



[\[Home\]](#) | [\[Who We Are\]](#) | [\[Publications\]](#) | [\[Audio Conferences\]](#) | [\[Links\]](#) | [\[FAQs\]](#) | [\[Activities\]](#) | [\[Contents\]](#) | [\[Search\]](#) | [\[What's New\]](#)

---

## The TANF Maintenance of Effort Requirement

by Mark Greenberg

1. **In Brief:** The TANF maintenance of effort (MOE) requirement is a requirement that a state must spend at least a specified amount of state funds for benefits and services for members of needy families each year. A broad, but not unlimited, array of benefits and services for low-income families with children can count toward satisfying a state's MOE obligation. A state may spend its MOE dollars as part of or outside of the state's TANF cash assistance program, and a key aspect of state flexibility in program design flows from the state's ability to segregate MOE funds from TANF funds, and to use MOE funds for separate state programs not subject to the requirements that generally apply to TANF cash assistance. This outline summarizes the basic MOE requirement, explains how allowable MOE spending differs from allowable TANF spending, and highlights key policy implications of the differences between TANF and MOE requirements.

2. **MOE obligation amount:** The MOE requirement is that a state must have state expenditures each fiscal year of at least 80% (or 75%, if the state meets the TANF overall and two-parent participation rate requirements) of a historic state expenditure level for "qualified state expenditures," i.e., certain allowable benefits and services for members of needy families.<sup>1</sup> The 80% and 75% level for each state may be found at <http://www.acf.dhhs.gov/news/welfare/staloc/moetable.htm>. Note that in order to be at the 75% level, the state must affirmatively meet both the overall and two-parent family participation rates. It is not enough that the state is able to avoid a participation rate penalty because the state has reasonable cause for noncompliance.<sup>2</sup>

### 3. **Penalty for Noncompliance:**

a. The consequences of failing to satisfy the MOE requirement are:

i. The state's TANF grant will be reduced on a dollar-for-dollar basis in the subsequent year reflecting the extent of noncompliance;<sup>3</sup>

ii. The state will be required to expend additional state

funds in its TANF program equal to the amount by which the state fell short of meeting the MOE requirement;<sup>4</sup> and

iii. If the state received a Welfare-to-Work formula grant in the year in which it failed to meet the TANF MOE requirement, the state's TANF grant in the year after the failure will be reduced by the amount of the state's Welfare-to-Work formula grant.<sup>5</sup>

b. If a state fails to meet the MOE requirement, the state cannot avoid a penalty by demonstrating reasonable cause; in addition, there is no corrective compliance opportunity for a state that does not meet its required MOE level.<sup>6</sup>

**4. Framework for Determining What Counts:** For an expenditure to count toward MOE, the expenditure must be a **qualified state expenditure**. Such expenditures must:

- a. be for an **allowable purpose**;
- b. be with respect to an **eligible family**;
- c. meet the **new spending test**; and
- d. **not otherwise be excludable**.

**5. Allowable Purposes:** The federal law lists five allowable purposes for which expenditures can count toward MOE requirements: cash assistance; child care assistance; educational activities designed to increase self-sufficiency, job training and work; any other use of funds reasonably calculated to accomplish a TANF purpose; and administrative costs in connection with other allowable purposes (not to exceed 15%).<sup>7</sup> Certain qualifications apply to each of the allowable purposes. In addition, keep in mind that even if the expenditure is for an allowable purpose, the expenditure must be for a member of an eligible family (as discussed below).

a. **Cash assistance** includes:

- i. the state's share of assigned child support if the child support it is distributed to the family and disregarded in determining eligibility for and amount of TANF assistance;<sup>8</sup> and
- ii. the refundable component of a state earned income tax credit, i.e., the amount paid to a family in excess of the family's tax liability.<sup>9</sup>

b. **Child care** assistance may count toward MOE subject to several limits. In order to qualify for matching funds under the Child Care and Development Block Grant (CCDBG), the state must meet a CCDBG maintenance of effort requirement.

