL	MI?	KY
DE	GA	OK (Learnf 2 counties)	MD?
IN (control gp only)	IO		NV
MA	KS (no ref to waiver)		NJ
MO	LA?		NY?
NE	ME?		WY
NH	MS		
OR	MT		
SC	NC		
SD	OH		
TN	PA (no ref to waiver)		
TX	VT		
UT	WV (no ref to waiver)		
VA	WI		
WA			
16	15	3	7

SUMMARY OF §1115 WAIVER PROVISIONS IN STATE TANF PLANS

Alabama - The state will continue the Avenues to Self-Sufficiency through Employment and Training Services (ASSETS) demonstration in three counties. The state identifies one provision, a waiver of the AFDC requirement that a child live with a specified relative, as inconsistent with the PRWORA.

Arizona - The state will continue to operate the Employing and Moving People Off Welfare and Encouraging Responsibility (EMPOWER) demonstration. The state identifies the following provisions as inconsistent with TANF requirements:

- extension of Transitional Medical Assistance to 24 months;
- cash assistance time limit extensions, based on good cause, for not obtaining employment, or to complete an educational program; and
- not providing, or assisting a teen parent who is required to reside with a parent or other responsible adult in locating, a second-chance home, maternity home, or other appropriate adult-supervised supportive living arrangement;

California - The state's TANF program will include California's existing §1115 demonstration projects, including the California Work Pays Demonstration Project (CWPDP). The TANF plan does not explicitly state whether any waiver provisions are inconsistent with the PRWORA.

Connecticut - The state intends to continue its "Jobs First" demonstration. The TANF plan identifies several inconsistencies in its demonstration with the PRWORA:

- differential treatment of control group cases, to the extent that it constitutes a separate "program," as opposed to a lack of uniformity in the TANF program;
- federal financial participation in the $100 child support pass-through;
- exemptions from the time limit on assistance and indefinite extensions of the time limit, without a limit on the number of families receiving such exemptions or extensions;
- a broader definition of what activities and hours constitute participation in work activities for purposes of calculating the participation rate;
- different definition and timing of employability assessments;
- different content of individual employability plans;
- broader exemptions from work requirements (inconsistent with both the requirement that all parents participate after 24 months of receipt of assistance and the participation rate calculations);
- different treatment of minor parents with respect to school attendance requirements;

AUG- 8-97 SAT 3:54 PM ACF/LEG AFFAIRS FAX NO. 202 401 4562 P. 2

- progressive sanctions for failure to comply with child support or work requirements (20 percent reduction for 3 months for first offense, 35 percent reduction for 6 months for second offense, and discontinuance of family's assistance for 3 months for third and subsequent offenses);

- different definition of the minor parent to whom the requirement to live with a responsibility applies, different rules regarding the use of adult-supervised settings, and additional responsibilities for the supervising adults; and

- 24 months of transitional medical assistance for families ineligible due to child support or for families with earnings within 6 months of losing cash assistance.

Delaware - The state intends to continue all waivers which were approved as part the "A Better Chance" demonstration (ABC). In addition to some waivers which are being continued to preserve the linkage between TANF receipt and Medicaid eligibility, the state's TANF plan identifies the following PRWORA provisions as inconsistent with ABC policies:

- the time limit [§408(a)(1)(B) and §408(a)(7)(A)-(D) of the Social Security Act (SSA)], which conflicts with ABC regarding the total period for which a family can receive benefits, the definition of families which are exempt from time limits, the exceptions which can be granted to individual families to extend their time limits, and the percent of families receiving benefits that can be exempt from the 60-month time limit;

- the work participation policies in §407 of the SSA, which conflict with ABC with respect to the limitations placed on the activities that count as participation in general and with respect to the calculation of participation rates, limitations on the percent of individuals who can be counted as participants who are engaged in vocational educational training or are minor parents in school, limitations on the amount of time participants can be engaged in vocational education, and the inclusion of individuals exempted by ABC in the denominator in calculating the participation rate;

- the provision in §408(a)(4) of the SSA that bars assistance to teen parents who do not participate in educational or training activities if they do not have a diploma, which conflicts with ABC regarding both the penalty for failure of a minor parent to participate in an appropriate activity and the appropriate activities (e.g., employment);

- the policies in §404(h) of the SSA regarding Individual Development Accounts (IDA's), which conflict with ABC by imposing restrictions on the purposes for accumulation and withdrawal and by requiring that IDA's must be trusts;

- the provision in §408(a)(10) prohibiting the use of federal TANF funds to provide assistance for a minor child who has been absent from the home for a particular period of time, which conflicts with ABC by restricting the amount of time that the benefits can be paid, even if the absence is expected to be temporary; and

- the rules in §302 of PRWORA regarding payments of child support to families in "gap" states, which conflicts with the state's policy of applying fill-the-gap budgeting only to recipients and not to applicants.

District of Columbia - The District's TANF plan does not mention waivers. It says that in implementing TANF, the District will defer to any existing TANF provisions that may conflict with District law and regulations, implying that no inconsistent provisions will be implemented.

Florida - The state intends to consult further with ACF regarding the usefulness of continuing some of its evaluation activities before deciding whether to continue or terminate its waiver demonstrations. No inconsistencies with the PRWORA are identified in the state's TANF plan.

Georgia - The state's TANF plan says that waiver provisions that are consistent with the PRWORA will continue, and the state will make a decision about the continuation of waivers within 90 days of the end of the 1997 legislative session.

Guam - Guam does not have any §1115 waivers.

Indiana- The state intends to continue to implement its "IMPACT" waiver demonstration, as amended. The TANF plan states that those PRWORA provisions that are inconsistent with the waivers will not apply, but does not specify what those provisions are. In subsequent correspondence, the state identified the continuation of the former AFDC rules for families assigned to the demonstration control group as inconsistent with TANF requirements. The control group will not be subject to any of the federal TANF provisions, including the 5-year time limit, nor will they be considered in determining the state's work participation rate.

Iowa - The state intends, at least initially, to "retain all existing policies and procedures as outlined in the current IV-A State Plan and the waivers" for the Family Investment Program demonstration (FIP). The TANF plan states that "Iowa believes all waivers are consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996." ??

Kansas - The TANF plan does not mention §1115 waivers.

Kentucky - Kentucky has no §1115 waivers.

Louisiana - The state's TANF plan indicates that no waivers will be applicable.

Maine - The state's TANF plan does not explicitly mention waivers or inconsistencies with the PRWORA. There is an indication that the state intends to maintain its evaluation and control group. Subsequent correspondence from the state expresses the state's belief that none of its waiver provisions are inconsistent with PRWORA, and clarifies that families in the demonstration's control group will be treated differently with respect to TANF from other families in the state.

Maryland - The state's TANF plan indicates that the state is exercising the option to terminate its Primary Prevention demonstration and the cash assistance component of its Family Investment Program demonstration. While there is no explicit mention of what waivers are continuing, presumably these are only Food Stamp and Medicaid program waivers, so there should be no issue of inconsistency with TANF provisions.

Massachusetts - The state's TANF plan lists the following provisions of the "Massachusetts Welfare Reform '95" demonstration which the state intends to continue to implement:

- Mandatory work requirement: require a nonexempt recipient (including both parents in a two-parent household) to work and/or perform community service for 20 hours per week.

- Work program sanctions: failure to participate will result in the individual's loss of eligibility for cash assistance; failure to participate on more than one occasion will result in the termination of assistance for the entire household.

- Child support sanctions: a caretaker relative who fails to cooperate with child support requirements will have his/her grant reduced by an amount equal to the caretaker's portion of the grant.

- Job search: job search may be required without limitation on the number of weeks.

- Transitional benefits: a recipient whose case closes due to earnings is eligible for an automatic extension of transitional child care and transitional medical assistance from 6 months to 12 months, regardless of whether the individual received benefits 3 out of the 6 months prior to termination.

The TANF plan does not state whether any of these provisions is inconsistent with the PRWORA. In subsequent correspondence, the state clarifies that it believes all the provisions listed above to be inconsistent with the PRWORA. In addition, the correspondence lists the following two waiver provisions that are inconsistent with TANF work requirements:

- Work participation rate: the state is counting in its determination of work participation rate all activities formerly counted toward its JOBS participation rate, including job placement, job readiness, job search, education, training, the Full Employment Program, Supported Work, community service, any subsidized or unsubsidized job, and programs that extend beyond the time constraints specified in the PRWORA such as a 2-year community college program.

- Exempt/Nonexempt status regarding work: the state will continue to apply the work program exemptions established under its waiver demonstration, which are inconsistent with PRWORA requirements.

Michigan - The state intends to continue its "To Strengthen Michigan Families" (TSMF) demonstration, including pending amendments. The state's TANF plan identifies the following TSMF provisions that are inconsistent with the PRWORA:

- the work participation sanction, which reduces the family's cash assistance grant by 25 percent;

- the pending child support enforcement sanction, which removes the non-cooperating individual's needs from the grant for up to 4 months, and closes the family's grant if non-cooperation continues beyond 4 months; and

- the 10-day period to report changes in family circumstances, including the temporary absence of a child (TANF requires absence of a child to be reported within 5 days).

Mississippi - The state intends to continue all of its approved waivers. The state's TANF plan indicates that the state has not yet determined which provisions are inconsistent with the PRWORA.

Missouri - The state elects to keep the waivers granted for both the statewide "Missouri Families Mutual Responsibility Plan" project (MFMRP) and the single-county "21st Century Communities Demonstration Project." The TANF plan identifies the allowable work activities under MFMRP as inconsistent with the PRWORA. The state will continue to allow all work activities as defined in (old) §482 of the SSA and previously approved under the state's JOBS plan to meet work participation rates.

Montana - The state intends to continue to operate the "Families Achieving Independence in Montana" (FAIM) demonstration, which is the basis of its TANF program. The TANF plan does not explicitly list any inconsistencies with the PRWORA.

Nebraska - The state will continue to operate its Employment First demonstration in five counties. The state's TANF plan says that the state will use the definition in its 1115 waiver (which differs from that in the PRWORA) of the activities that will be accepted as meeting the work requirements and will expand the use of this definition to a statewide basis. Subsequent correspondence from the state indicates that the state will continue to use its waiver authority to determine who is employable and will exempt from the time limit those determined not to be employable, even if they exceed 20 percent of the caseload.

No! (unless auth to 20 %-w)

Nevada - There are no 1115 waivers in Nevada.

