

Office of Family Assistance
Administration for Children and Families
5th Floor East
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

Re: Comments on the Interim Final Rule on the Reauthorization of the Temporary Assistance to Needy Families Program

Dear Sir/Madame:

On behalf of California's 58 counties, which administer the state's Temporary Assistance to Needy Families (TANF) block grant, also known as CalWORKs, the California State Association of Counties (CSAC) and the County Welfare Directors Association of California (CWDA) are providing the attached comments on the TANF interim final rule which implements the statutory changes made by the Deficit Reduction Act of 2005.

Our county elected supervisors and human services directors urge you to retain the necessary flexibility to meet the unique needs of each county and its population. Our members have front-line TANF experience. They understand the need to administer TANF and other human services programs efficiently and effectively, given the budget pressures their counties face when funding human services programs. They also are committed to ensuring that needy residents in their communities receive appropriate services to move them into economic self-sufficiency.

Our comments seek to maintain a true federal, state and local intergovernmental partnership which provides local administrators with the necessary tools to allow them to continue to focus on common-sense and real life approaches to moving families from welfare to work, instead of designing programs to meet administrative requirements.

We have organized our comments by category in the attachment. Please do not hesitate to contact either of us if you have questions regarding our comments and suggestions.

Sincerely,

Kelly Brooks, Legislative Representative
California State Association of Counties

Frank J. Mecca, Executive Director
County Welfare Directors Association of California

**California County Comments
on the
TANF Interim Final Rule
August 28, 2006**

Definition of On-the-Job Training

Section 261.2(f)

Recommendation

Include Unpaid OJT Training: The definition of On-the-Job Training (OJT) should include both paid and unpaid training activities the employer and case manager have identified as necessary for the recipient to be successfully employed. This training should be allowed on or off-site.

Rationale

This change will assist in ensuring that CalWORKs participants are successfully employed. Whether the OJT is paid or not and the location of the training should not matter when making efforts to achieve that goal.

Definition of Job Search/Job Readiness

Section 261.2(g)

Recommendation

Include Domestic Violence: Domestic violence activities should be included in the definition of job search/job readiness activities.

Rationale

Instead of exempting victims of family violence, California counties have chosen to provide alternative welfare-to-work plans for them. We believe that domestic violence activities should qualify as a job readiness service since they assist clients in preparing for a job. See below for how we recommend counseling hours be counted.

Recommendation

Revise Time Limits for Behavioral Health and Related Services: We support a common-sense approach to determining the amount of time participants may participate in mental health, substance abuse treatment, and rehabilitation activities. To calculate their four or six week limits, one hour of these services should count as an hour, not as a full week as outlined in the interim final preamble. We recommend that states and counties be able to count 240 hours per year of mental health, substance abuse and domestic violence services for a CalWORKs participant instead of six weeks, since these services often involve a small number of hours per week. Such an approach will allow participants to 'bank' hours for use throughout the year.

Rationale

Many of our CalWORKs families struggle with multiple barriers to employment, including behavioral health issues. For many families, 240 hours still may not be enough hours (even if counted hourly) to address families' very real barriers to employment. While we welcome HHS's inclusion of these services as allowable activities, an interpretation that one hour would count as an entire week of participation in the activity is neither

common-sense nor conducive to assisting them in overcoming a major employment barrier. Allowing participants draw upon these hours also resembles the 'real world' of work where employees needing counseling can use sick leave or other time off during a portion of the work day for such appointments. This approach would also provide additional flexibility in crafting a comprehensive array of activities to meet the needs of the CalWORKs participant.

Work-Eligible Individuals

Section 261.2(n)(1)

Recommendation

Exclude Drug Felons and Fugitive Felons: Drug felons should be excluded from the definition of work-eligible individuals.

Exclude SSI Applicants and CAPI Recipients: We urge you to exclude from the definition of work-eligible individuals those SSI applicants and applicants for and recipients of California's Cash Assistance Program for Immigrants (CAPI) (the State's SSI-equivalent program) who have medical verification that they are unable to work.

Rationale

States and counties are prohibited under federal law from providing federal TANF assistance to drug felons. Their children do receive assistance. It does not make sense that the federal government would mandate that this population participate while not providing any funding for those efforts.

If a medical professional has verified and documented that an SSI applicant, CAPI applicant or recipient has a medical condition that prevents the individual from work, a state, county or recipient should not be penalized for the inability to meet TANF requirements.

Excused Absences

Section 261.60(b)

Recommendations

Provide Flexibility for Unpaid Work: States and counties should be able to count hours recipients are absent on an hour-for-hour basis. Again, such an approach is common-sense and is comparable to actual employment settings. As currently written, if an individual has an excused absence for a few hours during the day, the regulations appear to count them as a full day toward the two-day monthly limitation and the ten days in any 12-month period limitation.

Excused Absences for Paid Work: For those employees who are paid hourly but the employer does not provide paid sick leave or holidays, the federal policy should match the policy allowing states to count days missed due to holidays and excused absences in unpaid activities. As recommended above, time should be counted on an hour-for-hour basis.

Rationale

These recommendations on counting hours for paid and unpaid work would regard CalWORKs recipients like non-TANF employees who take time off in hourly increments to deal with personal issues or to benefit from holidays without being penalized. For example, CalWORKs participants may work on a Monday to Friday schedule, but do not work on Thanksgiving because the business is closed that day. While they may not be entitled to a paid holiday, they should at least be able to claim eight hours of participation due to the holiday.

Calculating Work Participation Hours

Section 261.60

Recommendation

Disabled Recipient Participation: Persons with disabilities should be deemed as meeting the federal work participation rate if they are engaged in federally countable activities for the maximum number of hours that their medical professional says they can participate. When these recipients do so, states and counties should be able to receive full credit for their participation at the required federal work participation level (either 20 or 30 hours per month).

Rationale

Medical professionals prohibit some CalWORKS participants with disabilities from working or engaging in work-related activities for more than a certain number of hours per month due to their medical condition. A policy which recognizes this fact and gives full credit if activities are performed up to the maximum number of hours per week would allow counties, states and participants alike to focus on what recipients can do and represents incremental progress toward self-sufficiency. This recommendation is similar to HHS's proposed Fair Labor Standards Act (FLSA) treatment of community service or unpaid work experience where the minimum wage equivalent is less than the required 20 hours per week of core activity.

While states and counties can engage these individuals outside of the 50 percent participation requirement, this recommendation may encourage them to do more with persons with disabilities.

Reasonable Cause Exclusions

Section 262.6

Recommendation

Safety Net Cases: If HHS rejects our earlier comments on excluding certain groups from the work participation requirements, it must then provide a reasonable cause exception to give the State and its counties additional time to enact and implement the statutory changes necessary to include those cases in which all adults have been excluded from cash aid in the assistance unit.

Rationale

California does not have the authority to require activities by the excluded parent under current statute. Deadlines for the introduction of legislation passed prior to the release of the interim final rule and it is too late in this year's legislative session to introduce

legislation and get it enacted, let alone implement it by October 1. The Legislature does not re-convene until January 2007. HHS should use the reasonable cause exception to provide relief from the work participation penalty related to the effect of including this caseload.

This exception will also be necessary for states and counties to meet the requirements for CalWORKs participants who have timed-out of cash assistance. The State should be given at least until federal fiscal year 2008 before it is required to place these individuals in the work participation denominator. California will need time not only to respond programmatically but also to redesign their data systems to properly capture these participants.

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