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July 29, 2009

OPPORTUNITIES UNDER THE TANF EMERGENCY FUND CREATED BY THE FEDERAL RECOVERY ACT

By Liz Schott

The TANF provisions in the American Recovery and Reinvestment Act of 2009 create a new and temporary TANF Emergency Fund available to states, territories, and tribes for federal fiscal years 2009 and 2010.[1] States can receive additional funding through the TANF Emergency Fund for increased expenditures in basic assistance, short-term non-recurrent benefits, and subsidized employment. Many states already have begun to draw down TANF emergency funds. In many states, TANF caseloads have begun to rise and states are qualifying for additional funding as a result. Other states are expanding — or even starting for the first time — subsidized employment programs. And, some states are using the additional funding to expand non-recurrent short-term benefits — such as emergency help for families facing eviction or utility shut-offs or one-time cash payments to help families afford back-to-school clothing.

While many states have applied for TANF emergency funds, many states have not developed plans to fully access the funding available to them. Many states report that the fact that the TANF emergency funds cover 80 percent — not 100 percent — of increased expenditures in these categories is a barrier to utilizing the funding. This report provides many examples for *how* states can use these additional TANF funds to provide needed help to struggling families.

Background on the TANF Emergency Fund

This TANF Emergency Fund provides additional federal dollars in FY 2009 and 2010 to states that see their TANF caseloads rise, and their basic assistance costs increase. A state with increased assistance caseloads can receive 80 percent federal funding for the costs of increased TANF and MOE spending on basic assistance; caseloads and spending increases are relative to a base year that is either 2007 or 2008, whichever year has the lower assistance caseload. The fund also provides states with additional federal funds based on increases in TANF and MOE spending on subsidized employment and non-recurrent, short-term benefits. A state does not have to experience an increase in its assistance caseload to draw down Emergency Funds for these two categories.[2]

[1] This paper will generally use the term "states" to refer to the entities that can receive TANF Emergency Funds; the entities include territories and tribes as well as states.

[2] For more information about the ARRA TANF Emergency Fund, see HHS Policy Announcement, TANF-ACF-PA-2009-01, April 3, 2009, at http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2009/pa200901.htm, HHS Program

Examples of Ways TANF ARRA Funds Can Be Used

- Finance increases in TANF assistance caseloads.
- Finance expansions in cash assistance benefits, either through one-time payments to TANF recipients, grant increases, or expanded earnings disregards.
- Provide a back-to-school clothing allowance or extra help with heating or cooling costs with a cash payment to low-income families, such as children receiving food stamps, children receiving TANF, and/or children receiving Medicaid/CHIP.
- Expand or start a subsidized employment program. Consider teaming up with both private employers as well as community institutions and the public sector. Consider teaming up with efforts in the Weatherization Assistance Program to improve the energy efficiency of homes.[a]
- Expand funding for emergency assistance to help struggling families through a crisis, such as help to pay past-due rent or utility bills (to avoid evictions and shut-offs); to repair cars needed for work, school, training, or to look for work; and to make a needed modification to a residence for a person with a disability.
- Partner with emergency providers in the community such as homeless shelters or food banks to expand short-term, non-recurrent help to families with severe needs. This could include providing a TANF-funded extra food package for families with children on a non-recurrent basis.
- Finance help to families with short-term needs for other kinds of services such as: assistance applying for SSI, help preparing tax returns, and caseworker interventions with sanctioned families.

[a] This idea was originally presented by Dr. Wade Horn at the annual meeting of the National Conference of State Legislators.

The maximum amount that any state can receive in ARRA TANF Emergency Funds over the two-year period is 50 percent of one year's TANF block grant amount. (The 50 percent cap applies to the combined amount a state receives under the ARRA Emergency Fund and the regular TANF Contingency Fund.) Many states do not yet have plans in place that would utilize their full allocation. These states should consider a range of policy options that can utilize a larger portion of their allotment and provide additional help to struggling families during this recession.

Some states anticipate drawing down substantial ARRA TANF Emergency Funds (or even their maximum allotment) simply based on increased assistance caseloads. In recent state legislative sessions, some states — such as Illinois and Montana — adopted proposals that will lead to some

Instruction, TANF-ACF-PI-2009-05, July 20, 2009, at http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2009/200905/PI200905.htm, and HHS Questions and Answers on TANF provisions of ARRA at http://www.hhs.gov/recovery/programs/tanf/tanf-faq.html.