i. The state may count toward TANF MOE its expenditures for child care that also satisfy the MOE or matching requirements of CCDBG, but only up to the CCDBG MOE level.

ii. After the state counts toward TANF MOE state expenditures for child care up to the CCDBG MOE level, the state may not count toward TANF MOE any additional expenditures that are also being counted toward CCDBG MOE or match.<sup>10</sup>

iii. The state may count additional state expenditures which are above the CCDBG MOE level and not being used to count toward CCDBG match, so long as those expenditures meet the new spending test.

(1) **Example:** Suppose the state has a CCDBG MOE level of \$10 million, and qualifies for an additional \$5 million of CCDBG matching funds subject to a 50% state match. Suppose the state meets CCDBG MOE, draws down its CCDBG match and spends a total of \$18 million in state funds for child care for "eligible families." The state may count the first \$10 million, because it is an amount up to the CCDBG MOE level. The state may not count the next \$5 million, because it is match money in excess of the CCDBG MOE level. The state may then count the next \$3 million, because it is in excess of the CCDBG MOE level and not being used to match federal funds. Thus, a total of \$13 million would be countable, unless limited by the new spending test.

c. **Educational activities designed to increase self-sufficiency, job training, and work** provided to members of eligible families are countable. However, expenditures for public education can only count if they involve the provision of services or assistance to a

member of an eligible family which is not generally available to other residents of the state without cost and without regard to their income.<sup>11</sup> Thus, general fund expenditures for traditional, free public education may not count toward MOE.<sup>12</sup> This exclusion does not cover postsecondary education or vocational program unless all residents of the state may attend the postsecondary institution without cost and without regard to their income.<sup>13</sup> While the state may count toward MOE only those allowable expenditures for eligible families, the state need not segregate the activities, services or classes. The physical facilities of the public education system can be used. Other residents of the state may also participate in the funded activities so long as the state does not use MOE funds to subsidize or pay for persons who are not members of eligible families.<sup>14</sup>

**d. Any other use of funds reasonably calculated to accomplish the purposes of the TANF block grant.** The purpose language of TANF [42 U.S.C. ' 601(a)] says that "[t]he purpose of this part is to increase the flexibility of States in operating a program designed to:

- (1) provide assistance to needy families so that the children may be cared for in their homes or in the homes of relatives;
- (2) end the dependency of needy parents on government benefits by promoting job preparation, work, and marriage;
- (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- (4) encourage the formation and maintenance of two-parent families."

Thus, any expenditure "reasonably calculated" to accomplish one of the above four purposes can be countable; keep in mind, however, that the expenditure must be for a member of an eligible family.

e. Administrative costs in connection with the above expenditures are countable, but the state may not count administrative costs

exceeding 15% of the countable State expenditures for the fiscal year.<sup>15</sup> Costs for information technology and computerization needed for tracking or monitoring required by or under the TANF statute do not count against the 15% administrative cost limit.

f. The preamble to the final regulations also states that any MOE expenditure must be reasonably calculated to accomplish a purpose of TANF.<sup>16</sup> As a practical matter, most expenditures on the above list would seem likely to also be reasonably calculated to accomplish a purpose of TANF, but it is also worth noting that the TANF statute does not say that any MOE expenditure must be reasonably calculated to accomplish a TANF purpose.

