

Revised April 11, 2002

## Administration's TANF Proposals Would Limit — Not Increase — State Flexibility by Sharon Parrott, Wendell Primus, and Shawn Fremstad<sup>1</sup>

### Introduction

The Administration has unveiled key details of its TANF reauthorization proposals, including proposed changes in the work participation requirements states must meet.<sup>2</sup> While some aspects of the proposal modestly broaden state flexibility, taken as a whole, the proposals would substantially *limit* the flexibility states currently have to design work programs that respond to the needs of TANF recipients and the condition of the labor market in their states. In a second area — immigrant eligibility — the Administration declined to provide states more flexibility to decide when and under what conditions immigrants in their states should qualify for benefits and services funded with the TANF block grant.

In both the work and immigrant area, the Administration's proposals are in stark contrast to the recommendations of the National Governors' Association, the American Public Human Services Administration (this group represents state human services officials), and the National Conference of State Legislatures. All three groups have called for granting states the flexibility to serve immigrants in TANF-funded programs if they choose and for allowing states broader discretion on the types of work activities recipients could participate in and still be counted toward the work participation requirements states must meet.

### Work Requirements

The Administration's proposed work requirement structure would force many states to abandon many of the strategies they currently use to help parents prepare for, find and retain employment in favor of more costly programs that may be no more effective — and in some cases less effective — than current state efforts.

In particular, under the Administration's proposals, states would be required to place a substantially increased proportion of its caseload in a very narrow set of work activities or be subject to fiscal penalties. For recipients who do not already have an unsubsidized job, they could only be "counted" toward a state's work participation rate if they worked in a subsidized

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<sup>1</sup> The Center for Law and Social Policy made significant contributions to this analysis.

<sup>2</sup> The Administration has released details on a range of welfare-related issues including overall funding levels, work requirements, marriage promotion initiatives, and child support enforcement. This analysis covers only the proposals related to work requirements and immigrant eligibility.

job or participated in work experience, community service, or on-the-job training programs for 24 hours each week, even in cases where the state does not believe that such programs are those best suited to helping a parent succeed in the labor market. The Administration would mandate such an approach despite a lack of research evidence indicating that such a one-size-fits-all work program will be more effective than state-developed work programs at helping parents with varying skill levels and barriers to employment to meet the law's employment goals. In fact, the proposal runs counter to two decades of research on welfare-to-work strategies. The clearest finding from this extensive body of research is that providing a range of employment and training services is the most effective welfare-to-work strategy, not a one-size-fits all model such as the Administration proposes.

The proposal would allow for one limited, but useful, exception to this rigid requirement — participation in substance abuse treatment programs, job training, or rehabilitative services could count for up to *three months* toward the requirement that recipients work in a subsidized or unsubsidized job or participate in unpaid work or community service programs for 24 hours per week.

While the Administration would require states to greatly expand the number of parents participating in more expensive work programs, the Administration's budget freezes TANF and child care funding for the next five years. Thus, federal funding would decline significantly in inflation-adjusted terms — meaning that it could purchase fewer employment services and child care slots in future years than it does today — at the very time that new federal requirements were imposed on states that entailed significant new costs for work programs and child care. (Under the Administration's work participation requirements, the number of recipients needing child care and the number of hours for which they would need such care would increase.)

These policies would put states in a fiscal bind. Many states likely would be forced to scale back substantially the TANF-funded supports — such as child care and transportation subsidies — they now provide for low-income working families that help these families remain employed and off of welfare to pay for the expensive new work programs for welfare recipients for which there is no evidence that they will be more effective than current state work programs.

### **Current TANF Work Requirements**

Under current law, 50 percent of families with an adult that are receiving TANF assistance must be engaged in "work activities" for at least 30 hours per week (or 20 hours per week for single-parent families with a child under age six). A separate provision requires states to have 90 percent of two-parent families engaged in work. These requirements are known as "work participation rate" requirements. In determining whether a state is meeting these requirements, unsubsidized and subsidized employment, job search (for up to six weeks a year), and vocational education (for up to 12 months) count. States are not allowed to count other education or training activities — including basic education and job skills training — toward the first 20 hours per week of the requirements.

