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# Temporary Assistance for Needy Families Information Memorandum

U.S. Department of Health and Human Services  
Administration for Children and Families  
Office of Family Assistance  
Washington, DC 20447

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Memorandum No. TANF-ACF-IM-2012-03

Date: July 12, 2012

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**TO:** States administering the Temporary Assistance for Needy Families (TANF) Program and other interested parties

**SUBJECT:** Guidance concerning waiver and expenditure authority under Section 1115

**REFERENCE:** Section 1115 of the Social Security Act. [42 U.S.C. 1315]; Section 402 of the Social Security Act. [42 U.S.C. 602]

**BACKGROUND:** Section 1115 of the Social Security Act provides authority for the Secretary of the Department of Health and Human Services (HHS) to consider and approve experimental, pilot, or demonstration projects which, in the Secretary's judgment, are likely to assist in promoting the objectives of Title IV-A. Section 1115 allows for waiver of compliance with section 402 of the Social Security Act to the extent and for the period necessary to enable a state to carry out an approved project. The statute also provides authority for costs of such projects which would not otherwise be an allowable use of funds under Part A of Title IV to be regarded as an allowable use of funds, to the extent and for the period approved.

As specified in statute, the purpose of Part A is to increase the flexibility of states in operating a program designed to: (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 annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two-parent families.

**PURPOSE:** HHS is encouraging states to consider new, more effective ways to meet the goals of TANF, particularly helping parents successfully prepare for, find, and retain employment. Therefore, HHS is issuing this information memorandum to notify states of the Secretary's willingness to exercise her waiver authority under section 1115 of the Social Security Act to allow states to test alternative and innovative strategies, policies, and procedures that are designed to improve employment outcomes for needy families.

States led the way on welfare reform in the 1990s — testing new approaches and learning what worked and what did not. The Secretary is interested in using her authority to approve waiver demonstrations to challenge states to engage in a new round of innovation that seeks to find more effective mechanisms for helping families succeed in employment. In providing for these demonstrations, HHS will hold states accountable by requiring both a federally-approved evaluation and interim performance targets that ensure an immediate focus on measurable outcomes. States must develop evaluation plans that are sufficient to evaluate the effect of the proposed approach in furthering a TANF purpose as well as interim targets the state commits to achieve. States that fail to meet interim outcome targets will be required to develop an improvement plan and can face termination of the waiver project.

The demonstration authority provided by section 1115 and sound evaluation of approved projects will provide valuable knowledge that will help lead to improvements in achieving the purposes of the TANF program.

## **INFORMATION:**

### Scope of Authority

Section 1115 authorizes waivers concerning section 402. Accordingly, other provisions of the TANF statute are not waivable. For example, the purposes of TANF are not waivable, because they are contained in section 401. The prohibitions on assistance are not waivable, because they are contained in section 408.

While the TANF work participation requirements are contained in section 407, section 402(a)(1)(A)(iii) requires that the state plan “[e]nsure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.” Thus, HHS has authority to waive compliance with this 402 requirement and authorize a state to test approaches and methods other than those set forth in section 407, including definitions of work activities and engagement, specified limitations, verification procedures, and the calculation of participation rates. As described below, however, HHS will only consider approving waivers relating to the work participation requirements that make changes intended to lead to more effective means of meeting the work goals of TANF.

Moreover, HHS is committed to ensuring that any demonstration projects approved under this authority will be focused on improving employment outcomes and contributing to the evidence base for effective programs; therefore, terms and conditions will require a federally-approved evaluation plan designed to build our knowledge base. TANF funds may be used to fund an approved evaluation and state funds spent on an approved evaluation may be considered state maintenance-of-effort (MOE) expenditures. In addition, terms and conditions will require either interim targets for each performance measure or a strategy for establishing baseline performance on a set of performance measures and a framework for how interim goals will be set after the baseline measures are established. The terms and conditions will establish consequences for failing to meet interim performance targets including, but not limited to, the implementation of an improvement plan and, if the failure to meet performance targets continues, termination of the waivers and demonstration project.

