

**This document contains three parts:**

**Part I: Further instructions from CBPP on how to make your comments reflect the unique perspective of your organization/state**

**Part II: CBPP's Model Comments**

**Part III: Heading for your comment letter**

### **Part I: Further Instructions from CBPP:**

The following are some ways to change the content to reflect your organization's and state's unique perspective:

1) Include information about your organization and how/why it is engaged in work related to TANF or TANF recipients.

*We are the **Help Children Now Coalition** in the state of **Wherever**. We are a coalition of employment and training providers, child care providers, child advocacy groups, and education professionals. Our members work with TANF recipients and their children in a variety of capacities and know first hand the struggles of these families to prepare for, find, and retain employment...*

2) Include *examples* of why a particular recommendation is important in your state.

*Our state already does too little to serve recipients with disabilities. Our emergency food and shelter providers consistently find that a significant share of the families that seek their services are families that have lost TANF benefits - or were not able to complete the arduous application process - and that include someone in the household with a serious physical or mental impairment. These are not individuals who "refuse to work," but families that need a lot of help to move toward employment and are not getting that help. The rules will only give our state further reason to ignore these families' special needs... OR (and better)*

*Our state has done a lot in recent years to improve the procedures for identifying TANF recipients with physical or mental impairments and then developing appropriate, individualized employment programs for them. Many of these individuals are engaged in activities that are designed to help them become employable - including seeking mental health treatment, participating in substance abuse treatment, attending physical therapy - though many of them are engaged in activities that are not generally countable toward the work rates under these rules (or are countable for far less time than these recipients need) and many participate for fewer hours than required under the standard federal rules. But, the programs themselves are successful. Many individuals are able to transition from these more specialized activities to vocational educational training programs or even straight to employment. For example, <a specific about a family (w/ name withheld, of course) or a program.*

*Our state allows a modest share of TANF recipients to attend college to work toward a BA degree. Most are individuals who already have started their degree programs but others are first time college students. <describe program and successes>, etc.*

### **Other Suggestions for Comments**

August is a difficult time to encourage groups to submit comments. It is better for groups to submit individual comments because HHS, quite literally, is required to *count* the number of comments it receives that makes a particular recommendation or type of recommendation. That

said, you may want to consider doing a "sign on" comment for those groups who will not be able to submit their own comments. If you are able to help religious groups or disability groups submit comments - even if they are short and relatively general - that would be terrific.

### **Want more details or need help?**

The Center has drafted much longer and more detailed comments to these rules. If you would like to receive that more detailed draft set of comments, please email Liz Schott at [schott@cbpp.org](mailto:schott@cbpp.org).

## **Part II: CBPP's Model Comments:**

### RECOMMENDATIONS FOR IMPROVING THE INTERIM FINAL TANF REGULATIONS

On June 29, the Department of Health and Human Services released interim final regulations implementing changes the recent Deficit Reduction Act (DRA) made in the TANF block grant, including changes that will force states to meet much higher effective work participation rates. The regulations were published at 71 Federal Register 37454–37483, and are available online <http://www.acf.hhs.gov/programs/ofa/tanfregs/tfinrule.pdf>. The rules include instructions on submitting comments. **HHS is accepting comments on the regulations until August 28.**

While the overarching objective of the regulations should be to help states design effective programs that help families move from welfare to work, in a number of important ways the interim final rules fail to further this objective. Below are three goals the final regulations should pursue and a series of specific recommendations to help make the regulations more useful in furthering with these goals.

**Goal 1: Encourage states to work with a broad group of TANF recipients, including those with disabilities who are able to work or engage in productive employment preparation activities, while recognizing that a small share of recipients may be unavailable for participation due to severe impairments or the need to care for family members with disabilities.**

A significant share of families receiving TANF assistance include an individual with a disability. In most cases, these disabilities are not so severe that the individual is unable to work at all. But in many cases, individuals with disabilities (and parents caring for family members with disabilities) need accommodations such as specialized services and work requirements to participate successfully.

States are obligated to make these accommodations, because the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Services Act apply to states' TANF and MOE-funded programs. Moreover, in the preamble to the interim final regulations, HHS exhorts states to do more to provide effective employment services for individuals with disabilities.