**6. Eligible families:** MOE expenditures must be with respect to "eligible families."<sup>17</sup>

a. **In general:** Eligible families are not limited to families receiving TANF assistance. Rather, an eligible family must:

i. include a child living with a custodial parent or other adult caretaker relative (or consists of a pregnant individual);

ii. be a family that the state could assist in its TANF program with federal or state funds or be a family that could be eligible for TANF assistance but for TANF time limits or the restrictions on eligibility for aliens under Title IV of the Personal Responsibility and work Opportunity Reconciliation Act;

iii. be financially eligible according to the appropriate income and (at state option) resource standards established by the state and specified in the state's TANF plan.

b. **Clarifications of eligibility requirements:** In preamble language accompanying the TANF regulations, HHS explains that:

i. **All MOE expenditures must be for persons in needy families.** While some TANF spending may be for non-needy families, e.g., pregnancy prevention initiatives, all MOE spending must be for needy families (including needy pregnant women).<sup>18</sup>

ii. **"Need" must be based on income.** In determining need, a state may choose whether to impose a resource test, but the determination of need must

involve an income test. States have broad flexibility in setting income levels, and HHS expressly rejects imposing a federal maximum income level at this time.<sup>19</sup>

**iii. A state may have different income eligibility levels for different MOE-funded benefits and services.** For expenditures to be countable, the family must fall within the "appropriate" income and (if applicable) resource standards specified in the state's TANF plan. The eligibility levels for particular MOE-funded benefits and services may be higher than the eligibility level for TANF cash assistance. For example, the eligibility level for TANF cash assistance could be 50% of poverty, while the eligibility level for MOE-funded child care could be 200% of poverty.

**iv. A state has some discretion in defining "family" and "child."** A state may use its TANF definition of family for MOE purposes, and may either use the TANF definition of minor child or some other definition applicable under state law.<sup>20</sup> However, the family must include a parent or caretaker relative residing with the child (or consist of a pregnant woman).

**v. The eligible family may include a noncustodial parent.** The state may elect to include noncustodial parents within its definition of "family" and if the state elects to do so, the state may expend MOE funds for benefits and services to noncustodial parents who are members of eligible families.<sup>21</sup> The state may count such benefits and services whether or not other members of the eligible family are receiving TANF and MOE-funded benefits or services.

**7. New Spending Test:** In addition to being for an allowable purpose and with respect to an eligible family, expenditures counting toward MOE must satisfy the "new spending test."<sup>22</sup> The new spending test determines the share of state expenditures under a program that can count toward MOE if the state program existed in FY 95. Under HHS regulations,<sup>23</sup> if a current State or local program also operated in FY 95, then:

a. If expenditures in the program would have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Care Programs, the state may count all otherwise countable expenditures in the program in their

entirety.<sup>24</sup> A working poor child care program in which the state was using federal At-Risk child care funds in FY 95 might be an example of such a program.

i. **Example:** Suppose a state was operating an At-Risk Child Care Program in FY 95 with \$2 million of federal funds, \$2 million of matching state funds, and \$1 million of additional unmatched state funds. Now suppose that in FY 2000, there is \$4 million of state dollars in the program. The state may count the entire \$4 million of current year spending, even though the program existed in FY 95, because expenditures in this program would have been previously authorized and allowable under one of the listed former programs.

b. If expenditures in the program would not have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Care Programs, then countable expenditures are limited to the amount by which countable current fiscal year expenditures for eligible families exceed total state expenditures in the program in FY 95.<sup>25</sup> A state General Assistance for Families program or a refundable state earned income tax credit might be an example of such a program.

i. **Example:** Suppose a state was operating a General Assistance for Families program in FY 95, with expenditures of \$5 million, and current year expenditures for eligible families in the program are \$6 million. The state may count \$1 million toward MOE.

**Example:** Suppose a state was operating a refundable earned income tax credit in FY 95 with expenditures of \$10 million. Suppose current year expenditures are \$12 million, of which \$9 million are for eligible families. None of current expenditures can count, because current expenditures for eligible families do not exceed total expenditures in FY 95.