## HHS Priorities

In exercising her broad discretion for waivers, the Secretary is interested in approaches that seek to improve employment outcomes. Accordingly:

- Waivers will be granted only for provisions related to section 402.
- The purposes of TANF, the prohibitions contained in section 408 (including the time limits on assistance contained in that section), or any other provision of TANF other than those specified in section 402 will not be waived.
- The Secretary will not approve a waiver for an initiative that appears substantially likely to reduce access to assistance or employment for needy families.
- The Secretary will not use her authority to allow use of TANF funds to provide assistance to individuals or families subject to the TANF prohibitions on assistance.
- The Secretary will not waive section 402(a)(5) relating to requirements to provide equitable access to Indians.
- Waiver demonstration projects may be conducted in limited geographic areas or statewide. The Administration for Children and Families (ACF) is interested in more efficient or effective means to promote employment entry, retention, advancement, or access to jobs that offer opportunities for earnings and advancement that will allow participants to avoid dependence on government benefits. The following are examples of projects that states may want to consider – these are illustrative only:
  - Projects that improve coordination with other components of the workforce investment system, including programs operated under the Workforce Investment Act, or to test an innovative approach to use performance-based contracts and management in order to improve employment outcomes.
  - Projects that demonstrate attainment of superior employment outcomes if a state is held accountable for negotiated employment outcomes in lieu of participation rate requirements.
  - Projects under which a state would count individuals in TANF-subsidized jobs but no longer receiving TANF assistance toward participation rates for a specified period of time in conjunction with an evaluation of the effectiveness of a subsidized jobs strategy.
  - Projects that improve collaboration with the workforce and/or post-secondary education systems to test multi-year career pathways models for TANF recipients that combine learning and work.
  - Projects that demonstrate strategies for more effectively serving individuals with disabilities, along with an alternative approach to measuring participation and outcomes for individuals with disabilities.
  - Projects that test the impact of a comprehensive universal engagement system in lieu of certain participation rate requirements.
  - Projects that test systematically extending the period in which vocational educational training or job search/readiness programs count toward participation rates, either generally or for particular subgroups, such as an extended training period for those pursuing a credential. The purpose of such a waiver would be to determine through evaluation whether a program that allows for longer periods in certain activities improves employment outcomes.

Note that this is not a comprehensive list, and HHS will consider other projects consistent with the statute and the guidance provided in this IM. HHS is especially interested in testing approaches that build on existing evidence on successful strategies for improving employment outcomes.

- Waiver requests must include an evaluation plan. In order to provide the strongest evidence about the effectiveness of the demonstration, the preferred evaluation approach is a random assignment methodology, unless the Secretary determines that an alternative approach is more appropriate in light of the demonstration proposed. All evaluation plans and funds to support them must reflect an adequate level of effort and sound methods to produce credible findings. ACF anticipates actively engaging with states to ensure that evaluation plans are appropriate in light of the nature of the demonstration and that the evaluation findings can reasonably be expected to provide information that will enhance understanding of whether the initiative was successful in furthering HHS priorities. ACF staff members are available to work collaboratively with states to develop further or refine the evaluation plan.
- Waiver requests must include a set of performance measures that states will track to monitor ongoing performance and outcomes throughout the length of the demonstration project, along with the evaluation. Waiver applications must specify interim targets for each performance measure, including a framework for how often the measures will be reported, or a strategy for establishing baseline performance on a set of performance measures and a framework for how interim goals will be set after the baseline measures are established. Performance measures must be designed to track improvement across the entire set of families targeted as well as appropriate subgroups. In developing the final terms and conditions for an approved waiver, ACF will work with the state to further refine the appropriate performance measures and interim targets as needed. All approved waivers will include a provision that requires timely reporting to HHS on the agreed upon performance measures and progress toward meeting established interim targets. States that fail to meet interim targets will be required to develop improvement plans. Repeated failure to meet performance benchmarks may lead to the termination of the waiver demonstration pilot.
- The request must specify the proposed length of time for the demonstration project. The final terms and conditions will specify the approved length of the project. Absent special circumstances, the length of an approved project will not exceed five years.
- A state will need to develop and submit a budget that includes the costs of program evaluation. TANF and state MOE funds can be used for the costs of evaluation, including third party contributions counting toward meeting a state's MOE requirement.
- HHS recognizes the importance of public input into the process of developing and implementing a waiver demonstration project. Therefore, the state must provide the public with a meaningful opportunity to provide input into the decision-making process prior to the time a proposal is approved by HHS. Further guidance concerning this requirement will be forthcoming.
- Waivers are subject to HHS and Office of Management and Budget (OMB) approval and terms and conditions may include additional requirements, such as site visits, before implementation.

Terms and conditions will require periodic reporting on how the implementation and operation of the demonstration is progressing, including reporting on the performance measures, in addition to evaluation reports. To support learning and knowledge development, ACF staff may conduct on-site visits to observe demonstration operations and meet with relevant managers and staff.

**INQUIRIES:**

Inquiries and applications for projects involving waiver requests should be directed to the appropriate Regional TANF Program Manager.



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