New Hampshire - The state's TANF plan identifies the following sections of the PRWORA that are inconsistent with the "New Hampshire Employment Program" waiver demonstration:

- the provisions of §407(c) of the SSA that define when a participant is considered to be engaged in work;
- §407(c)(2)(A) of the SSA, which sets limits on the number of weeks for which job search qualifies as engagement in work;
- §407(c)(2)(D) of the SSA, which sets limits on the number of persons that may be treated as engaged in work by virtue of participation in vocational education activities or being the head of a household who maintains satisfactory school attendance.
- the requirement to engage in work once the state determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance for 24 months, whichever is earlier;
- the amendments of §114 of the PRWORA specifying pre-welfare-reform eligibility criteria for Medicaid eligibility;
- the requirement that a family receive assistance for 3 of the last 6 months as a condition of eligibility for transitional Medicaid;
- the TANF definition of a minor child; and

- §408(a)(6) of the SSA, which prohibits use of any part of the grant to provide medical services.

New Jersey - The state's TANF plan says that New Jersey wishes to discontinue its title IV-A/F waivers.

New York - The state's TANF plan does not mention §1115 waivers. The state's program will implement, with one exception, the New York State AFDC and JOBS plans that existed as of September 30, 1996. Because state plan pages, but not waiver terms and conditions, were attached to the TANF plan, the implication is that the state does not plan to continue its waiver demonstrations.

North Carolina - The state intends to continue to implement both the statewide waivers and the demonstration in Cabarrus County. Specific inconsistencies between the waivers and the PRWORA are not listed in the TANF plan, but the plan does say, "Inconsistencies between this state plan and the requirements of P.L. 104-193, not expressly prohibited by federal law, are supported by approved waivers, as interpreted with reference to the laws in effect at the time."

Ohio - The state intends to continue its AFDC and JOBS waivers granted as of September 30, 1996. The state's TANF plan does not state which provisions are inconsistent with the PRWORA.

Oklahoma - The state currently operates a Learnfare demonstration in two counties, which it intends to continue. The TANF plan does not indicate any inconsistencies with the PRWORA.

Oregon - The state's TANF plan basically mirrors the provisions of the "Oregon Option" demonstration. The plan identifies the TANF provisions allowing unavailability of child care as good cause for noncooperation with employment requirements and the 5-year time limit as inconsistent with the Oregon Option demonstration.

Pennsylvania - The state's TANF plan does not mention §1115 waivers.

South Carolina - The state intends to retain certain waivers granted for the Family Independence Act demonstration and which appear to be in conflict with the TANF legislation. The following provisions are identified as inconsistent with the PRWORA:

- transitional Medicaid for up to a total of 24 months for recipients who lose eligibility because of employment or who become employed after losing eligibility due to the time limit, whose earnings are less than the Federal Poverty Guidelines and whose employment would be jeopardized by medical expenditures;

- requiring court-ordered non-custodial parents to participate in employment and training activities;

- excluding as resources funds up to $10,000 deposited in an individual development account (IDA), and disregarding from income a lump sum payment of $10,000 or less that is deposited in an IDA within 30 days of receipt;

- extending Medicaid eligibility to individuals who are participating in an alcohol or drug treatment program for up to 90 days after termination of cash assistance due to the removal of the dependent child(ren) from the home due to abuse or neglect; and

- defining work as involvement in specific components that will lead to employment or improved employability, and counting participation in literacy classes, adult education, GED classes, technical schools, vocational training, work experience, and OJT toward the participation rate.

South Dakota - The state intends to continue its "Strengthening of South Dakota Families Initiative" demonstration. The TANF plan identifies four primary inconsistencies with TANF provisions:

- exempting from work participation and time limits disabled adults and adults needed in the home to care for a disabled family member;

- using a different method to determine the number of months before a parent or caretaker is required to engage in work;

- counting all participation in secondary education towards an individual's first 20 hours of participation regardless of the person's age, and counting job-readiness pre-employment training as a "work activity" for determining participation rates; and

- counting vocational and college education as work activities in determining participation rates.

Tennessee - The state will continue its "Families First Program" demonstration. The TANF plan does not identify any inconsistencies with the PRWORA. In subsequent correspondence, the state described the following variances between Families First and the PRWORA:

- Families First requires the caretaker, any other eligible adult required to work, and a minor parent to sign a personal responsibility plan that sets requirements regarding work or work-related activity, cooperation with child support, school attendance, immunizations, and health checks, whereas PRWORA requires an individual assessment of skills, work experience and employability.

- Families First counts life skills and post-secondary education as work, and does not limit the duration of job search and job readiness.

- Families First requires 20 hours per week in an ABE program for an individual who has a literacy level of 8.9 or less, in lieu of work activity, and exempts the individual from time limits.

- Tennessee does not have a work participation rate.

- Tennessee has categorical exemptions from and good cause extensions to its time limits, which are an 18-month period of eligibility and a 60-month lifetime maximum.

- Families First exempts all participants from work and time limits for the period of time that the state is unable to provide child care while participating in work-related activities.

AUG- 8-97 SAT 3:57 PM ACF/LEG AFFAIRS FAX NO. 202 401 4562 P. 8

- Transitional Medicaid is provided for 18 months.

- Assistance will be provided (using state funds) to legal aliens in accordance with the rules that were in place under title IV-A provisions in effect prior to PRWORA.

- IDA's may be used for career development or transportation, as well as home ownership, small business development, or education.

- There is no provision in Families First to deny assistance to individuals convicted of drug-related felonies or to fugitive felons.

Texas - The state's TANF program is based, in part, on the terms and conditions of the state's §1115 waiver demonstration. The state's TANF plan says that work requirements will be based on the terms and conditions of the state's IV-A waiver, rather than the definitions in the PRWORA. This applies with respect to the 24-month work requirement as well as the methodology for calculating participation rates.

Utah - According to the state's TANF plan, because the provisions of the state's Single Parent Employment Demonstration Project (SPED) are referenced in state statute, the state must continue all of the demonstration's waivers until after the next legislative session. The state will notify the Federal government no later than 90 days after the end of that session concerning which waiver they will elect to maintain. In subsequent correspondence, the state cited one of its §1115 waivers in advising the Department that it will continue to define work activities very broadly, including family counseling, parenting counseling, weight reduction classes, drug and alcohol programs and counseling, and other activities as needed to enable a person to participate in employment or employment-related activities.

Vermont - The state has based its TANF plan on its existing Welfare Restructuring Project demonstration, which it will continue to operate. No inconsistencies with the PRWORA are explicitly identified.

Virginia - Virginia's TANF program is based on the state's waiver-based welfare reform initiative. The state intends to continue the Virginia Independence Program (VIP) demonstration. Other approved waiver demonstrations are not mentioned in the state's TANF plan, nor does the plan list provisions of VIP that are inconsistent with TANF. In subsequent correspondence, the state listed inconsistencies between waivers and TANF in the following areas:

- Job search: The state does not limit either the duration or the number of job search assignments to which a participant may be assigned; each assignment is calculated in the participation rate for full allowable credit.

- Sanctions: The state applies sanctions for minimum periods for failure to participate satisfactorily in an assigned activity. The minimum periods are 1 month for the first offense, 2 months for the second, and 3 months for the third and subsequent offenses; if the individual has not complied by the end of the minimum sanction period, the sanction will continue until the individual complies.

- Work program exemptions: The state exempts persons under age 16 or over 59, full-time students, incapacitated or disabled individuals, persons who are the sole caregiver of another household member who is incapacitated, the parent of a child under 18 months of age, caretakers other than parents, and women in their fourth through ninth month of pregnancy. In effect, this exempts about 50 percent of cash assistance recipients.

- Time limits: The state allows hardship exceptions to its 24-month time limit in certain circumstances. Also, there is no lifetime limit on benefits. Once a recipient has received cash assistance for 24 months and transitional assistance for 12 months, he or she will be ineligible for 24 months, but there is no restriction on the number of times a person may cycle on and off the program.

- Minor parents: Virginia does not grant an exception to the requirement that a minor parent live with a responsible adult because no responsible adults will allow the minor to reside with them.

Washington - The state is dropping its AFDC-UP "100-hour rule" waiver as unnecessary, but is continuing the "length-of-stay grant reduction" provision of its Success Through Employment Program (STEP) demonstration. This provision reduces benefits by ten percent to a family that has been on assistance for 48 out of 60 months, and another 10 percent for each 12 months thereafter. The state's TANF plan identifies the following TANF provisions as "inconsistent with and inoperative under STEP":

- the 5-year lifetime limit;
- the 20 percent hardship exemption cap;
- sanctions for failure to meet work participation requirements;
- the 24-month work requirement;
- the definition of work activities, including the number of hours required; and
- the provisions limiting assistance to legal immigrants.

West Virginia - The state's TANF plan does not mention §1115 waivers.

Wisconsin - The state intends to continue approved demonstrations and to implement the pending "Wisconsin Works" (W-2) demonstration. The state's TANF plan does not list inconsistencies between the state's waivers and the PRWORA.

Wyoming - Wyoming has requested that its approved and submitted waivers be terminated.

AZ CA

CT

DE

Mass

MO

VA

STATUTE

support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for fiscal year 1998, 1999, 2000, 2001, 2002, or 2003 by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) QUALIFIED STATE EXPENDITURES.—

"(I) IN GENERAL.—The term 'qualified State expenditures' means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all not under this part' (ws under this grant)

State programs, for any of the following with respect to eligible families:

"(aa) Cash assistance.

"(bb) Child care assistance.

"(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

"(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

"(ee) Any other use of funds allowable under section 404(a)(1).

gen'l

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

?

"(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this part; or

HHS discuss - supplanting

"(bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to the expenditures.

exception

not participating

"(III) ELIGIBLE FAMILIES.—As used in subclause (I), the term 'eligible families' means families eligible for assistance under the State program funded under this part, and families that would be eligible for such assistance but for the application of section 408(a)(7) of this Act or section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

5 yr time limit

Title IV

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means for fiscal years 1997 through 2002, 80 percent (or, if the State meets the requirements of section 407(a) for the fiscal year, 75 percent) reduced (if appropriate) in accordance with subparagraph (C)(ii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—

"(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

"(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Anil Kakani
10/03/97 01:58:46 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc: Cynthia A. Rice/OPD/EOP
Subject: Re: reg and separate state/moe

No, i don't think they've been made part of the reg, and i've included some of them in my comments.

- *child support collections* now 56
  In #53 (on the first compilation Laura sent out) I raise the noted section as a place in the regs to require that child support rights be assigned.

- *caseload reduction by putting the hardest to employ in separate state programs* — yes
  The regs sort of address this issue in section 271.43 of the regs (p.352) by providing that the reduction credit be based on decreases in both a state's TANF and separate state program. I also address this issue in #28 on the original compilation. and #13
  on def of asstce - really a prob? since in pre report

- penalty for failure to meet participation rates
  The regs attempt to address this issue in sec. 271.51(b)(1) -- page 355. Also see #32 of the compilation. in reducing penalty, we'll look beyond TANF to efforts ...

I've merely used different provisions already in the proposed regs to raise these issues. I think we may want to be more forceful in making sure these concerns get addressed, either in these provisions or elsewhere.