### **Administration's Proposal Would End State Welfare Reform Waiver Projects**

Prior to the enactment of the 1996 welfare law, a number of states had received "waivers" to the prior Aid to Families with Dependent Children (AFDC) program rules. The 1996 welfare law allowed states that had received such waivers to continue their programs even if the waiver rules differed from the new TANF rules. Some 20 states are still operating under their waiver rules and in 10 states the waivers were not scheduled to expire until 2003 or later. (These 10 states are: Hawaii, Kansas, Massachusetts, Montana, Nebraska, Ohio, Oregon, South Carolina, Tennessee, and Virginia.) NGA, APHSA, and NCSL all recommended that states be given an option to extend their waivers so that states that had operated successful programs under differing rules could continue to do so. The Administration, by contrast, is proposing to *discontinue* even those waivers that were not scheduled to expire before 2003.

The work participation rates that states must meet are reduced by what is known as the "caseload reduction credit." A state's work participation rate requirements are reduced by one percentage point for each percentage point that the number of people receiving welfare in the state has fallen below the 1995 level.<sup>3</sup> Thus, if a state's caseload has fallen 50 percent or more since 1995 (as has occurred in many states), the caseload reduction credit is 50 percent or more. As a result, the state's required work participation rate would be reduced from 50 percent to zero.

The experience of recent years suggests that these work participation rate requirements have *not* been the central factor in inducing states to move families from welfare to work. These requirements were written into the 1996 welfare law out of concern that states would not otherwise make serious efforts to move families to work. In fact, although the caseload reduction credit has had the unintended effect of significantly reducing or eliminating states' effective work participation rate requirements, states have made vigorous and intensive efforts to move recipients to work, as is reflected in the unprecedented number of families that have moved from welfare to work.

### **The Proposed Work Requirements**

The Administration is proposing the following changes:

1. The caseload reduction credit would be eliminated. (It would be phased out by 2005.)
2. The work participation rate requirement would increase from 50 percent to 70 percent by FY 2007. In addition, the Administration is proposing to eliminate the separate work participation rate that applies only to two-parent families.

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<sup>3</sup> Reductions in caseload caused by state actions since 1995 to make welfare eligibility rules more restrictive do not count for this purpose.

3. To count fully toward the rate, adults would have to participate in work activities for 40 hours a week, instead of the current 30.
4. To count toward the rate, adults would have to participate in a narrow set of work activities for at least 24 hours a week: subsidized or unsubsidized work, on-the-job-training, and community work experience programs. Unlike under the current requirements, job search and vocational education activities would *not* count toward meeting the first 24 hours of the recipient's work requirement. (After the first 24 hours, these activities, along with certain other activities that do not count toward the current work participation rate requirement, would count toward meeting the 40-hour requirement.) The proposal would allow for one limited exception to this requirement. Participation in substance abuse treatment programs, job training, or rehabilitative services could count for up to *three consecutive months* (in any 24 month period) toward the requirement that recipients work in a subsidized or unsubsidized job or participate in unpaid work or community service programs.
5. The Administration plan also would require *all* recipients to be engaged in a work-related activity within 60 days of first receiving TANF assistance. In contrast to the work participation rate rules, states can design the activities that would count toward this requirement, though because states must meet the overall work participation requirements, it is likely that few recipients would be assigned to activities that would not count toward the work participation rate requirements.

The combined effect of these proposals — raising the work participation rate requirement to 70 percent while repealing the caseload reduction credit, raising the number of hours of work needed to “count,” narrowing the range of acceptable employment-related activities that count, and adding on top a requirement for universal engagement within 60 days — would be very significant. Most states would need both to overhaul their TANF programs and to increase their expenditures on work and child care programs.

