



New Welfare Rules May Be Costly for the City

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SUMMARY

NEW FEDERAL RULES FOR WELFARE PROGRAMS went into effect last year that require more public assistance recipients be involved in work-related activities. After the first quarter of operating under these new rules, the share of the city's welfare recipients meeting the increased work requirements was well below the federal mandate. A review by IBO finds that it may be difficult for the city to meet the more stringent work quotas and avoid penalties that could cost the city more than \$200 million this year.

The changes are the result of two interrelated actions: the reauthorization last year of the federal Temporary Assistance for Needy Families program and the implementation of the revised program under administrative rules issued by the Department of Health and Human Services. In this report, IBO examines several changes contained in the reauthorization law and administrative rules that could have significant fiscal and programmatic impacts on New York City's welfare programs. Among our key findings:

- While maintaining the 50 percent work quota for all families, the new law limits the caseload reduction credit to reductions achieved since 2005, thus creating a much higher effective quota than under the old law. The new legislation also expands the base of recipients to which the work quota applies.
- As a further challenge, the new administrative rules tighten the definitions of those work categories that count towards fulfillment of the work quota, and provide more stringent definitions of countable work hours. As a result there has been a significant drop in the percentage of the city's caseload in compliance with the federal work rules.
- The reauthorization legislation provides few new funds to cover the increased costs of work programs and child care.

Even if the city is able to avoid federal penalties and meet the work participation rate required under the new rules, it is likely to mean additional city expenditures. For example, additional funding may be needed to provide child care for parents on welfare who are trying to move into the labor force.

BACKGROUND

In February 2006 Congress passed and the President signed into law the Deficit Reduction Act of 2005, which included the reauthorization of the Temporary Assistance for Needy Families (TANF) program. The TANF program was established as part of federal welfare reform in 1996. The program had originally been up for reauthorization in 2002, but received several temporary extensions in the intervening years. While maintaining the basic structure of the TANF system—block grants to the states, work quotas, and a five-year time limit for recipients of cash assistance—the reauthorization legislation contained some important changes. Additional changes were included in the “interim final” TANF rules issued in June 2006 by the Department of Health and Human Services (HHS), as called for in the deficit reduction legislation that went into effect in October 2006. The final regulations are expected to include more details on the timing and extent of fiscal penalties for noncompliance.

Some of the changes potentially will have significant fiscal and programmatic impacts on New York City’s welfare programs. The changes include: continuation of the 50 percent work quota for TANF recipients but with a more limited caseload reduction credit; expansion of the work quota to some nonfederal public assistance recipients; tighter definitions of work categories that could make it more difficult to achieve the work quota; and new work verification requirements. Perhaps just as significant in the long run are two other aspects of the reauthorization law: the continued freeze in the size of the TANF block grant at 1996 levels, and the minimal increase in federal child care funds.

CHANGES IN WORK RULES

The new TANF law maintains the requirement that 50 percent of all families and 90 percent of two-parent families receiving TANF-funded cash assistance in each state be engaged in approved work activities for the minimum number of hours each week: 20 hours for single parents of children younger than 6, and 30 hours for single parents of older children, with longer hours for two-parent cases. Under the 1996 law, however, each state received a 1 percentage point reduction in the work quota for every 1 percentage point that the state’s TANF caseload decreased since federal fiscal year 1995. This credit has had an enormous impact in states that experienced large caseload reductions over the years.

In New York, the TANF-funded Family Assistance Program caseload decreased by more than half; therefore, the effective work quota in New York State in recent years has been zero.

Caseload reductions among two-parent families also significantly reduced the effective work quota for this group, making it much easier for the city and state to satisfy the two-parent quota. This has allowed state and local officials tremendous flexibility in designing work programs without having to be overly concerned about federal requirements. The new law, however, limits the credit only to caseload reductions achieved since 2005. This means that meeting the federal work quota must once again be a major concern of welfare officials in New York.

