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# DESIGNING SOLELY STATE-FUNDED PROGRAMS
## Implementation Guide for One "Win-Win" Solution for Families and States

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### Overview

In the wake of federal TANF changes, states face key choices as they decide the next direction for their Temporary Assistance for Needy Families (TANF) programs. In early 2006, Congress enacted changes to TANF in the Deficit Reduction Act (DRA) that effectively increase the proportion of assistance recipients that states must have participating in work activities for a specified number of hours each week. HHS has since issued TANF rules that make it more difficult for states to meet these increased work participation requirements.[1]

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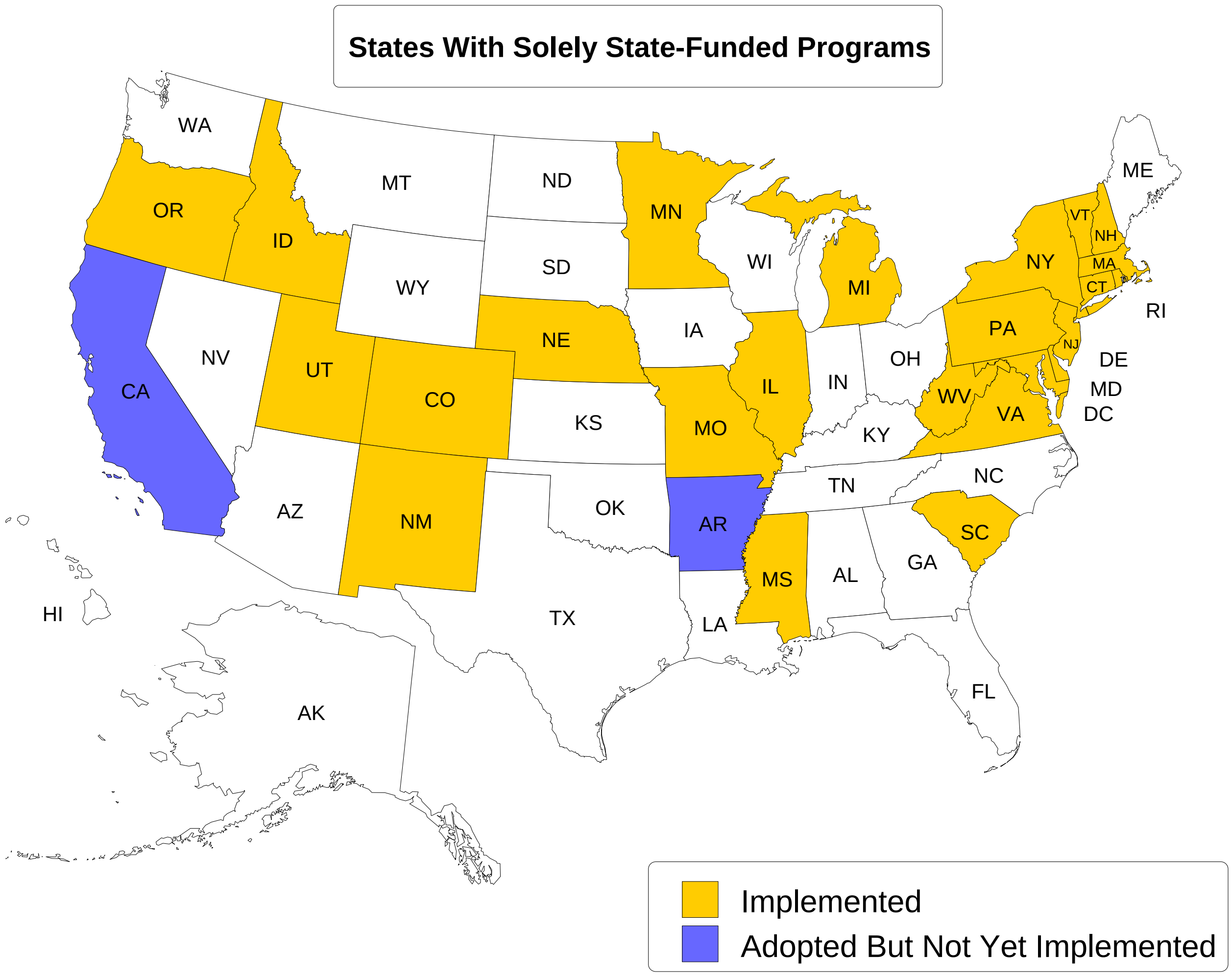
States are under pressure to meet these increased work rates and, if they fail to do so, they ultimately could face fiscal penalties. At the same, many states face a tension between initiating or continuing programs that are effective in addressing the range of employability needs of TANF families and creating programs that focus more narrowly on those activities that can count toward federal work rates, even when these "countable" activities are not a good match for some families. Many of the families that are eligible for TANF and that are not able to secure stable employment quickly face serious barriers, ranging from mental and physical health problems and low cognitive functioning to domestic violence, substance abuse, and unstable housing. If these families are to engage in welfare-

[1] 73 Fed. Reg. 6772 et seq. (February 5, 2008).

FIGURE 1




to-work activities consistently and ultimately move toward employment, more creative and intensive approaches tailored to meet these challenges will be needed.

Similarly, some states make use of education and training programs that do not meet the federal requirements for countable work activities because they exceed the 12 month limitation on vocational educational training. Some of these states had served students in education and training programs exceeding 12 months in MOE-funded separate state programs, which were excluded from the work rate calculation prior to the DRA. States that want to continue these programs risk lowering their work participation rate if they continue to provide assistance to these families in a TANF- or MOE-funded program.

And finally, most states are concerned that under the new structure, they will be unable to meet the 90 percent two-parent work participation rate if they continue to provide aid to two-parent families in TANF- and MOE-funded programs.

One approach many states already have taken and others are considering in response to these challenges is to serve some families — those for whom the federal work participation requirements are inappropriate, overly restrictive, or (in the case of two-parent families) simply too high — outside of the TANF/MOE structure in a separate program that is funded solely with state funds that are *not* claimed toward the TANF maintenance-of-effort requirement. The state can provide these families with the types of training, education, or rehabilitative activities they need and many could make progress toward future participation in federally countable work activities and employment.

At least half of the states have already implemented "solely-state funded" (or SSF) programs with state funds that will not be reported as MOE. (Appendix)[2] The groups of families served in current SSF programs include two-parent families, families with a parent with a disability, and families with parents attending post-secondary education programs. Specific state examples are discussed throughout this paper.

Establishing a "solely state-funded" program is not the only policy or design approach that a state should consider in its efforts to comply with the federal work requirements *and* improve the performance of its welfare-to-work programs. It is, however, an approach that can help states meet *both* of these important goals. It can give states the flexibility they need to tailor their employment-related services to the circumstances of individual recipients, enabling them to continue or initiate evidence-based program approaches rather than simply pursuing strategies that count toward the federal participation rate calculation.

Moreover, while this approach could entail additional state spending — and there are good reasons for states to redirect or add funding to serve needy families — it does not necessarily require that states add money. *Without spending additional funding*, many states have been able to free up current spending to be used for a solely state-funded program by doing a better job of identifying other current state spending that can be claimed, but is not currently claimed, toward meeting its maintenance-of-effort requirement.

This report provides practical guidance and legal information to state policymakers, human service agency staff, policy analysts, and others on the details of shaping and implementing this approach. The topics covered in greater detail include:

- Why should a state consider a solely state-funded program?

- How can states finance the solely state-funded program?

- Which families are good candidates for the state program and what work or rehabilitative activities could a state provide for families?

- What eligibility policies should a state consider in its program?

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[2] The states listed in the Appendix may not represent a complete list of all states using or authorizing an SSF. Rather, the table represents information on state initiatives collected by the authors, but this was not a result of a comprehensive all-state survey. As more states adopt solely state-funded programs (or we learn about additional states using this approach), we will update the chart.

- What are implications of solely state-funded programs on distribution of child support collected by a state?