See also, Elizabeth Lower-Basch, "Questions and Answers about the TANF Emergency Fund," Center for Law and Social Policy, April 3, 2009, at http://www.clasp.org/publications/tanf_efc_qanda0409.pdf and Sharon Parrott and Liz Schott, "Overview of TANF Provisions in the Economic Recovery Act," Center on Budget and Policy Priorities, February 25, 2009, at http://www.cbpp.org/files/2-26-09tanf.pdf.

caseload increases or increased benefit levels, and in other states — such as Minnesota and Vermont — lawmakers rejected proposed cuts in the state's TANF assistance program. In making these choices, policymakers appeared to respond to the generous reimbursement available under the TANF Emergency Fund in maintaining or increasing spending on TANF assistance.

Despite the very deep recession the country is currently facing, some states do not anticipate drawing down any ARRA TANF Emergency Fund dollars in the basic assistance category because their TANF assistance caseloads have not increased over 2007 or 2008 levels. These states may want to examine why their caseloads are not rising and consider taking steps that will make the program more accessible to families who really need the help.

Even states without increases in assistance caseloads can utilize ARRA TANF Emergency Funds in the subsidized employment or non-recurrent short-term benefits categories. While most states have already concluded their 2009 state legislative sessions and adopted their budgets for the new state fiscal year, there are many initiatives that states can implement within existing state laws and budget allocations. States may be able to bring in third-party funding that can count as MOE and can serve as the 20 percent portion of the increase that is not reimbursed by TANF ARRA funds. (The increased spending to draw down ARRA TANF Emergency Funds can be any federal TANF money including Emergency Fund or Contingency Fund spending or any MOE spending, including local government or third-party spending.)

This paper examines some of the opportunities that states have to implement new initiatives that can provide crucial help to needy families in tough economic times with substantial federal help because of the generous 80 percent reimbursement available under the ARRA Emergency Fund.[3] The discussion is organized by each of the three TANF Emergency Fund categories — basic assistance, subsidized employment, and non-recurrent, short-term benefits.

Basic Assistance

Poverty among families with children is undoubtedly on the rise. The TANF Emergency Fund will finance 80 percent of the increased basic assistance costs states encounter, provided the number of families receiving assistance also rises as compared to the comparable quarter in either 2007 or 2008.[4] Without the ARRA provision, states would have faced a strong financial disincentive to allow their TANF caseloads to rise since the block grant does not adjust based on increased need.

[3] The 80 percent reimbursement that a state receives under the TANF Emergency Fund can be used for any TANF purposes and need not be specifically spent to achieve spending increases in the Emergency Fund category. A state that receives Emergency Funds for caseload increases in the first three quarters of 2009 could reinvest the funding for new or additional benefits or could add it to their available TANF funds. This paper often refers to the reimbursement directly going to the increased spending in the Emergency Fund category as a way to illustrate one way to structure the funds; a state need not be limited to this structure.

[4] In each Emergency Fund category, states are reimbursed for 80 percent of increased TANF or MOE spending in a quarter over the comparable quarter in the base year. While this paper generally uses the phrase "increased spending," it refers to the more specific measure of increase for the request quarter as compared to the comparable quarter in the base year.

The Recession and the TANF Work Participation Rate

States may be concerned that rising caseloads and a weak job market will make it difficult for them to meet their work participation rate targets and that they could face fiscal penalties down the road as a result. While this is a legitimate concern, there are two sets of TANF rules that should ease state concerns. First, ARRA included a provision to ensure that states with rising caseloads would not see their target work participation rate rise as well. Under standard TANF rules, a state's work participation rate is reduced based on caseload *declines* since 2005. Under ARRA, states with rising caseloads can receive the caseload reduction credit based on their caseload in 2007 or 2008, rather than on the higher caseload levels in the immediately prior fiscal year. (For additional detail on this provision, see Appendix I.)