32+33

IX. OVERVIEW OF TANF PROVISIONS IN DIFFERENT PROGRAM CONFIGURATIONS

PROVISION	FEDERAL TANF PROGRAMS[1]	SEGREGATED STATE TANF PROGRAMS[2]	SEPARATE STATE PROGRAMS[3]
Covered by State plan	Yes	Yes	No
Needy per income stds in State TANF plan	Yes	Yes	Yes [4]
Restricted disclosure	Applicable	Not applicable	Not applicable
Allowable expenditures	For purposes and as authorized under IV-A or IV-F as of 9/30/95	Count toward both TANF and Contingency Fund yMOEs. Must be for purposes of program or for cash asst, child care, certain education, or admin costs	Count only toward TANF MOE (not Contingency Fund MOE). See State TANF section for allowable purposes.
15 % admin cost cap	Yes; ADP exception	Yes	Yes
Medical services	Only pre-pregnancy family planning	No specific restriction	No specific restriction
24-month work reqt	Yes	Yes	No
2-month work reqt	Yes	Yes	No
407 work reqts	Yes	Yes	No
work sanctions	Yes	Yes	No
non-displacement	Yes	No	No
child reqt	Yes; "minor child"	Yes [4]	Yes [4]
child ineligible when absent minimum period	Yes	No	No
child support	Assignment & cooperation req'd. Share of collections to Fed govt.	Assignment & cooperation req'd. Share of collections to Fed govt.	Assignment & cooperation may not be req'd. No share of collections for Fed. govt.
time limit on assistance	Yes	No	No
teen school attendance	Required	No requirement	No requirement
teen parent living arrangements	Must be adult-supervised	No requirement	No requirement
Federal non-discrimination statutes	4 statutes applicable	4 statutes applicable	No specific provision
fraud cases	10-yr exclusion	No exclusion	No exclusion
drug felons	Receive reduced benefits	Receive reduced benefits	No provision
data reporting	Required	Required	Not required
fugitive felons	Barred from assistance	No bar	No bar

[1] This column would also apply to programs where State MOE funds are co-mingled with Federal TANF funds.

[2] Under this scenario, Federal and State funds are not co-mingled. Since State funds are segregated, some -- but not all -- of the Federal TANF rules apply.

[3] These programs count towards State MOE. They are not subject to TANF requirements, per se, but are subject to the MOE restrictions at section 409(a)(7).

[4] Per definition of "eligible families."

DRAFT

OVERVIEW OF TANF PROVISIONS IN DIFFERENT PROGRAM CONFIGURATIONS

PROVISION	FEDERAL TANF PROGRAMS (AND CO-MINGLED TANF PROGRAMS)	SEGREGATED STATE TANF PROGRAMS[1]	SEPARATE STATE PROGRAMS[2]
TANF State plan	Program covered by plan	Program covered by plan	Program operated outside of plan; however, per definition of "eligible families," need and payment stds from plan apply[3]
Expenditure period	Can reserve Federal grant funds for future years (§404(e))	Under §409(a)(7), only count "qualified State expenditures" during the fiscal year, as discussed in draft NPRM	See column 3.
Disclosure of info restrictions (§402(a)(1)(A)(iv))	Applicable	Not applicable	Not applicable
Allowable expenditures	Must be for TANF purposes or as authorized under IV-A or IV-F as of 9/30/95 or 8/21/96 (§404(a), as amended)	Count toward both TANF and Contingency Fund MOEs. Under definition of "qualified State expenditures" at §409(a)(7)), must be for purposes of program or for cash asst, child care, certain education, or admin costs	Count only toward TANF MOE (not Contingency Fund MOE). Must be "qualified State expenditures" (see column 3). Only expenditures above 95 base count if not prior authorized.
15 % admin cost cap	Yes; ADP exception (§404(b))	Yes (§409(a)(7)(B)(i)(I)(dd)); ADP exclusion proposed in draft NPRM	Yes (see column 3).
Medical services	Precluded, except for pre-pregnancy family planning (§408(a)(6))	No specific restriction	No specific restriction
24-month work reqt	Yes, under plan (§402(a)(1)(A)(ii))	Yes, under plan	No
2-month community service reqt	Yes, under plan (§402(a)(1)(B)(iv))	Yes, under plan	No
§407 work reqts	Yes, under plan (§402(a)(1)(A)(iii) & §407)	Yes, under plan (§402(a)(1)(A)(iii) & §407)	No
work sanctions	Yes (§407(e))	Yes (§407(e))	No
non-displacement	Yes (§407(f))	No	No
child reqt	Yes, and child must be "minor child" as defined in §419 (§§408(a)(1) and 408(a)(10))	Yes, but some State discretion in definition of "child"[3]	Yes; see column 3[3]

DRAFT

child ineligible when absent minimum period	Yes (§408(a)(10))	No	No
child support	Assignment & cooperation req'd. (§408(a)(2) & (3)). Share of collections to Fed govt. (§454 & §457)	Assignment & cooperation req'd. (§408(a)(2) & (3)). Share of collections to Fed govt. (§454 & §457)	Assignment & cooperation may not be req'd. No share of collections for Fed. govt.
time limit on assistance	Yes (§408(a)(1)(B) and §409(a)(9))	No (§408(a)(1))	No
teen school attendance	Required (§408(a)(4))	No requirement	No requirement
teen parent living arrangements	Must be adult-supervised (§408(a)(5))	No requirement	No requirement
Federal non-discrimination statutes	Explicit that 4 statutes are applicable (§408(d), as amended))	Explicit that 4 statutes are applicable (§408(d), as amended)	No specific provision in TANF
fraud cases	10-yr exclusion (§408(a)(8))	No exclusion	No exclusion
drug felons	Ineligible; family receives reduced benefits (§115 of PRWORA)	Ineligible; family receives reduced benefits (§115 of PRWORA)	No provision
data reporting on: 1) families; 2) expenditures	1) Required under §411; 2) Required under §411, 405 and for purposes of penalty monitoring (e.g., misuse of funds), under proposed emergency forms and draft NPRM	1) Required under §411; 2) Required under §411 and for purposes of monitoring penalties (especially MOE) under proposed emergency forms and draft NPRM	1) Not required under §411; reporting incentives provided in policy announcement and draft NPRM; 2) Required under §411 and for purposes of monitoring penalties (especially MOE), under proposed emergency forms and draft NPRM
fugitive felons	Barred from assistance (§408(a)(9))	No bar	No bar

[1] Under this scenario, Federal and State funds are not co-mingled. Since State funds are segregated, some -- but not all -- of the Federal TANF rules apply.

[2] These programs count towards State MOE. They are not subject to TANF requirements, per se, but are subject to the MOE restrictions at section 409(a)(7).

[3] Per definition of "eligible families," under policy guidance and in draft NPRM.

OVERVIEW OF TANF PROVISIONS IN DIFFERENT PROGRAM CONFIGURATIONS

PROVISION	FEDERAL TANF PROGRAMS (AND CO-MINGLED TANF PROGRAMS)	SEGREGATED STATE TANF PROGRAMS[1]	SEPARATE STATE PROGRAMS[2]
TANF State plan	Program covered by plan	Program covered by plan	Program operated outside of plan; however, per definition of "eligible families," need and payment stds from plan apply [3]
Expenditure period	Can reserve Federal grant funds for future years (§404(e))	Under §409(a)(7), only count "qualified State expenditures" during the fiscal year, as discussed in draft NPRM	See column 3.
Disclosure of info restrictions (§402(a)(1)(A)(iv))	Applicable	Not applicable	Not applicable
Allowable expenditures	Must be for TANF purposes or as authorized under IV-A or IV-F as of 9/30/95 or 8/21/96 (§404(a), as amended)	Count toward both TANF and Contingency Fund MOEs. Under definition of "qualified State expenditures" at §409(a)(7)), must be for purposes of program or for cash asst, child care, certain education, or admin costs	Count only toward TANF MOE (not Contingency Fund MOE). Must be "qualified State expenditures" (see column 3). Only expenditures above 95 base count if not prior authorized.
15 % admin cost cap	Yes; ADP exception (§404(b))	Yes (§409(a)(7)(B)(i)(I)(dd)); ADP exclusion proposed in draft NPRM	Yes (see column 3).
Medical services	Precluded, except for pre-pregnancy family planning (§408(a)(6))	No specific restriction	No specific restriction
24-month work reqt	Yes, under plan (§402(a)(1)(A)(ii))	Yes, under plan	No
2-month community service reqt	Yes, under plan (§402(a)(1)(B)(iv))	Yes, under plan	No
§407 work reqts	Yes, under plan (§402(a)(1)(A)(iii) & §407)	Yes, under plan (§402(a)(1)(A)(iii) & §407)	No
work sanctions	Yes (§407(e))	Yes (§407(e))	No
non-displacement	Yes (§407(f))	No	No
child reqt	Yes, and child must be "minor child" as defined in §419 (§§408(a)(1) and 408(a)(10))	Yes, but some State discretion in definition of "child" [3]	Yes; see column 3 [3]

DRAFT

child ineligible when absent minimum period	Yes (§408(a)(10))	No	No
child support	Assignment & cooperation req'd. (§408(a)(2) & (3)). Share of collections to Fed govt. (§454 & §457)	Assignment & cooperation req'd. (§408(a)(2) & (3)). Share of collections to Fed govt. (§454 & §457)	Assignment & cooperation may not be req'd. No share of collections for Fed. govt.
time limit on assistance	Yes (§408(a)(1)(B) and §409(a)(9))	No (§408(a)(1))	No
teen school attendance	Required (§408(a)(4))	No requirement	No requirement
teen parent living arrangements	Must be adult-supervised (§408(a)(5))	No requirement	No requirement
Federal non-discrimination statutes	Explicit that 4 statutes are applicable (§408(d), as amended))	Explicit that 4 statutes are applicable (§408(d), as amended)	No specific provision in TANF
fraud cases	10-yr exclusion (§408(a)(8))	No exclusion	No exclusion
drug felons	Ineligible; family receives reduced benefits (§115 of PRWORA)	Ineligible; family receives reduced benefits (§115 of PRWORA)	No provision
data reporting on: 1) families; 2) expenditures	1) Required under §411; 2) Required under §411, 405 and for purposes of penalty monitoring (e.g., misuse of funds), under proposed emergency forms and draft NPRM	1) Required under §411; 2) Required under §411 and for purposes of monitoring penalties (especially MOE) under proposed emergency forms and draft NPRM	1) Not required under §411; reporting incentives provided in policy announcement and draft NPRM; 2) Required under §411 and for purposes of monitoring penalties (especially MOE), under proposed emergency forms and draft NPRM
fugitive felons	Barred from assistance (§408(a)(9))	No bar	No bar

[1] Under this scenario, Federal and State funds are not co-mingled. Since State funds are segregated, some -- but not all -- of the Federal TANF rules apply.