The Administration also has included three proposals that would address several problems in the current work participation rate structure, but only modestly. States would receive partial credit toward meeting the work participation rate requirement for parents who participate in activities but fall short of meeting the 40-hours per week requirement. The effect of this provision would be limited, however, because states could receive this partial credit only if the parent fully met the requirement that she participate in the narrow set of work activities for 24 hours per week. In addition, states would be allowed to count a limited number of former TANF recipients who are employed toward the work participation requirements. The proposed “employment credit” would be much more modest, however, than the employment credit in a welfare reauthorization bill recently introduced by Rep. Ben Cardin, ranking member of the Human Resources Subcommittee of the House Ways and Means Committee. Under the Administration's proposal, states could count (toward their work participation rates) families that had left welfare and were working, but only for the first three months after the family left

welfare. Finally, recipients would not be counted in the month they first began receiving welfare; this provision appears intended to enable states to require recipients to look intensively for work for a few weeks before being placed in subsidized employment or work experience programs. But many states currently require recipients to participate in intensive job readiness and job search programs for longer than the month in which they first come onto the rolls, especially since many families come on to the rolls late in the month. (While substance abuse, rehabilitative services, and job training could count toward the 24-hour part of the work requirements for three months, it does not appear that intensive job search and readiness programs could.) The net effect of these changes would almost surely be to force states to curtail sharply many of the job search and job readiness programs they currently operate and have found effective.

### **How Would the Administration's Proposal Affect State Welfare Reform Efforts?**

Over the past six years, states have adopted a variety of approaches to help parents find jobs. Some states utilize intensive job search programs that help parents learn how to look for work successfully and often connect parents directly to employers. Some states have placed many parents in work experience programs, while others have turned to subsidized jobs programs for parents who are unable to find unsubsidized work after exhaustive efforts. Some states have focused on identifying parents with disabilities or other barriers to employment and have tailored work activities — such as substance abuse treatment, vocational rehabilitation services, or mental health counseling — to ensure that parents with such barriers get the help they need so they can find and retain employment.

While research studies that cover all 50 states and compare the effectiveness of various work-program approaches are not available, data from states that have adopted varying approaches strongly suggest that states using strategies different from the narrow set of programs the Administration would mandate have been successful in helping large numbers of parents move from welfare to work. Moreover, the most recent research on programs that have been rigorously evaluated finds that, in general, the most effective welfare-to-work programs have had a flexible, balanced approach that offers a mix of job search, education, job training, and work activities and typically have not had large subsidized job or unpaid work experience programs. This research shows that states, and recipients themselves, are too diverse for a rigid, inflexible work program. Despite this research, the Administration's proposal would require states to expand some activities for which there is no hard evidence of effectiveness — such as unpaid work experience — and curtail others that have had success, such as job search and job training.

The Administration's proposal would essentially require all states to operate work programs in which parents must either work in an unsubsidized job or participate in a subsidized or unpaid job or community service activity for at least 24 hours a week. States also would have to ensure that recipients were participating in additional work-related activities for 16 hours per

week. This structure would severely limit a state's flexibility to tailor activities to the needs of families and the realities of the local job market.<sup>4</sup>

Suppose, for example, that a state determined that a recipient had serious barriers to employment — such as a disability, the need to care for an ill or disabled child, a substance abuse problem, illiteracy, or a serious domestic violence situation — and that the parent needed more than three months of specialized activities before she could be successful in a 24 hour per week work experience or subsidized job program. If, under the Administration's proposal, the state tailored activities to the parent's needs and capabilities, the state would be unable to "count" the parent toward the work participation requirements unless the tailored activities matched the narrow set of federally mandated activities.

Under the Administration's proposal, all states would face sharply increased work participation rate requirements that would require them to focus on meeting these requirements to avoid fiscal penalties. Furthermore, most states currently do not focus as heavily on subsidized employment, work experience, or community service as would be required under the Administration's proposal. Nationally, just six percent of TANF recipients participate in these activities each month. States would have to increase dramatically the percentage of recipients participating in these programs.<sup>5</sup> As a consequence, most states would have to reconstruct their work programs, probably jettisoning current employment initiatives in favor of the narrow set of activities that would meet the new prescriptive federal requirements.

