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## CHAPTER IV: Making TANF Work for Individuals with Disabilities

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### Introduction

As states seek to increase engagement in welfare-to-work activities, it is important to consider the special circumstances of families that include individuals with disabilities. In some cases, recipients with disabilities (or caring for children with disabilities) can participate in the same welfare-to-work activities as other recipients, though some may need additional supportive services. In other cases, they may need different activities and/or for different durations to help them move toward employment. Also, some TANF recipients may have disabilities that are so severe that they would be more appropriately served in SSI (Supplemental Security Income).

This chapter examines the legal framework for how TANF programs serve individuals with disabilities and then discusses how states can tailor work activities to meet the needs of families that include individuals with disabilities.

### TANF and Federal Disability Protections

The 1996 law that created the TANF program specifically provides that federal civil rights laws, including Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, apply to TANF programs.<sup>138</sup> The HHS Office for Civil Rights (OCR) has issued guidance to help states and counties understand their obligations under Section 504 and the ADA in their TANF programs.<sup>139</sup> States must ensure that TANF recipients with disabilities have meaningful

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<sup>138</sup> 42 U.S.C. §§608(c)(2) and (3). Section 504 of the Rehabilitation Act of 1973 appears at 29 U.S.C. §794, and the Americans with Disabilities Act of 1990 appears at 42 U.S.C. §12101 et seq. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq., and the Age Discrimination Act of 1975, 42 U.S.C. §6101 et seq., also apply to TANF programs. 42 U.S.C. §§608(c)(1) and (4).

<sup>139</sup> Office for Civil Rights, U.S. Department of Health and Human Services, “Prohibition Against Discrimination on the Basis of Disability in the Administration of TANF (Temporary Assistance for Needy Families),” 2001, <http://www.hhs.gov/ocr/prohibition.html>, hereinafter cited as “OCR Guidance.” In 2005, HHS OCR posted a training video about the Guidance on their website, <http://www.hhs.gov/ocr/tanf/ocrguidance.html>. HHS OCR also

**“The inclusion of these civil rights protections [ADA and Section 504] ensures equal opportunity for persons with disabilities to benefit from all aspects of welfare reform, including access to the proper support services to enable such individuals to work and to keep their families healthy, safe and intact.”**

**- 2001 HHS Guidance on TANF and ADA/504**

access to all aspects of TANF — including welfare-to-work programs — and that reasonable accommodations are made to TANF-related requirements when needed because of an individual’s disability. This legal structure provides important protections for families while giving states flexibility to determine how best to serve recipients with disabilities in their TANF programs.

### **Which Entities Are Covered?<sup>140</sup>**

Section 504 prohibits discrimination on the basis of disability and covers all entities that receive federal financial assistance from HHS, either directly or indirectly, through a grant, contract, or subcontract. The ADA prohibits discrimination on the basis of disability by both public and private entities, whether or not they receive federal financial assistance.

These laws cover all states, counties, and other local governments administering all or part of a TANF program and related programs.<sup>141</sup> Programs are covered regardless of whether they receive TANF funds, other federal funds, or state or county funds, and regardless of whether funds are used to meet the state’s MOE requirement.

### **Which Individuals Are Covered?**

The ADA and Section 504 define an individual with a disability as a person who has a physical or mental impairment that substantially limits one or more of his or her major life activities, a person who has a record of such an impairment, or a person who is regarded as having such an impairment.<sup>142</sup> The laws apply to both adults and children, so TANF programs need to ensure that their programs are accessible and accommodating to families in which either an adult or a child has a disability. The ADA and Section 504 have much broader definitions of disability than the one used for disability-related cash benefits provided through the Social Security Disability Insurance program or SSI.

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issued earlier, less detailed, guidance on civil rights and TANF in 1999, “Civil Rights Laws and Welfare Reform — An Overview and Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform,” Office for Civil Rights, U.S. Department of Health and Human Services, August 1999, <http://www.hhs.gov/ocr/tanfintro.htm>.

<sup>140</sup> For more detailed discussions of the OCR Guidance, see Eileen P. Sweeney, “HHS Guidance Explains How Federal Laws Barring Discrimination Against People with Disabilities Apply in State and County TANF Programs,” Center on Budget and Policy Priorities, February 2001, <http://www.cbpp.org/2-26-01wel.htm>. For more information about the ADA and Section 504 as applied to the TANF program, see Cary LaChen, *Using the Americans with Disabilities Act to Protect the Rights of Individuals with Disabilities in TANF Programs: A Manual for Non-Litigation Advocacy*, Welfare Law Center, September 2004, [http://www.welfarelaw.org/contents/ADA2004\\_manual.html](http://www.welfarelaw.org/contents/ADA2004_manual.html).

<sup>141</sup> OCR Guidance, Part A.1.

<sup>142</sup> OCR Guidance, Part C.2.

## What Do the ADA and Section 504 Require?

Two key principles underlie OCR's analysis of the legal requirements of Section 504 and the ADA in TANF: *individualized treatment* and *effective and meaningful opportunity*.