- How does receipt of assistance through a solely state-funded program impact eligibility for other programs such as Medicaid, food stamps, child care and any transitional benefits?

- What administrative mechanisms should a state use to enroll families into a solely state-funded program?

## Why Establish a Solely State-Funded Program?

Under the original TANF block grant, states were given fixed federal funding and a great deal of flexibility in how to design and implement work activities for recipients of cash assistance. While the original 1996 law set forth work rates that states must meet, states had little difficulty meeting these rates and thus retained considerable flexibility to design their welfare-to-work activities. The DRA law and rule changes reduce this state flexibility in several significant ways:

- Because of changes to the caseload reduction credit, states now have to meet higher effective work participation rates.

- Families that receive assistance in programs funded with state MOE funds but not TANF funds (called "separate state programs") are now included in the work participation rate; under prior law, these families were excluded from the calculation.

- New federal regulations establish federal definitions for each of the 12 work activities that can count toward the work participation rate; under prior rules, states could establish their own definitions of these activities and many adopted definitions that allowed them to count activities designed to address barriers to employment and postsecondary education toward the participation rate.

As states consider a range of strategies to improve the quality of their welfare-to-work programs and increase engagement in those programs, they should consider whether some families would be better served in state programs outside the TANF structure — that is, in programs that receive neither federal TANF nor state maintenance-of-effort (MOE) funds. This approach is an adaptation of the pre-DRA approach taken by many states — using state MOE-funded programs to serve families for whom the federal work rates or activities were not appropriate. (Under the pre-DRA requirements, families in separate MOE-funded programs were excluded from the work rate calculation.) Under the new approach, the state funds in the separate program would not be counted toward the state's MOE requirement.

Solely state-funded (SSF) programs can help states better serve families for whom the federal requirements are too restrictive and can help states boost their measured federal work participation rate.

- *Improving outcomes for families:* Over the past decade, many states have concluded that a broad mix of employment-related strategies should be included in their welfare-to-work programs. In fact, many states shifted from a more narrow work-first approach to welfare-to-work programs to a more varied approach when the limitations of work-first models became apparent — namely, that some families with the greatest barriers did not find employment and that those who did find jobs often found very low-paying jobs with few opportunities for advancement.

Creating solely state-funded programs allows states to make their own best judgments about the best set of employment-related services to provide to recipients. Some states are considering SSF programs as a mechanism to more appropriately serve families in which parents have disabilities, incapacities, substance abuse problems, or other serious barriers to employment. Other states have had real success helping some parents to complete two- and four-year postsecondary degrees and other longer-term training programs that lead to higher paying, more stable employment and are considering establishing SSF programs so they can continue these policies without risking failing the work participation rate.

- *Increasing a state's work participation rate:* The 50 percent (and, for two-parent families, 90 percent) work rate that states must meet is a mathematical formula set forth in the law. It measures the share of families receiving assistance with TANF or MOE funds (with some limited exclusions from the rate calculation for certain types of adults, such as parents with infants) that are participating in countable work activities for at least the federally prescribed number of hours. By serving some families outside of the TANF/MOE funding structure, a state removes these families from this calculation. Thus, the state's participation rate will be calculated without regard to this group. Since states are considering using SSF programs for families that are unlikely to participate in the federally countable activities for the prescribed number of hours each month, removing these families from the calculation will boost a state's measured participation rate.

## Solely State-Funded Programs Can Be Financed Without Increasing Overall State Spending

The state funding for benefits and administration of a solely state-funded program, by definition, does not count toward the state's maintenance-of-effort requirement. This does not mean, however, that additional state spending is required for a state to implement such an approach. SSFs typically serve families that otherwise would be served in the state's TANF- and MOE-funded programs, so establishing the SSF does not increase overall state assistance costs. If a state does not want to increase state expenditures, it can "swap" funding by identifying current state expenditures that it could count (but has not counted in the past) toward the TANF maintenance-of-effort requirement to allow the state to fund the SSF program with state funds that do not need to be claimed toward the MOE requirement. It also could do a similar swap with TANF funds. (Both approaches are explained further below.)

To be sure, states may need to increase state resources in response to the recent TANF changes in the DRA and the interim final rules. States also may need to increase funding for welfare reform programs to meet their own welfare reform goals. Increasing the number of parents engaged in effective employment programs and improving supports for low-income working families require resources. But while an increase in overall funding may be necessary to meet a state's goals and federal requirements, the SSF program structure itself does *not* require additional resources.

There are two general approaches to financing an SSF without increasing state funding. The two approaches are very similar and are illustrated below:

**Approach 1: Claim as MOE existing state or local expenditures not now claimed toward the MOE requirement. Use state expenditures that previously were claimed as MOE to fund the SSF program.**

Under this approach, a state would need to:

- *Step 1:* Identify existing expenditures (on benefits or services that do not meet the definition of assistance) that currently are financed with state or local resources and could be claimed toward the state's MOE requirement but are not currently claimed.

- *Step 2:* Claim those expenditures toward the MOE requirement. Note that this may require the state to amend its TANF state plan as expenditures claimed toward the state's MOE requirement must fall within the state's TANF plan. States are free to amend their TANF plans at any time and, in the past, have been permitted to do so retroactively.

- *Step 3:* Use state funds that previously had been spent to provide assistance to families in the TANF/MOE-funded program to provide assistance to families in an SSF program. While these state funds had been counted towards the MOE requirement in the past, they would not need to be claimed toward the MOE requirement. (The other existing state expenditures identified in Step 1 would instead be used to reach the required MOE level.)

**Approach 2: Identify existing state expenditures that could be financed with federal TANF funds. Use TANF funds for those programs and use the freed up state funding for the SSF program.**

Under this approach, states would need to:

- *Step 1:* Identify existing state expenditures (that do not meet the definition of assistance) that could be financed with federal TANF funds. Note that this may require the state to amend its TANF state plan, which a state is free to do at any time and which, in the past, states have been permitted to do retroactively.

- *Step 2:* Use federal TANF funds that previously had been used to provide basic assistance to families in the state's TANF program to fund the state expenditures identified in Step 1.

- *Step 3:* Use the freed up state expenditures to fund the SSF program.

Note that under both approaches, states need to identify state expenditures for purposes of the "swap" that do not meet the TANF definition of assistance. If the benefit meets the definition of assistance, then TANF work, time limit, and data reporting requirements will apply to the program.

## Identifying State Spending That Can Be Claimed Towards MOE

While some states have scoured their state budgets in the past to find sources of state spending to claim towards MOE, there are still likely to be additional state dollars that could be claimed as MOE and, under the DRA, there are some new opportunities for counting MOE.

- *As time goes by, more state spending meets the MOE "new spending" test:* With some key exceptions, spending in a state program must be in excess of what the state spent on that program in 1995 to be claimed toward the MOE requirement.[3] Thus, any program that was started after 1995 can count toward MOE and any expenditure in older programs that exceed the 1995 spending levels can be counted toward the MOE requirement.

- *Local and other funding can count towards MOE:* Local spending — not just state expenditures — can count toward the MOE requirement. For example, local expenditures on allowable pre-kindergarten, after-school, child care, or teen pregnancy prevention programs can count toward the MOE requirement.[4] In addition, HHS has clarified that MOE can be met through third-party in-kind or cash expenditures under certain circumstances.[5]

- *New initiatives for low-income families the state may be undertaking may be countable toward the MOE requirement.* States may be considering new initiatives that could entail new resources that could be counted toward the MOE requirement. For example, in the last year about 10 states have implemented or authorized worker supplement programs which provide a cash (or cash-like) assistance payment to working families, often families that have recently left the TANF caseload. In addition, some states are considering expansions in their child care and early education programs, job training initiatives for low-skilled parents, substance abuse treatment programs that will serve parents, low-income housing programs, or services for homeless families. These states can count some or all of the additional resources devoted to those programs toward the MOE requirement.