8. **Other Exclusions from MOE:** Finally, certain expenditures may not count toward MOE even if they are funds expended for an allowable purpose, are for eligible families, and satisfy the new spending test. A state may not count toward MOE:

a. Funds that originate with the federal government;

- b. State funds expended for the Medicaid program;
- c. Any state funds expended as a condition of receiving federal funds under another program (except as noted for CCDBG matching funds);
- d. Expenditures from a prior fiscal year;
- e. State match counting toward the state's Welfare-to-Work funding;
- f. Expenditures of state funds made in the TANF Program which are required when a state must contribute additional state funds to adjust for a reduction in the TANF grant due to a penalty imposed against the state.<sup>26</sup>

**9. Considerations in Using MOE or TANF B In General:** While a state must meet its MOE obligation to avoid a TANF penalty, the state has many choices in deciding how to spend its MOE funds. States will often find it helpful to consider both whether an initiative or program approach can be funded with TANF and whether it can be funded with MOE, and then consider whether there is an advantage in using one funding stream or the other. There will be some situations in which there is a clear advantage of using MOE because the state is barred from using TANF funds. There will be other instances in which an expenditure is an allowable use of both TANF and MOE, but because it falls within the TANF definition of assistance (discussed below), the state will prefer to use MOE funds in a separate state program. There will be other instances in which there is no practical difference between using TANF and MOE and the state's decision may be based on considerations like whether the state needs to generate MOE expenditures to comply with the MOE requirements.

**10. TANF and MOE: A decision sequence:** In deciding whether to spend TANF or MOE for a particular benefit or service, a state may wish to ask, for any initiative:

**a. What does the state want to do, for which group of people?**

It is important to identify both the benefit or service and the group for which the state wants to provide the benefit or service, because MOE can only be spent for needy families, and because TANF funds can only be spent on non-needy persons under limited circumstances.

**b. Can some or all of the initiative be funded with TANF?** It is possible that among a set of services or benefits, part may be funded with TANF, or all may be funded with TANF but for only part of the population the state wishes to address.



c. **Does it fall within the TANF definition of assistance?** As discussed below, TANF may be spent for assistance or nonassistance, but when spent for assistance, a set of assistance-related requirements apply. If the benefit falls within the definition of assistance, and the state does not want some or all assistance-related requirements to apply, the state can explore whether a comparable benefit could be provided as nonassistance.

d. **Can some or all of the initiative be funded with MOE?** Again, it is possible that only some of the benefits or services can be funded with MOE, or that they may be fundable for only part of the target population.

e. **If part or all of the initiative could be fundable from either TANF or MOE, is there any advantage in using one?** If funding is only possible under one of the funding streams, the analysis is straightforward, but if funding is possible under either funding stream, principal considerations will likely include whether the state "needs" to spend TANF or MOE, and whether the state wants the assistance-related requirements to apply.

**11. Allowable expenditures of TANF Funds:** In evaluating whether there is an advantage in using MOE funds, a state will need to initially consider whether an expenditure is a permissible use of TANF funds.

a. There are three ways in which a state may spend TANF funds:

i. **Transfer:** The state can transfer funds to other block grants. Up to a total of 30% of TANF funds can be transferred to the Child Care and Development Block Grant and to the Social Services Block Grant (Title XX), provided that no more than 10% can be transferred to Title XX, and Title XX transfers must be for services to children and their families below 200% of poverty; and, effective with FY 2001, no more than 4.25% of the state's TANF grant may be transferred to Title XX.<sup>27</sup>

ii. **Previously Authorized:** Unless otherwise prohibited, a state may spend TANF funds in any manner that the state was authorized to use the funds under a set of programs (AFDC, JOBS, Emergency Assistance, AFDC Child Care, Transitional Child Care, At-Risk Child Care) on September 30, 1995, or at state option, August 21.<sup>28</sup>

iii. **Reasonably Calculated to Accomplish a TANF**

**Purpose:** Unless otherwise prohibited, a state may spend TANF funds in any manner reasonably calculated to accomplish the purpose of TANF.<sup>29</sup>

b. **Other restrictions on use of TANF funds:** Apart from these specific TANF provisions, one should also keep in mind that allowable uses of TANF funds are also affected by the requirements of 45 C.F.R. Part 92 and by the requirements of OMB Circular A-87.