Second, and probably more importantly, the TANF statute as well as longstanding TANF regulations recognize that states may be unable to meet the participation rate targets during recessions and provide avenues for states to be granted relief from fiscal penalties for failure to meet the work rate under weak economic conditions. There are several different bases for relief from penalties or failure to meet the work participation rates when a state faces a recession or a caseload increase:

- *Extraordinary circumstances:* HHS has discretion to grant penalty relief in extraordinary circumstances and the federal TANF rules specifically include regional recession or a substantial caseload increase as examples of such circumstances. 45 C.F.R. 261.51(d).
- *Needy state:* HHS has discretion to grant partial or full penalty relief if the noncompliance is because of the reasons that the state meets the definition of "needy state" in the TANF law. 45 CFR 261.51(d). A "needy state" state is one that experiences increases in unemployment or food stamp caseloads. Nearly all states currently meet the definition of "needy state." See HHS posting at http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/12weekqualifier.htm.
- *Reasonable cause:* The federal TANF rules identify specific examples of reasonable cause. While these examples do not include recession, HHS noted in the preamble to the penalty rules that these examples were not exhaustive and HHS could consider other reasons for noncompliance when determining reasonable cause. 64 Fed. Reg. 17805, April 12, 1999.
- *Corrective compliance*: A state that has failed the TANF work participation rate in a prior year — for example, 2007 — can avoid paying fiscal penalties if the state comes into compliance under a corrective compliance plan. HHS also *may* reduce the penalty if the state does not meet the work rate in the corrective compliance period due to a regional recession. 45 C.F.R. 262.6(j).

To be sure, HHS has broad discretion to grant — or not grant — penalty relief. But, given the depth of this recession, it would seem that many states will have a good case for relief. States may have a stronger case for penalty relief if the recession resulted in increased caseloads than if caseloads remain flat or decline — HHS could reasonably ask, "If the recession was severe enough to limit job opportunities and make it difficult for the state to meet its work rates, why weren't more families receiving assistance?"

All states have seen their food stamp (now called Supplemental Nutrition Assistance Program, or SNAP) caseloads rise significantly in the past year and a number of states have seen increases in TANF caseloads as well. The difference in the trajectories of food stamp and TANF assistance caseloads in some states, however, is striking. In light of a very weak economy and the availability of federal funding to cover 80 percent of any increased costs in basic assistance expenditures, states whose TANF assistance caseloads have not risen — or have risen very modestly — should consider why their TANF program is not responding to what appears to be a significant increase in the number of poor children and families facing hardships.

One step states can take would be to examine families with children receiving food stamps (or children receiving Medicaid) and determine how many appear eligible for TANF but are not receiving TANF assistance. If this is a significant number of families or children, states should consider whether changes should be made in their procedures for screening families for TANF and informing them about the ways in which TANF can help families make ends meet. States also may want to consider whether aspects of their application processes or eligibility rules — such as more restrictive rules for two-parent families or asset limits that are well below comparable food stamp limits — are shutting out families that really need help to weather the current recession.

- For example, the **Illinois** legislature recently enacted a package aimed at improving access to TANF cash assistance.[5] This included changes for faster approval of applications, approving benefits back to the date of application, and not assigning work activities until 30 days after application to allow for a thorough evaluation of the family's needs and assign them to appropriate activities. The package also required the TANF agency to conduct outreach about the program and to provide timely, accurate, and fair service to all applicants.

Because the TANF ARRA funds are based on the *overall* increase in basic assistance costs, the funds can finance a large share of the costs associated with increasing the *amount* of basic assistance provided to some or all families, provided that a state also meets the caseload increase trigger. It is important to note that providing additional income assistance to poor families is one of the best ways to stimulate the economy — thus, if states can find ways to boost assistance with significant federal funding, the money will not only help struggling families, but will also flow into the local economy.

Some of the types of increased basic assistance spending for which states could qualify for Emergency Funds are listed below.