- *The DRA and subsequent rules changed the kinds of state spending that can count toward the MOE requirement under purposes 3 and 4 of the TANF statute.* The Deficit Reduction Act expanded the state expenditures that fall under the third and fourth purposes of the TANF statute — preventing out-of-wedlock pregnancies and promoting formation and maintenance of two-parent families — that can count towards the MOE requirement.[6] It appeared under the federal law and the Interim Final Rule that funds spent on these purposes no longer must be spent on needy or "eligible" families. Thus since 2006, states have been able to count a broader set of state expenditures for programs and services furthering these goals (as long as the

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[3] 45 CFR § 263.5. States can fully count towards MOE all spending on the types of programs that were covered prior to TANF — primarily child care and cash assistance — but to the extent that states now count other types of programs as services towards the MOE requirement, they can only count increased spending since 1995.

[4] Not all expenditures on pre-kindergarten or public education programs can be counted towards MOE. See further discussion at U.S. Department of Health and Human Services, Administration for Children and Families, Program Instruction TANF-ACF-PI-2005-01.

[5] U.S. Department of Health and Human Services, Administration for Children and Families, Policy Announcement TANF-ACF-PA-2004-01.

[6] DRA, § 7103(b) amending §409(a)(7)(B)(i) of the Social Security Act (42 USC§609(a)(7)(B)(i).

benefits and services provided do not meet the definition of assistance). The Final TANF Rule issued in February 2008, however, limits the DRA provision (lifting the eligible families test) to those activities that fall under the Responsible Fatherhood or Health Marriage provisions of the DRA. The new rule is effective for fiscal year 2009.. There are serious questions about whether the restrictive interpretation under the final rule is consistent with the clear statutory language. States should note, however, that the "eligible families test" never has applied to TANF spending for non-assistance under purposes 3 and 4, and states may want to consider swapping TANF for MOE funds as discussed above at p. 6.

Of course, if a state increases funding for TANF-related programs such as employment services or child care and other supports for low-income working families, or if it increases assistance benefit levels (for all recipients or for those who are working), or institutes a child support pass-through and disregard policy, the funding for those initiatives can count toward the MOE requirement. The state can then use some of the funds it had been spending on benefits and services in its TANF/MOE programs in an SSF program because it will no longer need to claim those expenditures to meet their MOE requirement.

## Employment Services Can Be Funded with TANF or MOE Funds

States can use TANF or MOE funds to finance some of the *services* that families in the SSF program need. A state could, for example, establish a TANF- or MOE-funded employment services program that SSF families either were required or allowed to participate in — this program could, for example, provide training, education, and rehabilitative services and could be the same employment services program that serves TANF recipients.[7] By taking this approach, a state can limit the amount of state funds that do not count toward MOE that must be devoted to the SSF program; a state can cover any assistance and administration with state non-MOE funds but can use TANF or MOE funds to provide services that are not assistance.

States should take care to ensure that child care or transportation assistance provided to SSF program participants is *not* funded with either TANF or MOE, however, because child care or transportation assistance provided to families that are not employed is considered “assistance” under the current TANF regulations. Otherwise — if TANF or MOE funds *were* used for these services — a family that received TANF- or MOE-funded child care or transportation assistance to participate in training or rehabilitation services would be counted in the state’s work participation rate. Thus, states will want to use their Child Care Block Grant funds to provide child care to families in the SSF program. Child care funded with federal TANF funds that have been transferred to the child care block grant is not considered to be funded with TANF and would be a permissible option here. Similarly, states should not use TANF or MOE funds to finance transportation assistance, but could use funds from the Social Services Block Grant, including TANF funds transferred to that block grant.

[7] Since the program that provides the family with its income assistance is funded with non-MOE state funds, the family would not be included in the work participation rate calculation because under the statute, only families receiving *assistance* in a TANF- or MOE-funded program are included in the participation rate calculation.

### What Legal or Administrative Structures Should Be Used to Create Solely State-Funded Programs?

States have a great deal of flexibility to decide what legal or administrative structure they use to set up a solely state-funded program. From the federal point of view, this program needs to be separate from TANF in some administratively identifiable way, which could be as small as computer codes. (Some states are considering making the determination of whether a family's benefits should be financed through a TANF or MOE-funded program or a solely state-funded program after the conclusion of the month and states may consider re-classifying individuals from one program to another after benefits for the month are paid based on the family's circumstances and work participation status.) It is important that the administrative costs associated with the program and the benefit payments are not financed with either federal TANF dollars or state dollars that are counted toward the maintenance-of-effort requirement. There is nothing in federal law that requires that a solely state-funded program be created by a state statute.

Whether or not a state needs legislation to create an SSF program depends on *state* not federal law. Each state will need to consider what it needs to do under its state TANF, public assistance, and budget laws and whether they are broad enough to allow the state to establish a program administratively, or whether separate statutory or budgetary authorization is required. To the extent that statutory or budget language is required — either as a legal matter or because the agency will not act without permission or a directive from the legislature — the language can be broad and delegate to the agency many of the design decisions. Alternatively, if lawmakers want to be sure that certain actions are mandated — whether it be the creation of such a program, identifying which populations should be included, or other aspects of program design — they may want to direct the program legislatively, even if legislative authority is not required.

## Who Should Be Served in a Solely State-Funded Program?

The target groups for a solely state-funded program are those families for whom a state has concluded that the federal work participation requirements are inappropriate. These could include families that the state has decided should not be required to participate in work activities (such as those exempt under the state's rules), families that the state would like to engage in activities that do not count toward the work rate, and families that need a reduced number of hours of required participation due to their health or family circumstances. In addition, many states have already placed or are considering placing their two-parent families into an SSF program because the 90 percent two-parent participation rate is widely seen as unattainable.

States generally will want to place families that are unlikely to meet the federal work participation rate requirements in SSF programs, but a state does not need to include every family that is not participating in countable work activities in a given month in its SSF program. The state needs to have 50 percent of families participating on average each month and, thus, can have families that are expected to participate but do not in a particular month — due either to noncompliance or to circumstances for which the state would excuse the non-participation — in its TANF- and MOE-funded programs. Also, it is generally not in states' interests to include cases in an SSF program that under federal law would not be counted in the work participation rate calculation if they received

TANF or MOE funds since these families will not "hurt" a state's work participation rate calculation.[8]

The first step in identifying groups of families for a solely state-funded program is to look at state policy choices about work requirements and exemptions — including both current choices a state wants to keep and any modifications to those policies the state would like to make based on its own welfare reform goals. Some of the groups that a state may want to choose for its state-funded program are listed below. (These are not mutually exclusive groups.)

- *Two-parent families:* Even states that did not previously serve two-parent families in a separate state program may now consider serving them in a solely state-funded program; previously the effective work rate that states had to meet was considerably reduced from 90 percent due to the caseload reduction credit. At least 22 states have started to serve two-parent families in a solely state-funded program since the passage of the DRA and a number of additional states are considering this approach. (Appendix.) With the loss of credit for the last decade of caseload reduction, few, if any, states are likely to achieve this high rate. A state might choose to take a surgical approach and put only those two-parent families that are not participating enough to meet the federal requirements in the SSF program and to keep the other two-parent families in the TANF/MOE structure as those participating families can assist the state in meeting the overall 50 percent work rate.[9]

- *Families with "work-eligible individuals" who are exempt from work participation under state policy choices:* States may want to continue their current policies that exempt certain adults from participation in work activities. For example, many states have chosen to exempt adults with disabilities, very pregnant women, or elderly recipients from work participation and may wish to continue this approach.[10]

- *Families with a disabled parent or caretaker:* While some individuals with disability may be unable to participate in work-related activities, others are able to participate in employment-related

[8] The post-DRA TANF rules establish the concept of "work-eligible individual" which includes all adults receiving TANF- or MOE-funded assistance and all parents residing with children receiving TANF- or MOE-funded assistance, with limited exceptions. Parents receiving assistance who are not "work-eligible" are parents caring for a disabled family member not attending school full-time, parents receiving SSI, and parents who are ineligible immigrants. 45 C.F.R. 261.2(n). Most, but not all, "work-eligible" individuals are then included in the work-rate calculation. Work-eligible individuals who have a child under 12 months (subject to a 12-month lifetime limitation on this exemption) and individuals who are sanctioned for failing to comply with work activities (for no more than three months in any 12-month period) also are excluded from the work rate calculation.

