



HHS should develop regulations that define work activities broadly so states can engage participants in a manner that best supports entry into the workforce and promotes strong families.

- HHS should accept any definition used by states so long as the work activity clearly prepares the recipient for work or provides a demonstrable service to the community.
- If HHS does set definitions, they should be sufficiently flexible to ensure that states can fully meet their responsibilities to provide reasonable accommodations for individuals with disabilities under the Americans with Disabilities Act (ADA) and Sec. 504 of the Rehabilitation Act. A more restrictive definition of countable activities may be inappropriate for an individual with a physical or mental disability and the ADA/Sec. 504 may require that states make accommodations by revising those activities in light of the individual's disability.
- States should have maximum flexibility in receiving credit for key rehabilitative and supportive services such as substance abuse, behavioral/mental health and domestic violence treatments in one or more work activity. These services are an imperative part of moving recipients, with barriers, to work and retaining employment. States need credit for these services in work activities that are fully countable for all hours of participation without time limit.
- In combination with other work activities, HHS should allow required hours to count toward activities that will prepare participants for employment, such as job readiness, job search, and job skills training without time limitation. This approach could also help minimize any conflict between the TANF work requirements and the Fair Labor Standards Act (FLSA), while simultaneously facilitating the effective movement of recipients from welfare to work.
- Community service should include any activity that has a demonstrable value to the community including, but not limited to, caring for a disabled family or household member, volunteer activities for non-relatives, volunteer activities at community programs, food banks, Head Start programs, or within school systems.
- States should have flexibility to determine the institutions and types of accreditations that would qualify as vocational education training. In addition to vocational education training, a state should have the option of counting English as a Second Language and other basic educational classes that are part of an employment plan

designed to help parents move to employment under any one of the following categories: job skills training directly related to employment, secondary school, or education directly related to work.

- In light of the FLSA, HHS should allow states to either deem that clients have met their hourly work requirements if the combination of TANF and food stamp benefits divided by the minimum wage falls short of the mandatory 30/20 hours, or allow states to combine other activities to make up the deficit in hours.
- HHS should allow states to define culturally specific work activities for Native Americans within their state plan.

In preparing regulations, HHS should continue to recognize circumstances for which child-only cases should be excluded from the work rate calculation.

- In a family where only a child is receiving TANF assistance, HHS should exclude from the calculation of a state's work rate those parents and/or guardians who are ineligible for TANF either due to legitimate state policy choices (with bases other than meeting the work rate) or due to federal statutory prohibitions. Examples include undocumented immigrants with citizen children; legal immigrants with citizen children under the 5-year ban; kinship caregivers; Supplemental Security Income (SSI) recipients; and Title 16 recipients.
- States should have the option to exclude adults from the work participation rate who are awaiting determination of their SSI claim.

Verification requirements developed by HHS should not be administratively burdensome on states, employers, or organizations working with TANF recipients.

- *HHS Oversight of States:* HHS should assess state internal control standards by working through the existing Single State Audit process used to determine substantial compliance with other TANF requirements. HHS should avoid imposing a one-model verification system and allow states to develop their own unique verification guidelines and systems with guidance from HHS on effective models. HHS should continue to permit states to implement changes to address any identified deficiencies and assess improvements. In addition, we strongly oppose any effort to create a federally mandated Quality Control environment as part of new HHS oversight, which risks fostering distrust, misallocating resources and moving TANF away from a result-oriented program towards a process-driven program.
- *State Monitoring of Recipient Participation:* Monitoring of recipient hours in activities should allow for a series of approaches presently practiced by states that acknowledge reasonable proxies such as earning records or satisfactory progress in vocational education training. Although HHS should not implement requirements that will be unduly expensive to older state legacy computer systems, HHS should also not reverse progress states have made in moving away from paper documentation

towards automation and use of technology. The present practice of an upfront agreement for participation that would give specific hours and requirements, with the stipulation that the state be contacted if the TANF recipient is out of compliance, should be maintained. When necessary, random case reviews could be used as a secondary verification process.

