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DESPITE INCLUSION OF “MARRIAGE-PROMOTION” FUNDING, BUDGET BILL WOULD PENALIZE STATES THAT PROVIDE TANF ASSISTANCE TO POOR MARRIED FAMILIES

By Sharon Parrott

In December, the House and Senate each passed slightly different versions of the budget reconciliation conference agreement.¹ The bills include a set of provisions related to the Temporary Assistance for Needy Families (TANF) block grant, including significant changes in the work requirements that states and families must meet. These changes differ significantly from previous versions of TANF legislation that passed the House (both as free-standing TANF bills and as part of the House version of the budget reconciliation bill) and from the TANF bill the Senate Finance Committee approved last year with bipartisan support.

One prominent difference lies in the conference agreement’s treatment of poor married-couple families that receive assistance. The conference agreement requires states to enroll 90 percent of the two-parent families that they assist in work programs for at least 35 hours each week of every month.² States that do not meet the bill’s work participation requirements would be subject to financial penalties.³

Both researchers and state officials have long recognized that such a requirement would be virtually impossible for even the best-run, highest-performing state programs to meet. This provision of the conference agreement thus effectively means that any state that elects to provide aid to poor two-parent families with TANF-related funds would fail to meet the federally imposed work requirements and face fiscal penalties as a consequence.

Prior versions of TANF legislation that passed the House (on three separate occasions) and the Senate Finance Committee, as well as the Bush Administration’s own TANF reauthorization proposal, did *not* impose these unrealistic work participation requirements on two-parent families.

¹ When the Senate considered the budget reconciliation conference agreement, it removed several provisions that violated Senate rules. Thus, the conference agreement has not secured final congressional approval because the versions passed by the House and Senate differ. The House reportedly will vote on the Senate-passed version of the bill on February 1. The House can amend the Senate-passed bill, however, and then send it back to the Senate for consideration. The House also can vote down the bill.

² The bill also requires states to meet a 50 percent participation rate when all families — both single parent and two parent families — are considered.

³ HHS has flexibility to waive penalties in some circumstances or to reduce the size of a penalty below the maximum levels.

To the contrary, both the Administration’s proposal and all earlier House and Senate versions of TANF reauthorization legislation — including the version of the reconciliation bill that the House passed in November — *eliminated* the separate work participation requirement for two-parent families contained in current law because of its inherent anti-marriage bias. Instead, these proposals considered two-parent families on the same basis as single-parent families when determining a state’s overall work participation rate. The Administration’s own description of its welfare reform plan, originally submitted to Congress in 2002, explained:

“The Administration’s proposal will end the separate [work] participation rate for two-parent families; the same participation rate will apply to both single- and two-parent families. This policy removes a disincentive to equitable treatment of two-parent families. Under current law, two-parent families have a far more rigorous work participation rate requirement than do single-parent families...”⁴

The budget reconciliation conference agreement takes a very different tack. It makes the existing work participation requirements for two-parent families considerably more stringent — and far more difficult for states to meet. It thereby significantly increases disincentives for states to treat two-parent families equitably compared to single-parent families, or even to assist poor two-parent families at all.

Creating new incentives for states to restrict aid for two-parent families is a sharp reversal of the policy trend of the past decade. Over the past ten years, about 40 states have eliminated rules from the former Aid to Families with Dependent Children (AFDC) program that made it more difficult for two-parent families to receive assistance than single-parent families. The elimination of the old AFDC-era rules has been viewed by policymakers across the country as an important step in ensuring that benefit program rules do not encourage family break-up.

The imposition of new disincentives for states to aid two-parent families is particularly ironic given that the conference agreement also includes significant new funding for marriage-promotion programs. The bill provides \$150 million per year in funding for marriage promotion and fatherhood programs. (Fatherhood programs can receive no more than \$50 million of this funding.) These funds are intended to support public relations programs that promote marriage, marital counseling and education programs, and “Programs to reduce the disincentives to marriage in means-tested aid programs...”⁵

How Would the Budget Bill Change States’ Work Requirements?

Under current law, states must meet a specified “work participation rate” — that is, a specified percentage of families that receive assistance in a state’s TANF-funded programs must participate in a set of federally defined work activities for a prescribed number of hours each week. The required work participation rate for *all* TANF families (as a group) is 50 percent. In other words, parents in

⁴ *Working Toward Independence*, <http://www.whitehouse.gov/news/releases/2002/02/welfare-book-04.html>.

⁵ See Section 7103 of the conference agreement on the budget reconciliation bill (conference agreement 109-362).

Administration Calls for Removal of Marriage Disincentives in TANF

In testimony before the Senate Finance Committee in May 2002, Wade Horn — the senior HHS official with responsibility for TANF — explained why the Administration’s TANF reauthorization proposal called on states to remove marriage disincentives in their TANF programs and eliminated the separate, higher work participation requirements on two-parent families:

“Second, it is about the government striving to remove disincentives to marriage. In our proposal we seek to remove disincentives to marriage under the welfare system that punish rather than support low-income couples who choose to marry. We would, for example, require States to describe in their State TANF plans their efforts to provide equitable treatment for two-parent married families.