[9] One state — Rhode Island — did this under the old rules, placing two-parent families who participated in work activities for the federally required number of hours in the TANF program while serving families that did not meet the federal requirements in a separate state program. As discussed below, however, there are child support-related considerations that arise from such a structure and states that wish to take this approach may want to assign all two-parent families either to a solely state-funded program or an MOE-funded (or separate state) program because the child support-related rules for both of these kinds of programs are the same.

[10] There are some families that are exempt from work under state policies that would not be counted in the work rate calculation and thus are not good candidates for an SSF program. For example, many states also exempt those caring for a family member with a disability or caring for an infant from work requirements. Many, but not all, of the adults in these families are *not* considered to be work-eligible individuals under the federal rules, however, and therefore a state may not want to use limited SSF slots for them.

activities, but need modifications to the standard set of work activities or hourly work requirements. For example, some recipients may need to participate in rehabilitation services for longer than allowed under the narrow federal rules or may need a longer period of time to complete vocational educational training programs. Some may not be able to participate for the number of hours required under federal TANF rules. States that want to ensure that they make reasonable accommodations for individuals with disabilities — as required by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 — without reducing their work participation rate may want to place these families in solely state-funded programs. At least 10 states are serving some groups of families with disabilities in solely state-funded programs. (Appendix.)

- *Families in which the adult recipient is caring for a family member with a disability:* A state may need to make accommodations in its work requirements when an adult recipient is needed to care for a family member with a disability. In some cases, the caretaking responsibility may mean that the state does not need to include the parent in the work participation rate calculation, as parents caring for family members with disabilities who reside in the recipient's home and who are not attending school full-time are not considered "work-eligible" under Final Rule. In other cases, however, recipients who need accommodations in their work requirements because they are caring for family members with disabilities will be considered "work-eligible." These could include: families with a parent caring for a relative with a disability who does not live in the recipient's home, families with a parent caring for a child with a disability who attends school full-time but is also in need of parental aid that interferes with the parent's ability to participate for 30 hours per week, or families with a non-parent caretaker who cares for a family member with a disability.

- *Families with an adult applying for SSI or Social Security Disability Insurance:* The Interim Final TANF rules issued in June 2006 recognized that an SSI recipient should not be considered a "work-eligible individual" but defined *applicants* for SSI and SSDI as "work-eligible" and, therefore, as part of the work participation rate calculation. In the Final Rule issued in February 2008, HHS retains the same definition of "work eligible individual" but does allow states to revise TANF data to retroactively exclude those SSI/SSDI applicants who are approved for federal disability benefits if the fiscal year data is not final.[11] In the interim period, several states including Maryland, Oregon, and Minnesota had chosen to serve SSI applicants in their solely state-funded programs and given the limited change in the Final Rule, there are still reasons for states to do so. SSI and SSDI applications often take longer than a year before approval and not all applicants are ultimately awarded benefits.

  Those applying for SSI are among the TANF recipients with the most serious disabilities, a state may not want to require participation in work activities from them. Indeed, if an applicant for SSI is participating in substantial gainful activity, he or she will not be approved for SSI benefits. (Ticket to Work and other work incentive programs only apply once a person has been approved and has become an SSI recipient.) If a state includes these families in its SSF, it could transfer them to the TANF/MOE structure once the SSI benefits are approved, because, as an SSI *recipient*, the adult would *not* be a work-eligible individual.

[11] See preamble discussion of 45 C.F.R. 265.7 at 73 Fed. Reg. 6819 (February 5, 2008.)

- *Families with domestic violence issues and that need modified work activities:* While many TANF families include a survivor of domestic abuse, many of these adults will be able to participate in federally countable work activities. Some parents, however, may initially need modified services or hours of participation while dealing with a range of issues including family stabilization, securing housing, and addressing mental health problems. Because of limits in duration of federal job readiness activities — and because of the high number of weekly hours that would be required to count toward the federal work rate — states may want to first serve these families in an SSF, and then move them to the TANF/MOE-funded structure when they are stable and able to participate in federally countable activities for sufficient hours. In this way, a parent has not used up her annual allotment of federally countable job search/job readiness time before she is ready to begin looking for a job.[12]

- *Families with an adult participating in education and training activities that do not count toward the federal work rate:* Increasingly, states have recognized that long-term welfare reform success will require education and training for some parents. Higher levels of education are closely associated with higher earnings and lower rates of unemployment. Under the TANF law and rules, however, a state cannot always count participation in education activities toward the work participation rate, even if the state has made a determination that the educational activity is the best route to long-term self-sufficiency. For example, vocational education training only counts toward the work rate for 12 months and states that want to allow recipients to participate in vocational training programs that last more than 12 months can serve families in these activities in an SSF program. Several states including New Mexico, West Virginia, and Nebraska serve some post-secondary students in a solely-state-funded program. (Appendix) Some families may be able to participate in the TANF/MOE program for the first 12 months of the educational program (if it is otherwise countable, such as two-year degree programs or vocational certification programs that take more than 12 months to complete). In these cases, the state can reserve the SSF program for those families that have exhausted their 12-month vocational educational limit.[13]

- *Families that include "work-eligible individuals" who are not receiving assistance:* In its definition of "work-eligible individual," HHS has brought into the work participation rate certain "child-only" families — those in which a parent resides in the home — that were not previously part of the calculation. These often are families in which the parents are excluded from the grant due to time limits, sanctions, or other exclusions. In several states, this is a large group; in other states, it includes few families. Those states that most are impacted by this change may want to serve these child-only cases in an SSF program to the extent that the parent is not working or

[12] Under the Family Violence Option, a state can receive penalty relief to the extent that it misses the work participation rate due to waivers or modifications of work activities under individualized FVO plans. While a state can use these FVO waivers to help avoid fiscal penalties, the FVO penalty relief is somewhat cumbersome and is not triggered until a state has failed to meet the work rate. For a number of reasons, a state may not want to risk failing to meet the work rate and therefore may prefer to serve those domestic violence survivors needing activities that would not count toward the work rate in a solely state-funded program.

[13] HHS has indicated that states can count the second year of certain post-secondary education as job skills training after the 12-month limit on vocational education training has been exhausted. Because this is a non-core activity, states can only count it toward meeting the work rates when the student is also participating for 20 hours per week in a core work activity, such as subsidized employment. While some states may want to require a combination of work and school after 12 months, others may conclude that allowing the student to concentrate nearly full-time on school (as well as parenting) may lead to better outcomes for the family and the academic achievement of the parent. Thus, states choosing to allow a second year of stand-alone training could use an SSF for these families.

engaged in activities. (The Final Rule does not include the following types of child-only cases in the work participation rate calculation: child-only cases where the children receiving assistance live with caretaker relatives who do not receive assistance or child-only cases in which the parent is an ineligible immigrant or a recipient of SSI or Social Security Disability Insurance. Since these families are already excluded from the work rate calculation, they are not good candidates for a solely state-funded program.)

The number of families that a state can cover in its state program is likely to be primarily a function of how much non-MOE state funding it has identified to fund this program (or programs). A state will want to identify possible target groups and estimate how many families from its current TANF or MOE assistance caseloads would fall within each target group. Then it can design the size and shape of the program based on what it can afford.

## What Work-Related or Rehabilitative Activities Should a State Provide to SSF Program Participants?

The nature of the activities a state will want to provide to SSF program recipients — and the nature of participation-related requirements for participants — will depend in large part on the categories of families the state serves in its SSF program. It is important to remember, however, that an SSF program can only improve outcomes for families and help the state meet its own welfare reform goals if the program includes effective services that help those recipients who are able to move toward employment to do so. To be sure, a state can establish an SSF and improve its federal work participation rate without providing effective services for families participating in the SSF program, but such a strategy will not help a state meet its other goals.