- **Increase monthly TANF benefit amounts.** A number of states have increased monthly TANF benefits in the last few years (although these increases generally have not kept pace with increased costs of living). If a state increases benefits, it will receive enhanced reimbursement through fiscal year 2010 (if it meets the caseload trigger).
    - For example, **New York** recently increased the basic cash allowance for TANF assistance by 10 percent (and plans additional increases for the next two years.)[6]
    - **Montana** raised the monthly benefit amount — to $504 a month from $472 a month for a family of three — and the income eligibility limits used in its TANF program. These increases are expected to lead to increased caseloads, as more families are eligible, and increased spending in basic assistance and were, in part, made in response to the increased reimbursement available under the TANF Emergency Fund.
- **Disregard more earnings for TANF applicants or recipients.** Under TANF, nearly all states have increased the amount of earnings that will be disregarded in determining the eligibility and benefits of recipients, and in some cases applicants, for cash assistance. In the

[5] The Illinois legislation has not yet been signed into law because of ongoing broader budget issues the state is facing.

[6] This was enacted prior to the ARRA legislation but is being implemented now.

years since the Deficit Reduction Act, some states further increased their income disregard policies. When a state disregards a share of earnings, families that work do not lose their cash assistance as quickly or at as low an income level; thus TANF provides an additional and stabilizing work support. As long as the state has an overall caseload increase, the Emergency Fund will finance 80 percent of the costs of expanding the earnings disregard.

- For example, **Illinois** enacted legislation this year that increased the amount of earnings that would be disregarded for both applicants and recipients. If the change is signed into law, it would increase the financial eligibility guidelines for applicants from roughly 33 percent of the federal poverty line to 50 percent of the federal poverty line. Put another way, for a family of three applying for benefits, the income eligibility guideline would increase from $522 per month to $763 per month. The law also would increase the amount of earnings of working TANF recipients that are disregarded, from the "two of three" dollars now disregarded to "three of four" dollars, raising the income level at which families would remain eligible for a partial TANF grant from 85 percent to 110 percent of the federal poverty level.

- **Provide supplements for working families outside of the regular TANF/MOE program.** Some states provide supplemental payments to low-income working families — sometimes this benefit is available to families that have recently left the TANF assistance program and sometimes it is available to a larger group, such as working families with children receiving food stamps. Since 2006, about one-third of states have authorized or implemented this type of program.[7] Because the benefits can be considered "assistance," these working families are included in the state's TANF work participation rate and can provide a boost to the rate the state achieves. And, the increased assistance expenditures in these programs can qualify for TANF ARRA reimbursement, as long as the total number of families receiving assistance and total basic assistance expenditures have both increased.

  States that already have implemented (or are in the process of implementing) such worker supplement programs outside of their regular TANF caseload could expand them in several ways: increase the monthly benefits to employed families; extend the number of months that a family could receive the benefit after leaving TANF; or extend the groups of families that are included in the program beyond TANF leavers.

  - For example, **Washington State** and **Vermont** had previously implemented worker supplement programs for families that left TANF with employment. This year both states are extending the worker supplement benefits to a broader group of working families receiving SNAP (food stamp) benefits. Washington expanded its program in February 2009 and Vermont's program is slated for expansion in October 2009.

Non-Recurrent, Short-Term Benefits

The non-recurrent short term benefit category affords states a number of ways to expand help to struggling families, and unlike basic assistance; there is no caseload increase requirement. Because these are non-recurring payments, it may be easier to make temporary expansions in these kinds of

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[7] See additional discussion in Liz Schott, "Using TANF or MOE Funds to Provide Supplemental Assistance to Low-Income Working Families," Center on Budget and Policy Priorities, revised September 2008.

benefits without facing the prospect of terminating ongoing assistance or programs when the ARRA funds expire.

States can draw ARRA TANF Emergency Funds for benefits that the state or county TANF agency delivers directly, such as emergency assistance or one-time payments to TANF recipients, or to support benefits or services provided by other government agencies or community based organizations, such as homeless providers or food banks. Since third-party payments can count towards MOE, a state may be able to partner with non-profits or private philanthropy to provide the 20 percent "match" and then pass through the ARRA funds to the community institution.[8] Of course, a state will need to have an overall increase in TANF/MOE spending (relative to a base year of 2007 or 2008) in the non-recurrent, short-term category.[9]

One of the most common types of short-term, non-recurrent benefits is provided by state emergency assistance programs, which provide extra emergency help to TANF recipients or a broader group of low-income families. While most states have TANF-funded emergency assistance programs of one kind or another, about 20 states do not provide this kind of aid. States that do not have such programs could start one and provide help to families — such as payment of back rent or utility bills, security deposits, and help with moving expenses or car repairs — in emergency situations. A state that already has an emergency assistance program can examine how responsive the program has been thus far to the recession and consider whether it should be expanded either by increasing the amount of help available to families in certain situations, expanding eligibility for the program to a broader group of families, or doing more to inform families about the assistance that is available. Emergency assistance programs are one way to help families caught up in the foreclosure crisis — including helping low-income families to avert foreclosure, helping families that have lost their homes find new housing, and helping renters who have been evicted because the owner has lost the property to foreclosure.