- **Individualized treatment.** According to the guidance, this “requires that individuals with disabilities be treated on a case-by-case basis consistent with facts and objective evidence. Individuals with disabilities may not be treated on the basis of generalizations and stereotypes.” For example, it is not legal to deny TANF recipients with disabilities access to part of the TANF program “based on the stereotypical view, unsupported by any individual assessment, that people with disabilities are unable to participate in anything but the most rudimentary work activities.”<sup>143</sup>
- **Effective and meaningful opportunity.** The guidance states that “individuals with disabilities must be afforded the opportunity to benefit from TANF programs that is as effective as the opportunity the TANF agency affords to individuals who do not have disabilities, and must also be afforded ‘meaningful access’ to TANF programs.”<sup>144</sup>

These principles have implications for all of the TANF agency's (and its contractors' and vendors') policies and practices. OCR identifies three legal requirements that flow from these two principles. TANF agencies must:

- ensure equal access through the provision of appropriate services to people with disabilities;
- modify policies, practices, and procedures to provide such equal access unless doing so would fundamentally alter the program; and
- adopt non-discriminatory methods of administering the program.

The OCR guidance makes clear that states or counties can meet these obligations in a number of ways. While providing examples of best practices, the guidance does not imply that all states must adopt a particular policy or procedure.

## What Do the Three Legal Requirements Mean for States' Policies and Procedures?

*Requirement #1: Ensure equal access through the provision of appropriate services.* The guidance states that “TANF agencies must afford qualified individuals with disabilities an opportunity to participate in or benefit from TANF programs that is equal to the opportunity the agency offers to individual without disabilities.” To comply with this requirement, “TANF agencies must provide TANF beneficiaries with disabilities with services that are appropriate, and that give these beneficiaries an equal opportunity to benefit from the agency's job placement, education, skills training, employment

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<sup>143</sup> OCR Guidance, Part B; internal footnotes omitted.

<sup>144</sup> OCR Guidance, Part B; internal footnotes omitted.

and other TANF activities.”<sup>145</sup> This requirement applies to the full range of programs and services provided by the TANF agency.

The guidance also states that, “The programs must be provided in the most integrated setting appropriate to the needs of the individuals with disabilities.” In other words, states must ensure that individuals with disabilities “can participate in all programs and services for TANF beneficiaries, not just those programs and services that are designed solely for individuals with disabilities.”<sup>146</sup> While the guidance stresses the importance of trying to integrate recipients into the work activities that are available to recipients *without* disabilities by providing extra supports and services as needed, it also suggests that some recipients may need more specialized activities, at least for some period of time.

In addition, the guidance explains the procedures states need to have in place to determine a TANF applicant’s or recipient’s needs. “It is critical that TANF beneficiaries with disabilities receive an assessment that allows them equal opportunity to benefit from the TANF programs and the assessment process,” the guidance states. Also, before reaching the assessment step, TANF agencies must provide screenings by trained personnel using reliable screening tools. The guidance notes that “at a minimum,” intake workers should be able to recognize potential disabilities and to conduct an initial screening to identify possible disabilities.<sup>147</sup>

The TANF agency also has the “obligation to ensure that service providers have the requisite knowledge, experience, and expertise to serve beneficiaries with disabilities.” This applies to both agency staff and contractors, such as welfare-to-work providers, that provide services to TANF recipients.<sup>148</sup>

In short, the guidance directs states to: (1) integrate individuals with disabilities into work activities that other recipients participate in when appropriate, by providing them with the additional help and supports they need; (2) provide specialized work activities when necessary; (3) put in place effective screening and assessment procedures; and (4) ensure that service providers are equipped to provide quality services to individuals with disabilities.

Requirement #2: Modify policies, practices, and procedures to provide equal access. As the guidance makes clear, states need to ensure that the full range of state TANF policies, practices, and procedures — including the application and eligibility review procedures, employment services provided, requirements (such as work requirements) imposed on families, work-program exemption rules, and sanction policies<sup>149</sup> — promote rather than deny equal access for individuals with disabilities.<sup>150</sup> The guidance recommends that state and county agencies try to determine the extent

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<sup>145</sup> OCR Guidance, Part D.1.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid., 42 U.S.C. §608(b)(1).

<sup>148</sup> Ibid. For a discussion about ways in which to structure contracts and ensure that contractors are meeting their federal civil rights obligations, see Eileen Sweeney, Barbara Bezdek, Sharon Parrott, Carol Medaris and Cary LaCheen, “Language Matters: Designing State and County Contracts for Services Under Temporary Assistance for Needy Families,” 35 *Clearinghouse Review* 508, Jan.-Feb.2002, <http://www.welfarelaw.org/contents/privatization/LanguageMatters.pdf>.

<sup>149</sup> OCR Guidance, Parts D.2 and D.3.

