

Sign-on Letter to Governor-Elect Eliot Spitzer on TANF Implementation

Re: Recommendations for State Implementation of the new TANF (Welfare) Regulations

Dear Governor-Elect Spitzer:

First, congratulations on your election! We look forward to working with your administration to improve the lives of the most vulnerable New Yorkers. One of the first challenges that your administration will face in the human services arena is the implementation of the new federal Temporary Assistance for Needy Families (TANF) regulations. We are writing with recommendations that will enable the state to meet the increased required work participation rates contained in the new regulations while meeting the needs of welfare participants. These recommendations were developed by a coalition of groups concerned with welfare policy and though each organization may have differing priorities amongst the issues, these recommendations provide the state with options for greatly improving TANF implementation in the state.

On June 28, 2006, the Department of Health and Human Services issued interim final rules on TANF which implement the changes to welfare included in the Deficit Reduction Act in 2005. 71 F. Reg 37454-37483. New York is facing key choices as the state decides the next direction for our TANF programs.

As noted above, the federal regulations substantially increase the proportion of assistance recipients who must participate in work activities for a specified number of hours each week. Federal law requires that 50% of all TANF recipients participate in a work activity. This percentage can be reduced by the application of a formula called the caseload reduction credit. Because the new regulations change the way that the caseload reduction credit is calculated, New York's participation rate will increase from an effective rate of below 20% in 2006 to 44% for FY 2007. It is estimated that we are currently at about a 37% statewide participation rate. This means that we will need to have a monthly average of 7,000 – 10,000 additional TANF recipients in federally countable activities or else face possible federal penalties.

Meeting the increased requirement will be challenging and will require increased investments in welfare-to-work programs and work supports. We strongly urge you to meet the state's increased work participation rates in ways that improve families' employment outcomes and well-being by improving the quality of their welfare-to-work programs, increasing engagement in those programs, and extending supports to low-income working families.

We are very concerned that the state and local departments of social services may look to alternative punitive measures to meet the work rates, even if it hurts families and even if it would not increase the rate as much as appropriately engaging these individuals.

This second round of TANF implementation gives New York State a new opportunity to deliver on the promise of welfare reform. That promise was that welfare would focus more on helping to move families into jobs that allow them to become economically independent. The promise entails identifying the barriers that individuals face in making that transition to employment and then providing the resources (education, training, child care, etc.) to enable them to be successful. In the years since welfare reform, New York has focused primarily on cutting the welfare rolls, implementing a "work first" policy that strongly discouraged education and job training, providing little post-employment training or education, and doing little to identify barriers that individuals have. Our recommendations will enable your new administration to take the high road in implementing the next phase of welfare reform so that poverty is ended amongst the poorest of New Yorkers and so that an adequate benefits level is provided for the well-being of those unable to work.

The following are our recommendations to implement TANF under the new regulations:

EDUCATION AND TRAINING PROGRAMS FOR WELFARE RECIPIENTS:

Many public assistance participants need education and vocational training in order to get jobs that pay family-sustaining wages and benefits. Increasing education and training programs for welfare recipients is a win-win situation: the state and counties have straightforward solution to their increased participation rate requirement, and TANF participants gain access to the education and job training needed to move out of poverty.

Recommendations:

- Because the new regulations include no bar to the continued counting of GED, English for Speakers of Other Languages (ESOL), and Adult Basic Education as work activities, New York State should maximize participation in these activities.
- New York State should continue to allow unlimited participation in work study and internships in satisfaction of work requirements, and use TANF funding to provide additional work-study slots.
- New York State should maximize participation in vocational educational training. New York currently has only about 11% of the caseload participating in vocational educational training, despite a federal allowance for up to 30% participation.
- New York State should allow individuals to complete two-year Associates degree programs, despite the change in federal law. Allowing this will in no way jeopardize the state's ability to meet federal participation rates.
- New York State's hourly work requirements should be no higher than the levels set by Federal law. Currently New York counties uniformly enforce a thirty-five hour plus work requirement on recipients despite their right, under Federal and State law, to get full participation credit once these individuals are participating for twenty hours (if the household has a child under six) or thirty hours (for all other households). By reducing the hourly requirements to the lower federal level, individuals will be better able to balance schooling and training with work and parenting their child.
- New York State should establish and fund a Career Pathway program to create a single education–employment continuum that enables New York to maximize credit for participation in TANF activities while providing TANF recipients with targeted skills development linked directly to self-sufficiency wage employment.

INCOME SUPPORTS AND TRANSITIONAL JOBS:

In New York, there are a substantial number of welfare participants who are unable to find stable or living wage employment while many of those who leave welfare for work remain poor and/or need to return to welfare after losing their employment or facing other financial difficulties. Those remaining on welfare receive public assistance grants that are less than half of the federal poverty level despite the fact that able-bodied participants are complying with work assignments. Income supports, a grant increase and transitional jobs programs can help these families make ends meet while helping the state to avoid federal penalties for failing to meet work participation rate targets.