Emergency aid — whether delivered in an emergency assistance program or through other existing programs or service providers — can be delivered in many forms, including as a voucher or as a one-time cash payment to the family to help with emergency needs. For example, some **California counties** are considering providing utility vouchers, food vouchers, or help with obtaining housing or moving expenses with TANF ARRA funds.

Emergency aid is not the only form of short-term, non-recurrent benefits that states can provide. States can provide such benefits to a broader group of families, rather than families facing a specific type of need.

- **One-time payments.** A prime opportunity for states in this category is to provide a one-time (or once-a-year) payment to all families on TANF or to a broader group such as families receiving food stamps or children on Medicaid. This is akin to a mini-stimulus benefit to support needy families and to inject funding into the local economy. A state could target this benefit to a seasonal event such as help for winter heating or summer cooling costs, help during

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[8] See Appendix II for more detail on the issues that arise with claiming third-party funding as MOE.

[9] When a state submits a request for Emergency Fund reimbursement, it should be sure to include all non-recurrent, short-term spending for the request quarter and the base year quarter, not just the spending related a specific new initiative that may have led to the increase.

the holiday season, or a back-to-school allowance in the fall to help families purchase clothes and supplies for school.

Example: **Texas** is planning on using the availability of additional stimulus dollars through the TANF Emergency Fund to temporarily increase — for 2009 and 2010 — the back-to-school allowance that it provides for TANF recipients. The one-year year allowance will increase to $105 per child from $30 per child previously. The state expects this increase to cost a total of $14.7 million for the two years.

- **Employment or TANF exit bonuses.** States can provide non-recurrent payments to TANF families or families leaving TANF when they obtain employment, to promote job retention and to help stabilize the family. While a state can design work supports as assistance — through earnings disregards or worker supplement programs — they can also take a nonassistance approach and provide non-recurring, short-term benefits through exit bonus payments designed to address the up-front costs of starting employment such as purchasing uniforms or other work attire, or repairing a car.[10]

  Example: Starting in August 2009, **Los Angeles County** will provide a $500 one-time work allowance to families that leave TANF with employment. The county expects to receive ARRA TANF Emergency Fund reimbursement (passed through from the state) to cover 80 percent of this cost and the county will cover the remaining 20 percent. Several other counties in California are also considering this approach.

- **Homelessness prevention or rapid re-housing.** The "non-recurrent, short-term benefit" category can include both services and direct financial help to overcome an episode of need. Thus, in the housing assistance area, states can use ARRA funds for case management to help prevent homelessness or to aid in obtaining housing and to pay for security deposits, the initial months of rent, or payments of back rent to prevent eviction. Homelessness is a crisis or specific episode so short-term services around the crisis could qualify here, but ongoing services to retain housing would not continue to qualify. States, counties, or nongovernmental organizations could develop programs that supplement the funding provided by the ARRA Homelessness Prevention and Rapid Re-housing funds. (The ARRA HPRR funds cannot count as increased TANF or MOE spending so the HPRR funds themselves cannot count as increased spending to draw in ARRA TANF Emergency Fund reimbursement.)

- **Other services to address short-term needs.** States can use TANF emergency funds to provide other kinds of services to address short-term needs families may have such as: funding programs that help parents or children with disabilities to apply for SSI, funding free tax preparation services during tax filing time to help low-income families access tax-based benefits such as the EITC, or providing short-term case management and intervention services to families that may be facing the loss of benefits due to a sanction or a time limit.

[10] In order to draw down ARRA TANF Emergency Fund reimbursement, the non-assistance benefit would also need to fall within the non-recurrent, short-term category. If a state provides non-assistance benefits each month for an ongoing period in excess of four months, these benefits would *not qualify* as non-recurrent, short-term benefits even though they would be considered non-assistance as they are work supports for employed families.