For some families, the SSF is a transitional program to provide non-federally countable services to assist the parent to become able to participate in federally countable services. For other families, a state may have made a determination that the adult should not be required to participate in any work-related activities, at least for some period of time. Finally, while some families may participate in the state program for a long period of time, others — such as those with short-term disabilities or incapacities, those applying for SSI, and those able to engage in standard work activities after addressing some barriers to employment first — may participate for only a short period of time.

The following are some examples of how a state might pair work requirements with different groups of families in an SSF:

- *Two-parent families:* In many cases, these parents are able to participate in a range of work activities, and they should have access to the full range of work activities offered in the state's TANF program. (A state that serves two-parent families in a state program is doing so because of the 90 percent work rate, not because the families cannot participate in work.) At the same time, many two-parent families may need specialized services such as ESL, basic education, substance abuse treatment, or mental health counseling, and the SSF offers an opportunity to provide such training or services without worrying about limitations in the federal TANF rules.

- *Families with a parent or caretaker applying for SSI or SSDI:* In these cases, participation in work may not be appropriate and could jeopardize SSI approval. While work activities would not be a good match for these families, the state could provide assistance to help the adult qualify for

SSI and could provide and help coordinate other services that the family may need, such as help securing housing or getting needed counseling for family members.

- *Families that have barriers to employment:* SSF programs set up to serve families with a range of barriers to employment should include a set of services to help these families address these barriers, including substance abuse treatment, mental health counseling, vocational rehabilitation, physical therapy, assistance stabilizing housing, and domestic violence services. While these rehabilitative services can count to a limited extent toward federal work rates, the family may need a longer period of participation or the treatment may not be available for sufficient hours per week to meet the rate. Moreover, if the state provides these rehabilitative services in the SSF, the parent can later use the time-limited job search or job readiness component in the TANF program for more direct job search and preparation activities. For some families with barriers, the appropriate activity may be a very specific step such as locating housing that would not count under any federal work activity category.

  SSF programs designed to serve families with these kinds of barriers may need to include more intensive assessment and case management services to most effectively identify underlying problems and services that could help. A program in St. Paul, Minnesota that sought to understand the circumstances of long-term TANF recipients found that when in-depth functional assessments were done by professionals with a background in serving individuals with disabilities, high rates of serious mental health problems and low basic cognitive functioning were uncovered.[14]

- *Families with a parent in education or training*: Some states are considering putting families with a parent in college or in other post-secondary education that would not count toward the federal work rates — for example, the second year of a two-year program — in a solely state-funded program. Participation in the education program would be the work activity.

## What Is the Application Mechanism for the SSF?

States need not create a separate application form and process for a solely state-funded program. Rather, states can use the same application process to determine eligibility for either the state's basic TANF/MOE assistance program or the state's SSF program. Families that fit in the target groups could be considered for the SSF program at various points while applying for or receiving TANF; for example:

- During the application process for TANF, once a screening process has identified that the individual fits the eligibility criteria for the SSF program.

- While the family is participating in an "up-front" program that may be a precursor to TANF or SSF benefit receipt. For example, Pennsylvania has an up-front program that includes an

[14] LaDonna A. Pavetti and Jacqueline Kauff, *When Five Years Is Not Enough: Identifying and Addressing the Needs of Families Nearing the TANF Time Limit in Ramsey County, Minnesota*, Mathematica Policy Research, Inc., March 2006, http://www.mathematica-mpr.com/publications/pdfs/timelimitramsey.pdf.

assessment of a family's circumstances. Such an up-front program could identify families that fall within the SSF target groups.

- While a family is receiving TANF or MOE assistance, at the point that a caseworker identifies that the family fits into one of the SSF target groups.

States need not limit entry to a single point in time but instead could allow families to enter or transfer into an SSF program at any of these stages.

States will need to consider issues around whether and how they will notify families of an agency decision that the family is (or is not) being placed in an SSF, or to the extent that families are given an option to choose an SSF, what the consequences of being placed (or not placed) in the SSF could be. How much information a family needs — in effect, how much process is due — really depends on what is at stake. If a family generally has access to the same benefits or services without regard to whether it is served inside or outside of the TANF/MOE structure, then the coding of the family in one program or another may not need to trigger any information to the family, and could be, in effect, invisible. Similarly, if the family is placed in one program or another depending upon the types of work-related activities the individual is assigned to, then it is the work plan determination (not the decision about how the family's benefits should be financed) that has significance. The development of an employment plan is a process in which states already should be engaging families. The placement inside or outside of the TANF/MOE structure would simply follow from the work plan determination.

When thinking through how and when a state should notify families about the SSF program and whether the family is eligible or not eligible for the program, the "bottom line" legal analysis is this — if the state agency is making a determination that alters the benefits or services a family can receive, it should notify the family of the decision and the reason the decision was made. In addition, to the extent that a family has a choice of which program to participate in, the state should provide enough information to inform the choice.

## State Eligibility Policy Choices for Solely State-Funded Programs

For the most part, a state can set any eligibility policies it chooses in a program that it funds with state funds and does not claim towards MOE. A state may want to generally incorporate policies that already exist — either in its TANF/MOE programs or in other state-funded programs — and identify specific exception areas where the SSF might differ. This could reflect a state's approach that the state-funded program should generally be the same as its TANF-funded program, and in many ways, the different programs may be invisible to families. This also avoids the need to develop an entirely new set of policies governing issues such as financial need, assistance units, and procedures and can limit computer programming changes.

At the same time, there are some areas where a state may have to or want to carve out different policies. The primary reasons to consider policies that are different from the TANF program arise from the differences in the funding source or from the population served in the state program. Since a state could choose to include multiple groups of families in a solely state-funded program for different reasons, it might want to extend some of the carve-out policies only to some groups of

### Solely State-Funded Programs and State Obligations under the ADA and Section 504

Some of the families that a state may serve in a solely state-funded program are those that include an adult with a disability for whom an appropriate work activity — that is, one designed with reasonable accommodations to enable participation — would not count toward the state's federal work participation rate. (Similarly, states may serve some families in an SSF program in which the adult recipient cares for an individual with a disability and the adult TANF recipient needs modified work activities due to his or her caregiving responsibilities.) The solely state-funded separate program can provide a vehicle for a state to offer more effective services and to make accommodations with respect to work activities that the ADA and Section 504 would require.

At the same time, a state will want to ensure that, in serving families with a disabled individual in a separate program, it is not engaging in discrimination in violation of state obligations under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973.

- *The state should ensure that a person with a disability is not disadvantaged by being served in the SSF.* That is, an SSF program that offers the work-related accommodations or services he or she needs should not be less advantageous in other respects — such as offering fewer education and training opportunities or lower benefit levels — as compared to the basic TANF program. For example, a person with a disability who is served in an SSF and receives an accommodation in the hours of participation required should not be precluded from participating in a particular type of work activity — for example, vocational education training — because of his or her disability. As discussed above, states can finance the employment services provided to SSF recipients with TANF and MOE funds and, indeed, can structure their employment services program so that it serves both TANF and SSF recipients. (The TANF employment program offerings could include a broader set of allowable activities for SSF families than for TANF families, or could allow TANF families access to the broader set of activities as well.) Structuring the employment services program in this way also helps further another goal of the ADA and Section 504 — providing services in the most integrated setting appropriate to the needs of individuals with disabilities.

- *An individual with a disability should have the ability to choose whether or not s/he wants an accommodation that the state is offering.* Under the ADA, individuals have the right to refuse an accommodation. Thus, if a state offers a family an accommodation with respect to work activities, the individual can refuse the accommodation and ask to be subject to standard work requirements. The state could still choose to finance the family's assistance benefits through an SSF, so long as there is no disadvantage to the family, but the state cannot require a family to accept an accommodation it does not want.

families. Or, a state may choose to extend the same policies in its SSF program that it uses in its TANF/MOE program, in which case many SSF families may qualify for exemptions the state has chosen to recognize, for example, from time limits or work activities.