Yet states are less likely to invest the staff and financial resources necessary to develop appropriate services to help these families if they do not get credit toward the federal work requirements for their efforts. Unfortunately, under the provisions of the interim final rules, if a recipient with a disability engages in job preparation activities that fall outside the interim rules' narrowly defined work activities — or if a recipient is unable to participate in a work activity for the required number of hours — the state receives no credit toward the federal work requirements.

To provide states with an incentive to engage recipients who need accommodations due to disabilities, we recommend the following changes:

- ?? *States should be allowed to adopt broader definitions of work activities when a person with a disability needs accommodations under the ADA or Section 504. This will provide states an incentive to engage recipients with disabilities in activities that are both take into account their special needs and help them move toward employment*
- ?? *States should be allowed to count recipients who participate in work activities for the number of hours required under an employment plan that includes accommodations for disabilities (or accommodations based on a recipient's need to care for a family member with a disability) as having met the federally required number of hours of participation. Some recipients with disabilities — or those caring for family members with disabilities — can participate in work activities, but cannot participate for as many hours as is required under the standard federal rules. This flexibility will give states an incentive to engage these recipients for the number of hours they are able to participate.*
- ?? *States should be allowed to count recipients who miss certain hours of scheduled work participation in order to care for a family member with a disability toward their work participation rate. Recipients who care for family members with disabilities will occasionally have to miss hours of scheduled participation — such as when the family member gets sick or needs to go the doctor or when the recipient needs to meet with schools, caseworkers, or others who help coordinate support and care for the family member. When recipients miss hours of scheduled participation for these reasons, but otherwise participate during the month, the state should not be penalized by not getting credit for their engagement in the participation rate.*

The interim final rules appropriately recognize that there are some parents who should not be considered "work eligible" and, therefore, should not be counted toward the work participation rate. This includes parents receiving SSI benefits. The rules, however, do not exclude other parents who have disabilities of the same severity from the work participation rate calculations. The regulations should be revised to exclude those parents who meet the SSI disability standard but are awaiting approval of their SSI application and those who have severe — but temporary — disabilities from the work participation rate calculation. At a minimum, states should be able to retroactively exclude parents from the work rate calculation after SSI benefits have been authorized.

Similarly, the interim final rules recognize that some parents are not "work eligible" because they are caring for family members with disabilities, but the rules do not provide

this exception to parents caring for family members with disabilities who live outside the TANF recipient's home. Those provisions should extend to care provided to these family members as well.

**Goal 2: Encourage states to develop effective job preparation programs that build upon the last three decades of welfare reform research.**

Research has shown that the most successful welfare-to-work programs are those that feature a mix of services tailored to the circumstances of individual recipients. Successful programs typically include education and training opportunities that are work-focused and that enable recipients who lack basic skills — including English-language skills — to build those basic skills as well as occupation-specific skills. Finally, successful welfare-to-work programs are typically infused with activities that help connect participants with unsubsidized jobs.

The interim final rules erect unnecessary barriers to designing welfare-to-work programs with these features. By adopting narrow and mutually exclusive definitions of countable work activities, the rules make it difficult for states to combine work activities such as work experience or vocational educational training with activities designed to improve recipients' "soft skills" and look for unsubsidized employment.

To remove these barriers and foster the development of higher-quality and blended programs, we recommend the following changes:

- ?? *States should be allowed to count all hours of participation in a welfare-to-work program as falling under a single work activity category even if a small number of the hours are spent on other job preparation activities.* For example, if a work experience program includes a small number of hours of activities to help recipients develop their resume, learn how to interview, develop time-management skills, learn some basic skills, or actually look for work, the state should not have to code these hours as separate work activities, but should be able to consider all of those hours as part of the work experience program. This change will not only simplify the already difficult task of accurately monitoring and documenting hours of participation, but (more importantly) will provide states with an incentive to create integrated programs that provide a mix of activities that will help recipients transition to unsubsidized employment.
- ?? *HHS should change the way it measures the weekly limits on job search and job readiness activities to provide states with more options for providing these activities in combination with other work activities.* This could be accomplished by: (1) measuring the limitation that these activities can only be done for four consecutive weeks by only counting weeks in which a majority of a recipient's hours of participation were spent in these activities; and (2) measuring the six week (12 weeks in a needy state) limitation on overall participation in these activities on an hourly basis so that a recipient who does a small number of job search hours in a particular week in combination with other work activities does not "use up" an entire week of participation in the activity.
- ?? *States should retain the flexibility to determine whether particular programs prepare individuals for*

