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SUMMARY OF TANF WORK PARTICIPATION PROVISIONS IN THE BUDGET RECONCILIATION BILL

By Mark Greenberg and Sharon Parrott

The budget reconciliation bill includes a set of provisions related to TANF and federal child care funding, including changes to TANF work participation rules.[1] This document provides a brief summary and a more detailed explanation of each change.

In brief:

Effective October 1, 2006, each state would be required to meet a 50 percent participation rate for all families receiving assistance, and a separately calculated 90 percent participation rate for two-parent families, with each rate adjusted downward for any caseload decline that occurs after 2005 for reasons other than changes in eligibility rules. The rates would be calculated based on the combination of families receiving TANF assistance and families receiving assistance in state-funded separate state programs that count toward the TANF maintenance of effort requirement.

Current law requirements related to the hours an individual must participate and the set of activities in which they must be engaged in order to count toward the work rates would not change under the bill. However, the bill directs HHS to publish regulations by June 30, 2006 specifying when an activity counts as one of the federally listed activities, uniform reporting requirements and verification requirements for participation, and circumstances under which a parent who resides with a child should be included in the work participation rates.

The bill does not change the existing penalty for failing to meet work requirements. Under the penalty structure, the first year in which a state fails to meet the "all families" work participation rate can result in the state's block grant being reduced by up to 5 percent. This maximum penalty can be reduced based on the severity of noncompliance. The penalty can also be waived under "corrective compliance" procedures for states with approved corrective compliance plans, and HHS may also choose to waive penalties upon determining that a state has "reasonable cause" for failing to meet the work rates. In subsequent years of noncompliance, the maximum penalty amount increases.

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[1] Both the House and Senate passed the conference agreement on the budget reconciliation bill, but the Senate version differs in small ways from the version passed by the House. (Several provisions in the conference agreement violated Senate rules related to reconciliation bills and, thus, were stricken prior to the Senate vote on the bill.) The House is expected to vote on the version passed by the Senate in early February.

Under current regulations, the penalty for failing to meet the two-parent rate is based on the proportion of a state's caseload that consists of two-parent families and, thus, is generally small in dollar terms.

The bill also does not change the provision of law requiring states that fail to meet either or both of the work participation rates to meet a higher maintenance of effort requirement (80% of 1994 spending vs. 75% of 1994 spending) in the same year that the state failed to meet the work rate. (That is, if a state fails to meet a work rate in 2008, it must meet the higher MOE requirement *in 2008*.)

The bill adds a new penalty of up to 5 percent for a state's failure to establish or comply with procedures for counting and verifying work activities.

The bill provides for an additional $200 million in federal matching child care funds for states each year from 2006 through 2010.

Additional detail about each new change:

Caseload Reduction Credit Based on Caseload Declines Since 2005

Under current law, a state's "all families" work participation rate is adjusted down by 1 percentage point for each percentage point reduction in the number of families receiving assistance in TANF or state programs counting toward maintenance of effort requirements as compared to the number of families receiving assistance in 1995. The two-parent family rate is adjusted downward based on the reduction in the number of two-parent families receiving assistance as compared to 1995. In calculating a state's caseload reduction credit, the state may only count caseload declines that were not the result of changes in eligibility rules.

Under the budget reconciliation provisions, a state's "all families" work participation rate would be adjusted down by 1 percentage point for each percentage point reduction in the number of families receiving assistance in TANF and MOE-funded programs as compared to the number of families receiving assistance in **2005**. The two-parent family rate would be adjusted downward based on the reduction in the number of two-parent families receiving assistance as compared to **2005**. **Effective date: FY 2007, beginning October 1, 2006.**

Under the reconciliation provisions, a state that does not see its caseload decline as compared to 2005 must meet the following participation rates:

All Families	**50%**
Two-Parent Families	**90%**

For 2007 and future years, any downward adjustments in the rates would be calculated based on caseload decline since 2005. For example, if the state's caseload falls by 10 percent between 2005 and 2006, its required all-families rate in 2007 would be 40 percent. If the state's caseload goes up in 2007, so that the decline from 2005 to 2007 is 5 percent, the required all-families rate in 2008 would be 45 percent.

Separate State Programs Included in Participation Rate Calculation

Under current law, the federal work participation requirements (as well as other requirements, such as time limits and child support assignment) do not apply to families receiving assistance in "separate state programs" — programs that receive no federal TANF funding but do receive state funding that counts toward the state's maintenance-of-effort (MOE) requirement.