## Benefit Levels

States have generally imported the rules about financial need determinations — treatment of income, asset limits, assistance units — from its TANF/MOE structure. However, a state may want to consider whether the same TANF benefit levels should extend to all groups in the SSF. For families that are not likely to participate in paid work activities, a state might want to provide a *higher* benefit level in recognition that this family is not going to be supplementing the cash assistance with earned income.

California takes such a two-tier approach in setting the benefit levels in its TANF/MOE structure. Specifically, California provides a higher benefit level, called an "exempt grant," to some families that contain adults with severe disabilities who are unlikely to work, and a lower benefit level to families that it expects to participate in work activities.[15] The concept behind this approach is that families who can participate in work activities can boost household income through employment coupled with generous earnings disregards — in California, the first $225 plus 50 percent of the remainder of earnings are disregarded monthly.

Under TANF, nearly all states have increased earnings disregards and thus increased the total amount of income a family receives before losing benefits due to income. Fewer states have raised benefit levels over the last decade, instead emphasizing increased earnings disregards as the route to increased household income. Households that a state has determined are not candidates for substantial paid employment in the near term — some of the most vulnerable households — have thus been left further behind as the purchasing power of those benefits has eroded with inflation. Setting higher benefit levels for families, or subgroups of families, that fit into these categories (whether they are served in the SSF program or in a TANF/MOE funded program) would provide a targeted way to address this problem.

## Time Limits and Sanctions

Federal TANF time limits do not extend to solely state-funded programs. A state can choose, however, to impose time limits in its solely state-funded program, and could set forth exemption and extension policies for its SSF time limit. A state could choose to carry over its TANF time limit policies — including exceptions — to the SSF program.

For many families in a solely state-funded program, time limits may not be appropriate and the state may already have excluded these families from time limits in its TANF program. For example, many states do not apply time limits to families in which a parent has a disability. Indeed, the group of families that are receiving benefits after the time limit has been reached is a possible candidate population that a state might include in the SSF.

Depending upon the various groups of families in the solely state-funded program, a state may choose to impose time limits on some groups of families, and not impose time limits on others. For example, a state that has included families with a disabled member and two-parent families in a solely state-funded program may want to apply time limits to the two-parent families but not to the families with a disabled family member.

States also will need to consider their sanction policies for an SSF program. While a state is likely to recognize that some families in the SSF should be exempt from work participation activities — for example, adults applying for SSI — others may be required to participate in work-related activities, such as rehabilitative treatment, preparatory activities, or caring for family member with a disability who resides outside of the home. States may, for example, want to require some recipients to participate in a range of activities but for fewer hours than would fulfill the federal work participation rates. To the extent that families do not meet the required activity, they could be

[15] California provides the "exempt" grant to families where all the adults are disabled and receiving disability benefits under SSI or Social Security Disability Insurance, In-Home Supportive Services benefits, or workers' compensation, and to child-only assistance units where the caretaker relative is not a parent.

subject to sanctions for non-participation. Given the vulnerable groups of families that are candidates for a solely state-funded program, states should take care to design a compliance-oriented sanction system — that is, one with a goal of achieving participation and avoiding imposition of a sanction.

## Issues Relating to Child Support Collections

State agencies or policymakers designing or operating a solely state-funded program will need to understand the federal statutory requirements related to child support, recent HHS guidance on these issues, and the options that states implementing SSF's have available to them.

### Federal Child Support Law on Distribution of Child Support Collected

Under federal law, child support distribution and retention rules are different for families receiving cash assistance through TANF-funded programs than for families receiving assistance through separate state programs, whether the programs are funded either with MOE or non-MOE state dollars. Federal law also applies somewhat different rules relating to former TANF recipients than to those who have never received cash assistance from a TANF-funded program with respect to child support arrears — payments that do not represent current support.

Federal law and rules require that all current child support collected on behalf of a family that is not currently receiving support from a TANF-funded program (or foster care) be distributed to the family.

- *Families currently receiving cash assistance in a TANF-funded program:* When a family receives cash assistance from a *TANF-funded program*, the federal child support assignment and distribution rules allow the state to retain current support payments it receives as reimbursement for cash assistance it provides. Under federal law, a state also can choose to pass some or all of the current support collected through to the family. Whether it retains the support or passes it through to the family, the state must pay the federal government a share of the child support collected — an amount equal to a fixed percentage (based on the state's Medicaid matching rate). (DRA changes effective Oct. 2008 waive part of the federal share of the child support collected if the state passes it through to the family and disregards it as income.) These child support distribution rules apply when a family receives any cash assistance — including MOE-funded assistance — provided through a TANF-funded program.

- *Non-TANF families:* Under federal law, current child support collected must be distributed to a family that is not currently receiving assistance in a TANF-funded program (or foster care).[16] Thus, if a family receives cash assistance that is not from a TANF-funded program, the federal child support distribution law requires that the state distribute current child support collected to the family.[17] These rules apply to any state program, whether it receives MOE funds or receives

[16] 42 U.S.C. 657.

[17] For a more complete discussion of new child support distribution provisions, see P. Legler and V. Turetsky, "More Child Support Dollars for Kids: Using New State Flexibility in Child Support Pass-Through and Distribution Rules to Benefit Government and Families," CLASP and PSI, 2006.

state funds that do not count as MOE. (These rules do not prohibit a state from obtaining an assignment of child support on an application form, so states can use the same application for the state-funded program that they use for the TANF-funded program.)

Federal law also governs when a state can retain or when a state must distribute past due child support to the family. For former recipients of cash assistance in TANF-funded programs, past-due child support is first distributed to families to satisfy arrearages owed to the family; any remaining past-due child support that is collected must be shared with the federal government to offset past costs of providing cash assistance to the family (and the state can retain the remaining past-due support). There is one exception to this “family first” distribution rule, however. Under current law, if a state collects past-due child support through the federal income tax intercept mechanism, that past-due support must be shared with the federal government to satisfy the arrearage owed to the federal and state governments (the state can decide what to do with its share). States have the option to end this exception to “family first distribution” for the tax intercept option beginning October 1, 2008.

While a state must distribute the child support it collects to recipients of assistance in a state-funded program, the state may count the child support paid to these families as income to the household and reduce the assistance payment accordingly. It also can choose to disregard some of the child support income — for example, some states disregard $50 to $150 per month in their TANF programs — or it can disregard all of it. Whether or not the state counts the child support as income, *it does not owe the federal government a share of current child support collected* on behalf of non-TANF families. Since the state does not owe the federal government a share of the child support collected, as it does for TANF families, providing assistance to families in an SSF program can be *less expensive* than providing assistance to the family in a TANF-funded program, even if a state disregards some of the child support passed through in calculating the assistance benefit.

### HHS Action Transmittal on Child Support

Some state officials and others have raised questions about whether states might be able to require assignments and retain current support they collect for families in solely state-funded programs. Some TANF officials were interested in having the state retain the child support of solely state-funded program participants to minimize the differences between how they operated their TANF programs and how they operated their solely state-funded programs.

On May 18, 2007, the Administration for Children and Families and the Office of Child Support Enforcement released a program instruction (PI) — designated as TANF-ACF-PI-2007-02 and OCSE-AT-2007-02 — that outlines the Administration's view of the circumstances under which a state can require a family to assign child support rights to the state and withhold child support collected on behalf of families that are not receiving cash assistance in a TANF-funded program.

The PI reiterates that states must distribute current child support collected on behalf of families that are not receiving cash assistance in a TANF-funded program to the family. The PI also says that states may require families in a state-funded program to assign their rights to child support as a condition of eligibility in the state-funded program, provided there is authority to do so under state law. These two aspects of the PI are not controversial. The PI goes on to say that a state can, as a condition of eligibility in a state-funded program, require a family to direct the child support agency to *disburse* child support to which the family is entitled to a third-party, including to the state (or state-funded program) itself. There is significant controversy about whether this "disbursement" mechanism outlined in the PI — which, in effect, allows a state to withhold current support of families that do not receive assistance in a TANF-funded program — is consistent with the language and intent of the federal child support statute. Finally, the PI says that states must pay for all of the administrative costs associated with establishing and tracking child support assignments taken for state-funded programs and the costs associated with implementing this kind of disbursement scheme.