Some may argue that because the work participation rates remain below 100 percent, states will continue to have the flexibility to structure different activities for a significant share of its TANF recipients. This is untrue. To achieve a participation rate in the 60 to 70 percent range,

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<sup>4</sup> Requiring parents (except those with young children) to participate in activities for 40 hours each week raises several concerns. First, it represents a significant change from current state practice and would mean that many states would have to revamp their contracts with work program contractors and child care providers to accommodate the additional hours. For example, school-age children may not need any child care if their parents are assigned to 30 hours per week of activities, but may now require after-school care if the parent is assigned to 40 hours of activities. Second, it is unclear whether increasing the hourly requirement from 30 to 40 hours will increase the effectiveness of welfare-to-work programs. Over the past six years, states generally have been more focused on structuring programs that result in employment for parents rather than on developing programs that maximize the number of hours that parents participate in activities. In short, the Administration appears to be mandating a higher hourly requirement that will certainly increase program costs without compelling evidence that increased hours will improve employment outcomes.

<sup>5</sup> Nationally, in FY 2000, about 21 percent of TANF recipients subject to the work requirements satisfied those requirements by working in an unsubsidized job. An additional 7 percent of TANF recipients worked in unsubsidized jobs but work fewer than the hours required to satisfy current law work requirements. Even assuming that 28 percent of recipients can be counted toward the work participation requirements envisioned under the Administration's proposal because they are combining work and welfare, states would have to achieve a very large increase in the proportion of recipients participating in subsidized employment, work experience programs, and community service programs to achieve the Administration's participation rate standards. (It is also important to note that many of those currently combining work and welfare do not participate in work activities for a total of 40 hours each week and, thus, would not be countable toward the Administration's requirement.)

states will need to impose the federally mandated work requirements almost universally. This is for two reasons. First, some parents will not be able to meet the hourly requirements every week because of personal or family circumstances. It appears that under the Administration's proposal, if a parent misses several days of an unpaid work experience program because a child is sick and cannot attend child care, the family would not count at all toward the work participation requirements. Second, even in well-run programs, inevitably there are weeks in which recipients are not in activities because they are waiting for a program to begin a new session, are between work activities or assignments, or they cannot begin a work activity until their child care subsidy arrangement is solidified. Researchers have recognized that in order to attain any given participation rate, a state must actively seek to attain participation for a considerably larger group of families.

Over the past several months, NGA, APHSA, and NCSL have all called for broader flexibility in what activities are countable toward the work participation requirements. In fact, on February 26<sup>th</sup>, NGA approved on a bipartisan basis a new welfare policy that called for states being granted broader — not narrower — flexibility over the types of activities that recipients could be placed in and count toward the participation requirements. These recommendations stem from growing state interest in tailoring work activities more closely to the needs of individual parents rather than being limited to a narrow set of work activities countable toward the work participation requirements. States want to move their work programs in this direction in part because of the substantial evidence that now exists about the number of TANF recipients with serious barriers to employment. A recent study by the General Accounting Office found that 44 percent of TANF recipients had a physical or mental impairment. Similarly, research from the University of Michigan has documented that substantial numbers of recipients have difficulty finding employment due to physical or mental impairments, substance abuse, domestic violence, and very low skill levels.

By narrowing what counts toward meeting work requirements and diverting funding to that very limited set of activities, the Administration proposals will make it more difficult for states to invest in benefits and services that address the significant challenges that remain — helping the harder-to-employ move from welfare to work and helping recipients with persistently low wages qualify for higher-paying jobs.