We also would remove the current disincentive to equitable treatment of two-parent families by eliminating the separate two-parent family work participation rate. Under our proposal the same participation rate would apply to both single- and two-parent families. In two-parent families, either adult’s creditable work activities would count toward the proposed 40-hour requirement.”

Source: <http://finance.senate.gov/hearings/testimony/051602whetest.pdf>

50 percent of all families that receive TANF assistance in a state must participate in work activities for a specified number of hours each week (30 hours for parents with children ages six and over, 20 hours for parents with younger children). For two-parent families on TANF, there is a separate, higher participation rate requirement: 90 percent of them are supposed to participate in work activities for at least 35 hours per week (or 55 hours per week if the family receives subsidized child care).

Yet while states have engaged large numbers of families in welfare-to-work activities, states have not actually been required to meet these 50-percent and 90-percent participation rates, for two reasons. First, under current law, a state’s work participation rate requirement is reduced to reflect the extent to which the number of families receiving TANF assistance in that state has fallen below the number assisted in 1995. Because cash assistance caseloads declined substantially during the late 1990s in every state, the applicable work participation rates, after adjustment for this factor, are significantly below the 50-percent and 90-percent rates specified in the law.

Second, many states have placed some or all of their two-parent families into separate programs that are supported entirely with state funds. Under current law, the federal work participation rate requirements do not apply to families receiving assistance in programs funded solely with state resources. (The state funds that are used in such programs are referred to as “maintenance-of-effort” funds. States are required to spend a certain amount of state dollars to qualify for federal TANF block grant funding, and the funds states spend on separate programs for two-parent families count toward this “maintenance-of-effort” requirement.)

A Government Accountability Office analysis found that when states provide aid to two-parent families in a separate state-funded program, they still require parents to participate in work activities.⁶ (See box below.) Providing assistance through a state-funded program simply ensures

⁶ U.S. General Accounting Office, “With TANF Flexibility, States Vary in How They Implement Work Requirements and Time Limits,” GAO-02-770, pages 19-20, July 2002, <http://www.gao.gov/new.items/d02770.pdf>.

that the state will not be penalized if it fails to meet the requirement that 90 percent of all two-parent families receiving assistance participate in work activities for at least 35 hours each week.⁷

Researchers and state officials have long noted that even the best-run, high-performing state programs cannot meet a 90-percent participation rate because there are numerous legitimate reasons why more than 10 percent of these families cannot attend every hour of scheduled activities every week of every month. Parents who become ill and miss just a few days of scheduled activities will not count toward their state's participation requirement, even though they have not broken any program rules or failed to comply with any requirements. Similarly, parents who must miss a few days during a month for school or medical appointments for their children — a number of whom have special needs and physical and mental disabilities — as well as parents who are waiting for a state work program to begin or for a slot in a work program to open also do not count toward the requirement. For these reasons, a 90-percent participation rate is widely understood to be unattainable.

What the Budget Bill Would Do

The conference agreement makes the following changes to the TANF work requirements:

- The requirements would apply for the first time to programs that are funded entirely with state funds.
- States no longer would get credit toward the work participation rate for decreases in their caseloads below the 1995 level; they would get credit only if their cash-assistance caseloads fell below the 2005 level.⁸

As a result, states now would have to meet the unrealistic 90-percent requirement for two-parent families, which virtually none of them could do, and would be subject to financial penalties when they were unable to do so.

These seemingly simple changes could have large impacts on states and on state behavior. TANF caseloads already are at very low levels; HHS data show that *fewer than half* of the families poor enough to qualify for TANF assistance receive aid through the program. This means that states are unlikely to see significant downward adjustments in their work participation requirements based on declines in their caseloads below the 2005 levels unless they remove significant numbers of poor families from their programs.

⁷ States also use separate state programs when they want families — both single-parent and two-parent families — to participate in employment programs that do not “count” toward the federal work participation requirements. For example, some states provide aid to families through a separate state program when the parent is participating in a community college, vocational training, or other postsecondary education program that lasts more than 12 months, because that kind of training does not “count” toward the prescriptive federal work participation requirements, even when such training has shown to be effective at helping parents secure stable jobs. States also have provided aid through separate state programs to some parents who have significant barriers to employment and need specialized rehabilitative services such as mental health treatment, drug treatment, or certain remedial education programs.

⁸ The conference agreement also gives the U.S. Department of Health and Human Services significant new regulatory authority to rule on which work activities “count” and how states should collect information about recipients’ participation in work activities.