[2] These programs count towards State MOE. They are not subject to TANF requirements, per se, but are subject to the MOE restrictions at section 409(a)(7).

[3] Per definition of "eligible families," under policy guidance and in draft NPRM.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

To Brodsteen/Fortune	From Gary Thorne
Dept./Agency	Phone # 965-3435
Fax # 202-456-7028	Fax #

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

SOCIAL SE

Office of the Commissioner

January 9, 1997

MEMORANDUM FOR THE HONORABLE LEON PANETTA

FROM : Shirley S. Chater Shirley S. Chater
Commissioner of Social Security

SUBJECT: Social Security Administration's Weekly Report-- January 13 - 24, 1997--INFORMATION

KEY AGENCY NEWS

o **Media and Congressional Attention to the Release of the Advisory Council on Social Security Report:** There has been significant media attention on the release of the Advisory Council's report. Continued media attention is expected over the next few weeks. For example, Newsweek Magazine will publish a cover story and the ABC Television show 20/20 will air a segment. In addition, the Senate Budget Committee has tentatively scheduled a hearing for January 29 to focus on the report. It is likely, however, that the hearing will be rescheduled to sometime in February.

o **Status on Termination of Supplemental Security Income (SSI) Payments to Substance Abusers:** Under a provision of law passed last March, individuals who had been receiving SSI payments as a result of drug addiction or alcoholism (DAA) are no longer eligible for SSI as of January 1, 1997. To date, SSA has terminated payments to approximately 92,000 individuals.

o **Results of SSA's New Inspector General Hotline:** Since the official ribbon-cutting on November 25, 1996, more than 8,700 calls have reached the Inspector General's toll-free 800 telephone number. Most of the calls were redirected within SSA or to other agencies, as appropriate, since they did not involve fraud, waste, or abuse. The SSA IG has processed nearly 700 allegations, representing a 450 percent increase over the number of allegations processed during the 25 workdays preceding the ribbon cutting. In addition, the number of letters and other agency referrals received has doubled to 50 per week. Most allegations fall into one of four basic categories: Social Security number fraud (approximately 50%); Social Security program fraud (approximately 30%); other Social Security issues (approximately 10%); and various related employee issues (approximately 10%).

REGULATIONS

- **Elimination of Annual Report of Earnings for Working Seniors**: Social Security beneficiaries under age 70 who continue to work and earn more than the exempt amount are required to file a report of their earnings with SSA so that the Agency can determine the correct level of benefits to pay based on these earnings. As part of a Reinventing Government II initiative, SSA is revising its regulations regarding these reports of earnings. Under the proposed rule, SSA would use, in most instances, form W-2 income tax information filed by the employer and/or the self-employment income tax return filed by the individual with the Internal Revenue Service as the annual report of earnings. This would eliminate the annual report of earnings form and the need for virtually all of the 1.3 million working beneficiaries to file a separate report of earnings with SSA. The estimated total reduction in the public reporting burden is 330,833 hours. The proposed rule was published on January 3. Following a public comment period, SSA expects to publish a final regulation by mid-April so that reports will not be required for the 1996 tax year.

- **Standards of Conduct for SSA's Claimant Representatives:** These proposed rules would revise SSA's regulations governing representation of claimants seeking Social Security or Supplemental Security Income benefits. They would establish standards of conduct and responsibility for persons serving as representatives and further define SSA's expectations regarding a representative's obligations to those they represent and to SSA. The proposed rules were published on January 3.

COMMISSIONER'S SCHEDULE

- No travel scheduled during the period.

ACTING PRINCIPAL DEPUTY COMMISSIONER'S SCHEDULE

- No travel scheduled during the period.

Work @ Ph notes

TANF Fed → one set of rules

State MOE → 2nd set of rules

can spend on immigs 5yr ?

Some are the clear where ~~legislators~~ agencies can use their language to [illegible]!!

Child Spt Coll → no bifurcation is preferred
may not leg's solution

Def of assistance (CDF)
↳ want to be tough here

HHS FACT SHEET

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

November 17, 1997

Contact: Michael Kharfen
(202) 401-9215

WORK NOT WELFARE: CLINTON ADMINISTRATION ISSUES NEW PROPOSED WELFARE REGULATIONS

__Overview__: On August 22, 1996, President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act, the new welfare reform law that established the Temporary Assistance for Needy Families (TANF) program. Under the legislation, the states have unprecedented flexibility to design welfare programs to meet the particular needs of welfare families. In return, the federal government demands new, measurable results related to moving families into work and self-sufficiency.

These proposed regulations of the welfare reform bill are intended to help all welfare recipients who can work go to work, and to encourage states to work with all families. To support the success of welfare reform, President Clinton has already exercised leadership in initiating a new partnership with American business to hire welfare recipients, established a new welfare-to-work program targeting resources to communities with high numbers of long term welfare recipients, secured increases in child care funding, obtained the strongest child support enforcement measures ever enacted to force deadbeat parents to support their children, and encouraged good practices by states such as expanding child care and transportation services.

The proposed regulations announced today forge a balance between state flexibility and state accountability for moving welfare families to work.

The TANF Program

TANF replaces the former Aid to Families with Dependent Children (AFDC) program. Under TANF, states determine the eligibility of needy families and the benefits and services those families will receive. States must use the TANF funds consistent with the purpose of the new law which contains strong work requirements, time limits assistance, reduces welfare dependency, and encourages two-parent families. States have broad flexibility in the design and operation of their welfare-to-work programs.

The proposed regulations incorporate the core TANF accountability provisions, including work requirements, time limits, state penalties, and data collection and reporting requirements. In general, the regulations reflect a limited and restrained federal role. Since Congress specifically limited the authority of the federal government to regulate the new TANF program, the regulations cover only areas where Congress specifically directed the Secretary to regulate or where the Secretary is regulating her own actions.

The proposed regulations provide states with a basic framework for implementing the new welfare program, reinforce the importance of work requirements, promote positive outcomes for needy children and families, and fulfill the new federal role of supporting state flexibility, innovation and success.

Prior to the issuance of these proposed regulations, HHS conducted an extensive consultation process. In addition, upon publication on Thursday in the Federal Register, HHS will accept comments for 90 days. Written comments can be sent either by mail or over the World Wide Web by visiting our site at: http://www.acf.dhhs.gov/news/welfare/. Following the comment process, HHS will consider all submissions and issue final regulations.

The following highlights some issues covered by the proposed regulations.

Penalties

At the heart of the statute is the expectation that States be held accountable for moving families from welfare to economic self-sufficiency through work. Congress' intention in this area was clear -- to follow through on its expectations, it gave HHS specific authority to hold states accountable for results by reducing Federal funds through 14 penalties. The proposed regulations conscientiously carry out the new law's penalties in a tough but fair framework.

The new welfare law also gives the Secretary of HHS discretionary authority to forgive some penalties on states for failing to meet a statutory requirement for reasonable cause. While providing the states a fair opportunity to demonstrate reasonable cause, the Secretary intends to be firm in granting exceptions only for compelling reasons. The proposed regulations provide some general examples when states might be granted reasonable cause exceptions, including natural disasters and other calamities, incorrect federal guidance and isolated, non-recurring problems.

The law also provides states an opportunity to correct certain problems through corrective compliance plans. The proposed regulations specify what the corrective compliance plans must include and limit the duration of such plans to six months.

Credit for Caseload Reductions

The new law allows states to obtain credit toward meeting the work participation rates to the extent their previous year's caseload was lower than it was in federal fiscal year 1995. The intention of the provision was to acknowledge the successful achievements of states in moving families from welfare to work. The new law excludes caseload reductions that occurred because of changes in eligibility requirements, such as time limits and income requirements.

Under the regulation, states will submit information for the prior year, including a list of eligibility changes and an estimate of the effects of each on the caseload. There will be separate reductions for the overall and the two-parent rates, based on reductions in the respective caseloads.

Two-Parent Families

The new welfare law's core principle is to support and require all families to move into work. The new law set a higher minimum participation rate for two-parent families than for all families. In assessing penalties on states failing to meet the higher two parent rates, the proposed regulations would implement this requirement in a balanced way, basing the penalty for failure to meet the participation rate in proportion to the percentage of the states' caseload that is two-parent families.

Waivers

Prior to the enactment of the new welfare law, the Clinton administration led the effort to reform welfare by encouraging and supporting state innovations through waivers. In President Clinton's first term, the Administration granted 43 states waivers of federal requirements. Those waivers laid the foundation of the new welfare reform law by strengthening work requirements, time limiting assistance and demanding parental responsibility. In a recent report, the Council of Economic Advisors attributed 31 percent of the unprecedented reduction in welfare caseloads to the Clinton waiver demonstrations.

The welfare reform law allows states to continue to operate their welfare reform waiver demonstrations, and to retain provisions that are inconsistent with the new law, until the waivers expire. The proposed regulations define the extent to which inconsistencies apply in a way that maintain the law's strong work requirements. For example, the proposal does not allow states to use waivers to limit the universe of people subject to the work participation rates.

Domestic Violence

The proposed regulations balance the special security and safety needs of victims of domestic violence with the need to provide them the opportunity to achieve independence and economic self-sufficiency through work. States are encouraged to adopt the new law's Family Violence Option and seek to ensure that individuals are appropriately assessed and that they are provided crucial services. HHS will grant good cause exceptions to the penalties for states that fail to meet work or time-limit requirements because of waivers granted to victims of domestic violence, as long as those waivers are temporary and include services to help the individual prepare for work and self-sufficiency.

Maintenance of Effort

The proposed regulations continue to provide states the flexibility to set up separate state programs to serve needy families funded solely with state funds. In January 1997, HHS issued guidance with a preliminary explanation of state maintenance of effort requirements, allowing states to use separate programs to address particular family situations, such as grandparent heads of households. However, if states misuse this flexibility -- to evade the work requirements, deny the Federal share of child support collections or avoid penalties -- they will not be considered for discretionary reasonable cause exceptions or reductions in penalty amounts.

Data Collection and Reporting

The proposed regulations closely mirror the new law's requirement that states collect and report information in sufficient detail that HHS, the Congress and the public can understand who is being served by states in TANF and compare progress and results in moving families from welfare to work. They would require all states to submit quarterly reports to provide basic data, such as caseloads and work requirements, and document maintenance of effort. States will be encouraged to provide the same data for state funded programs where spending counts for TANF maintenance of effort.

###

Elena --

Here is HHS's summary of the TANF reg, with our edits -- additions underlined and deletions in strike out. HHS needs our comments no later than Monday at 8 a.m.

My understanding is that you are going to edit this and get it to HHS before then. Attached are our instructions from HHS on how to do that; the fax number is 205-2135, with a backup fax at 690-7203.