<sup>150</sup> OCR Guidance, Part D.2.

to which various groups of people with disabilities participate in their programs and then use that information to analyze “each step of the TANF program to determine what changes are necessary to ensure people with disabilities have an equal opportunity to access and benefit from TANF programs and related activities.”<sup>151</sup>

Some states have made significant changes in their policies to ensure that individuals with disabilities have access to TANF benefits and services, as explained below. For example, states have helped individuals with disabilities gather required documentation to complete their TANF applications, modified hourly work requirements for these individuals, modified the types of activities in which they must participate, and allowed them to participate in certain work activities (such as education and training) for longer periods when their disability made it difficult for them to complete the program in the standard allotted time.

The guidance explains that states are not obligated to make “fundamental alterations” in their TANF programs in order to ensure equal access for individuals with disabilities. While the guidance does not define “fundamental alteration,” a separate OCR letter of findings on an investigation in Massachusetts makes clear that OCR takes a broad view of what states must do to make their programs accessible and a narrow view of what constitutes a “fundamental alteration.”

For example, regarding the Massachusetts TANF agency’s failure to properly identify and serve adult recipients with learning disabilities, OCR rejected the state’s claim that meeting the needs of these recipients would fundamentally alter the TANF program. OCR noted that a main purpose of TANF is to “end dependence of needy parents on government benefits by promoting job preparation, work and marriage”; thus, modifying a state’s welfare-to-work program to ensure that it promotes job preparation and work for those with learning disabilities would not constitute a fundamental alteration of the program. In addition, OCR noted that a number of other states have crafted programs that provide equal access to those with learning disabilities.<sup>152</sup> Both of OCR’s arguments will apply to most — and perhaps all — changes that would be needed to enable people with disabilities to participate in state TANF programs.

*Requirement #3: Adopt non-discriminatory methods of administration.* In explaining the requirement that TANF agencies adopt non-discriminatory methods of administration, OCR has stated that the phrase “methods of administration” applies both to “official written policies” of the TANF agency and the “actual practices” of the agency.<sup>153</sup> In other words, having good policies on paper is only part of the agency’s responsibility. Training staff to implement the policies and providing the resources to ensure that implementation occurs are essential as well.

OCR identifies a number of steps a TANF agency should take to ensure that its policies and practices are not discriminatory:

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<sup>151</sup> Ibid.

<sup>152</sup> See HHS OCR letter of findings to Claire McIntire, Commissioner, Massachusetts Department of Transitional Assistance, 2001, pages 20-21, [http://www.masslegalservices.org/doc/5428\\_OCR-to-Mcintire.pdf](http://www.masslegalservices.org/doc/5428_OCR-to-Mcintire.pdf).

<sup>153</sup> 28 C.F.R. Part 35, Appendix A, §35.130 at 467 (1996) (commentary to Title II ADA regulations).

- train staff to provide equal access to TANF programs for individuals with disabilities and ensure that trainings occur for staff of service providers that have contractual or vendor relationships with the TANF agency;
- establish clear written policy that incorporates modifications to policies, practices, and programs to ensure equal access;
- conduct regular oversight of TANF programs and services to ensure equal access; and
- take any additional steps to otherwise ensure that its policies and practices (or those of its contractors or vendors) do not subject individuals with disabilities to discrimination.<sup>154</sup>

## **TANF Work Participation Requirements and People with Disabilities**

The DRA imposes significantly higher effective work participation requirements on states. Until the TANF regulations are released, it is difficult to know precisely how much flexibility states will have both to determine which work activities can count toward the participation rates and to tailor appropriate work-related activities to the individual circumstances of recipients with disabilities (and count that participation toward the work participation requirements). Nevertheless, states can begin planning now to meet the goals of providing effective services for individuals with disabilities while increasing their work participation rates. Possible steps include:

- **Improving screening and assessments.** As previously noted, states must provide assessments in any case in which there is any suspicion that the person has a disability. For a detailed discussion about screening and assessment, see page 39 in Chapter II.
- **Developing a system of supportive services to help individuals with disabilities succeed in a range of welfare-to-work activities.** Individuals with disabilities may be able to succeed in a broad array of welfare-to-work programs with additional help. Regardless of the activity to which they are assigned (vocational training, work experience, job search, etc.), though, they may need additional supports. These may include intensive case management, assessments to determine whether a learning disability or other condition is impeding the person's ability to understand and follow instructions or training material, interventions designed to help the individual overcome the impediments posed by the learning disability, and help in solving transportation difficulties.
- **Developing a set of work activities tailored to the needs of individuals with certain types of disabilities.** For some individuals, such as those with untreated (or unsuccessfully treated) mental health problems or serious substance abuse problems, tailored interventions may be necessary before they can participate in standard work activities, such as vocational education, job search, or transitional jobs programs. For others, in contrast, established employment services targeted to individuals with disabilities may be effective. The key is for states to have as broad a set of activities in their "tool box" as possible and then use screenings and assessments to match recipients to appropriate activities. Also, the agency may want to develop new work

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<sup>154</sup> OCR Guidance, Part B.c.

activities aimed at individuals with disabilities, such as supported work programs that provide meaningful workplace experience and training coupled with intensive case management and other supports that can help individuals move toward employment.<sup>155</sup>

- **Partnering with state and county agencies that specialize in assisting individuals with disabilities.** While developing effective employment programs for individuals with disabilities has not been a primary focus of many state TANF programs, other government agencies and non-profits have been working on this issue for many years. These organizations can provide employment services for TANF recipients with disabilities or advise TANF agencies about how best to do so. These organizations may be able to develop effective programs on a shorter timeframe than other providers of employment-related services.