In addition to increasing the effective work quota, the new welfare law significantly expands the base of recipients to which the quota applies. Previously, the work quota applied only to recipients of cash assistance funded with federal TANF dollars; in the case of New York, this meant only those enrolled in the Family Assistance Program. Under the new law, the quota will also apply to non-federal cash assistance programs if the non-federal expenditures for such programs are counted as part of the state’s maintenance of effort (MOE) spending required under the TANF law. In New York, this means that the work quota will now also apply to families who have reached their five-year TANF eligibility limit and currently receive assistance under the 60 Month Converted to Safety Net Program, which is funded only with state and local dollars. We will refer to this latter group as the MOE caseload.

As a further challenge to state work programs, the new legislation and administrative rules tighten the definitions of those work categories that count towards fulfillment of the work quota. The 1996 law listed 12 categories of work activities that counted towards the participation rates, but neither the law nor subsequent regulations defined what could be included in a given category. This left the states significant flexibility in assigning participants to specific categories. While the new law listed the same 12 work categories, it called for HHS to develop specific definitions for each. The new rules fulfill this requirement, providing definitions that could make it more difficult to count some participants as working under the federal standards. In addition, the new rules provide more stringent definitions of work hours, including new limits on excused absences.

Additionally, the new law and administrative rules include new requirements for keeping track of work program participants and for documenting and verifying their activities. These include very specific requirements for tracking the hours worked by work program participants, which in some circumstances could prove difficult to implement. At present it is difficult to know how strictly these new rules will be enforced by HHS.

The states face significant financial penalties for failure to meet

New York City Public Assistance Work Participation Rates

Based on Combined TANF and MOE Caseload

	September 2006		December 2006	
	Before Federal Rules Change		After Federal Rules Change	
	HRA Analysis	State Official	HRA Analysis	State Official
Total Cases	113,701	113,401	110,600	111,774
Cases Fulfilling Work Requirements:				
Employment	15,532	n/a	13,976	n/a
WEP	3,551	n/a	6,753	n/a
Education/Training	2,299	n/a	1,666	n/a
Job Search	1,700	n/a	358	n/a
Community Service	3,179	n/a	n/a	n/a
High School Student Over Age 15	463	n/a	n/a	n/a
Client Barrier Activities	n/a	n/a	1,498	n/a
Subtotal	26,724	29,882	24,251	22,846
Exempted Cases:				
Child Only	32,700	37,604	33,643	42,734
Have Child Less Than 1 Year	1,573	879	1,590	4,076
Sanctioned	5,506	8,903	5,138	4,345
Need at Home w/o School Age Child	n/a	n/a	1,993	n/a ¹
Subtotal Exempted	39,779	47,386	42,364	51,155
Total Minus Exempted	73,922	66,015	68,236	60,619
Participation Rate	36.2%	45.3%	35.5%	37.7%

SOURCES: IBO, New York City Human Resources Administration.

NOTES: The "HRA Analysis" column represents HRA's initial estimate based on its Engagement Status Report. The "State Official" column represents the official estimate by state officials based on a sample of the caseload.

¹Included in the Child Only number.

these federal requirements. As under the old law, the first year in which a state fails to meet the participation quota, its TANF block grant can be reduced by up to 5 percent, with the final decision on the magnitude of the penalty to be made by HHS. Penalties can be increased if the participation shortfall continues in subsequent years. In addition, failure to meet the work quota would force a state to reach a higher MOE—80 percent of 1994 spending instead of the current 75 percent. The new law includes an additional penalty of between 1 percent and 5 percent of the block grant if a state fails to implement proper work verification procedures.

Implementing the Work Rule Changes in New York City.

While the federal requirements must be met on a statewide basis, city officials are responsible for making sure that local public assistance programs are in compliance. We can get an idea of the magnitude of this challenge by examining the status of the city's welfare-to-work programs in September 2006, the last month before the new federal rules took effect, and comparing this with December 2006, when the new rules were in effect. The comparison shows a significant reduction in the percentage of the city's caseload in compliance with federal work rules.