If we have questions, Olivia is in her office on Sunday afternoon at 401-2337; her home number is 202-265-3204.

There are some formatting oddities because of the email transmission that we shouldn't worry about.

Diana

cc: Cynthia, Laura

Laura Emmett 11/14/97 05:48:58 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: Revised TANF exec. sum. and Qs and As

---------------------- Forwarded by Laura Emmett/WHO/EOP on 11/14/97 05:56 PM ---------------------------

ksiebena @ os.dhhs.gov
11/14/97 05:32:00 PM

Record Type: Record

To: laura emmett

cc:

Subject: Revised TANF exec. sum. and Qs and As

Attached are the HHS cleared TANF regs Qs and As and executive summary. Please fax comments to me by 8:00AM Monday morning at 205-2135. A back-up fax # is 690-7203. The first external briefing is at noon so we need time to make any edits and the make copies. Olivia Golden will be in her office Sunday afternoon if you have any questions. Her number there is 401-2337 (fax 401-4678). Her home # is 202-265-3204.

Public Affairs has not yet completed the fact sheet. Please call Melissa Skolfield if you have questions at 690-7850.

My number is 205-9042. Thanks for your assistance!

SUMMARY

NOTICE OF PROPOSED RULEMAKING

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM

Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), (Pub. L. 104-193) as amended by the Balanced Budget Act of 1997 (Pub. L. 105-33), is the welfare reform law that establishes the Temporary Assistance for Needy Families (TANF) program. TANF is a block grant program designed to make dramatic reforms to the nation's welfare system by moving recipients into work and turning welfare into a program of temporary assistance. ~~Other key features of TANF include provisions that encourage continued State expenditures on assistance to needy families and that emphasize program accountability through rewards for high performance and toward financial penalties for failure to meet certain statutory requirements~~. TANF replaced the national welfare program known as Aid to Families with Dependent Children (AFDC) and the related programs known as the Job Opportunities and Basic Skills Training (JOBS) program and the Emergency Assistance (EA) program.

Principles Governing the Proposed Rule

The Administration for Children and Families (ACF) is publishing ~~has published~~ for public comment a notice of proposed rulemaking (NPRM) that would govern key provisions of the TANF program. This regulatory package is ACF's first on the TANF program and our ~~second~~ major regulation implementing the welfare reform legislation. It follows several state guidance notices already issued. It incorporates the core TANF accountability provisions, including work requirements, time limits, State penalties, and data collection and reporting requirements. The proposed rules do not address other key provisions, such as the High Performance Bonus, the Bonus for the Reduction of Out-of-Wedlock Births, the Child Poverty Rates, and the Tribal TANF program; we expect to publish proposed regulations in theses areas in coming months.

These rules will provide States with clarity and a basic set of "rules of the game" for ~~reforming welfare~~ meeting the law's performance goals. The proposed rules reflect a new focus on moving recipients to work and self-sufficiency, and on ensuring that welfare is a short-term, transitional experience, not a way of life. The rules encourage and support State flexibility, innovation, and creativity, and do not ~~dictate to~~ tell States how to design their TANF programs. At the same time, the rules hold States accountable for moving families toward self-sufficiency. Our goal was to propose rules that would provide a balanced and reasonable approach to welfare reform. Because of our new Federal role, the proposed rules regulate under only two limited circumstances: (1) where Congress has explicitly directed the Secretary to regulate; and (2) where Congress has charged HHS with taking action (e.g., imposing penalties). In the latter case, we have set out, in regulations, the criteria we will use in carrying out our express authority to hold States accountable by assessing penalties.

In drafting these proposed rules, we adopted a broad consultation strategy which helped us identify key issues and evaluate policy options. The consultations also gave all interested parties the opportunity to voice their concerns and react to specific policy proposals. The comments played a significant role in shaping these proposed regulations.

We emphasize that the regulations are proposed and thus are not binding upon States. We encourage interested parties to share their reactions and suggestions with us during the 90-day comment period. Written comments can be sent either by mail or over the World Wide Web by visiting our site at: http://www.acf.dhhs.gov/news/welfare/. In drafting final rules, we will take into consideration the comments we receive.

Key Provisions

The following information highlights many important aspects of the proposed rules. The summary does not address certain areas (for example, on individual responsibilities, non-displacement, and individual development accounts), where the regulations merely paraphrase statutory provisions in order to add clarity and completeness.

WORK

PARTICIPATION REQUIREMENTS AND WORK ACTIVITIES

At the heart of the statute is the expectation that States be held accountable for moving families from welfare to self-sufficiency through work. ~~Because Congress' intention in this area was so clear, we have simply restated these requirements.~~

Each State must meet two separate work participation rates based on how well it succeeds in engaging adults in work activities. The minimum participation rate for adults in all families (the overall rate) is 25 percent in FY 1997 rising to 50 percent in FY 2002 and thereafter. The minimum participation rate for adults in two-parent families (the two-parent rate) is 75 percent in fiscal years 1997 and 1998, increasing to 90 percent in FY 1999 and thereafter. A State that fails to meet participation rates ~~could~~ will be subject to a monetary penalty.

~~States may define "families receiving TANF assistance...that include an adult or a minor child head-of-household,"~~ States may define the activities that count as work and what counts as a family, but if a State excludes families solely for the purpose of avoiding penalties, we will include those families in the work participation calculation.

~~WORK ACTIVITIES~~

~~The statute specifies 12 work, training, and education activities in which individuals may~~

~~participate in order to count toward the work participation rate requirements.~~

~~The proposed rule does not define the work activities in more detail than the statute, but it does require States to report the definitions they use.~~

By not defining the terms, we are giving States overall flexibility to design their programs in a way that will address their unique needs and circumstances.

CASELOAD REDUCTIONS

To ensure that States get credit for families that have become self-sufficient, Congress reduced the minimum participation rate a State must meet by the reduction in the State's TANF caseload in the prior year compared to its AFDC caseload in FY 1995, excluding reductions due to Federal law or to changes in eligibility criteria.

To avoid artificial reductions in the minimum participation rates, the proposed rules include cases in any separate State program used to meet the maintenance-of-effort (MOE) requirement in this caseload calculation. We will not grant a caseload reduction unless the State reports case-record information for these separate State programs.

The NPRM proposes a caseload reduction methodology based on State-submitted information and estimates. We will determine the appropriate caseload reduction for each State using the following process:

> *Step 1* -- We will compare 1995 AFDC caseload data to State-reported TANF and MOE caseload data.
>
> *Step 2* -- States must submit a Caseload Reduction Report that provides: a complete listing and implementation dates of State and Federal eligibility changes and a listing of reasons for case closures; a numerical estimate of the impact on the caseload of each; a description of the methodology for the estimate; and a Governor's certification that all reductions were considered.
>
> *Step 3* -- We will compare and analyze each State's methodology, estimates and data to determine whether they are reasonable. We may request additional information to adjust the estimates. In addition, we will conduct periodic on-site visits and examine case records to validate the information we have received.

The State's estimate must factor out any caseload decreases due to Federal requirements or State changes in eligibility rules that directly affect a family's eligibility for benefits (e.g., more stringent income and resource limitations and time limits).

A State need not factor out the calculable effects of enforcement mechanisms or procedural requirements that are used to enforce existing eligibility criteria (e.g., fingerprinting or other verification techniques) to the extent that they identify or deter families ineligible under existing rules.

A State must submit separate estimates and information for the overall and the two-parent rates to receive the applicable caseload reductions.

TIME LIMITS

In general, States may not, with certain specific statutory exceptions, use Federal funds to provide assistance to a family that includes an adult who has received assistance for more than a cumulative total of 60 months.

States have the option to extend assistance beyond the five-year limit for up to 20 percent of their average monthly number of cases on the basis of:

- Hardship, as defined by the State; or
- The fact that the family includes someone who has been battered or subject to extreme cruelty.

If a State does opt to extend assistance to up to 20 percent of its caseload, it may apply the extension to a particular family only once an adult in the family has received 60 cumulative months of assistance; it may not "stop the clock" before the 60-month limit is reached.

Months in which a family receives cash assistance funded with Welfare-to-Work (WTW) grant funds count towards the five-year limit; months in which a family receives only non-cash assistance under WTW do not count towards the five-year limit. However, families may receive assistance funded with Welfare-to-Work grant funds even though they are precluded from receiving other TANF assistance because of the five-year limit.

FAMILY VIOLENCE OPTION (FVO)

~~This option~~ The Family Violence Option in the statute permits a State to waive program requirements for a victim of domestic violence when complying with the requirements would make it more difficult for the victim to escape domestic violence or would unfairly penalize the individual. Under the FVO, the State must also develop a system to screen for victims of domestic violence and refer them to appropriate counseling and supportive services.

We have addressed the issue of domestic violence in the context of reasonable cause exceptions from certain penalties as described below . We have expressly tied these exceptions to adoption of the FVO.

WAIVERS

The statute establishes that States need not follow TANF requirements to the extent that they are "inconsistent" with welfare reform waivers in effect.

The definition of "waiver" we are proposing strikes a balance between State flexibility and accountability. It facilitates a State's ability to continue waivers, while providing a framework that defines the extent to which we will recognize inconsistencies related to meeting the TANF work participation rate and time limit requirements. To this end, we would :

Define what makes the new law "inconsistent" with a waiver. We propose that a provision of TANF is inconsistent with a waiver only if the State must change its waiver policy in order to comply with the TANF requirement;

Define "waiver" to include applicable provisions of prior law, but only if their inclusion is necessary to achieve the objective of the approved waiver;

Require a Governor to certify in writing which specific inconsistencies the State will continue;

~~Will restrict eligibility~~ Make a state that continues an inconsistent waiver and fails the work participation rates or time limits ineligible for claiming reasonable cause and receiving reduced penalties for States with continuing waivers, because waivers give those States an advantage in meeting participation rates and time limits compared to other States; and

~~Would~~ calculate and make public, data related to work participation rates and the percentage of cases with adults receiving assistance in excess of 60 months, under both the TANF requirement and the State's alternative waiver rules.

THE EFFECT OF WAIVERS ON WORK REQUIREMENTS

If a State is implementing policies in accordance with an approved waiver, the participation requirements apply except to the extent that they are inconsistent with the waiver.

Except as applicable to certain research cases, we will not recognize any prior law exemptions as part of the waiver with respect to the participation rates themselves or to the denominator of the participation rates.

Where waivers affect work activities in which an individual may participate in order to count toward the minimum participation rates, we will include provisions of prior law as part of such waivers, and we will recognize such waivers as inconsistent.

Where waivers affect minimum average hours of work per week necessary to count toward the minimum participation rates for a month, we will recognize the waiver as inconsistent if it specifies an individual's mandated hours of participation in accordance with his/her particular circumstances, either as specified by criteria described in the waiver or under an individualized plan or similar agreement for achieving self-sufficiency. We will not recognize as inconsistent any waiver designed to increase the mandatory work hours for a class of recipients under the former JOBS program.