## **Funding**

Despite requiring states to place substantially more parents in subsidized jobs or work experience programs, the Administration proposes to freeze both TANF and child care funding for five years at the FY 2002 level. In the case of TANF, funding has been frozen since 1997, eroding in purchasing power each year due to inflation. If the TANF block grant remains frozen, by FY 2007, its inflation-adjusted value will be 22 percent lower than in 1997. To meet these heightened work requirements with frozen TANF and child care funding that is falling in purchasing power each year, states would be forced to cut TANF expenditures substantially in

other areas, such as supports for low-income working families that are now funded with TANF and child care block grant funds.

Even without the Administration's proposal to impose far more severe work participation requirements on states, freezing TANF and child care funding for five years would itself mean that most states would be unable to maintain their current welfare reform efforts. Although states did not spend all of their TANF funds in the early years of TANF implementation, this is no longer the case. In FY 2001, states spent \$18.6 billion in TANF funds — some *\$2 billion more* than the \$16.5 billion the federal government provides in TANF funding each year. States were able to spend at the \$18.6 billion level by drawing down unspent TANF funds from earlier years. Those funds, however, are dwindling quickly. Many states either have few remaining reserves of unspent funds from prior years or will be without any significant reserves at some point in the next couple of years. At the same time that these reserves are diminishing, inflation is eroding the value of the TANF block grant. This is particularly problematic because the cost of employment and training programs and child care is comprised largely of salary costs that rise over time with inflation. As these costs increase, states increasingly will be unable to afford the current level of employment services and the current number of child care slots if their federal TANF funding is frozen. States will have to cut back on employment services and child care slots even in the absence of the Administration's work requirement proposals. (NGA, APHSA, and NCSL have all called for increased TANF and child care funding even absent more stringent work participation rates.)

In other words, under the Administration's proposal, states would face a five-year freeze on TANF and child care block grant funding at the same time that the new federally-mandated work program structure substantially increased their work program and child care costs. Furthermore, states would face this combination of decreased "real" funding for TANF and child care and increased work program and child care costs at the very time their reserves of unspent TANF funds from the program's early years were running out. Taken together, these factors would likely force most states to cut significantly into programs that support low-income working families or are designed to meet the law's family formation goals.

If states are forced to scale back supports such as child care for low-income working families, programs designed to help welfare recipients find and retain jobs may be much less successful. If a parent finds a job and leaves welfare but does not have access to child care, transportation or wage supplements — supports that states now fund with TANF and child care block grant funds — the parent is less likely to retain the job and remain off welfare.

Finally, it will be particularly difficult for states with low TANF block grant allocations relative to their needy populations to meet these new requirements. (While the average TANF block grant was about \$1,200 per poor child in FY 2001, more than 20 states received less than \$900 per poor child and eight states received less than \$600.) Such states may have particular difficulty summoning the resources necessary to create large subsidized job or unpaid work experience programs.

## Immigrant Eligibility

The 1996 welfare law generally gave states broad flexibility to determine who is eligible for various TANF-funded benefits and services. The most notable exception to this broad flexibility is that the law imposed more restrictive limits on state flexibility to provide benefits and services to legal immigrants. The welfare law extended eligibility limits that had previously applied only to illegal immigrants to *legal* immigrants who work, pay taxes, and generally have the same responsibilities as citizens. Specifically, states may not use federal TANF dollars to assist most legal immigrants until they have been in the United States for at least five years. This restriction applies not only to cash assistance, but also to TANF-funded work supports and services such as child care, transportation, job training, and English-language instruction. According to the Urban Institute, some 3 million legal immigrants - about one-third of all legal permanent residents in the country - have been in the United States for five years or less.

States are allowed to use their own state funds to provide benefits and services to legal immigrants, including recent legal immigrants. Twenty-three states use their own funds (which can count toward the TANF maintenance-of-effort requirement) to provide benefits and services to recent legal immigrants that are comparable to the benefits and services that these states provide to U.S. citizens using TANF funds. While a majority of legal immigrants in United States live in these states, a substantial number live in states without state-funded benefit programs.