States have provided assistance to families in separate state programs for two major reasons. First, states have placed families in a separate state program (SSP) when the state thought the federal work requirements were inappropriate. Some states used SSPs for families who were attending postsecondary or other educational programs that lasted for more than 12 months. Others used SSPs for families with barriers to employment. States typically required families in SSPs to participate in activities, but the activities themselves often differed from those allowed under the federal requirements. In some cases, the hourly requirements were different as well.

Many states also have provided assistance to two-parent families through SSPs. This ensured that if the state did not meet the very high participation rate that applied to two-parent families (90% less the applicable caseload reduction credit), it would not face a fiscal penalty. Also, states that failed to meet the work participation rates — including states that failed to meet only the two-parent family rate — are required under current law to meet a higher MOE requirement, so placing two-parent families in SSPs made it possible for some states to reduce their MOE expenditures .

Under the budget reconciliation provisions, both the all-families rate and two-parent families rate would be calculated based on all families that receive assistance in either a TANF-funded program or a separate state program counting toward TANF maintenance of effort requirements.[2]

HHS Directed to Issue Regulations

Under current law, the federal TANF statute lists the set of activities that count toward federal participation rates, e.g., unsubsidized employment, job search and job readiness, vocational educational training, etc. Federal TANF regulations do not provide a federal definition of each of the work activities that the statute lists as "countable" toward the work participation rates, and states are able to use their own reasonable definitions of the activities. Federal TANF regulations also do not prescribe how states are required to track or verify recipients' hours of participation. Finally, current regulations do not define when a family should or should not be defined as "child only" for purposes of the work participation requirements.

Under the budget reconciliation provisions, the Secretary of HHS would be required to issue regulations no later than June 30, 2006 that address the following areas:

[2] More precisely, the work participation rate is computed by calculating the number of families in which an adult or minor head of household receives assistance which meet the federal work participation requirement, and dividing this figure by the total number of families in which an adult or minor head of household receives assistance. The only exclusions from this calculation are single parents of a child under age one (for up to twelve months); families receiving assistance under a Tribal family assistance plan or Tribal work program (at state option); and for up to three months in a twelve month period, families under sanction for refusing to engage in work.

(I) determining whether an activity a recipient is engaged in may be treated as a work activity for purposes of the work participation rates;

(II) uniform methods for reporting hours of work by a recipient of assistance;

(III) the type of documentation needed to verify reported hours of work by a recipient of assistance; and

IV) the circumstances under which a parent who resides with a child who is a recipient of assistance should be included in the work participation rates.

The Secretary would be given authority to issue these regulations as "interim final" regulations effective immediately on issuance.

The Secretary's new regulations could have significant implications for which activities count toward the participation rate, how states monitor and collect information about participation, and whether some cases now defined as "child only" might be included in determining a state's work participation rate. There is no way to know now how these regulations would be written — they could be written in ways that do not significantly limit the flexibility states now have to define countable work activities in ways that allow states to count barrier removal activities and broader education activities to count toward the participation rate. They also could be written in ways that significantly restrict states' ability to define these kinds of activities as countable work activities. Similarly, the regulations related to monitoring and verifying participation in activities could be written in ways that are more or less onerous on states, families, employers, and welfare-to-work providers. And, rules related to child only cases could be expansive or limited.

HHS would *not* have authority to specify which activities count as participation; the countable activities are already listed in federal law. However, HHS would have authority to define the activities listed in the law. For example, the law lists "job search and job readiness assistance" as a countable activity and, thus, HHS could define those terms. HHS could not, however, say that a state cannot treat job search or job readiness assistance as activities counting toward work requirements.

States Subject to Penalties for Failure to Have Procedures and Internal Controls

Under current law, TANF regulations do not establish specific verification requirements for state reporting of participation rate

Under the budget reconciliation provisions, States would be required to establish "procedures" and "internal controls" no later than September 30, 2006, for determining whether activities may be counted as work activities, how to count and verify reported hours of participation, and who is a work-eligible individual (i.e., subject to the work participation requirements), in accordance with the new HHS regulations.

The bill would authorize HHS to impose penalties of at least 1 percent of a state's TANF grant and up to 5 percent for violating these requirements, with the amount of the penalty based on the severity of failure.

Additional Child Care Funding

The reconciliation bill includes $200 million in additional child care funding for each year from 2006 through 2010. These are "matching" funds and, thus, states would be required to match the additional federal funding with state funds. Unfortunately, the additional child care funding is less than is needed just to ensure that current child care funding keeps pace with inflation and far less than CBO estimates states will need to meet the new work requirements by increasing participation in work activities.

For more information, contact Mark Greenberg, Center for Law and Social Policy, mgreenberg@clasp.org, 202-906-8004, or Sharon Parrott, Center for Budget and Policy Priorities, parrott@cbpp.org, 202-408-1080.