- *Countable Hours of Activity:* Countable hours of activity should include scheduled hours that are missed with good cause. Typical to a regular employment setting, sick leave, office holiday closures, paid leave time, parent/school conferences or similar factors should be considered as countable hours. Only unexcused absences should be excluded from hours of participation. Allowing states to count hours missed for good cause is consistent with the policy of having work activities prepare participants for unsubsidized employment by approximating actual work conditions.
- *Requirements on Employers and Community Partners:* HHS should take into account the needs of employers, non-profit organizations, volunteer host organizations, and educational institutions by developing verification systems that are not overly burdensome and do not stigmatize the TANF recipient. The verification requirements should recognize that in less-structured activities—such as volunteering at a Head Start center or school—rigid verification will make it nearly impossible to count an individual’s hours of participation. In addition, standards for employed individuals should be flexible enough to reflect the range of employer pay records and minimize the reporting burden on employers and working families. For example, states could accept semi-annual employer verification along with an expectation that clients report substantial changes in hours of work for individuals in unsubsidized employment.

Timeframes for implementation should allow for a transition period before states must meet the requirements of the new regulations.

- With respect to new requirements set forth in impending regulations, such as verification systems, definitions of work, and countable hours of activity, states urge HHS to set later compliance dates on these rules that give states adequate time to conform their programs. Changes to the TANF program could require re-training of staff, state legislative action, computer system changes, changes in contracts, and additional state appropriations to come into compliance. HHS regulations should allow states to calculate work participation rates under pre-regulation rules until FY 2008.
- The goal of TANF should continue to be assisting families in becoming self-sufficient through increased work participation, not imposing penalties that ultimately reduce resources available for aiding these families. Accordingly, the preamble or other program instruction or memoranda should clarify that HHS will recognize “reasonable cause” and not impose penalties (or only impose minimal penalties) on states that can demonstrate they were not able to meet the rates in FY 2007 due to DRA’s short implementation timeframe.

In developing regulations, HHS should address other areas related to DRA implementation that are of key concern to states.

- *Diversion Programs:* States should have the option of counting families diverted from TANF (through the use of short-term benefits as part of an intensive and up-front approach prior to entrance on TANF) toward their work participation rate.
- *Partial Credit:* States should receive partial credit for those individuals who are working part of the required hours to meet the federal weekly standard. Permitting partial credit would discourage an “all or nothing” approach to engaging individuals and would encourage states to continue to serve those individuals who are engaged in work, although not for the requisite hours. States should not be discouraged from allocating resources to assist historically difficult-to-engage populations who are unable to meet the full federal standard for hours of work.
- *Penalty relief revisions:* There should be more flexibility in determining reasonable cause, providing for corrective compliance, and reducing penalties based on the extent of noncompliance. Penalties only reduce resources that states can use to improve services for low-income families. For example, if a state can demonstrate that clients are engaged in one or more activities; or that clients are working, but not the maximum number of hours to be counted toward the rate, then the penalty should be modified to reflect the degree of non-compliance.
- *Eligibility Changes:* New provisions in the DRA regarding the full distribution of child support that may result in TANF caseload reduction should not be considered as an eligibility change; states should be allowed to count this caseload decline toward the caseload credit. The DRA’s mandatory inclusion of clients in separate state programs in the work participation rate should not be factored into the calculation of the caseload reduction credit.
- *Healthy Marriage Promotion and Responsible Fatherhood Grants and Family Strengthening Initiatives:* With a wide range of governmental, faith-based and community-based entities eligible to vie for these new competitive grants, states urge HHS to establish criteria that gives special consideration to those who closely coordinate or collaborate with state government. We urge HHS to apply the broadest possible definition to the new authority granted to states to count their state expenditures on family strengthening activities related to goals 3 and 4 of the TANF Act. Specifically, we ask that neither the new spending test nor the TANF eligibility test be applied to goals 3 and 4. Finally, HHS should clarify that the state share of the pass-through of child support collections, both on and off of the TANF caseload, be counted towards a state’s maintenance-of-effort requirement.