Each month the city's Human Resources Administration (HRA) compiles a summary of work activity among public assistance recipients in its Engagement Status Report. As a guide to its program managers, HRA has from time to time used its engagement report to calculate an unofficial estimate of the percent of the TANF caseload that is in compliance with federal work rules. Using this unofficial method, an estimated 33.4 percent of TANF cases were qualified as working in September 2006, under the old federal rules. Later on in the process, state officials calculate an official federal work rate, using computer-generated samples of more individualized data. According to the state calculation, 42.9 percent of TANF cases were qualified as working under the old federal rules in September. Although the state data constitute the official figure for compliance purposes, the reports from HRA present more detailed information, including breakdowns on the various work categories. Therefore, the following section draws upon both sets of data.

Under the new rules that took effect in October, the federal work quota now also applies to the MOE caseload. In anticipation of this, state officials began to apply their work rate calculations to this group as well. According to this methodology, the official

federal work rate for September for the MOE cases was 48.6 percent. This would have resulted in a combined rate for the TANF and MOE caseloads of 45.3 percent as of September, the last month prior to implementation of the new rules.

As mentioned earlier, the new law allows for a credit against the 50 percent work quota for caseload reductions from the new federal fiscal year 2005 base. Preliminary data indicate that, statewide, the combined TANF and MOE caseloads fell by about 7 percent from 2005 to 2006. Taking this caseload reduction credit into consideration, it appeared at first glance that the city was achieving the federal work quota as it moved into the new TANF era that began in October 2006.

The city's ability to achieve even its modified work quota, however, was made more uncertain by another major change that took effect in October, the new federal definitions of the allowable work categories. The new more restrictive definitions of these work categories make it likely that some welfare recipients previously counted under a given work category will no longer qualify. For example, the city formerly counted many adult recipients who had to stay at home to take care of a disabled family member under the "community service" work category. This is no longer allowed under the federal rules, although a subset of this group can be exempted from the work rate calculations altogether. In addition, the rules also limit the types of cases that can be exempted due to being sanctioned for previous noncompliance with work program procedures.

The new rules also include a more restricted definition of allowable work hours. For individuals participating in educational activities, new restrictions on counting time spent studying could cause some of them to drop below the minimum level of hours required to be counted under the federal rules. More generally, the new rules severely limit excused absences for all types of activities, potentially pushing many participants below the minimum number of hours.

The impact of the new federal work category definitions can be seen by comparing the status of the city's welfare-to-work programs in September, the last month under the old system, with the breakdown in December, when the new rules were in effect. Based on the state's official calculations, the number of TANF and MOE cases qualifying under the federal work rules dropped from 29,882 to 22,846. While some of this decrease was a result of caseload reductions, it is clear that a significant number of cases no longer qualified under the new rules.

Although the state sample data do not provide much detail on the specific categories of qualifying cases, it appears that a large

portion of the decrease resulted from the new restrictions on the community service category. Another significant factor in reducing the number of qualifying participants was the more stringent definition of countable work hours. Conversely, there was an increase in the number of exempted cases from 47,386 to 51,155. On balance, however, the overall impact of the new work category definitions was to decrease the work participation rate, with the city's official combined work rate dropping significantly from 45.3 percent to 37.7 percent. Thus, after taking the new less generous caseload credit into account, the new stricter definitions of work categories and countable hours have pushed the city below the 50 percent federal threshold.

In response, city officials have begun to adopt a number of strategies to increase the work rate in order to bring it into compliance. One such strategy involves efforts to speed up the processing of new public assistance clients in order to more quickly assign them to appropriate work programs. Another is the implementation of new intensive services to welfare recipients in sanction status for failure to comply with work requirements, in order to get them to commit to regular participation in work activities.¹ Clients who agree to participate in assigned work activities have the full value of their grant restored.

Yet another program has been established to identify clients with disabled school-aged children, who no longer qualify under the community service category, and assign them to work experience programs in proximity to their children's school. Work participants who do not work the required number of hours to qualify under federal law are being assigned to employment vendors and work experience program providers in an effort to fulfill the minimum requirements. Successful implementation of these strategies will not be easy to achieve, however, given the fact that past success in moving welfare clients into jobs has resulted in a much smaller but more troubled welfare population, many of whom face significant barriers to employment.

In the longer run, the city's efforts to achieve the federal work quota would be made easier if the TANF and MOE caseloads continue to decline, which would result in a larger caseload reduction credit and a lower effective work participation threshold in future years. For instance if the statewide combined caseload decreases by another 7 percent in federal fiscal year 2007, the caseload credit would increase to about 14 percent. Under these circumstances the effective work quota would fall to 36 percent, below the current official participation level, leaving the city in compliance with the new rules.

Potential Fiscal Impact. If the city were unable to comply with the new federal work requirements it could incur substantial

fiscal penalties, which could total over \$200 million in lost revenue and additional expenditures. Complying with these rules, however, will also require some additional costs.

The new TANF law retains two potential fiscal penalties included in the old law and adds a third. States that fail to satisfy the federal work quota could be denied up to 5 percent of their annual TANF block grant for the first year of failure. For New York State this could mean a loss of about \$120 million. The penalty would increase for subsequent years of noncompliance. In addition, failure to achieve the work quota would also force New York's state and local governments to increase their MOE spending from 75 percent to 80 percent of the 1994 spending level. This would require about \$115 million in new welfare-related spending. Finally, the new law adds a penalty of up to 5 percent of a state's block grant for failure to comply with the new work verification and reporting requirements, a potential loss of another \$120 million for New York State. In sum, New York State could be assessed penalties of more than \$350 million a year in lost revenues and increased expenses if it is found noncompliant with these federal work rules.

If the state were to divide these penalties among localities on the basis of the size of their TANF and MOE caseloads, New York City could be on the hook for as much as \$240 million for the first year. It should be emphasized, however, that this figure represents a worst case scenario; HHS officials could choose to limit penalties or allow states additional time to comply. Additional information on the timing and extent of fiscal penalties could be included in the final TANF regulations.

On the other hand, avoiding these substantial penalties will also involve some additional costs to the city. In short, the city will likely need to involve more welfare recipients in work programs, and increase the hours of some who already participate. Based on current average costs for work programs and child care, for every 1 percent of the current TANF and MOE caseloads moved from nonparticipation to full participation the city would need to spend about \$6 million in additional funds. These incremental costs would be less in cases that involve merely increasing the hours for an individual already involved in work activities.

Another strategy for avoiding hefty penalties involves shifting certain subgroups of recipients out of TANF and MOE programs and into other state programs where the federal rules are not applicable. In October the state transferred two-parent families into the non-MOE Safety Net program, in order to avoid the 90 percent federal work quota for this group. City and state officials are continuing to discuss the possibility of shifting additional subgroups. While these shifts result in additional costs to the state and city because of the loss of federal matching funds to cover welfare grants, given the relatively small size of the subgroups in question these costs are small compared to the potential costs of federal fiscal penalties.

Potential Programmatic Impact. Aside from the fiscal costs, implementation of the new federal law could diminish the city's flexibility in responding to the individual needs of welfare clients who may require specific services to integrate them into the working world. As long as the city had an effective work quota of zero, it could assign a given welfare recipient to a mix of services,

Child Care Funding

In contrast to earlier drafts of the TANF reauthorization law, which included more generous child care proposals, the enacted TANF reauthorization law increases annual federal Child Care Development Fund block grants to states by only \$200 million nationwide or about 4 percent, and then maintains this level through 2010. In New York State these federal child care funds are combined with TANF and state child care funds, and allocated to local governments in the form of the state Child Care Block Grant (CCBG). In the early years of the TANF system, the emerging TANF surplus allowed state officials to rapidly increase the size of the CCBG.

In recent years, however, with competing uses for surplus TANF funds also growing, the statewide CCBG subsidies have leveled off and begun to shrink. The city's CCBG allocation

peaked at \$480 million in state fiscal year 2003-2004 and shrank to \$432 million by 2005-2006. The 2006-2007 state budget included no separate TANF surplus allocation for child care. In response, the city shifted \$236 million of its Flexible Fund for Family Services allocation to child care, resulting in a total CCBG allocation to the city—including the recent increase in federal funds—of \$446 million, still \$34 million below its previous peak. The current state budget once again includes a specific TANF child care allocation. This, however, has had little impact on the size of the city's CCBG allocation, which is virtually unchanged at \$449 million.