If a State is continuing research group policies in order to complete an impact evaluation of a waiver demonstration, the demonstration's control group may be subject to prior law and its experimental treatment group may be also subject to prior law, except as modified by the waiver.

THE EFFECT OF WAIVERS ON THE TIME LIMIT

If the five-year limit is inconsistent with a State's waiver, the State may continue its waiver policies until the waiver expires.

The five-year limit is inconsistent with the State's waiver if:

- The State has an approved waiver that provides for terminating cash assistance to individuals or families because of the receipt of assistance for a period of time, specified by the approved waiver; and

- The State would have to change its waiver policy in order to comply with the five-year limit.

Generally, under an approved waiver, a State will count toward the five-year limit all months for which the adult subject to a State waiver time limit receives assistance with Federal TANF funds, just as it would if it did not have an approved waiver.

The State need not count toward the five-year limit any months for which an adult receives assistance with Federal TANF funds while the adult is exempt from the State's time limit under the terms of the State's approved waiver.

The State may continue to provide assistance with Federal TANF funds for more than 60 cumulative months, without a numerical limit, to families with extensions to the time limit, under the provisions of the terms and conditions of its approved waiver, as long as the State's waiver authority has not expired.

If a State is continuing research group policies in order to complete an impact evaluation of a waiver demonstration, the demonstration's control group may be subject to prior law and its experimental treatment group may be also subject to prior law, except as modified by the waiver.

TANF EXPENDITURES

ADMINISTRATIVE COSTS

By statute, ~~e~~Each State is subject to a 15 percent cap on the amount it may spend on administrative activities.

As defined in the proposed rule, administrative costs are costs necessary for the proper administration of the TANF program or separate State programs. It includes the costs for general administration, eligibility determination, and coordination of these programs, including indirect (or overhead) costs. as discussed in preamble

The definition does not include costs associated with providing program services, such as case management, job development, and post-employment supports.

MAINTENANCE-OF-EFFORT (MOE)

Our rules incorporate three statutory provisions which require States to spend a minimum amount of their own funds every year for qualified expenditures on behalf of eligible families.

(1) In every fiscal year, each State must spend at least 80 percent of what it spent in FY 1994 if it does not meet the minimum work participation rates; or it must spend at least 75 percent of what it spent in FY 1994 if it meets the minimum work participation rates.

(2) Contingency Funds are available to a State only if expenditures by the State, excluding all Federal funds but the contingency funds, **[IS THIS RIGHT?]** yes exceed the State's historic State expenditures in FY 1994. If a State does not meet this MOE requirement, it must remit all contingency funds paid to it for a fiscal year.

(3) If a State fails to maintain its FY 1994 level of historic State expenditures during a year in which it receives a Welfare-to-Work formula grant, its TANF grant will be reduced by the amount of the Welfare-to-Work formula grant it received.

USE OF FEDERAL FUNDS

We will impose a penalty on the State if it uses Federal funds in violation of the Act, which we will determine through an audit conducted under the Single Audit Act.

We will consider funds used in violation of the provisions of the Act, section 115 of PRWORA, the provisions of 45 CFR part 92 and OMB Circular A-87 to be misused funds.

We will consider funds to be misused intentionally if there is supporting documentation, such as Federal guidance or policy instructions, indicating that Federal TANF funds could not be used for that purpose.

DATA COLLECTION AND REPORTING

Most of the information we propose to collect is required by section 411(a) of the Act. We propose some additional data elements necessary to ensure accountability under section 409(a) (penalties) and to meet other statutory provisions, such as grants to States under section 403, administrative provisions under section 405, and rankings of State programs under section

413(e).

Our NPRM requires States to submit three quarterly reports (the TANF Data Report, the TANF MOE Data Report, and the TANF Financial Report) and two annual reports (a program report and a performance report for the annual report to Congress). States are also required to submit, in an attachment to the fourth quarter Financial Report, State definitions and other information.

TANF DATA REPORT

This proposed report requires States to collect and report:
-Case-record information on individuals and families;
-Information to assess work requirements performance; rltd to wk reqs
-Information to allow us to ~~implement~~ administer the penalty provisions;
-Other information required by section 411(a); and
-Additional items necessary to operate a data collection system such as FIPS Codes.

TANF MOE DATA REPORT

We are proposing that a State collect and report data similar to that required by the TANF Data Report on individuals and families served by separate State MOE programs if it wishes to:

- Receive a high performance bonus;
- Qualify for work participation caseload reduction credit; or
- Be considered for a reduction in the amount of the penalty for failing to meet the work participation requirements.

TANF FINANCIAL REPORT

In this proposed report, a State must report:

- Information necessary to estimate the amounts to be paid to a State each quarter; and
- Information on Federal, State, and MOE expenditures, and data to carry out other financial management responsibilities.

ADDITIONAL REQUIREMENTS

We are also proposing to:

- Define "TANF family" for data collection purposes only;

- Define "a complete and accurate report" for the compliance standard for implementing the penalty provisions in section 409(a)(2);

- Define "scientifically acceptable sampling method" as a basis for State sampling systems and reporting disaggregated data. (At a later date we will issue the TANF Sampling and Statistical Manual that will contain instructions on the approved procedures and more detailed specifications for sampling methods);

- Require a State to file quarterly reports electronically;

- Require a State to submit documentation, in addition to the TANF MOE Report, to qualify for work participation caseload reduction credit; and

- Require a State to submit documentation, in addition to the TANF MOE Report, to be considered for a reduction in the amount of the penalty for failing to meet the work participation requirements.

PENALTIES

Our penalty structure is straightforward. To ensure that States take the statutory requirements seriously, we have strictly defined the limited circumstances under which States may demonstrate reasonable cause or receive penalty reductions. To protect States from an unreasonable risk, the penalty for failure to achieve the two-parent participation rate is reduced in proportion to the size of the caseload. Also, States have the opportunity to correct or eliminate violations through corrective compliance.

We are regulating all of the TANF penalty provisions included in the statute, except the penalty for noncompliance of the State Child Support Enforcement Program with its statutory requirements. This penalty will be addressed in a later proposed rule. The penalties included are for:

(1) Use of the grant in violation of the statute, including an increased penalty for intentional violations;

(2) Failure to submit required reports;

(3) Failure to meet minimum participation rates;

(4) Failure to participate in the Income and Eligibility Verification System (IEVS);

(5) Failure to enforce penalties on recipients who are not cooperating with the State Child Support Enforcement Agency;

(6) Failure to repay a Federal loan for State welfare programs;

(7) Failure to meet the appropriate level of historic effort in the operation of the TANF program;

(8) Failure to comply with the five-year limit on Federal funding of assistance;

(9) Failure of a State receiving amounts from the Contingency Fund to maintain 100 percent of historic effort;

(10) Failure to maintain assistance to an adult single custodial parent who cannot obtain child care for a child under age six;

(11) Failure of a State to expend its own funds to replace a reduction to its grant due to the assessment of penalties;

(12) Failure to maintain historic effort during a year in which the State receives a Welfare-to-Work formula grant; and

(13) Failure to reduce assistance for recipients refusing without good cause to work.

Audits authorized by the Single Audit Act will be the primary vehicle for monitoring a State's compliance with several requirements, and will play a role in monitoring most aspects of a State's operations. Another vehicle for monitoring a State's compliance with statutory requirements will be analysis of the data and financial reporting forms.

WORK PENALTY

1. If a State fails to meet either minimum work participation rate, it will be subject to a penalty.

~~We will reduce the amount of the penalty based on the degree of noncompliance.~~

OK

3. If a State fails only the two-parent work participation rate, we will prorate the penalty based on the percentage of the State's two-parent cases.

2. A State ~~may also receive a further~~ will receive no further reduction in penalty before the corr comp. The if it does not ~~if it~~ achieves a threshold level of 90 percent of the applicable participation rate. We will reduce the penalty in proportion to the level of the State's achievement *above the 90 percent threshold.*

REASONABLE CAUSE

Within 60 days of our notice that we intend to impose a penalty, the State may respond:

(1) that our determination is incorrect; (2) that the State had reasonable cause for failing to meet the requirement(s); and/or (3) by providing a corrective compliance plan.

We will not impose a penalty against a State if we determine that the State had reasonable cause for its failure. The general factors a State may use to claim reasonable cause are:

- Natural disasters and other calamities;
- Federal guidance that provided incorrect information; or
- Isolated, non-recurring problems of minimal impact.

Domestic Violence Waivers as Reasonable Cause

We will determine that a State has reasonable cause if it demonstrates that it failed to meet the work participation rates or that it exceeded the 20 percent limitation on exceptions to the time limit due to its provision of good cause domestic violence waivers.

- For work participation rates, a State must provide evidence that it achieved the applicable work rates, except with respect to any individuals receiving good cause waivers of work requirements (i.e., when cases with good cause waivers are removed from the calculations in determining the overall and two-parent participation rates).
- For time limits, a State must provide evidence that, when individuals with active good cause waivers and their families are excluded from the calculation, the percentage of families receiving federally-funded assistance for more than 60 months did not exceed 20 percent of the total. Such families must have good cause domestic violence waivers that: reflect the State's assessment that an individual in the family was temporarily unable to work because of domestic violence; and were in effect after the family had received federally-funded assistance for 60 or more months.

- A State must grant any good cause domestic violence waivers appropriately and these waivers must meet the definition of good cause waivers established in the regulation.

CORRECTIVE COMPLIANCE

If a State does not claim reasonable cause, or if we find that the State does not have reasonable cause, the State may enter into a corrective compliance plan that will correct or discontinue a violation within six months, in order to avoid the penalty.

The corrective compliance plan must include:

-

- A complete analysis of why the State did not meet the requirements;

- A detailed description of how the State will correct or discontinue, as appropriate, the violation in a timely manner;

- The milestones, including interim process and outcome goals, the State will achieve to assure it comes into compliance within the specified time period; and

- A certification by the Governor that the State is committed to correcting or discontinuing the violation.

We will not impose a penalty against a State with respect to any violation covered by a corrective compliance plan that we accept if the State completely corrects or discontinues, as appropriate, the violation within the period covered by the plan. This period must be no longer than six months.

Under limited circumstances, we may reduce the penalty even if the State fails to correct or discontinue the violation completely pursuant to its corrective compliance plan in a timely manner. To receive a reduced penalty, the State must demonstrate that it met one or both of the following conditions:

- Although it did not achieve full compliance, the State made substantial progress towards correcting or discontinuing the violation (For work participation, a State must reduce the difference between the participation rate it achieved in the year for which it is subject to a penalty and the rate applicable during the penalty year by 50 percent.); or

- The State's failure to comply fully was attributable to either a natural disaster or regional recession.