In a special project to identify TANF recipients with serious barriers to employment and provide employment-related services to them, the Ramsey County, Minnesota, TANF agency partnered with psychologists and service providers from other government and nonprofit agencies with expertise working with individuals with disabilities (see page 42 in Chapter II for more information). A Mathematica report found that these partnerships proved valuable both in helping diagnose individuals' disabilities and in developing workable employment plans for individuals with disabilities. The TANF agency noted that its partners in this project had a different perspective on the barriers and strengths of TANF recipients and knew about other available resources in the community to assist clients.<sup>156</sup>

- **Using the “community service” work activity to help individuals overcome barriers that prevent them from participating in certain work activities and engaging fully in the community.** Many states require some individuals to engage in community service activities to fulfill some or all of their required hours of participation. Some states have counted activities designed to help a recipient overcome a barrier to employment as “community service”—a work activity that is fully countable toward the federal work participation rate. Depending on how the TANF regulations are written, the community service work activity may provide states and counties with a real opportunity to help recipients with disabilities move to greater independence, both in their level of functioning in the community and in their ability to secure employment.
- **Counting as work the time a parent spends caring for a child with a disability or an adult relative with a disability.** According to the General

“Agencies that serve people with disabilities have been in the business of helping those often classified as ‘unemployable’ to find long-term employment opportunities for many years... by hiring staff that had worked in employment-related programs for seriously mentally ill individuals, Ramsey County [MN] was able to link its TANF program with a broad range of programs to address the broad range of personal and family challenges recipients faced.”

- Mathematica Policy Research, Inc., March 2006

<sup>155</sup> For a discussion of lessons that can be learned from the work in the disability community over the past couple of decades in helping people with disabilities to secure and retain employment, see “Employing Welfare Recipients with Significant Barriers to Work: Lessons from the Disability Field,” The Lewin Group for the Annie E. Casey Foundation, October 2000, <http://www.aecf.org/publications/welfareanddisabilities.pdf>.

<sup>156</sup> La Donna A. Pavetti, Jacqueline Kauff, “When Five Years is Not Enough: Identifying and Addressing the Needs of Families Nearing the Time Limit in Ramsey County, Minnesota,” Mathematica Policy Research, March 2006, page 22, [http://www.mathematica-mpr.com/publications/redirect\\_pubsdb.asp?strSite=pdfs/timelimitramsey.pdf](http://www.mathematica-mpr.com/publications/redirect_pubsdb.asp?strSite=pdfs/timelimitramsey.pdf).



Accountability Office (formerly the General Accounting Office), 15 percent of TANF families include a child with a disability, and half of those families include both a child and an adult with a disability.<sup>157</sup> In some states, caring for a child with a disability or an adult relative with a disability counts as community service or another form of countable work activity. Depending on how the final TANF regulations are written, states should be sure to make appropriate accommodations in their work requirements for families that are caring for children and other family members with a disability.

While many of these parents will need to devote considerable time to caring for the family member with a disability, states should afford them opportunities to engage in other work activities (such as education and training) that can help them move toward employment if appropriate. Many of these parents will be able to participate in standard work activities for fewer hours than the federal work participation requirements call for and will need additional supports (including help in caring for the child or other family member) to make progress in these programs.

- **Serving some individuals with disabilities outside TANF if the services they need do not count toward the participation rates.** Some recipients with disabilities may need services that are not countable toward the federal work rates. States should consider establishing a separate program outside of the TANF structure (that is, a program that is not funded with TANF or MOE funds) that can provide income assistance to such recipients. Moreover, states can still use TANF or MOE funds to finance *services* for these families — such as employment or pre-employment services, substance abuse treatment, or mental health services — as long as the family’s income assistance is provided through a program that does not receive TANF-related funds.

(Note that the extent to which a significant number of families will need services that are not countable toward the federal work participation rate will depend to a very large degree on how HHS crafts its regulations related to countable work activities.)

## **What Have States Done to Help Recipients with Disabilities Move Toward Employment?**

States have taken a variety of approaches to make their TANF programs accessible and effective for families that include members with disabilities. Some brief examples are given below.