*employment and thus constitute vocational educational training, which is countable toward states' work participation requirements for up to 12 months for any recipient. States should be able to choose to count, for example, post-secondary programs that lead to a bachelor's degree. College educated workers have higher employment rates, higher earnings, and lower poverty rates than those with high school degrees and states, not the federal government, should make the determination of whether they can assist an individual recipient move toward employment. In addition, states should be able to count a stand-alone English as a Second Language program as a vocational education activity — English language proficiency is a key job skill and often is the key to helping some recipients secure employment.*

*?? The definition of “on-the-job training,” which under the interim regulations is confined to training associated with paid employment, should be broadened to include training that helps individuals learn the skills needed to perform the work tasks at a work experience site. This will help foster experimentation with new models of work experience which could have more positive effects on employment and earnings outcomes than such programs have been found to have in the past.*

### **Goal 3: Strike a balance between holding states accountable and imposing overly burdensome administrative requirements on them.**

The DRA gave HHS authority to develop rules for how states count hours of participation in work activities and verify the hours reported. Unfortunately, the interim regulations go too far in limiting the legitimate means by which states can get an accurate picture of recipients' participation.

The rules do not give states enough options for monitoring participation and progress in certain work activities; they also erect unnecessarily rigid timeframes for state agencies to gather documentation of recipients' hours. In some cases, the rules are so onerous as to be counterproductive, and could lead states to focus too much on tracking participation and too little on the quality of their employment services.

In addition, the rules do not send any signal to states that they should develop ways to document participation that do not unduly burden families, who already are struggling to balance family obligations and participation in work activities.

To ease administrative burdens on states and families while still ensuring that states provide an accurate picture of the extent to which recipients are engaged in work activities, we recommend the following:

*?? Instead of tracking and verifying every hour a recipient participates in vocational and other education and training programs (as the interim regulations require), states should be permitted to record recipients who are making satisfactory progress in these activities as having participated for the number of hours each week that the program typically meets. Since education and training programs have a built in structure for periodically monitoring progress in the program (typically grades), this mechanism would significantly reduce paperwork burdens for states and families and focus states' attention on the real goal — program success — rather than hourly*

participation.

?? *The stated policy that states may not count homework and study time as hours of participation in vocational educational training (or another educational work activity) unless the homework is supervised should be eliminated.* This is an unnecessary federal intrusion into state program design choices and will make it much harder for states to provide recipients with the time they need to complete homework and study classroom material — which is necessary if they are to succeed in education and training programs — and much harder for recipients who are trying to juggle family obligations with classroom instruction and study time.

*The excused absence policy should be modified so that states receive credit toward their work participation targets when recipients participate for most of the required hours but miss more hours of participation for unavoidable reasons, such as illness, a sick child, and court or school appointments.* The excused absence policy in the interim final rules that allows recipients to miss no more than two days per month — and 10 days per year — will mean that some parents who dutifully participate in most of their scheduled hours but miss several days when a child gets the flu or the parent must attend court appearances or meetings at her child's school will not count toward the participation rate. This will not only hurt states' efforts to meet the work rates, but will mean that the work participation rates themselves will give policymakers and the public an inaccurate picture of the extent to which recipients are actively engaged in work activities.

### **Part III: Heading for your comment letter**

August \_\_, 2006

Attention: Mr. Robert Shelbourne  
Office of Family Assistance (OFA)  
Administration for Children and Families  
5<sup>th</sup> Floor East  
370 L'Enfant Promenade, SW  
Washington, DC 20447

RE: Reauthorization of the Temporary Assistance for Needy Families Program Interim Final Rule, 45 CFR Parts 261, 262, 263, 265 (June 29, 2006)

Dear Mr. Robert Shelbourne: