

work with States if any problem arises. However, if a State has not filed a complete and accurate TANF Data Report or Financial Report by the end of the quarter, we would give the State an opportunity to dispute our determination that it had failed to file a complete and accurate report and to provide a "reasonable cause" explanation. We would also take into consideration the extent of the incompleteness or unreliability of the data. See § 262.5, "Under what general circumstances will we determine that a State has reasonable cause?"

(c) Step three: Penalty liability.

We would provide notice to the chief executive officer of the State if the State has not met the complete, accurate, and timely reporting requirements without reasonable cause. We would take this action, for example, following a pattern of serious omissions, chronic delays, failure to respond, or disregard of requirements. See § 262.6, "What if a State does not demonstrate reasonable cause?". The State may accept the penalty or enter into a corrective compliance plan.

We do acknowledge, however, that it is inevitable that there will be occasional missing data elements and nonsystemic reporting errors in any stage of a data reporting system, regardless of how long the system has been in operation, whether the State reports universe or sampled data, or how sophisticated or well-operated the system is. We want to emphasize that it is not our intent to penalize a State for these kinds of occasional errors.

Changes Made in the Final Rule

We have made two changes in § 265.7 of the final rule. First, in paragraph (b)(4)(ii), we have deleted the words "* * * selected in a sample that meets the minimum sample size requirements * * *" and inserted the words "* * * meets the specifications and procedures in the TANF Sampling Manual * * *." This language clarifies that a State must meet the sampling requirements as specified in the TANF Sampling Manual as a part of the definition of a "complete and accurate" data report, not just the minimum sample size requirements.

Second, we have deleted the word "its" from the sentences "The reported data accurately reflects information available to the State in its case-records, financial records, and automated data systems" in paragraphs (b)(1), (c)(1), and (d)(1). In deleting this word, we intend to emphasize and clarify that we hold the State accountable for the correctness of the data reported to us, not just the data that may be available at the State-level. Some commenters seemed to

believe that States should not be held accountable for data that originated from local jurisdictions or from other agencies. Our purpose in making this change is to convey that, regardless of the source, the State is responsible for reporting complete and accurate data.

We have made several changes in § 265.8 of the final rule. First, we have revised the title to better comport with the content of this section. The new title of § 265.8 is "Under what conditions will we take action to impose a reporting penalty for failing to submit quarterly and annual reports?"

Second, in response to commenters' concerns, we have specified in paragraph (a) of this section the data that are subject to the penalty.

Third, in paragraph (a)(1), in response to requests for greater clarity and specificity, we have deleted the words "on a timely basis" and inserted the words of the statute "within 45 days of the end of the quarter." This responds to commenters who were confused by what they described as "two due dates" for these reports.

Finally, we have made editorial changes in paragraph (a)(3) for clarity; in paragraph (a)(5) to delete references to the annual program and performance report (which we have eliminated from part 265) and to reflect the changes made in the annual report under § 265.9; in paragraph (d) to clarify that we will not impose the reporting penalty if the State files the quarterly reports or the annual report by the end of the quarter that immediately succeeds the fiscal quarter for which the reports were required; and in paragraph (f) to add a conditional phrase in relation to the application of the penalty.

We did not agree with commenters who recommended that we:

- (1) Delete the definition of "complete and accurate" in its entirety;
- (2) Delete the proposed definition of "complete and accurate" and enter into discussions with States to develop standards for complete and accurate reports;
- (3) Apply penalties only for the data elements pertaining to the work participation rates;
- (4) Accept the State's best effort to meet reporting requirements on a temporary basis and apply no penalty;
- (5) Automatically assume all reporting errors are in good faith and forgive them; and
- (6) Waive the penalties when a State is in "substantial compliance" even though not all data elements are reported. (It was not clear what the commenter meant by "substantial compliance." However, if the missing data elements met the limited

conditions for reasonable cause, as specified in § 262.5, the State may provide a "reasonable cause" explanation.)

It is important to reiterate that, as we discussed in the preamble for §§ 260.40, 262.5, and 265.5, we have added a reasonable cause criterion at § 262.5(b)(1) that will provide some penalty relief to States that cannot report their first two quarters of TANF data on time due to Y2K compliance activities.

Comment: Several commenters asked for clarification of the penalty provision. They stated it was unclear in the NPRM whether the penalty was four percent per year or four percent per quarter.

Response: Our interpretation of section 409(a)(2) is that the Secretary is to reduce the grant payable to a State by four percent for each quarter that the State does not submit quarterly reports within 45 days of the end of the quarter. The Secretary is to rescind the penalty if a State submits the data by the end of the quarter.

