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CONFERENCE AGREEMENT IMPOSES EXPENSIVE NEW TANF REQUIREMENTS ON STATES AND WILL RESULT IN LOSS OF CHILD CARE FOR WORKING POOR

By Sharon Parrott

The conference agreement on the spending reconciliation bill (S. 1932) includes a major restructuring of the Temporary Assistance for Needy Families (TANF) work participation requirements, imposing expensive and unfunded new requirements on states and severely limiting the flexibility they were afforded under the 1996 law that created the TANF block grant. While some have suggested that the TANF changes represent only minor changes from current law, that is incorrect. In fact, a new Congressional Budget Office analysis shows that the work requirements would be even more expensive for states to meet than those included in the controversial House-passed bill.

- **States would have to meet much higher work participation rates in 2007 — starting just *ten months* from now — or else face fiscal penalties.** The participation rate measures the percentage of TANF recipients enrolled in federally-prescribed work activities for a federally-prescribed number of hours. The new requirements would be effective in FY 2007, just six months after the U.S. Department of Health and Human Services is required by the bill to issue a broad set of new regulations with detailed new rules about how states must track work participation requirements, the documentation they must require from families and which work activities can be considered a “work activity” for purposes of the participation requirements. CBO estimates show that states would be expected to meet even higher participation rates in 2006, 2007, and 2008 under the conference agreement than under the House-passed bill.
- **CBO estimates that the cost to states of meeting the work requirements is more than \$8.4 billion over the next five years — *higher than even the controversial House-passed bill*.** The CBO estimate understates the total cost of the new requirements significantly, however, because (as CBO notes in its analysis), the \$8.4 billion figure does not include the costs associated with meeting the very high — indeed, unreachable — work requirements for two parent families.
- **Child care funding falls more than *\$11 billion short* of the amount that CBO has estimated states need to meet the new work requirements and ensure that their current child care funding keeps pace with inflation.** CBO has estimated that states need more than \$12 billion to meet the new requirements by increasing participation in welfare-to-work programs and ensure that their current child care funding keeps pace with inflation. The conference agreement, however, includes just \$1 billion in child care funding over the next five

years.¹ As a result of this inadequate funding, an estimated 255,000 children in low-income working families would lose child care assistance in 2010 as compared to 2004, as states shift resources away from child care to help meet the costs of the new work requirements.²

- **The number of children in deep poverty is likely to rise, as CBO expects states to try to cope with the federal mandates by increasing the number of families that are *sanctioned off the program* and by imposing *new barriers to poor families seeking assistance*.** In its analysis of the new work requirements, CBO states, “CBO expects that states are more likely to meet the requirements by applying a combination of approaches including funding more activities, imposing tighter up front requirements and adopting stricter sanctioning policies.”

If states do adopt policies that more quickly sanction families off the program when a family fails to meet a program requirement — rather than trying to work with the family to see if there is an underlying problem that is making it difficult or impossible for them to comply — or that impose new barriers to families seeking assistance, the number of children in deep poverty may well continue its recent sharp upward climb. (The number of children living below one-half of the poverty line increased by nearly 1.5 million between 2000 and 2004.) Moreover, there already is significant research showing that families sanctioned off TANF programs are disproportionately those with the most severe barriers to employment. These include families in which a parent has a physical or mental disability, is caring for a child with a disability, has a substance abuse or domestic violence problem, or has very low skills. If states feel pressure to increase their use of sanctions on other mechanisms for keeping families off the program, it is these families who are most likely to lose assistance and fall into deep poverty.

Some states already have instituted policies and procedures that have resulted in a sharp decline in the proportion of eligible poor families that actually receive aid through TANF. In the mid-1990s, about 80 percent of families with children who were poor enough to qualify for cash assistance through the former AFDC program received aid through that program. Data from HHS shows that in 2002, *fewer than half* of families poor enough to meet the TANF eligibility requirements in their states received income assistance through TANF.³ This marked drop in participation is one of the reasons that the number and percentage of children and families who live in deep poverty has risen significantly in recent years. The expensive and unfunded work requirements in the conference agreement provide states with a strong incentive to restrict access to assistance which could exacerbate this already disturbing trend.