### **Comprehensive Policy and Procedure Review**

Virginia conducted a comprehensive review of its policies and procedures to determine whether there were areas that either did not comply with the ADA and Section 504 or could be made more

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<sup>157</sup> Fifteen percent of TANF families with an adult recipient had a child with a disability, compared to three percent of the non-TANF population. Eight percent of TANF families included both an adult and a child with disabilities. (Among non-TANF families, this figure is one percent.) See, “Welfare Reform: Outcomes for TANF Recipients with Impairments,” General Accounting Office, GAO-02-884, July 2002, page 13, <http://www.gao.gov>.



accessible to applicants and recipients with disabilities.<sup>158</sup> On the basis of this review, the Department of Social Services made numerous changes throughout its TANF and welfare-to-work program rules. For example, a revised manual for state employees spells out accommodations that must be made in the application process, stating that people with disabilities are entitled to help with completing the application and with collecting the needed verification documents.<sup>159</sup> If a disability prevents an applicant from attending an intake interview at the welfare agency, the TANF agency must provide home visits or telephone interviews or interview a claimant's authorized representative.<sup>160</sup> Also, employability assessments must be scheduled at a time that does not conflict with the applicant's medical, mental health, or other appointments for treatment, to the greatest extent possible.<sup>161</sup>

The Virginia policy manual also explains the types of changes to the state's standard work requirements that should be made for an individual when needed because of a disability. These changes include:

- a waiver of the requirement that the person engage in a second work activity if needed to bring the total work hours up to the federal standard;
- reduced required job contacts during job search;
- an allowance to remain in work activities for longer than typically permitted;
- not assigning recipients to activities in environments that could prove harmful for a person with their disability, such as ensuring that someone with asthma is not assigned to a worksite that is very dusty;
- assigning recipients to work activities that are consistent with the person's limitations; and
- additional notice of program appointments and additional explanations of program rules.<sup>162</sup>

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<sup>158</sup> In addition to the state examples discussed here, the OCR guidance itself includes a discussion of many "best practices" in areas ranging from quality of notices to sanction and time limit policies. There are a number of other helpful publications that also provide numerous examples of steps that states and counties can take (and have taken). See, for example, Gretchen Kirby and Jacquelyn Anderson, "Addressing Substance Abuse Problems Among TANF Recipients: A Guide for Program Administrators," Mathematica Policy Research, July 2000, <http://www.mathematica-mpr.com/publications/PDFs/addresssubstance.pdf>; Michelle K. Derr, Heather Hill, LaDonna Pavetti, "Addressing Mental Health Problems Among TANF Recipients: A Guide for Program Administrators," Mathematica Policy Research, July 2000, <http://www.mathematica-mpr.com/publications/PDFs/addressmental.pdf>; Amy Brown, "Beyond Work First: How to Help Hard-to-Employ Individuals Get Jobs and Succeed in the Workforce," MDRC, 2001, <http://www.mdrc.org/publications/15/full.pdf>.

<sup>159</sup> The Virginia Department of Social Services TANF and VIEW manual provisions appear at <http://www.dss.virginia.gov/benefit/tanf/manual.cgi>. The notice of manual changes related to the ADA and Section 504 (and Virginia's Human Rights law) appears in Transmittal #27, issued November 18, 2004, see <http://www.dss.virginia.gov/files/division/bp/tanf/policy/transmittals/27.pdf>. The portions cited in this footnote appear at sections 305.10.1.C, 401.1.D, 401.2.A.10, and 401.2.B.1.

<sup>160</sup> Ibid., Section 401.2.A.

<sup>161</sup> Ibid., Chapter 1000.4.A.4.

<sup>162</sup> Ibid., Chapters 901.1.2.C, 1000.7.C and pages 43, 45; Chapter 1000.7.A.3; Chapters 1000.4.B.3.0 and 1000.5.A.7.

The policy manual recognizes that disabilities are often the reason for non-compliance with TANF program rules and states that individuals should not be sanctioned or disqualified from other aspects of the TANF program if their failure to comply is the result of a disability.<sup>163</sup>

The manual made clear to staff what the rules are, how they are to be implemented, and who is responsible for various tasks, such as deciding on the accommodations needed by a particular recipient.

### **Helping Recipients with Disabilities Succeed in Work Programs**

Some states have designed programs or policies that give people with disabilities the extra help they need to succeed in welfare-to-work programs. For example, Tennessee created the Family Services Counseling (FSC) program to identify and assist families with barriers to employment, including mental health or substance abuse problems, domestic violence, learning disabilities, or children's health/behavioral health problems.<sup>164</sup>

In FSC, families are referred to a social worker at a private non-profit agency that is under contract with the state's TANF agency. These social workers help identify barriers faced by the families and provide case management and other supports (such as placing individuals in mental health counseling or substance abuse treatment where appropriate) to help families address those barriers so they can participate successfully in work programs. While just 14 percent of families are working when they begin FSC, 49 percent are working by the time they successfully leave the program. (Families leave the program when the FSC case manager determines that the barrier has been resolved or the family no longer needs FSC services.)

It is important to understand that such families' path to success is not necessarily linear. One-fifth of families that successfully leave FSC have a subsequent referral to the program and need additional help.<sup>165</sup> Further, among those who are successful, the state and its staff worked with the individuals or families for significant periods of time, averaging 110 days but ranging from two days up to 330 days.<sup>166</sup>

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<sup>163</sup> Ibid., Section 901.6.B; Chapter 1000.12.A.2.