12. **TANF assistance and nonassistance:** If an expenditure is an allowable use of TANF, the expenditure may fall within the TANF definition of assistance. When TANF is spent for assistance, a set of assistance-related requirements apply. These assistance-related requirements do not apply when TANF funds are spent for nonassistance.

a. **Assistance-related requirements:** The principal assistance-related requirements are:

i. **Time Limits:** The state may not use federal TANF funds to provide assistance to a family in which the adult head of household or spouse of the head of household has received federal TANF assistance for sixty months (subject to limited exceptions).<sup>30</sup>

ii. **Work Participation Requirements:** If a family including an adult or minor parent head of household receives TANF assistance (whether federally funded or state funded), the family is considered part of the state's caseload for purposes of TANF participation rate requirements.<sup>31</sup> And, the TANF 24-month work requirement is a requirement that a parent or caretaker receiving TANF assistance (whether federally funded or state funded) be engaged in work (as defined by the state) by the time that he or she has received TANF assistance for 24 months.<sup>32</sup>

iii. **Child Support:** A family receiving TANF assistance (whether federally funded or state funded) is required to assign its child support to the state.<sup>33</sup>

iv. **Prohibitions:** A set of prohibitions bar the state from providing TANF assistance (or in some cases, federally-funded TANF assistance) to certain groups of families and individuals.<sup>34</sup>

v. **Data Collection:** A set of data reporting requirements apply to those receiving TANF assistance (whether federally funded or state funded).<sup>35</sup>

b. **Definition of Assistance:** Under final regulations, assistance is defined to include: "Cash, payments, vouchers and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses)."<sup>36</sup> The definition also includes:

- i. stipends and allowances for participation in education and training;
- ii. needs-based payments to individuals in any work activity whose purpose is to supplement the money they receive for participating in the activity; and
- iii. supportive services such as transportation and child care provided to non-employed families, unless within one of the exclusions from assistance.

c. **Exclusions from definition of assistance:** Final regulations specify seven exclusions from the definition of assistance.<sup>37</sup> One should also keep in mind that even if a benefit or service is not expressly excluded, it still is not assistance unless it falls within the regulatory definition. The seven express exclusions are:

- i. Nonrecurrent short-term benefits which:
  - (1) are designed to deal with a specific crisis situation or episode of need;
  - (2) are not intended to meet recurrent or ongoing needs; and
  - (3) will not extend beyond four months;
- ii. Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- iii. Support services such as child care and transportation provided to families who are employed;
- iv. Refundable earned income tax credits;

v. Contributions to and distributions from Individual Development Accounts;

vi. Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

vii. Transportation benefits provided under a Job Access or Reverse Commute project to an individual who is not otherwise receiving assistance.

d. **TANF spending for assistance and nonassistance:** Under final regulations, a state may spend current year TANF funds for assistance or nonassistance. However, effective October 1, 1999, a state may only spend carryover funds (i.e., TANF funds from a prior fiscal year) for assistance and related administrative costs.<sup>38</sup>

13. **Alternative ways of structuring MOE spending.** In the TANF framework, a state has three choices for how it structures MOE spending. The choices matter in determining how and whether the assistance-related requirements apply to a benefit or service that falls within the definition of assistance.

a. First, the state may **commingle** MOE funds with TANF funds in a single program. If the state does so, then all families receiving assistance will be subject to all assistance-related requirements.

b. Second, the state may **segregate** MOE funds from TANF funds in a program providing assistance. When a family is assisted with segregated state funds, a month of assistance does not count against the federal time limit, because the federal time limit only applies when a family is receiving federally-funded TANF assistance. However, the other principal assistance-related requirements (work and participation rates, child support assignment, disaggregated data collection requirements) all continue to apply.

c. Third, the state may use state funds to provide assistance in a **separate state program** that receives no federal TANF funds. Families assisted in a separate state program are not subject to the assistance-related requirements, though a state is, of course, free to impose appropriate state-determined requirements as a condition of receipt of assistance.