Subsidized Employment

Subsidized employment is designed to help participants enter the labor market through the acquisition of work experience and enhanced connections to employers. Historically, however, subsidized employment has been a little-used work activity — less than one-half of one percent of all TANF recipients who were subject to the participation rates (that is, those in the denominator of the participation rate calculation) in FY 2006 were engaged in subsidized employment.[11] The TANF Emergency Fund also can be used to finance expansions in these programs. Not only can comprehensive programs help parents prepare for and secure unsubsidized employment, but those who work in these jobs gain important income, not only from their wages but from work-based supports such as the EITC, the Child Tax Credit, and for the next two years, the Making Work Pay credit. These tax credits can provide a substantial boost to families' income.

States that already are running these programs can try to expand the number of people participating in them, while other states can take the opportunity of the ARRA funds to establish new programs and test whether it is a program the state would want to try to continue to fund after the ARRA funds expire.

One model of subsidized employment that shows promise for TANF recipients with barriers to employment is transitional jobs.[12] These programs provide hard-to-employ TANF recipients with a bridge to unsubsidized private employment by combining time-limited, wage-paying employment with a comprehensive set of services — including barrier removal activities and education and training — designed to develop participants' skills and prepare them for success in the workplace. Most states then treat the earnings from the transitional job as regular earnings when determining TANF eligibility and benefits — that is, families have some of those earnings disregarded through the earned income disregard policies in the state's TANF program. And, those families that are receiving ongoing TANF cash assistance and are placed in subsidized employment can help a state to meet its target work participation rate.

Under the Emergency Fund, states can receive reimbursement for 80 percent of subsidized employment costs over their base period for the full range of expenses related to a subsidized employment program. The reimbursable costs are not limited to the actual wage subsidy but also include the costs of workplace benefits, supervision and training, and administrative costs such as the costs of overseeing the program, developing work placement sites, and providing training to participants.[13] In some instances, if there is an employer contribution that can be claimed as MOE, a state can create these paying jobs without any additional state spending. States can claim

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[11] CBPP calculations based on the sum of public sector and private subsidized employment participation from Table 4A, TANF - Average Monthly Percent Of Adults Participating In Work Activities For A Sufficient Number Of Hours For The Family To Count As Meeting The All Families Work Requirements, Fiscal Year 2006 at http://www.acf.hhs.gov/programs/ofa/particip/2006/tab4a.htm.

[12] For additional discussion, see Allegra Baider and Elizabeth Lower-Basch, *Making the Employment Connection: New Opportunities to Support Transitional Jobs Programs Using the TANF Emergency Fund,* Center for Law and Social Policy, April 2009, http://www.clasp.org/publications/newoppcontfund.pdf; and Allegra Baider and Abbey Frank, "Transitional Jobs: Helping TANF Recipients with Barriers to Employment Succeed in the Labor Market," Center for Law and Social Policy, May 2006, http://www.clasp.org/publications/transitionaljobs06.pdf.

[13] See, HHS Policy Announcement, TANF-ACF-PA-2009-01, April 3, 2009, at http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2009/pa200901.htm.

reimbursement for subsidized employment positions for TANF families or a state can choose to serve a broader group of low-income families with children, including noncustodial parents.

Several states or localities are creating or expanding subsidized employment programs in response to the TANF Emergency Fund.

- **Los Angeles County** has launched an ambitious subsidized employment program to place up to 10,000 workers in public and private subsidized jobs or job training slots. The effort includes but is not limited to TANF recipients. The program will provide a 100 percent wage subsidy to employers for up to 12 months.[14] Several other counties in California including **Sacramento**, **Monterey**, and **San Francisco County** also are considering or undertaking subsidized employment initiatives. **Sacramento** and **Monterey** Counties are planning to utilize the network of employers and placements the counties have in place for unpaid work experience to add additional subsidized employment placements.