<sup>164</sup> "The services offered in this work component [Family Services Counseling] include comprehensive screening and assessment, short-term counseling services, intensive case management, referral, and advocacy for eligible Families First [TANF] participants and their families who have been identified as having barriers which appear to be interfering with their ability to become self-sufficient. Masters level mental health professionals have been contracted to provide these services to Families First participants throughout the state. Services are community based in locations convenient to Families First clients, such as county DHS offices, other service provider locations, and in contract agencies. Family Services Counseling is not intended to duplicate services funded by TennCare or replace existing resources in the community." *Families First Contractor Manual, Fiscal Year 2005-2006*, Tennessee Department of Human Services, page 42, <http://tennessee.gov/humanserv/contractor-manual.pdf>. For a detailed discussion of the FSC program, see pages 42 through 59 of this document.

<sup>165</sup> Deborah Godwin Perkins, Karen Homer, "2002 Family Services Counseling Evaluation Report," University of Tennessee College of Social Work, Office of Research and Public Service, June 2003, Appendix E.

<sup>166</sup> Ibid. The median time was 101 days. 6.3 percent were served in less than thirty days; 38.2 percent in 30 to 90 days; 39.9 percent were served in 91 to 180 days; 14.5 percent were served in 181 to 270 days; and 1.1 percent were served in over 270 days.

Another example of a successful state program to serve families with barriers is Iowa's Family Development and Self-Sufficiency (FaDSS) program.<sup>167</sup> The Department of Human Services contracts with the Department of Human Rights, Division of Community Action Agencies, to administer the FaDSS Grant Program. That agency then subcontracts with 18 organizations across the state to provide FaDSS services.<sup>168</sup> As FaDSS explains:

The foundation of FaDSS is regular home visits with families, using a strength-based approach. Core services include support, goal setting, and assessment. Support is given in many ways such as referrals, group activities, linking families to communities and advocacy. Assessment aids the family to identify strengths that they possess that may be used to eliminate barriers to self-sufficiency. Goal setting helps families break down goals that seem out of reach into small steps that will lead to success.<sup>169</sup>

A large number of FaDSS participants have mental health problems, and the FaDSS program has been successful at helping a large share of those with identified mental health issues secure treatment.<sup>170</sup>

In addition, FaDSS provides a 90-day transition component for those leaving welfare, keeping in touch with them over a follow-up period, helping them address any obstacles that may arise, and otherwise supporting their move into employment. More than 73 percent of families who received transition services were still off welfare a year later.<sup>171</sup>

### **Partnering with the State Vocational Rehabilitation Agency**

Some states, like Vermont, have partnered with the vocational rehabilitation (VR) agency to provide services to people with disabilities on TANF, often using TANF funds to expand the VR agency's capacity to provide vocational services to TANF recipients with disabilities.<sup>172</sup> In Vermont,

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<sup>167</sup> The Iowa state plan describes the FaDSS program this way, "This program provides intensive family development services to families receiving FIP and identified as having multiple or severe barriers to self-sufficiency. FaDSS participants leaving FIP for reasons other than a sanction can continue to receive services for a limited period after leaving the program. Former cash recipients receiving FaDSS services continue to receive monthly home visits during the limited period to help enable them to progress toward permanent self-sufficiency. Former cash recipients receiving FaDSS services are not required to complete any type of application form or to meet any income or resource eligibility criteria. The program is available statewide and services are provided by contracted agencies." See, "State of Iowa State Plan for Temporary Assistance for Needy Families (TANF), Effective October 2004," page 11, [http://www.dhs.state.ia.us/dhs2005/dhs\\_homepage/docs/TANF\\_STATE\\_PLAN\\_AMENDMENT\\_10-01\\_FINAL.doc](http://www.dhs.state.ia.us/dhs2005/dhs_homepage/docs/TANF_STATE_PLAN_AMENDMENT_10-01_FINAL.doc).

<sup>168</sup> See the FaDSS website, <http://iowafadss.org>. For an excellent description of the program and how it works, see the "big book" on the website. Section 2.1 describes the FaDSS concept in greater detail. [http://www.iowafadss.org/big\\_book/bigbook\\_docs/2.1-2.3\\_conceptpaper.doc](http://www.iowafadss.org/big_book/bigbook_docs/2.1-2.3_conceptpaper.doc). See also annual report, <http://www.iowafadss.org/outcomes/FY03-r-annual%20report.pdf>.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Outcomes, fiscal year 2004, page 2, <http://www.iowafadss.org/outcomes/FaDSSSummaryFY04.doc>.