USING FLEXIBILITY TO EVADE ACCOUNTABILITY

While we do not believe States will use statutory flexibility to evade accountability for children and families, if a State does, and is liable for a penalty, none of the Secretary's discretion to reduce or limit the size of the penalty will be available:

- We will not reduce the amount of the penalty for failing to meet the work, child support, time limit, child care or sanctioning requirements if we detect a significant pattern of diversion of families to a separate State program that achieves the effect of avoiding the work participation rates or of reducing the Federal share of child support collections;

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- We will not grant reasonable cause exceptions for failing to meet the work, child support, time limit, child care or sanctioning requirements if we detect a significant pattern of diversion of families to a separate State program that achieves the effect of avoiding the work participation rates or of reducing the Federal share of child support collections; and

- For States that continue related waivers:

    - We will neither grant reasonable cause exceptions for failing to meet the work participation or time limit requirements, nor reduce the work participation rate penalty based on severity of the failure or under discretionary authority; and

    - Where a State continues waivers related to failure to achieve compliance with work participation or time limit requirements under a corrective compliance plan and still fails to correct the violation, the State will not be eligible for reduced penalties.

DEFINITIONS

Generally, to ensure that States have maximum flexibility to design their programs in a way that will address their unique needs and circumstances, we have chosen not to define statutory terms further. There are a few exceptions that have substantial policy significance, including:

Administrative costs means costs necessary for the proper administration of the TANF program or separate State programs. The term includes the costs of general administration and coordination of these programs, including indirect (or overhead) costs.

Assistance means every form of support provided to families under TANF (including child care, work subsidies, and allowances to meet living expenses), except: (1) services that have no direct monetary value to an individual family and that do not involve implicit or explicit income support, such as counseling, case management, peer support, and employment services that do not involve subsidies or other forms of income support; and (2) one-time, short-term assistance (i.e., assistance paid within a 30-day period, no more than once in any twelve-month period, and ~~or~~ to meet needs that do not extend beyond a 90-day period, such as automobile repair to retain employment and avoid welfare receipt or appliance repair to maintain living arrangements).

Good cause domestic violence waiver means a waiver of one or more program requirements granted by a State to a victim of domestic violence under the Family Violence Option that is: (1) granted appropriately, based on need, as determined by an individualized assessment; (2) temporary, for a period not to exceed six months; and (3) accompanied by an appropriate services plan designed to provide safety and lead to work.

Inconsistent relates to "waiver" and means that complying with a TANF requirement would necessitate that a State change a policy reflected in an approved waiver.

Waiver refers to a specific action taken by the Secretary under the authority of section 1115 of the Social Security Act (the Act) to allow a State to operate a program that does not follow specific requirements of prior law. For the purpose of these regulations and section 415 of the Act, the term "waiver" consists of provisions necessary to achieve the State's policy objective and includes the approved revised AFDC requirements, articulated in the State's waiver list. It also includes those provisions of prior law that: (1) did not need to be waived as part of the waiver package; but (2) were integral and necessary to achieve the State's policy objective for the approved waiver.

WORK NOT WELFARE: CLINTON ADMINISTRATION ISSUES NEW PROPOSED WELFARE REGULATIONS

On August 22, 1996, President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act, the new welfare reform law that established the Temporary Assistance for Needy Families (TANF) program. Under the legislation, the states have unprecedented flexibility to design welfare programs to meet the particular needs of welfare families. In return, the federal government demands new, measurable results related to moving families into work and self-sufficiency.

These proposed regulations of the welfare reform bill are intended to help all ~~able-bodied~~ welfare recipients who can work to go to *work, and to encourage states to work with all families. To support the success of welfare reform, President Clinton has already exercised leadership in initiating a new partnership with American business to hire welfare recipients, established a new welfare-to-work program targeting resources to communities with high numbers of long term welfare recipients, secured increases in child care funding, obtained the strongest child support enforcement measures ever enacted to force deadbeat parents to support their children, and encouraged good practices by states such as expanding child care and transportation services.*

The proposed regulations announced today forge a balance between state flexibility and state accountability for moving welfare families to work.

The TANF Program

TANF replaces the former Aid to Families with Dependent Children (AFDC) program. Under TANF, states determine the eligibility of needy families and the benefits and services those families will receive. States must use the TANF funds consistent with the purpose of the new law which contains strong work requirements, time limits assistance, reduces welfare dependency, and encourages two-parent families. States have broad flexibility in the design and operation of their welfare-to-work programs.

The proposed regulations incorporate the core TANF accountability provisions, including work requirements, time limits, State penalties, and data collection and reporting requirements. In general, the regulations reflect a limited and restrained federal role. Since Congress specifically limited the authority of the federal government to regulate the new TANF program, the regulations only cover areas where Congress specifically required the Secretary to regulate or where the Secretary is regulating her own actions.

The proposed regulations provide states with a basic framework for implementing the new welfare program, reinforce the importance of work requirements, promote positive outcomes for needy children and families, and fulfill the new federal role of supporting state flexibility, innovation and success.

Prior to the issuance of these proposed regulations, HHS conducted an extensive consultation process. In addition, starting from today's publication in the Federal Register, HHS will accept comments for 90 days. Written comments can be sent either by mail or over the World Wide

Web by visiting our site at: http://www.acf.dhhs.gov/news/welfare/. Following the comment process, HHS will consider all submissions and issue final regulations.

The following highlights some issues covered by the proposed regulations.

Penalties

At the heart of the statute is the expectation that States be held accountable for moving families from welfare to economic self-sufficiency through work. Congress' intention in this area was clear -- to follow through on its expectations, it gave HHS specific authority to hold states accountable for results by reducing Federal funds through 14 penalties. The proposed regulations conscientiously carry out the new law's penalties in a tough but fair framework.

The new welfare law also gives the Secretary of HHS discretionary authority to forgive penalties on states for failing to meet a statutory requirement for reasonable cause. While providing the states a fair opportunity to demonstrate reasonable cause, the Secretary intends to be firm in granting exceptions only for compelling reasons. The proposed regulations provide some general examples when states might be granted reasonable cause exceptions, as in natural disasters and other calamities, incorrect federal guidance and isolated, non-recurring problems.

The law also allows states an opportunity to correct problems through corrective compliance plans. The proposed regulations specify what the corrective compliance plans must include and limits the duration of such plans to six months.

Credit for Caseload Reductions

The new law allows states to obtain credit toward meeting the work participation rates to the extent their previous year's caseload was lower than it was in federal fiscal year 1995. The intention of the provision was to acknowledge the successful achievements of states in moving families from welfare to work. The new law excludes caseload reductions that occurred because of changes in eligibility requirements, such as time limits and income requirements.

Under the regulation, states will submit information about the prior year, including a list of eligibility changes and an estimate of the effects of each on the caseload. There will be separate reductions for the overall and the two-parent rates, based on reductions in the respective caseloads.

Two Parent Families

The new welfare law's core principle is to support and require all families to move into work. The new law set a higher minimum participation rate for two-parent families than for all families. In assessing penalties for states failing to meet the higher two parent rates, the proposed regulations would implement this requirement in a balanced way by applying the 5 percent reduction of the block grant for failure to meet the participation rate proportionately to the percentage of the states' caseload of two parent families.

Waivers

Prior to the enactment of the new welfare law, the Clinton administration led the effort reform welfare by encouraging and supporting state innovations through waivers. In President Clinton's first term, the Administration granted 43 states waivers of federal requirements. Those waivers laid the foundation of the new welfare reform law by strengthening work requirements, time limiting assistance and demanding parental responsibility. In a recent report, the Council of Economic Advisors attributed 31 percent of the unprecedented reduction in welfare caseloads to the Clinton waiver demonstrations.

The welfare reform law allows states to continue to operate their welfare reform waiver demonstrations, and retain provisions that are inconsistent with the new law, until the waivers expire. The proposed regulations place conditions on some of the waiver provisions to maintain the law's strong work requirements. For example, the proposal does not allow states to use waivers to limit the universe of people subject to the work participation rates.

Domestic Violence

The proposed regulations balance the special security and safety needs of victims of domestic violence with the need to provide them the opportunity to achieve independence and economic self-sufficiency through work. States are encouraged to adopt the new law's Family Violence Option and seek to ensure that individuals are appropriately assessed and crucial services are provided. HHS will grant good cause exceptions to the penalties for states that fail to meet work or time-limit requirements because of waivers granted to victims of domestic violence, so long as those waivers are temporary and include services to help the individual prepare for work and self-sufficiency.

Maintenance of Effort

The proposed regulations continue to provide states the flexibility to set up separate state programs to serve needy families funded solely with state funds. In January 1997, HHS issued guidance with a preliminary explanation of state maintenance of effort requirements, allowing states to use separate programs to address particular family situations, such as grandparent heads of households. However, if states misuse this flexibility -- to gut the work requirements, deny the Federal share of child support collections or avoid penalties -- they will not be considered for discretionary reasonable cause exceptions or reductions in penalty amounts.

Data Collection and Reporting

The proposed regulations closely mirror the new law's requirement that states collect and report information in sufficient detail that HHS, the Congress and the public can understand who is being served by states in TANF and compare progress and results in moving families from welfare to work. They would require all states to submit ~~these~~ quarterly reports to provide basic data such as caseloads, ~~and~~ work requirements and document maintenance of effort. States will be encouraged to provide the same data for state funded programs where spending counts for TANF maintenance of effort.

Diversion to Separate State Programs to Avoid Work Participation Rates and Child Support Requirements

Issue

States can currently divert cases into separate State programs in order to avoid work participation requirements and Federal child support collections. The proposal under discussion would require a State to prove it had not diverted participants, as a condition of gaining penalty relief. HHS has agreed to condition the reasonable cause penalty exception and degree of non-compliance penalty reductions on States not diverting cases to avoid work participation requirements.

EOP Position:

Under the current proposed rule, states will have an incentive to move hard-to-employ individuals from TANF, which is subject to tough work participation rates, to separate state programs where such work rates don't apply, undermining our efforts to turn welfare into a work-based system. To discourage such diversion, States should not be permitted to enter into a corrective compliance plan or to receive a reduction in penalty after failing to correct a violation unless they prove they have not diverted cases for the purpose of avoiding the work participation rates. These restrictions must apply to all 14 penalties, not simply the work participation rate penalty, because a State that successfully diverts hard-to-employ cases will be able to meet the TANF work participation rates and will have no need for penalty relief in that area. In addition, HHS should withhold all forms of penalty relief from States that divert families in order to prevent the federal child support collections. The net Federal share of child support collections in FY1998 is estimated at $1.047 billion, which States could avoid giving back to the Federal government by diverting cases with child support collections to separate State programs.