14. **Differences between allowable uses of TANF and MOE:** In some ways,

the allowable uses of MOE are narrower, and in some ways they are broader than allowable uses of TANF funds. The principal difference are:

a. **MOE expenditures may not be justified based on having been Apreviously authorized.**<sup>39</sup> As noted above, a state may spend TANF funds if the state was previously authorized to do so under former Titles IV-A and IV-F of the Social Security Act. This provision does not apply to MOE. As a result, a state may have certain child welfare or juvenile justice-related expenditures which are permissible uses of TANF funds because previously authorized, but that do not fall within any of the allowable purposes for MOE.<sup>39</sup>

b. **MOE expenditures may only be for members of needy families.** MOE expenditures must be with respect to Aeligible families<sup>40</sup> who must be financially needy. In contrast, some TANF expenditures (e.g., pregnancy prevention, expenditures to promote formation and maintenance of two-parent families) are not restricted to needy families.<sup>40</sup>

c. **MOE may be spent for medical services.** There is an express TANF prohibition against using TANF funds for medical services (other than pre-pregnancy family planning services).<sup>41</sup> This restriction does not apply to MOE spending, so long as the MOE funds expended for medical services are either segregated from TANF funds, or spent in a separate state program.

d. **MOE may be spent for Aassistance<sup>42</sup> without imposing the TANF assistance-related requirements.** As noted above, the state may segregate MOE funds when the state's principal concern is to, e.g., exempt a category of families from TANF time limits. Or, the state may use a separate state program when the state concludes that other assistance-related requirements are inappropriate, e.g., a food program for immigrants ineligible for Food Stamps, a program of access to postsecondary education for low-income students.

15. **When is it better to use TANF or MOE:** A first question, of course, is whether it is possible to use both funding streams. If so, other policy considerations can affect the preferred choice.

a. **In some instances, a state can use TANF but not MOE.**

i. **Previously authorized:** For example, if a state wishes to spend funds on juvenile justice or child welfare costs, the expenditures will only be possible (if at all) as TANF expenditures because they were previously authorized. There is no comparable category under MOE.

ii. **Expenditures for non-needy:** Since all MOE expenditures must be for needy families, expenditures for non-needy persons will be possible (if at all) as TANF expenditures.

**b. In some instances, a state can use MOE but not TANF.**

i. **Medical services:** A state is prohibited from using TANF but not MOE for medical services.

ii. **Immigrants:** A state may use state funds to assist immigrants ineligible for federally funded TANF benefits, subject to certain restrictions.

iii. **Other individuals prohibited from receiving federally-funded TANF assistance:** For example, the prohibition against providing assistance to a minor parent who is not in school (or other approved education or training activities) or to a minor parent who is not living in an adult-supervised living setting (subject to limited exceptions) applies to federally-funded TANF, but not to segregated MOE funds or MOE in a separate state program.

**c. In some instances a state can use either TANF or MOE.**

i. **The benefit may fall within the definition of assistance. If so, the state should consider whether the state wants all assistance-related requirements to apply.** The state may conclude that particular TANF requirements are inappropriate for a particular population or may wish to design non-welfare approaches for which TANF assistance-related requirements seem unnecessary. If so, the state should consider whether there to use segregated state funds (so that TANF time limits do not run) or a separate state program (if the state does not want other assistance-related requirements to apply).

ii. **The state may "need" to spend MOE to ensure that the state complies with MOE requirements.** The state need not spend its full TANF block grant in a year, but must meet MOE expenditure requirements.

iii. **The state may prefer to spend TANF funds, if, for example, the benefit falls within the definition of assistance and a state wishes to spend**

