CLASP
The Center for Law and Social Policy

Proposed TANF Regulations Would Target Spending Towards Families with Low Incomes

Ashley Burnside | November 2023

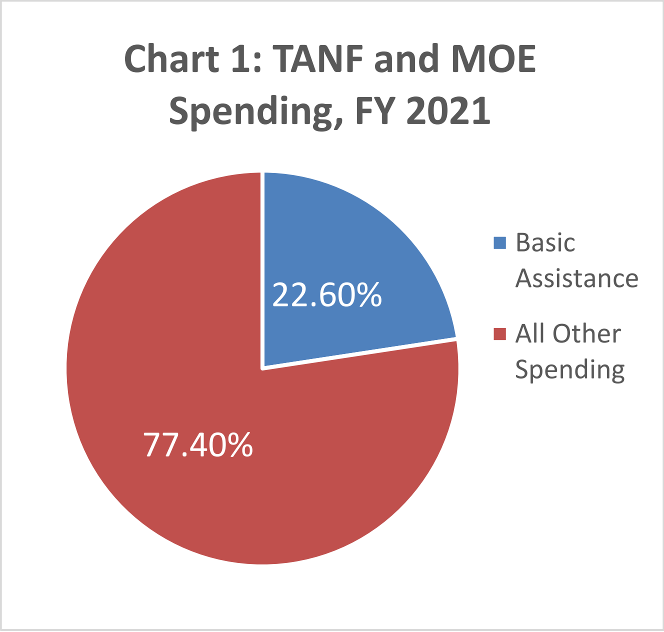
Summary

The Department of Health and Human Services has published a notice of proposed rulemaking that would change policies in the Temporary Assistance for Needy Families (TANF) block grant.[i] Comments must be submitted by December 1, 2023. Because TANF is a block grant, states have a great deal of flexibility in how to use the funds, and less than 25 percent is used to provide cash assistance to families with low incomes.[ii] The proposed rule would provide more guidance to states to ensure that TANF funds are reaching families with low incomes and are being spent on activities reasonably related to the goals of TANF.

By limiting the diversion of TANF funds to other purposes, these proposed changes would make it likelier that families who are experiencing financial emergencies can access critical support through the TANF program. Many of the flexibilities in TANF spending are statutory. This proposed rule will not completely solve the issue of TANF being used to supplant state spending, but it will limit some of the most egregious abuses.

TANF Spending Often Doesn't Reach the Families Who Need It Most

By law, states have broad flexibility in how they can spend their TANF block grant dollars. States also must spend some state dollars towards the TANF program, called "maintenance of effort" (MOE) spending. States that do not maintain their MOE spending requirement risk facing a financial penalty.



Source: Administration for Children and Families, Office of Family Assistance, Updated December 1, 2022.

States can spend their federal block grant dollars and state MOE funds toward any of the four purposes of the TANF program:

1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; 2) End the dependence 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 the annual numerical goals for preventing and reducing the incidence of these pregnancies; and 4) Encourage the formation and maintenance of two-parent families.

States have used this flexibility to spend their funds toward a wide range of programs far beyond the scope of monthly cash assistance, work activities and supports, and child care. Over time, states have invested fewer dollars toward basic assistance for families despite families needing such support.[iii] In Fiscal Year 2021, only 22.6% of TANF dollars nationally went towards basic assistance. (See Chart 1.)

What Is Included Under the Proposed TANF Regulations Changes

There are seven proposed changes included in the notice of proposed rulemaking. The first three are the most substantive, and all address TANF spending rules and policies. The proposed rule would make the following changes:

1. **Establish a ceiling for "needy" families to equal a maximum of 200% of the federal poverty level (FPL).** TANF funds spent toward the first and second purposes, and all MOE spending,[iv] must be targeted toward "needy families." Under current law, states are allowed to define what a "needy family" is, and some states have allowed families earning as much as 400 percent of the federal poverty line – $99,440 for a family of three – to be considered "needy" for some TANF-funded services it provides. There are no income requirements for TANF spending toward purposes three and four. Under this proposed rule, states can continue using their own income standards, so long as they are at or below 200% FPL. This rule would ensure that TANF spending is targeted toward families with low incomes, aligning the income limit with the statutory limit on how transfers to the Social Services Block Grant Program may be used. (Note: TANF funds transferred to the Child Care Development Fund [CCDF] are subject to the rules of CCDF and would not be subject to this limit.)

2. **Clarify when an expenditure is, as the rule states, "reasonably calculated to accomplish a TANF purpose" by implementing a "reasonable person standard."** This rule would help regulate state TANF spending to go toward research-driven areas that support the program goals, rather than toward unrelated expenses that ultimately don't support low-income families. This applies to spending towards all four purposes. The preamble to the rule notes child protective service investigations, college scholarships for adults without children, and after-school activities for youth as examples of activities currently funded by some states with TANF or MOE funds that may not meet this standard.

3. **Exclude states from counting TANF MOE spending from cash and in-kind donations from third parties outside of the government.** Under current law, states can count so-called "third party MOE spending" from nonprofits, such as food banks, toward their MOE state spending requirement. This allows states to spend fewer total dollars towards families with low incomes, which leaves children and families worse off.

The rule also includes four other, more technical provisions.

The Proposed Changes Will Help Ensure that More TANF Dollars Go Towards Supporting Families with Low Incomes

The broad flexibility provided to states of how they can spend their TANF dollars has allowed states to spend funds toward unrelated programs and higher-income families. These proposed changes would ensure the program more effectively supports the neediest families.

Endnotes

[i] Federal Register, "Strengthening Temporary Assistance for Needy Families (TANF) as a Safety Net and Work Program," October 2, 2023, **https://www.federalregister.gov/documents/2023/10/02/2023-21169/strengthening-temporary-assistance-for-needy-families-tanf-as-a-safety-net-and-work-program**.

[ii] Elizabeth Lower-Basch and Ashley Burnside, "TANF 101: Block Grant," Center for Law and Social Policy (CLASP), updated July 2022, **https://www.clasp.org/publications/report/brief/tanf-101-block-grant/.**

[iii] *Ibid*. Lower-Basch and Burnside, "TANF 101: Block Grant."

[iv] The only exception is for spending under purposes 3 and 4 that are also allowable under the Healthy Marriage and Responsible Fatherhood Grants. For a more detailed explanation of how TANF and MOE funds may be used, see: **https://www.clasp.org/publications/report/brief/guide-use-tanf-and-moe-funds/**