Both the National Governor's Association and the National Conference of State Legislators have recommended that states be given the option to serve recent legal immigrants with federal TANF funds. In declining to grant states this flexibility, the Administration stated that the restrictions are needed to "ensur[e] that welfare policy neither attracts non-citizens to the U.S. to take advantage of welfare nor induces welfare dependency among non-citizens who do not receive welfare benefits."

Immigrants generally come to the United States for better job opportunities, to be reunited with family members, or to escape persecution in their home country. There is little evidence that welfare benefits play a role in their migration decisions. A recent Urban Institute study found that in the last half of the 1990s:

- more immigrant families moved out of states providing generous benefits to legal immigrants and into less generous states than the number of immigrant families who made the reverse move (out of less generous states into more generous states); and

- among immigrants entering the United States from abroad, an increasing share settled in states that provide less generous benefit packages.<sup>6</sup>

If the availability of public assistance influenced immigrants' migration decisions, one would have expected migration patterns that were directly opposite to those found by the Urban Institute. Other recent social science research also finds that differences in the availability or generosity of welfare benefits across states do not have any impact on immigrants' decisions about where to live.<sup>7</sup>

The Administration also claims that the restrictions are needed to prevent welfare dependency among immigrants who do not receive welfare benefits. However, TANF already provides ample safeguards against welfare dependency, including mandatory work requirements and a five-year limit on assistance. These restrictions apply regardless of immigration status. It isn't clear why these protections against dependency are sufficient for citizens and long-term legal immigrants, but not sufficient for legal immigrants during their first five years in the United States.

The Administration's decision to not provide flexibility to states to provide welfare-to-work services to legal immigrants with federal TANF funds is especially misguided given the success of the TANF program for low-income families generally. Most low-income children of immigrants live in working, married, two-parent families. However, their parents have low-wage jobs with limited benefits. Children in immigrant families experience higher levels of hardship than native-born children with native-born parents, in spite of their parents' high levels of employment and their family structure advantages.<sup>8</sup> Work supports and other economic mobility policies could improve immigrants' position in the U.S. labor market and foster greater social integration, just as they have among the rest of the low-income population. The U.S. Commission on Immigration Reform made a similar point when it noted that "deny[ing] legal immigrants access to . . . safety nets based solely on alienage would lead to gross inequities

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<sup>6</sup> Michael Fix and Jeffrey Passel, "The Scope and Impact of Welfare Reform's Immigrant Provisions," The Urban Institute, Discussion Paper 02-03 (January 2002).

<sup>7</sup> See Neeraj Kaushal, "New Immigrants' Location Choices: Magnets without Welfare," CUNY Graduate Center Working Paper (2002); Madeline Zavodny, "Welfare and the Location Choices of New Immigrants," Economic Review, Federal Reserve Bank of Dallas (1997); and Madeline Zavodny, "Determinants of Recent Immigrants' Locational Choices," Federal Reserve Bank of Atlanta, Working Paper 98-3 (1998).

<sup>8</sup> The Urban Institute has found that 65 percent of low-income immigrant families with children were two-parent families in the mid-1990s compared to only 40 percent low-income native families with children, and that 80 percent of working-age immigrant men in low-income families participated in the labor force compared to less than 70 percent of working-age native men in low-income families. Fix and Passel, January 2002

between very similar individuals and undermine our immigration goals to reunite families and quickly integrate immigrants into American society.”<sup>9</sup>

## **Conclusion**

The Administration’s welfare proposals would severely limit states’ flexibility to design and implement welfare-to-work programs that meet the needs of their recipients and economy. The Administration’s proposals also do not include a provision broadly supported among states to give states more flexibility to choose whether and under what circumstances legal immigrants should qualify for TANF-funded benefits and services.

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<sup>9</sup> United States Commission on Immigration Reform, *U.S. Immigration Policy: Restoring Credibility, 1994 Report to Congress* (Washington, D.C.: Government Printing Office, September 1994).