**carryover funds** (which may only be used for assistance and its related administrative costs).

**d. Some examples:**

**i. Helping Employed Families:** After a parent enters employment, the state can provide child care, transportation subsidies or work expense allowances with either TANF or MOE funds, since such benefits are considered nonassistance. Similarly, case management or career advancement services would be nonassistance. If, however, the state wishes to provide income supplements intended to meet basic needs, such benefits would be considered assistance, and the state's choices are:

(1) pay the benefits with federal TANF funds or commingled state MOE and federal TANF funds, in which case time limits and other assistance-related requirements will apply;

(2) pay the benefits with segregated state funds in the TANF cash assistance program, in which case federal time limits will not apply, but the family will still be part of the state's TANF caseload, subject to work and participation requirements, and required to turn over its child support as a condition of receiving assistance; or

(3) structure a separate state program with MOE funds, in which case the families will not be part of the TANF caseload, will not be subject to federal time limits or participation requirements, and will not be required to turn over their child support. Note that the separate state program could be structured with income rules similar to TANF, or could take an entirely different approach, e.g., a wage supplement program, a flat stipend, an EITC-like design, etc.

**ii. Access to Education and Training:** A state may use TANF or MOE funds to pay for education and training programs

for members of needy families, and such expenditures would be considered nonassistance. Supportive services such as child care or transportation for participation in education or training by the nonemployed and needs-based payments designed to meet basic needs would be considered assistance. Persons receiving assistance will be part of the state's TANF caseload, and the state may be concerned that activities by recipients of assistance that do not count toward federal participation rates will make it harder for the state to meet the participation rates. If the state wishes to make needs-based payments (or otherwise provide assistance) to participants in education or training, the state's choices are:

(1) Provide the assistance as part of the TANF program (whether with federal TANF funds or state MOE funds), in which case the families will be subject to TANF assistance-related requirement. Note that if the state wanted to exempt such families from time limits during their participation, the state could use segregated state funds to provide the assistance. Providing assistance within TANF may not be difficult for the state if the state is confident that it will not impair the state's ability to meet participation rates.

(2) Consider whether a comparable benefit could be structured as nonassistance. For example, instead of providing a needs-based payment for participation in education or training, the



state might fund work-study slots, which would be excluded from the definition of assistance as wage subsidies.

(3) Design a separate state program that would provide needs-based assistance for participation in education and training. The state might design a program that looks similar to the TANF Program but solely funded with state funds. Or, the state might take an entirely different approach, e.g., using MOE funds to provide needs-based payments to needy families through the state's Workforce Investment Act system, or developing a new structure of financial aid for participation in education by needy families.

**iii. Helping grandparents caring for grandchildren:** A state may wish to provide cash assistance to grandparents caring for grandchildren. Cash assistance designed to meet basic needs will fall within the definition of assistance. The state's choices are:

(1) Provide assistance to all family members in the TANF cash assistance program. If the state uses federal TANF funds or commingled state and federal funds, all TANF assistance-related requirements, including time limits, apply. If the state does not want time limits to apply, the state may use segregated state funds, but

work and participation requirements and child support assignment requirements will still apply.

(2) Structure the assistance as child-only assistance in the TANF cash assistance program (whether with federal or state funds), in which case time limits and work participation requirements will not apply, but child support assignment requirements will still be applicable.

(3) Create a new program which provides cash benefits to grandparents caring for grandchildren. The state might wish to have, e.g., a different entity administering the program, a different application process, different benefit levels. Note, however, that if the program is funded with TANF dollars or commingled federal and state funds, the families will still be considered to be receiving TANF assistance. If the program is structured as a separate state program, the families will not be subject to the assistance-related requirements.

**16. In Conclusion:** A state wishing to design appropriate policies to respond to the needs of particular populations will often have broad flexibility to do so if the state keeps in mind the distinctions between TANF and MOE funds and uses those distinctions in support of policy development.