Unless the state increases its funding for the CCBG, the city will have to use its own funds to cover the increased child care costs that could result from its efforts to fulfill the new federal work requirements. More broadly, as long as the freeze in federal funds continues, the city could be required to fund any increases in the costs of its child care programs.

without having to worry about whether that client satisfied federal requirements. The new, stricter quota means that this will no longer be the case.

The city's flexibility is further limited by the tighter work category definitions. For instance, the new definitions put additional limits on educational activities. Requiring that activities such as substance abuse treatment, mental health treatment, and rehabilitation activities be counted as "job search and job readiness assistance" activities, with individuals limited to six weeks a year in this category, could discourage the city from referring clients to such services. Previously, clients participating in these activities could not be counted towards the federal work quota; because the city and state had an effective work quota of zero there was no practical restriction on assigning clients to these programs. The new rules explicitly allow these activities to be counted, but only for six weeks a year. Given the need to achieve the higher work quota, this could create situations in which the city is required to assign individuals who could benefit from job readiness services, to less restricted work activities, and it could make it more difficult to move some recipients off of the welfare rolls and into private employment.

LIMITS ON FUNDING

While significantly increasing work requirements for TANF recipients and expanding them to the MOE caseload, the new law provides few new resources to cover the increased costs of work programs and child care. The TANF block grant will be frozen at its original 1996 level. As a result of inflation, the real dollar value of the TANF block grant has decreased by about 30 percent since 1996, and will continue to decrease in future years. On the other hand, the caseload reductions since the original law was enacted have produced substantial amounts of excess, or surplus, TANF resources which are no longer needed for direct cash grants by the states. By leaving the block grant level unchanged, the reauthorization legislation assumes that the surplus will be sufficient to cover the new costs the states will incur in meeting the more stringent work quotas.

TANF Surplus. Over the years New York State and City have made increasing use of their surplus TANF funds to cover the costs of an expanded state Earned Income Tax Credit and a wide variety of social programs including foster care and preventive services, employment programs, child care, and transitional services.² Although the surplus generated from declining

caseloads has continued to grow, albeit at slower rates than in the early TANF years, the costs of many of the programs funded with the surplus have grown faster. As the demand for TANF funds has increasingly outpaced the supply, in recent years state officials have begun to award a large portion of the available funds to local governments in the form of the Flexible Fund for Family Services block grant. Shifting to this new block grant has the effect of shifting decisions about how to best use the funds from the state to the local level. These decisions will become more difficult over the next several years as the real dollar value of available TANF funds continues to shrink, even with the expectation of continued declines in caseloads, while expenditures for work programs and child care will need to increase.

CONCLUSION

Under the TANF reauthorization law, changes in how qualifying work activities are determined as well as the resetting of the starting point for measuring the caseload reduction credit against the work quota mean that the city will have a much tougher time meeting the work target. With the city facing renewed pressure to meet the tougher quota, it is likely that some of the flexibility that the city has been able to use in addressing the needs of clients will be reduced.

During the first three months under the new rules the city was not able to make its quota. If the statewide results over the full twelve months fall short, the state and its localities could face fiscal penalties. Assuming the city's share of the cost is proportional to its share of recipients statewide, the fiscal impact for the city could be as high as \$240 million in the first year. The city is also likely to incur some new expenses as it tries to raise its work participation rate. For example, the TANF reauthorization included only a relatively modest increase in child care funding. Thus, the city and state would need to provide much of the funding for any expansion of child care for parents on welfare who are trying to move into the labor force.

Written by Paul Lopatto

END NOTES

¹Testimony of HRA Commissioner Verna Eggleston before the City Council General Welfare Committee on Implementation of the New Temporary Assistance for Needy Families Requirements, October 12, 2006.

²For an overview of the emergence of the surplus, how it is allocated and the programs it has funded see, *With Welfare Surplus Shrinking, City Could Face \$80 Million Aid Loss*, IBO Fiscal Brief, April 2004.

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