- **Tennessee** created 300 subsidized jobs for residents in Perry County which has been particularly hard hit by job losses. Most of the jobs are in the private sector, while some are positions in state agencies such as highway maintenance workers and unemployment insurance interviewers.[15]

There are also other opportunities for states to access reimbursement through the subsidized employment category:

- **Work-study positions:** Student work-study positions are a type of subsidized employment and states or counties that expand *state-funded* work-study slots for low-income parents may be able to receive 80 percent TANF Emergency Fund reimbursement. (Federal work-study would not be eligible as this would not represent an increase in TANF or MOE spending; some or all of state work study subsidies, however, could be claimed as MOE.) The Los Angeles County initiative includes non-federal work-study placements for TANF recipients.

- **Paid work experience:** States can convert unpaid work experience or community service positions to paid subsidized employment. The state could then provide a paycheck to these families and the families could also qualify for significant tax-based benefits.

  By converting the dollars spent on community service or work experience to subsidized employment, the state can draw down 80 percent of the spending for these positions if the state has an overall increase in spending in this category relative to the base year period.

  It should be noted that this conversion could lead to *reduced* spending on basic assistance, and perhaps reduced basic assistance caseloads as well, if those in subsidized employment become ineligible for basic assistance. Of course, a state could design the program so that such recipients remain eligible for at least a small residual grant to ensure that the conversion does not reduce basic assistance caseloads below base year levels. And, a state can claim some costs

[14] The website for the Los Angeles County initiative is http://www.employmentstimulus.org.

[15] See, "In Tennessee Corner, Stimulus Meets New Deal," *New York Times,* July 27, 2009, at http://www.nytimes.com/2009/07/28/us/28county.html?hp.

of subsidized employment programs that they are not able to claim as part of the basic assistance category such as the cost of developing the work experience placements. States need to analyze the impact of converting these work slots to subsidized employment on their total ARRA eligibility. (If the state does not qualify to draw down funds in the basic assistance category this conversion enables it to access extra federal TANF funds.)

For families, there are significant tax-based benefits to receiving a paycheck rather than a TANF assistance benefit including the EITC, Child Tax Credit, and the Making Work Pay credit.

Appendix I
TANF Caseload Reduction Credit Provision of ARRA

Section 2101(b) of ARRA temporarily modified the caseload reduction credit that states can receive so that states that see their caseloads increase during this recession can still claim caseload reduction credit based on prior caseload decline since 2005. The caseload reduction credit impacts the target work participation rate that a state must meet. HHS has implemented this provision through Program Instruction TANF-ACF-PI-2009-02 (April 3, 2009) available at http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2009/200902/200902.htm

Normally, the caseload reduction credit applicable for a year is based on the state's TANF/MOE assistance caseload and spending for the *prior* fiscal year (the comparison year). Under the ARRA provision, however, a state has the option in setting its target work rate for 2009, 2010, or 2011 of basing its caseload reduction credit on its caseload and spending for 2007 or 2008 instead. Put another way, a state can choose to use 2007 or 2008 as the comparison year instead of using the prior fiscal year.

For example, the caseload reduction credit applicable to 2010 would normally be based on a state's caseload and spending in the prior year, 2009. A state that has seen its TANF caseload increase in 2009 could instead opt, under the ARRA provision, to use 2008 as its comparison year and therefore use the caseload reduction credit based on 2008 circumstances in setting the 2010 target work rate. (The caseload reduction credit based on 2008 circumstances is referred to as the caseload reduction credit *for* 2009.) Or, continuing with the same example, if it provided a higher caseload reduction credit, the state could also choose to use the circumstances from 2007 — that is, the caseload reduction credit for 2008— instead.

In its Program Instruction, HHS indicates that a state choosing the option merely needs to let HHS know in writing if it wants to use a prior caseload reduction credit (and for what year); a state choosing this option will have already submitted a caseload reduction credit report for 2007 and 2008 so it need not complete another one.

Moreover, the caseload reduction credit that the state submitted based on 2007 and 2008 circumstances also includes credit that the state may have claimed based on "excess MOE." To the extent that the state spending claimed as MOE in 2007 or 2008 exceeded the minimum required amount (75 or 80 percent of historic spending), a state using the ARRA CRC option will also get the benefit in its caseload reduction credit of the excess MOE spending in the pre-recession years of 2007 or 2008. Some states were able to claim greater state spending as MOE for 2007 or 2008 than they are able to do now, both because of state budget pressures and because of federal rules limiting what can be claimed as MOE that went into effect starting with fiscal year 2009.