E-mail Mark Greeneberg at

[mhgreen@clasp.org](mailto:mhgreen@clasp.org)

## Footnotes

1. 42 U.S.C. §609(a)(7); 45 C.F.R. §263.1. All cites to regulations in this outline are cites to the final TANF regulations (64 Fed. Reg. 17720, April 12, 1999).
2. 45 C.F.R. §263.1(a)(3).
3. 42 U.S.C. §609(a)(7)(A); 45 C.F.R. §263.8(a).
4. 42 U.S.C. §609(a)(12); 45 C.F.R. §264.50.
5. 42 U.S.C. §609(a)(13); 45 C.F.R. §263.8(b).
6. See 42 U.S.C. §609(b),(c); 45 CFR §263.9.
7. 42 U.S.C. §609(a)(7)(B)(i); 45 C.F.R. §263.2.
8. 42 U.S.C. §609(a)(7)(B)(i)(I)(aa); 45 C.F.R. §263.2(a)(1).
9. 64 Fed. Reg. 17828.
10. 45 C.F.R. §263.3(b).
11. 42 U.S.C. §609(a)(7)(B)(i)(I)(cc); 45 C.F.R. §263.4.
12. 64 Fed. Reg. 17834.
13. 64 Fed. Reg. 17834.
14. 64 Fed. Reg. 17834-35.
15. 45 C.F.R. §263.2(a)(5). "Administrative costs" are defined at 45 C.F.R. §263.0(b).
16. 64 Fed. Reg. 17819-20.
17. 42 U.S.C. §609(a)(7)(B)(i)(IV); 45 C.F.R. §263.2(b).
18. 64 Fed. Reg. 17825.
19. 64 Fed. Reg. 17825-26.
20. 64 Fed. Reg. 17817. The TANF definition of "minor child," at 42 U.S.C. §619(2), is an individual under age 18, or an individual who is under 19 and is a full-time

student in a secondary school or in the equivalent level of vocational or technical training.

21. 64 Fed. Reg. 17823.

22. 42 U.S.C. §609(a)(7)(B)(i)(II); 45 C.F.R. §263.5.

23. For an argument that HHS' regulations implementing the new spending test are inconsistent with the TANF statute, see Greenberg and Savner, *The Final TANF Regulations: A Preliminary Analysis* (Center for Law and Social Policy, May 1999), pp. 20-21.

24. 45 C.F.R. §263.5(a).

25. 45 C.F.R. §263.5(b).

26. 42 U.S.C. §609(a)(7)(B)(iv); 45 C.F.R. §263.6.

27. 42 U.S.C. §604(d).

28. 42 U.S.C. §604(a)(2).

29. 42 U.S.C. §604(a)(1).

30. 42 U.S.C. §608(a)(7); 45 C.F.R. §264.1.

31. 42 U.S.C. §607(b)(1)(B); 42 U.S.C. §607(b)(2)(B); 45 C.F.R. §261.22; 45 C.F.R. §261.24.

32. 42 U.S.C. §602(a)(1)(A)(ii); 45 C.F.R. §261.10.

33. 42 U.S.C. §608(a)(3).

34. See generally 42 U.S.C. §608.

35. 42 U.S.C. §611; 45 C.F.R. Part 265.

36. 45 C.F.R. §260.30(a).

37. 45 C.F.R. §260.30(b).

38. 64 Fed. Reg. 17840-41; 45 C.F.R. §260.40.

39. 64 Fed. Reg. 17820-21.

40. 64 Fed. Reg. 17825.

41. 42 U.S.C. §608(a)(6).

[Back to Top](#)

---

[Home](#) | [Who We Are](#) | [Publications](#) | [Audio Conferences](#) | [Activities](#) ]  
[ [Links](#) | [FAQs](#) | | [Contents](#) | [Search](#) | [What's New](#) ]

Copyright © 1998 by [Center for Law and Social Policy, Inc.](#), All Rights Reserved  
For additional information about this website E-mail to: [info@clasp.org](mailto:info@clasp.org)  
Last Revised on Sunday, February 10, 2002