<sup>172</sup> For a discussion about thinking through TANF and VR agreements and work arrangements, see Jean Radtke, Sue Scholfield, "Report from the Study Group on TANF and Vocational Rehabilitation: Partnering for Employment Success," 28<sup>th</sup> Institute on Rehabilitation Issues, Washington, DC, May 2003, available at

counselors from the Division of Vocational Rehabilitation who are specifically identified to work with TANF recipients work collaboratively with TANF case managers to develop a mechanism for identifying recipients with disabilities and other barriers to work and to develop an employment plan for them.<sup>173</sup>

Since its inception in 2001, the Vermont program has helped 278 welfare recipients with disabilities become successfully employed. Over that same period, a similar number of recipients have become successfully employed through the state's regular VR program, which provides less-intensive services than those provided by the VR-TANF program. On average, though, participants in the VR-TANF program needed significantly less time to become successfully employed: 15 months on average.<sup>174</sup>

## **Helping TANF Recipients with Disabilities Navigate the SSI Application Process**

The vast majority of people with barriers to employment in the TANF program are not sufficiently disabled to qualify for Supplemental Security Income (SSI). However, some people now receiving TANF have disabilities that do meet the rigorous SSI standard of disability.

Helping individuals with disabilities this severe to transfer from TANF to SSI can benefit both the state and the individual. For the state, an adult who receives SSI is no longer counted in the state's work participation rate, and TANF funds are no longer spent for the parent (although they generally continue at a lower level for the children in the family). For the individual, monthly SSI benefits generally are substantially more than the individual's portion of the TANF grant. (In 2006, the federal SSI benefit is \$603 per month for an individual.) And, to the extent that the person may be able to attempt to work in the future, SSI provides significant work incentives and supports.

### **Brief Background on SSI**

SSI provides needs-based assistance to people with disabilities and those who are elderly (aged 65 and older). Since its creation in 1974, it has become a key source of support for people with disabilities.<sup>175</sup> About 5.1 million people with disabilities receive SSI, some 2.8 million of whom have severe mental impairments such as schizophrenia, severe depression, or mental retardation. SSI also provides benefits to children with severe disabilities living in low-income families.

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[http://www.rlr.uwstout.edu/pdf/iri/28th\\_IRI\\_Final.pdf](http://www.rlr.uwstout.edu/pdf/iri/28th_IRI_Final.pdf). At tables 4 and 5, pages 65 - 68, there are lists of state and local VR and TANF partnerships.

<sup>173</sup> Johnette T. Hartnett, "Vermont's Response to Welfare Reform for People with Disabilities: An Evaluation of Vermont's Vocational Rehabilitation (VR) and PATH Partnership," University of Vermont, Fall 2002, page 4.

<sup>174</sup> Email correspondence with Michael Collins, Vermont Department of Vocational Rehabilitation, DAIL, March and April 2006.

<sup>175</sup> For a longer discussion of the accomplishments of the SSI program, see Eileen P. Sweeney and Shawn Fremstad, "Supplemental Security Income: Supporting People with Disabilities and the Elderly Poor," Center on Budget and Policy Priorities, August 17, 2005, <http://www.cbpp.org/7-19-05imm.pdf>.

Individuals with disabilities who are poor enough to qualify for TANF almost always meet SSI's income and asset eligibility criteria, which are often more generous than state TANF eligibility rules.

The SSI eligibility criteria for disability are stringent. SSI's definition of "disability" is the same as the one used in the Social Security disability program: a person must have a physical or mental impairment that will last at least 12 months or is expected to end in death and must prove that he or she is not able to engage in "any substantial gainful activity" as a result of the impairment or combination of impairments. The definition of disability for children is somewhat different, but equally stringent. Children must show that they have "marked and severe functional limitations."<sup>176</sup>

### **States Can Be Reimbursed for Assisting Individuals Awaiting SSI Eligibility Determination**

Because SSI approval generally takes many months and is retroactive, a successful applicant can receive back benefits. This money often can provide a family with a small reserve fund or cushion to meet needs. Alternately, a state may be reimbursed for "interim assistance" it provides to an SSI applicant if the applicant is ultimately found eligible for SSI. The state would be reimbursed for this assistance out of any lump-sum payment owed to the applicant for retroactive benefits. (Applicants would first have to sign an interim assistance agreement with the state.)

Under HHS rules, a state can provide MOE-funded assistance to a family in which an individual is awaiting an SSI determination and then, if the individual is found eligible for SSI, receive reimbursement for that individual's share of the MOE-funded assistance provided to the family. The funds reimbursed to the state become income to the state's TANF program and can be spent in a TANF program or in a separate MOE-funded program. (They cannot, however, be claimed toward the state's MOE requirement.<sup>177</sup>) Thus, states can help TANF recipients with serious disabilities gain access to SSI and use the reimbursement for interim assistance to partially finance TANF benefits and assistance applying for SSI (discussed below) provided during the SSI application period.

### **States Can Help Individuals Navigate the SSI Application Process**

Over the past few decades, some states have undertaken initiatives to help some recipients of state assistance with severe disabilities to apply for SSI. They have done this either by contracting with legal services organizations or private attorneys to represent individuals when they apply for SSI, or by assigning in-house state human service agency staff to help individuals apply for SSI. Originally, states set up these arrangements for representation to help general assistance recipients with serious

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<sup>176</sup> Section 1614(a)(3)(A) of the Social Security Act, 42 U.S.C. §1382c(a)(3)(A) (adults); section 1614(a)(3)(C) of the Social Security Act, 42 U.S.C. §1382c(a)(3)(C) (children).