While this provision ensures that states with rising caseloads do not see their target work participation rate go up, even with this provision, a state with a rising caseload will need to engage a larger number of families in work activities. (For example, a 40 percent target rate applied to a larger caseload will result in a larger number of parents required to participate.)

Appendix II
Counting Third-Party Expenditures as MOE and the ARRA TANF Emergency Fund

HHS has stated that expenditures from entities other than the state (that is, "third parties") can count as state expenditures for the purpose of the TANF "maintenance-of-effort" requirement. (See, Policy Announcement, TANF-ACF-PA-2004-01, http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2004/pa200401.htm.) Since TANF Emergency Funds are available to reimburse states for increases in TANF or MOE spending, states can use this "third-party MOE" option to partner with local government entities and non-governmental organizations to provide benefits or services to families in need during this recession and draw down TANF Emergency Funds to help fund these increases.

Several states with county-operated assistance programs have long claimed county-level expenditures toward their MOE requirement. However, few states have claimed spending by non-governmental organizations. These opportunities will most commonly arise in the Emergency Fund categories of non-recurrent, short-term benefits and subsidized employment. For example, a state could enter a partnership with a local community action program, food bank, or other service provider to increase the nonprofit organization's capacity to provide short-term, non-recurrent help to struggling families. The increased spending could qualify for 80 percent TANF Emergency Fund reimbursement and the state could pass this reimbursement through to the service provider to fund increased services. In some cases, the nongovernmental organization may be able to provide the portion of the increased spending that would not be covered by ARRA Emergency Fund reimbursement. For example, suppose a local food bank were seeing a significant increase in demand for emergency food packages. If the state or community put up $1 million in new resources, the TANF Emergency Fund could help finance a $5 million expansion in assistance.

Since a state can apply for ARRA Emergency fund reimbursement up to 30 days in advance of a quarter for anticipated spending (subject to subsequent adjustment for actual spending), the state can draw down the ARRA funds and pass them through to the community organization in "real time" — that is, as the funds are expended. Or, a state can provide other TANF or MOE funds to the community provider and replace this funding by retaining the ARRA funds when they are received.

There are a couple of basic steps that must be met for this third-party MOE approach to qualify for ARRA reimbursement.

- The state must have an overall increase in combined TANF and MOE spending (relative to a base year period of 2007 or 2008) in the relevant Emergency Fund category, such as non-recurrent, short-term benefits. An increase in spending on a particular service or program by one service provider would not qualify for TANF Emergency Fund reimbursement if there is not an overall state TANF or MOE spending increase in the Emergency Fund category.

- In order to qualify for ARRA reimbursement, the third-party spending must meet all of the tests to count as MOE and be within an Emergency Fund category. The MOE tests include:

    - Meeting one of the four TANF goals;
    - Generally be spending on eligible families; and

- Meeting the "new spending" test, that is spending above the level spent on the program in 1995.

To the extent that a state is seeking to claim as MOE third-party spending that also serves a broader group of individuals than eligible families — for example, childless adults as well as families with children — it will need to identify the portion that is claimable as MOE and that is in the relevant Emergency Fund category. (A state can claim third-party spending as MOE even if it does not fall into an Emergency Fund category, but it could not use that spending to draw down these ARRA funds.)

One question that some states have asked is how HHS will measure the extent to which third-party spending contributes to an *increase* in overall state expenditures in an Emergency Fund category if the third-party expenditures were not previously claimed toward MOE (but the third party made expenditures on the program now being claimed in prior years). For governmental spending, whether state or local governmental entities, it would be reasonable for HHS to require that a state identify a base year spending amount that can be attributed to the Emergency Fund category for eligible families. Whether this same approach would extend to nongovernmental organization spending is an issue that HHS will need to answer.

Finally, claiming third-party spending as MOE does not require that the services or funds be transferred to the state. Rather, HHS requires that "the third party must be aware of and agree with the State's intentions. Accordingly, the State records must include an agreement between the State and the third party permitting the State to count the expenditure toward its MOE requirement." Policy Announcement, TANF-ACF-PA-2004-01.