If states “do the right thing” and do not adopt policies that make it more difficult for very poor families to receive assistance, they will face very steep costs associated with the new work requirements.

¹ This CBO estimate was based on the House TANF provisions which are projected to cost the same amount to implement as the requirements in the conference agreement.

² This figure was computed by the Center on Budget and Policy Priorities and is based on CBO data on the projected child care costs associated with the new work requirements, 2001 HHS data on the per-slot cost of child care, the CBO estimate of how much the cost of child care increases each year due to wage and general inflation, and the child care funding levels under the conference agreement.

³ HHS, Indicators of Welfare Dependence: Annual Report to Congress 2005, <http://aspe.hhs.gov/hsp/indicators05/index.htm>.

- **The conference agreement sharply restricts states' flexibility to set policies in state-funded programs, undoing a basic tenet of the 1996 welfare law.** Under the 1996 law, states were given the flexibility to determine what kind of work requirements they would impose on families served by a program that was fully funded with state maintenance of effort resources (state funds that be spent for the state to qualify for their federal TANF block grant) and other state resources. Some states used this broader flexibility to establish more flexible work requirements for families with serious problems — such as disabilities — for whom the standard federal work requirements were ill-suited. (Under current law, the narrow set of work activities that were permissible and the rigid hourly requirements meant that many individuals who participated in specialized programs to address barriers could not be counted toward a state's federal work participation requirements.)

Other states used the flexibility to allow some recipients to pursue postsecondary education, which has lead to some real success in helping some TANF recipients prepare for and secure better-paying, more stable jobs. These initiatives would be jeopardized by the new federal bill.

- **The conference report imposes unrealistic work requirements on two-parent families.** Under current law, states are required to meet a 90 percent work participation rate for two-parent families. Researchers and state officials have long recognized that such a participation requirement is not attainable because of the many legitimate reasons that parents may be unable to fulfill the full participation requirements each month. If a parent is ill, is needed to care for an ill child, or is simply waiting for a work program to begin, the parent will fail to meet the hourly requirements and the state will not be able to “count” them toward the work participation rates. Recognizing that the federal law was wholly unworkable, states placed many two-parent families into separate state programs to ensure that if they failed to meet the 90 percent standard, the state did not face fiscal penalties. *States still required these families to participate in activities*, but the separate state program mechanism ensured that states would not face fiscal penalties when even a few families were unable to meet the full federal requirements.

Under the conference agreement, the 90 percent work participation rate would apply to separate state programs. *In effect, this requirement means that any state that provides assistance to two-parent families will almost certainly fail to meet the work participation requirements and will face fiscal penalties.* This could serve as a strong disincentive to states to provide aid to two-parent families and, ironically, take many states back to the old AFDC days when only single-parent families could get assistance. This is particularly ironic since other provisions in the bill provide significant new funding for marriage initiatives, including programs that reduce the disparities between the kinds of assistance available to two-parent and single-parent programs.

- **The conference report provides HHS with vast new regulatory authority.** HHS is required to issue a flurry of new regulations governing very minute details of states' welfare-to-work programs, including the method states use to verify the hours that parents participate in the program and the precise definition of each work activity that is countable toward the work participation requirements. There is a real danger that these new regulations will impose costly new mandates on states and, perhaps more importantly, divert human service agencies' efforts away from helping families move toward self-sufficiency to ensuring that all federal paperwork requirements are followed.
- **CBO projects that some states will fail to meet the new requirements and will face fiscal**

penalties as a result. It is widely known that there was a concerted effort to design the work requirements so that CBO would assume that some states would fail to meet the requirements and, thus, be subject to fiscal penalties. This was done in an effort to get around the "Byrd rule," which is a Senate rule that generally prohibits policy changes that do not have a budgetary impact from being included in a fast-track reconciliation bill. Thus, these provisions may have been designed not as good policy, but to secure a budget impact "score" from CBO.