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HHS Position

As mentioned above, HHS supports the strict enforcement of the TANF penalty mechanisms that are directly related to work participation rates - denying reasonable cause for work penalty, collecting all the data HHS can, and monitoring for abuse to see if additional remedies need to be pursued, consistent with the mutually agreed upon January HHS guidance. In addition, HHS would hold States accountable through the use of the high performance bonus to reward States for getting recipients into work and use of the bully pulpit to publicize State actions if they abuse their flexibility. HHS will also consider future legislative or administrative remedies if abuse is widespread. HHS maintains that any further leveraging of the penalty relief provisions would be viewed by Congress and the Governors as overreaching and unduly prescriptive; is subject to legal and political challenge; and would severely damage their relationship with the States which is critical to the success of welfare reform.

Treatment of State Waivers

Issue

The TANF law allows States to continue to operate waiver provisions that are "inconsistent" with TANF. The issues at hand are 1) what is the scope of waiver policies that can be continued; and 2) whether we can and should deny bonuses and certain penalty relief to states that continue to operate waivers that differ from TANF work requirements and time limits.

EOP Position:

The current proposed rule allows States to continue prior law policies that were not specifically covered under a waiver (e.g., unlimited vocational education and college attendance or more than 6 weeks a year of job search) which stretches the meaning of the statute and undermines the new law's strict work focus. Moreover, the regulation allows states to expand waivers beyond the geographic area in effect (i.e., implemented) on date of enactment.

While the statute requires us to preserve the right for states to continue waivers with less stringent work rules and time limits, we do not need to reward those that do so. Thus, we believe that States that do not comply with TANF rules regarding work requirements or time limits because they continue inconsistent waivers should not be eligible for the bonuses and rewards established under the new law, including the high performance bonus, the caseload reduction credit, a reasonable cause penalty exception, a corrective compliance plan, or a reduced penalty for any of the violations established in the law. States should not be able to continue program features that were not specifically covered under a waiver, such as unlimited vocational education, college attendance, or more than 6 weeks a year of job search. In addition, states should not be able to expand waivers beyond the geographic area in effect (i.e., implemented) on date of enactment.

HHS Position

The current proposed rule provides a tight interpretation of the waiver inconsistency language that protects against widespread avoidance of the TANF provisions. Taken as a whole, the EOP recommended provisions appear to thwart Congressional intent in providing States with the opportunity to continue operating waivers. Such an approach is difficult to explain in light of the Administration's prior support of these waiver projects and claims of success. Denying a high performance bonus also would punish the very States whose waivers are most innovative and effective, undermine our efforts to shift the focus to outcomes, and severely damage a strong working relationship we have developed with the States. Further, denial of caseload reduction credits and the opportunity to enter into corrective compliance plans may not legally sustainable. Given the limited and indirect regulatory authority, we should exercise some restraint in penalizing States that elect an option available to them under the law.

Deny Relief from Penalties to States that Divert Hard-to-Employ Families from TANF to Avoid Work Participation Requirements	**Work Penalty**	**Other Penalties (13)**
1. Set penalty based on "degree of non-compliance" (option exists for two penalties: work and one other).	Agreed	No Agreement
2. Reasonable cause penalty exception	Agreed	No Agreement
3. Corrective compliance plan (penalty postponed during plan)	No Agreement	No Agreement
4. Reduce penalty (impose "some or all") after state fails to correct violation.	No Agreement	No Agreement

Deny Relief from Penalties to States that Divert Families from TANF to Avoid Federal Collection of Child Support	**Work Penalty**	**Other Penalties (13)**
1. Set penalty based on "degree of non-compliance" (option exists for two penalties: work and one other).	No Agreement	No Agreement
2. Reasonable cause penalty exception	No Agreement	No Agreement
3. Corrective compliance plan (penalty postponed during plan)	No Agreement	No Agreement
4. Reduce penalty (impose "some or all") after state fails to correct violation.	No Agreement	No Agreement

Deny Relief from Penalties to States that Divert Hard-to-Employ Families from TANF to Avoid Work Participation Requirements

Penalty	Set Based on Degree of Non-Compliance 271.51	Reasonable Cause Exception 272.5	Corrective Compliance Plan	Same oral Can be Reduced After Plan Does Not Correct Violation 272.6
	If shaded, then not applicable to that penalty.			
1. Misuse of TANF funds				
2. Failure to Submit Report				
W 3. Failure to Meet Participation Rates	Agreed	exc pv? ~~Agreed~~		1 4th Pery?
4. Failure to Participate in Income and Eligibility Verification System				
5. Failure to Require Individuals to Cooperate with Child Support Rules				
6. Failure to Repay Federal Loan				
7. Failure to meet TANF MOE Requirement				
8. Substantial Noncompliance with Child Support Requirements	Not addressed in this draft regulation.			
W 9. Failure to Comply with Time Limit		1		1
10. Failure to Maintain 100% MOE if Received Contingency Funds				
W 11. Failure to Maintain Assistance to Parents who Can't Get Child Care for Child under Six and Doesn't Work		2		2
12. Failure to Expend Additional State Funds to Replace Grant Reductions				
13. Failure to meet TANF MOE if get DOL Welfare to Work Grant				
W 14. Failure to Sanction Individuals who Refuse to Work.		2		2

BK-don't do thresh. — or do a "targeted" threshold

OMB?

Deny Relief from Penalties to States that Divert Families from TANF to Avoid Federal Collection of Child Support

Penalty	Set Based on Degree of Non-Compliance	Reasonable Cause Exception	Corrective Compliance Plan	Can be Reduced After Plan Does Not Correct Violation
	If shaded, then not applicable to that penalty.			
1. Misuse of TANF funds				
2. Failure to Submit Report				
3. Failure to Meet Participation Rates				
4. Failure to Participate in Income and Eligibility Verification System				
5. Failure to Require Individuals to Cooperate with Child Support Rules				
6. Failure to Repay Federal Loan				
7. Failure to meet TANF MOE Requirement				
8. Substantial Noncompliance with Child Support Requirements	Not addressed in this draft regulation.			
9. Failure to Comply with Time Limit				
10. Failure to Maintain 100% MOE if Received Contingency Funds				
11. Failure to Maintain Assistance to Parents who Can't Get Child Care for Child under Six and Doesn't Work				
12. Failure to Expend Additional State Funds to Replace Grant Reductions				
13. Failure to meet TANF MOE if get DOL Welfare to Work Grant				
14. Failure to Sanction Individuals who Refuse to Work.				

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TANF PENALTY STRUCTURE
14 Penalties in Statute
(Penalties in shaded boxes are not eligible for reasonable cause or corrective compliance plan.)

1. Misuse of TANF funds	6. Failure to Repay Federal Loan	11. Failure to Maintain Assistance to Parents who Can't Get Child Care for Child under Six and Doesn't Work
2. Failure to Submit Report	7. Failure to meet TANF MOE Requirement	12. Failure to Expend Additional State Funds to Replace Grant Reductions
3. Failure to Meet Participation Rates	8. Substantial Noncompliance with Child Support Requirements	13. Failure to meet TANF MOE if get DOL Welfare to Work Grant
4. Failure to Participate in Income and Eligibility Verification System	9. Failure to Comply with Time Limit	14. Failure to Sanction Individuals who Refuse to Work.
5. Failure to Require Individuals to Cooperate with Child Support Rules	10. Failure to Maintain 100% MOE if Received Contingency Funds	

Steps to Levying Penalty

Step #1: Establish Penalty

- Secretary levies penalty if she determines a violation has occurred.
- For 12 of the 14 penalties, the amount is listed in the statute.
- For two penalties -- for failure to meet the work participation rates and failure to maintain assistance to parents with children under age six who can't work because they can't find child care -- the statute says that the penalty shall be based on "degree of non-compliance." (In the proposed reg, we are establishing a sliding scale defining "degree of non-compliance" for purposes of the work penalty.)

Step #2: Consider Reasonable Cause

- If the Secretary determines that a state had reasonable cause, she will waive the penalty.
- The reg establishes that having failed the work and time limits due to granting good cause domestic violence waivers is a reasonable cause. Also allowed are natural disasters; incorrect formal federal guidance; and isolated, non-recurring problems of minimal impact.

Step #3: Enter into Corrective Compliance Plan

- The Secretary must allow state opportunity to enter into a corrective compliance plan and will not impose the penalty while such a plan is in effect. By statute, certain types of violations (all financial) are not eligible for a corrective compliance plan.

Step #4: Once Corrective Compliance Plan is Completed, Secretary Can Reduce Penalty

- The Secretary will not impose the penalty if the state corrects the violation.
- If a state does not correct the violation during its corrective compliance plan, then the Secretary shall assess "some or all" of the penalty. The regulation allows the Secretary to not impose a penalty if the state made substantial progress, defined for the work penalty as having closed half the gap between actual and required rate.

Scope of Waivers

Type of Policy	
1. Can continue specific waiver granted if new law is "inconsistent"	Agreed
2. Can continue prior law policy for which waiver not specifically granted (e.g., unlimited vocational education, college, more than 6 weeks a year job search)	Imp.
3. Can continue to operate waiver in geographic area no larger than originally authorized.	Agreed?
4. Can continue to operate waiver in geographic area no larger than "in effect" or implemented on date of enactment.	X

Availability of TANF Bonuses and Rewards to States Continuing "Inconsistent" Waivers

Time limits

parse: 2 tiers

Type of Policy	
1. Eligible for high performance bonus	
2. Eligible for caseload ~~reduction~~ credit.	

make them elig if they show gd cause - BR

HHS says legal issue - CRC + CCP

Which states have [illegible]

Prior law

Penalty - Partic rates

~~Hi Perf~~ - don't meas by waiver work def.

CRC to [illegible]

Availability of Penalty Relief to States Continuing "Inconsistent" Waivers

Penalty	Set Based on Degree of Non-Compliance	Reasonable Cause Exception	Corrective Compliance Plan	Can be Reduced After Plan Does Not Correct Violation
	If shaded, then not applicable to that penalty.			
1. Misuse of TANF funds				
2. Failure to Submit Report				
3. Failure to Meet Participation Rates	1	X		1
4. Failure to Participate in Income and Eligibility Verification System				
5. Failure to Require Individuals to Cooperate with Child Support Rules				
6. Failure to Repay Federal Loan				
7. Failure to meet TANF MOE Requirement				
8. Substantial Noncompliance with Child Support Requirements	Not addressed in this draft regulation.			
9. Failure to Comply with Time Limit		X		1
10. Failure to Maintain 100% MOE if Received Contingency Funds				
11. Failure to Maintain Assistance to Parents who Can't Get Child Care for Child under Six and Doesn't Work				
12. Failure to Expend Additional State Funds to Replace Grant Reductions				
13. Failure to meet TANF MOE if get DOL Welfare to Work Grant				
14. Failure to Sanction Individuals who Refuse to Work.				

Waivers – OK on DNC