In light of the legal uncertainty and the administrative costs that child support agencies would incur if they sought to change their computer systems to disburse child support for families receiving assistance in an SSF program differently than collections for other non-TANF families (and keep track of a state program child support assignments and arrearages), states may want to be cautious in adopting this approach. There are other ways, discussed below, that states can develop workable mechanisms for the treatment of child support for SSF recipients, including mechanisms that minimize the differences between SSF and TANF families and mechanisms that could foster other child support goals for both TANF and SSF families.

## Options State Can Use for Solely State-funded Programs

As a state sets up its solely state-funded program (or a separate state program), it will need to consider its policies on how, in determining need and the amount of benefits, it treats child support that is distributed to the family. In light of the controversy, risk and expense of the "disbursement" approach discussed in the PI, states should consider the trade-offs in policy options. While there will always be some differences in treatment of child support for TANF program families versus families in state-funded programs (since states are obliged to reimburse the federal government for a share of support collected for TANF families), some approaches can minimize the differences for families and for states. There are several approaches, each with its own set of trade-offs:

**Option 1: Align distribution and budgeting of child support policies:** Move to a system where all current child support is distributed to TANF families as well as SSF families.

A state that wants to align its child support procedures and policies between the TANF and SSF programs can change its TANF policies to pass through current child support income to families. The state can then choose whether to disregard some, all, or none of the child support, and use the same disregard policies for both programs. (Such a state would still have give the federal government a share of the child support it collected and passed through for the TANF program families, although, effective October 2008, the federal government will waive a portion of its share.) There are policy reasons why passing child support through to the family (even if some is then counted as income) may be better for families. The custodial and non-custodial parent both understand the real support that is being paid and going to the family. In addition, a regular system of pass-through may help smooth transitions when a recipient leaves the cash assistance program for work; the regular monthly child support pass-through is already set up and this can avoid long delays in switching over to passing through child support at a key transition time.

Note that while the state will still need to send the federal government its share of the child support collected on behalf of families receiving assistance in a TANF-funded program, if the state counts some or all of the child support as income, its *assistance* costs will be lower. That is, passing through the child support to the families in TANF-funded programs does not have to be more expensive to the state than its current practice of retaining child support if it counts the child support as income. Of course, if a state chooses to disregard some of the child support collected, it will increase incentives for the noncustodial parent to pay support and increase income for poor families.

**Option 2: Reach the same bottom line for TANF and SSF families but through different distribution mechanisms:** Distribute child support to SSF families and count some or all as income, while keeping the current policy of retaining child support of TANF families.

If a state wants to continue to retain child support for TANF families but wants to treat all families the same with respect to child support income, it can achieve the same result for recipients in the state-funded program by counting child support passed through as income to match the financial "bottom line" in the TANF program. For example, if the TANF-funded program passes through and disregards $50 of current child support income each month (and retains the rest), the state-funded program can distribute all of the child support income, disregard $50 each month, and budget the rest as unearned income. The total income that each family receives from combined assistance and child support generally can be the same whether the family is in a TANF-funded program or a state-funded program, but the proportion of income from each source would vary.

**Option 3: Accept different bottom lines for families:** Distribute child support to SSF families, and allow them to keep some or all of the child support paid through while retaining child support of TANF families.

While a state may want to generally have parallel approaches to financial need in its state- and TANF-funded programs, a different approach to the treatment of child support recognizes some real differences. Families in the state-funded program may be less likely to have earnings and receive the increased benefits from state earnings disregard policies. By disregarding child support income in a separate state program — in effect, applying a disregard to the earnings of an absent parent — a state is extending a policy approach to families whose earned income comes from the non-custodial parent that is similar to that they use on the earned income of the a custodial parent. In addition, disregarding all child support income in the TANF-funded program will have a greater cost as the state will still need to pay a share to the federal government. Thus, a state may choose disregard all child support income paid to families in the solely state-funded program but, for example, to limit the income disregard in the TANF-funded program to the extent that the federal share is waived ($100 per child or $200 for two or more children, effective October 2008).

For any of these options, when child support income is counted as income and varies from time to time, there are ways that states can lessen the administrative burden on agencies associated with updating benefits and limit hardship on families. One way is to use retrospective budgeting for child support income so that benefits are reduced in direct relation to child support distributed in a prior month. States may be able to use the existing interface structure between child support and the TANF agency to get accurate child support distribution information on a monthly basis (just as the TANF agency gets monthly information about the child support collected on behalf of TANF recipients). If the TANF agency can get this information monthly, it could then budget the child support income in a subsequent month. Another approach is to freeze the TANF benefit amount for a six-month period while allowing for increases if anticipated child support or other income is not received; this is similar to the food stamp simplified reporting approach that nearly all states are already using.

A state also could choose to budget prospectively based on the current level of child support and only require families to tell the agency about changes above a certain amount. To the extent that states can get child support collection information from the IV-D agency, they should not require families to provide themselves.

## Interaction with Food Stamps, Medicaid, and Child Care

For the most part, families in a solely state-funded program will continue to qualify for other benefit programs such as food stamps, Medicaid, and child care on the same basis as families in a TANF-funded program. While some aspects of food stamp eligibility rules and benefit calculations are different for persons who are not receiving benefits under the TANF or MOE structure, this need not result in a significant difference in food stamp benefits or benefit procedures.

### Food Stamp Program

Recent Changes in the 2008 Farm Bill can resolve some food stamp issues that SSF programs may have presented to states in the past. Specifically, as discussed below, the Farm Bill extends the Transitional Benefit Alternative in food stamps to families that leave a solely state-funded program.

*Transitional Food Stamps*: Under the prior food stamp law states could automatically provide Transitional Benefit Alternative food stamps for five months to households that stop receiving cash assistance under a TANF-funded program.[18] At least 20 states have taken up the food stamp TBA option with additional states adopting the option each year. However, because the federal law only authorized TBA food stamps for families leaving a *TANF-funded program*, states could not extend this to families leaving solely state-funded program, at least not without an administrative work around (that switched families to TANF before closing the case.)

As of October 1, 2008, the 2008 Farm Bill provision allows states to provide the same transitional food stamp benefits to families that leave a basic cash assistance program — whether it is funded with federal TANF funds, state maintenance –of-effort funds, or state funds that do not count to the state MOE requirement.[19] Thus states that operate both TBA food stamps and an SSF can more easily extend TBA to those families that leave the SSF. Treating families the same can address both equity and administrative concerns that some states had raised out access to TBA food stamps for SSF families.

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[18] For more information about the food stamp Transitional Benefit Alternative, see Dorothy Rosenbaum, "Transitional Food Stamps: Background and Implementation Issues," Center on Budget and Policy Priorities, November 10, 2003.

[19] Section 4106 of 2008 Farm Bill amending section 11(s)(1) of the Food and Nutrition Act. For further discussion about this provision, see Stacy Dean, Colleen Pawling and Dorothy Rosenbaum, "Implementing New Changes to the Food Stamp Program: A Provision by Provision Analysis of the 2008 Farm Bill," Center on Budget and Policy Priorities, pp. 32-34, at http://www.cbpp.org/7-1-08fa.pdf.

*SSF Household's Eligibility for Food Stamps*: Families participating in the solely state-funded program generally will be income-eligible for the Food Stamp Program. These programs will likely have income eligibility limits well under the Food Stamp Program income limit of 130 percent of the federal poverty line. (As with TANF families, a small share may not qualify for food stamps because of the income of others in the household with whom they share food.)