Recommendations:

- Enact a wage supplement program which provides cash payments on top of earnings from wages to raise the household's income, earnings and employment. TANF funds can be used to fund the supplement. Incorporate access to education and vocational training into the program to increase participants' earning potential in the long-term.
- Revise the state's Earned Income Disregard level to disregard 100% of earnings from wages up to the poverty level for welfare participants who are working and then disregard a percentage of earnings until the family's income reaches 135% of poverty. This would increase the income of households on welfare that are still below the federal poverty level, despite the presence of a working adult while increasing the state's work participation rates.
- Currently, public assistance recipients are not able to earn up to the poverty level because they become ineligible when their income exceeds 185% of the Standard of Need. As a result, no households are actually able to earn up to the poverty level. The 185% rule needs to be repealed for working public assistance families to be assured at least poverty level income. Further, the rule needs to be repealed for the 100% disregard described above to be effective.
- Enact or implement a Paid Transitional Employment program that combines time-limited, wage-paying jobs with real work, skills development, and supportive services, to enable participants to transition successfully from welfare into the labor market.
- Raise the welfare grant. Allocate TANF funds to increase the basic grant, which has not been increased in 16 years. New York should increase the basic allowance and home energy allowances of the public assistance grant to reflect the increase in the cost of living since the last adjustment in 1990.
- Enact and use TANF funds for a state-enhanced Food Stamp supplement which would put more food on the table of New York's poor and working poor and, at the same time, substantially increase New York's participation rate.

ADDRESSING THE NEEDS OF PEOPLE WITH DISABILITIES AND OTHER BARRIERS TO EMPLOYMENT

A significant percentage of public assistance recipients struggle with disabilities – particularly mental disabilities – and other barriers to employment.

Recommendations:

- Develop a screening tool to identify clients with disabilities and mandate that localities offer screening to their clients. The failure to detect disabilities leads inevitably to difficulties, including sanctions for alleged noncompliance. The availability of a high quality screening process is a crucial first step in addressing these barriers.
- Make available a range of intensive case services. Many public assistance recipients will be able to enhance their employability if they have access to appropriate services, including treatment, rehabilitation, counseling and training.

- Adopt measures designed to reduce the rate of sanctions. Inordinate numbers of recipients are at risk of, or are suffering a termination or reduction of their benefits for failing to comply with program requirements. The failure to comply is very frequently caused by the individual's disabilities. Sanctions harm family well-being and make it more difficult for the State to comply with federal work participation requirements. Local agencies should be directed to undertake various preventive and outreach efforts to avoid the imposition of sanctions.
- Ensure welfare program compliance with the Americans with Disabilities Act. When these programs provide equal and meaningful access to people with disabilities, they will, in many cases, enable those with disabilities to complete and benefit from those programs and become self-sufficient.

ALLOCATION OF TANF FUNDING:

Over the past ten years, New York has used a large and growing portion of its TANF "surplus" to fund two critical tax credits for low-income working families --- the NYS Earned Income Tax Credit and the NYS Child and Dependent Care Credit.

Together, spending for these two tax credits made up \$561 million of the so-called TANF surplus funds in 2004-2005. In the 2005-2006 executive budget, the governor proposed to continue funding for the NYS Child and Dependent Care Credit out of the TANF surplus, but the legislature removed it in the enacted budget, treating the NYS Child and Dependent Care Credit like any other tax expenditure in the budget, in essence fully funding this tax credit from general fund revenues.

In the 2006-2007 executive budget the governor proposed that \$717 million for the NYS EITC be taken from the TANF block grant but the legislature's Human Services Conference committee recommended that the NYS EITC be funded at a level of \$709.3 million with \$678.6 million from the TANF block grant and \$30.7 million from the general fund.

Recommendations:

- Take further steps towards normalizing the funding of the NYS EITC by treating the EITC like other tax expenditures rather than using the TANF block grant. This would free up more than a half million dollars in TANF block grant funds to support expanded benefits, programs and services for low-income families including increased funding for child care and funding some of the recommendations outlined in this letter.
- Federal law requires that states maintain a certain level of funding as a condition of receiving TANF funds. This is called maintenance of effort (MOE). Until the new federal regulations became effective, persons in public assistance programs funded with MOE funds (such as New York's Safety Net program for those meeting the five year time limit), were not subject to the work participation rates. The new regulations apply the work participation requirements to MOE programs. To address this change, the state should create separate, non-MOE programs covering various segments of the public assistance population to enable certain critical needs to be addressed without jeopardizing our ability to comply with federal requirements. The new administration should consider "carve-outs" for such groups as people with pending SSI applications, students pursuing postsecondary education who cannot be counted in the participation rate, and people with treatment needs beyond the very limited allowances set forth in the federal regulations.

Sincerely,

Susan Antos and Kristin Brown Lilley, Empire Justice Center
Wendy Bach, CUNY Law School's Economic Justice Project
Mark Dunlea and Bich Ha Pham, Hunger Action Network of NYS
Don Friedman, Community Service Society
Cary LaCheen and Brooke Richie, National Center for Law and Economic Justice
Maureen Lane and Dillonna Lewis, Welfare Rights Initiative at Hunter College
Jeremy Reiss, NYC Employment and Training Coalition
Trudi Renwick, Fiscal Policy Institute

Sign onto the Letter today!

Please complete the form provided below and mail or fax it to the address listed.

Yes, my organization would like to sign onto this letter.

Organization/Group Name: _____

Address: _____

Your Name: _____ Your E-mail Address: _____ Your

Phone Number: _____ Your Fax Number: _____

Please return to the attention of:

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