<sup>177</sup> Section 1631(g) of the Social Security Act, 42 U.S.C. §1383(g). Interim assistance "means assistance financed from State or local funds and furnished for meeting basic needs" during the period following the month of application for SSI for which the person is eligible for benefits. It also can cover a period during which SSI benefits have been terminated and an appeal is pending. Reimbursement is available "upon written authorization of the individual." The state must have an interim assistance agreement in effect with SSA. Sections 1631(g)(1), (3) and (4), 42 U.S.C. §§1383(g)(1),(3), and (4). Information on how reimbursement can be sought for benefits funded with MOE funds was received via email communication with the Department of Health and Human Services.

health conditions to apply for SSI. Over time, some states expanded their programs to assist children with severe disabilities in the foster care system and, most recently, to assist some TANF parents and children with severe disabilities.

It is important to recognize that because SSI's definition of disability is restrictive, few TANF recipients will be eligible for SSI. Nevertheless, it is clear that there are parents and children on TANF with serious health conditions who may qualify for SSI. Helping such individuals gather the necessary medical evidence to support an SSI application can make a significant difference in whether their application is approved or denied. Further, this form of assistance can help individuals provide the necessary information earlier in the application process, reducing processing delays and the likelihood that an application will be denied only to be approved on appeal.

The following are examples of state-funded SSI application assistance efforts:

- **Wisconsin.** The Wisconsin Department of Workforce Development recently entered into a three-year contract with three organizations in Milwaukee County (United Migrant Opportunity Services, La Causa, Inc., and Legal Action of Wisconsin, Inc.) to provide SSI application assistance to TANF recipients in the county who appear eligible for SSI.<sup>178</sup>
- **Maryland.** The Disability Entitlement Advocacy Program (DEAP), run by the Maryland Department of Human Resources, helps people file for SSI and Social Security disability benefits. To be eligible for DEAP, individuals must be receiving some form of state-administered cash assistance (TANF or Adult Public Assistance), and their treating physician must certify that their disability will last at least 12 months.

Local social services departments refer such individuals to the DEAP office. People whose condition has lasted at least 12 months are required to participate in DEAP; those whose conditions are expected to last 12 months but have not yet reached that benchmark can volunteer for the program. DEAP staff help individuals complete the application for SSI (and SSDI) and assist with appeals at the Social Security Administration (SSA), including providing legal representation.<sup>179</sup>

Families that are required to apply for SSI and are eligible for TANF assistance (as opposed to other state aid programs) are placed in a separate state MOE-funded program. This ensures that the state can be reimbursed for the interim assistance it provides the individual before SSI benefits are paid.<sup>180</sup>

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<sup>178</sup> "DWD Selects W-2 Agencies for 2006-09 Contract Period," Wisconsin Department of Workforce Development News Release, September 9, 2005, [http://dwd.wisconsin.gov/dwd/newsreleases/2005/070905\\_w2\\_contract\\_selection.htm](http://dwd.wisconsin.gov/dwd/newsreleases/2005/070905_w2_contract_selection.htm).

<sup>179</sup> <http://63.236.98.116/how/srvadult/deap.htm> and <http://63.236.98.116/fia/deap.htm>.

<sup>180</sup> *Temporary Assistance to Needy Families State Plan, October 2005 Revision*, State of Maryland, <http://www.dhr.state.md.us/fia/doc/newtanfplan.pdf>.

- **Minnesota.** As part of initiative to get a better sense of the barriers facing families about to hit the time limit, Ramsey County, Minnesota, contracted with Southern Minnesota Regional Legal Services and a private attorney to help TANF recipients who had serious health problems as they applied for SSI. Individuals received help filing applications and obtaining medical and psychological evidence, transportation to appointments, legal counsel at meetings related to the application, and links to community resources while they awaited the SSI decision.<sup>181</sup> The project also included health and in-depth psychological assessments and home visits by professional clinical staff who served as project consultants. The information gleaned from these exams and visits not only helped the county agency design strategies to assist particular families, but also provided important reports that were submitted to SSA. Unfortunately, many of the services provided under the program were cut back due to budget constraints, but the county continued the part of the program that helped individuals through the SSI application process.
- **Vermont.** As part of its larger contract with the Vermont TANF agency (described above), the Vermont Division of Vocational Rehabilitation helps TANF recipients with severe disabilities apply for SSI. The VR agency reports that some long-time TANF recipients have serious disabilities that were never properly diagnosed and that these individuals should have been referred to SSA to apply for SSI many years earlier.<sup>182</sup>

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<sup>181</sup> La Donna A. Pavetti and Jacqueline Kauff, page 8.

<sup>182</sup> Email correspondence with Michael Collins, Vermont Division of Vocational Rehabilitation, April 2006.