If states choose to set the asset test for their SSF program at a level more generous than the food stamp financial and vehicle asset test, these alternative rules need not pose a problem for food stamp eligibility. Under federal law, households that receive a benefit under a TANF-funded program, SSI, or state general assistance are "categorically eligible" for food stamps, which means that they do not have to meet certain food stamp eligibility tests, most notably asset limits.[20] Families in an SSF program could be categorically eligible for food stamps if the state program meets the definition of general assistance under the Food Stamp Program.[21]

## Medicaid

Families in a solely state-funded program should qualify for family Medicaid coverage and Transitional Medical Assistance *on the same basis* as any family in a TANF-funded program. In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act, which established TANF, de-linked eligibility for Medicaid from receipt of TANF cash assistance; under AFDC, eligibility for family Medicaid was largely linked to receipt of AFDC. Thus, under current law, families are eligible for Medicaid coverage under the low-income families' category — sometimes referred to as "Section 1931 coverage" in reference to the section of the Social Security Act that creates this eligibility category — without regard to their status as TANF recipients.

While nearly all states have properly de-linked Medicaid and TANF eligibility, some states have articulated this family Medicaid coverage group to include all TANF families as well as certain families not receiving TANF who meet the Section 1931 eligibility criteria. (This is not inaccurate since, in nearly all states, all TANF families do meet the Section 1931 eligibility criteria.[22] But, this articulation has on occasion led to confusion, with some still thinking of the programs as linked.) Any state taking this approach can simply articulate its policy to specify that all TANF families as well as all SSF families qualify for its family Medicaid coverage.

Most importantly, families do not have to have received TANF benefits — or for that matter, any cash assistance — to qualify for Transitional Medical Assistance (TMA). A family qualifies for TMA for up to 12 months when its income exceeds the Section 1931 income limits due to earnings, and

[20] For further discussion about this provision, see Stacy Dean, Colleen Pawling and Dorothy Rosenbaum, "Implementing New Changes to the Food Stamp Program: A Provision by Provision Analysis of the 2008 Farm Bill," Center on Budget and Policy Priorities, pp. 61-8, at http://www.cbpp.org/7-1-08fa.pdf.

[21] Under 7 USC 2014(a), a state general assistance program can be a basis for food stamp categorical eligibility as long as it has income tests that are the same as or more restrictive than the Food Stamp Program (and SSF programs typically would have income cut-offs well below the food stamp income limit) and the state provides assistance to all eligible households who apply.

[22] Some states have chosen to use the same or similar income eligibility limits for the family Medicaid group that they use in their TANF programs; other states have expanded these eligibility limits and serve families that, while low-income, are above TANF income limits.

for up to four months based on income due to child support.[23] Again, many states that use the same income eligibility limits for Section 1931 Medicaid and TANF have articulated that "leaving TANF cash assistance" is a trigger for TMA. This is not inaccurate, but it is not the *only* trigger for TMA eligibility because under federal law all families that become ineligible for Medicaid under the 1931 category due to increased earnings or child support income are eligible for TMA.

If a state is using the same eligibility levels for TANF, Section 1931 Medicaid, and its solely state-funded program, then SSF families would qualify for TMA upon leaving the SSF just like TANF families. If a state uses higher income levels for Section 1931 eligibility than it uses for TANF or SSF, then Medicaid would continue even if a family left TANF or the SSF; the TMA period would be triggered at a later time, when the family's earnings exceeded the relevant family Medicaid earnings levels.

The bottom line is this: under federal law, families qualify for family Medicaid under Section 1931 and Transitional Medical Assistance without regard to whether they receive cash assistance from a TANF- or MOE-funded program, a solely state-funded program, or do not receive any cash assistance at all. A state may need to be sure that its policies, procedures, and computer programming ensure Medicaid for families in or leaving a solely state-funded program as required under federal law.

### Child Care Subsidies

Many families in a solely state-funded program will need child care assistance to enable them to participate in work-related or rehabilitative activities. States have flexibility to use funding under the Child Care Development Fund for these families, including TANF funds that have been transferred to the Child Care Development Fund. A state should take care, however, to ensure that it is not using TANF funds directly, or claiming any state funds for child care towards its MOE requirement, to fund child care that is provided to families in a solely state-funded program. This is because under federal TANF rules, child care for families that are not employed falls under the definition of assistance. Families in the solely state-funded program, even if participating in work-related activities, are generally not likely to be employed. If a state provides TANF- or MOE-funded child care assistance to recipients who are not employed, those families would count toward the federal work participation rates, which would undermine a key reason for the solely state-funded program.

## Conclusion

While there are many technical issues to consider in designing a solely state-funded program, the basic concept is simple — providing assistance to those families for whom the federal TANF requirements are inappropriate through a state-funded program can give states broader flexibility to serve those families more appropriately and can help the state meet its federal work participation rate. How easy or difficult it is to establish an SSF in any particular state will depend on many factors, including how similar or different the program is to the state's basic TANF program and the

[23] In addition, to qualify for TMA, a family must have received family Medicaid for three of the prior six months. A number of states ensure that this requirement is not a barrier by adopting a policy in their family Medicaid program that disregards earnings for the first few months, which ensures at least three months of Medicaid eligibility before the earnings cause the family to exceed the eligibility limit.

ease with which any needed legal, computer, and funding changes can be accomplished. The payoff of such efforts for a state, however, is the greater flexibility it will have to pursue its own work-related policies.

## APPENDIX

| STATES WITH SOLELY STATE-FUNDED PROGRAM INITIATIVES | | |
|---|---|---|
| **State** | **Status** | **Which Families Are Served in SSF** |
| Arkansas | 2007 law authorizing if agency needs to do so for work rates | 2-parent families |
| California | 2006 law authorizes; not yet implemented | Families meeting CalWORKS exemption except those w/ kids under age 1 |
| Colorado | Implemented | Families that are not job ready |
| Connecticut | Implemented | 2-parent families (law authorizes other groups, not yet implemented) |
| Delaware | Implemented | 2-parent families; certain families with a disability |
| District of Columbia | Implemented | Certain families not participating sufficiently to count in work participation rate |
| Idaho | Implemented | 2-parent families |
| Illinois | Implemented | 2-parent families, refugees and first-time pregnant women |
| Maryland | Implemented | 2-parent families; parents with a disability expected to last for more than 12 months and who are required as a condition of eligibility to apply for SSI |
| Massachusetts | Implemented | 2-parent families |
| Michigan | Implemented | 2-parent families; adult with disability lasting more than 90 days |
| Minnesota | Implemented | 2-parent families; families with barriers to employment meeting hardship criteria, SSI or SSDI applicants, and immigrants (largely refugees) in their first 12 months in the state – families that are working sufficient hours to meet federal work rates not included |
| Mississippi | Implemented | 2-parent families |
| Missouri | Implemented | 2-parent families |

| | | |
|---|---|---|
| Nebraska | Implemented | Parents in education programs leading to a bachelor's degree; 2-parent families; families with disabled parent, certain other families exempt from work |
| New Jersey | Implemented | Long-term recipients with disabilities |
| New Hampshire | Implemented for two-parent families; 2007 enacted legislation authorizes including other groups | 2-parent families. In order to meet the federal work participation rate and avoid federally-imposed penalties, the commissioner may add additional groups of families as funding permits and also may transfer cases back to the TANF program |
| New Mexico | Implemented | Post-secondary student parents if will increase ability to engage in full-time work; certain work-exempt families |
| New York | Implemented | 2-parent families where neither parent is disabled |
| Oregon | Implemented | SSI applicants; 2-parent families |
| Pennsylvania | Implemented | 2-parent families (that are not participating sufficiently in countable activities) and single-parent families where parent is disabled |
| Rhode Island | Implemented | 2-parent families (not meeting work rates) |
| South Carolina | Implemented | 2-parent families and families that include individuals with disabilities |
| Utah | Implemented | 2-parent families |
| Vermont | Implemented | 2-parent families, SSI applicants, parents of children under age 2, higher education students and other vulnerable populations |
| Virginia | Implemented | 2-parent families |
| West Virginia | Implemented | 2-parent families and students in post-secondary education leading to 2 or 4-year degrees (that are not counted as vocational education training) |

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