GAO Report Shows State-Funded Programs Impose Significant Work Requirements on Two-Parent Families

In 2002, the Government Accountability Office (then called the General Accounting Office) issued a report on state welfare-to-work efforts that examined states' use of wholly state-funded programs to assist two-parent families. GAO found that states were using these separate state programs *not* to bypass work requirements — in fact, states were imposing their own work requirements on families in those programs — but instead to shield themselves from penalties that otherwise could result from failure to meet the overly ambitious federal work participation rates for two-parent families. According to GAO, states agencies had found that many of the two-parent families that need assistance face as many (and in some cases more) severe barriers to employment than single-parent families do:

“Providing cash assistance through separate state programs has offered states additional flexibility, as federal work requirements do not apply to families served through these programs. [Of] the 26 states with separate state programs, 16 states used these programs to provide cash assistance to two-parent families. Several state officials told us they provide aid in this way to avoid the risk of financial penalties for failing to meet the federal two-parent participation rate requirement. State officials told us that two-parent families often have as many or more challenges as single parents, making the higher participation rate for two-parent families difficult to meet.... However, states that provided cash assistance through separate state programs typically imposed their own work requirements on families receiving aid. We found that approximately nine-tenths of the families receiving cash assistance in separate state programs are still subject to a state work requirement. While states generally imposed work requirements, about half of them also have policies in place to exclude families facing significant barriers to work from work requirements. For example, 13 states exclude families with an adult who is disabled and 13 states exclude families who care for someone with a disability.”

Source: U.S. General Accounting Office, “With TANF Flexibility, States Vary in How They Implement Work Requirements and Time Limits,” GAO-02-770, pages 19-20, July 2002, <http://www.gao.gov/new.items/d02770.pdf>

Of particular concern, states no longer would be able to place two-parent families in separate state programs to shield themselves from fiscal penalties imposed on states that fail to meet an unrealistic 90-percent work participation rate.

Impact on States and Married Families

Faced with these new requirements, states would have to decide whether to continue providing assistance to poor two-parent families who need temporary income assistance to meet basic needs. If states choose to continue assisting these families using either federal TANF funds or state “maintenance-of-effort” funds, they almost certainly will fail to meet the federal work participation requirements and, thus, could be subject to fiscal penalties.⁹ (HHS has the flexibility to waive penalties in certain circumstances, including penalties on states that have crafted a “corrective compliance” plan that is approved by HHS, but a CBO analysis of the TANF provisions projects that some states will be subject to fiscal penalties.)

⁹ States that fail to meet one or both of the TANF work participation rates also are required to meet a higher state spending requirement, known as the “maintenance-of-effort” requirement.

States will be able to avoid these consequences, however, if they deny aid to all or nearly all two-parent families by imposing old-style discriminatory welfare rules on them. This would take income assistance programs back to the “bad old days,” when two-parent families faced significantly more stringent eligibility criteria than did single-parent families.¹⁰

Table I shows the number of two-parent families in each state that are currently receiving assistance funded with TANF funds or state “maintenance-of-effort” funds.

Two-Parent Families Receiving Income Assistance Are Very Poor

Two-parent families receiving assistance usually have very little income. The typical (or median) two-parent family that receives income assistance through either a TANF program or a separate state-funded program has income of just *63 percent of the federal poverty line*, even when the family’s income assistance and food stamps are counted, according to HHS data. Without the modest aid they are receiving in food stamps and cash assistance, most of these families would be destitute. Moreover, nearly three-quarters of the two-parent families who receive income assistance in a TANF or separate state program) have *no* cash savings to draw upon should they lose this assistance.

Poor two-parent families may need assistance for a variety of reasons. In some cases, they may need temporary help during a period of joblessness. In other cases, these families can face an array of problems, including very poor health, mental impairments, low literacy levels, or the need to care for a severely disabled child. Two-parent families are less likely to qualify for income assistance because they are less likely to be very poor and are more likely to have at least one parent who is employed. But those two-parent families that do find themselves in need of aid often face very difficult circumstances, and the denial of aid to these families could plunge many of them and their children into deep poverty.

¹⁰ States also could avoid these penalties by providing state-funded assistance to two-parent families with state funds that do *not* count toward the state’s maintenance-of-effort requirement. It is unclear, however, how many states would dedicate state resources above their maintenance-of-effort requirement in order to provide assistance to these families, since that could significantly increase state costs.

TABLE 1: TWO PARENT FAMILIES RECEIVING ASSISTANCE IN TANF OR SEPARATE STATE PORGRAMS, FY 2004

Alabama	264
Alaska	646
Arizona	401
Arkansas	223
California	44,150
Colorado	990
Connecticut	1,442
Delaware	126
Dist. of Col.	176
Florida	1,795
Georgia	525
Hawaii	2,300
Idaho	62
Illinois	167
Indiana	3,166
Iowa	1,929
Kansas	1,176
Kentucky	798
Louisiana	154
Maine	528
Maryland	360
Massachusetts	1,807
Michigan	3,712
Minnesota	4,610
Mississippi	0
Missouri	2,646
Montana	768
Nebraska	1,050
Nevada	515
New Hampshire	268
New Jersey	1,868
New Mexico	827
New York	8,678
North Carolina	345
North Dakota	0
Ohio	3,406
Oklahoma	104
Oregon	479
Pennsylvania	3,817
Rhode Island	1,125
South Carolina	777
South Dakota	0
Tennessee	761
Texas	4,176
Utah	40
Vermont	626
Virginia	1,360
Washington	6,496
West Virginia	1,511
Wisconsin	452
Wyoming	2
U.S. Totals	113,603

Source: The source should be: U.S. Department of Health and Human Services, <http://www.acf.hhs.gov/programs/ofa/caseload/caseloadindex.htm#2005>.