However, there are other provisions of law that also are applicable and that must be applied. Under section 409(c) of the Act, the Secretary may not impose a penalty until after the State has had an opportunity to correct its noncompliance. If a State submits a corrective compliance plan, carries it out, and achieves compliance, the State is not subject to the penalty. If it submits a corrective compliance plan and fails to carry it out or fails to achieve compliance, the Secretary shall assess some or all of the penalty. Therefore, the State has the opportunity to correct its reporting problems, and the Secretary has the flexibility to reduce the potential impact of a penalty, based on progress achieved.

If, for example, a State failed to correct its quarterly reporting noncompliance for a particular quarter, the Secretary could take into account the State's reporting compliance in other quarters and make an appropriate reduction of the penalty. On the other hand, if the State did not make good faith efforts to comply, the Secretary could impose the full four percent penalty. We have revised paragraph (f) to reflect this process.

Section 265.9—What Information Must the State File Annually? (§ 275.9 of the NPRM)

This section of the NPRM proposed two annual reports: one annual report as an addendum to the fourth quarter TANF Financial Report (or Territorial Financial Report) and one annual program and performance report.

Paragraphs (a) and (b) of the NPRM proposed the information that States must submit in the annual addendum. Paragraph (a) proposed four items of information on the TANF program. Paragraph (b) proposed eight items of information on separate State programs by cross-reference to § 273.7. Appendix D of the NPRM also contained the proposed content of the annual addendum.

Paragraph (c) proposed that States submit an annual program and performance report containing information on the characteristics and achievements of each State's TANF program, including unique features and innovations, for the Secretary's report to Congress.

Summary of Comments on This Section

A number of States and national organizations provided a variety of both general and specific comments and recommendations on the proposed annual addendum and the annual program and performance report. Generally, commenters objected to reporting these data, because, as some believed, we could find most of the TANF program information in the State TANF plan, and this constituted a duplicate reporting burden. Others believed there was no statutory basis for requiring these data, particularly the data on separate State programs. One national organization representing State interests supported reporting the information on separate State programs in paragraph (b) as a substitute for reporting the disaggregated and aggregated data on separate State programs in the SSP-MOE Data Report. In addition, one State suggested that we should gather information on separate State programs not from States but from other sources, as there "is a wealth of information on separate State programs from private and academic studies."

We have made several changes in this section of the final rule, primarily in response to comments. We have eliminated the proposed annual program and performance report in paragraph (c) of the NPRM. (See the detailed discussion of this provision following our discussion of the annual reporting requirements as they appear in the final rule.) We summarize the major changes related to the Annual Report and discuss these and other recommendations in greater detail below.

(1) We no longer require the annual report to be submitted as an addendum to the TANF Financial Report, and we dropped the term "addendum" to refer to the annual report.

(2) For clarity, we consolidated the annual reporting requirements in this section. This section now includes all but one of the items of information on the TANF program proposed in paragraph (a) of the NPRM and the items of information on the State's MOE program(s) proposed in paragraph (b) of the NPRM by cross-reference to § 273.7.

(3) We deleted one TANF reporting requirement related to child-only cases in paragraph (a)(1) of the NPRM.

(4) We moved the proposed requirement for information on TANF child care disregards from the quarterly TANF Data Report to the Annual Report. (See comments and responses below for further discussion.)

(5) As discussed elsewhere in the preamble, we added new requirements in paragraphs (b)(5) and (b)(6) for reporting on State strategies and procedures for serving victims of domestic violence and on the nature of nonrecurrent, short term benefits provided under the State's TANF program.

(6) We added an annual reporting requirement for information on State displacement procedures in paragraph (b)(7); on State programs and activities directed at the third and fourth purposes of the TANF program in paragraph (b)(8); and, if available, "the number of individuals who participated in subsidized employment under § 261.30(b) or (c)" in paragraph (b) (9).

(7) We revised paragraph (c) to clarify that the annual MOE reporting requirements apply to all State programs for which MOE expenditures are claimed, i.e., both those in TANF and in separate State programs.

(8) We added one data element in paragraph (c)(4) to obtain information on State expenditures claimed as MOE under these programs. (See comments and responses below for further discussion.)

(9) We added a new paragraph (d) to specify the two circumstances when we would not require the re-submission of data in the annual report.

(10) We added a new paragraph (e) to provide that, if a State makes a substantive change in certain data elements in paragraphs (b) and (c), it must file a copy of the changed information with the next quarterly data report or as an amendment to its State Plan. The State must also indicate the effective date of the change.

(11) We made editorial changes for clarity.

Comment: Several commenters urged that we not require States to submit the annual addendum as a part of the fourth quarter Financial Report. They stated that this provision made the State

Comptroller accountable for program data that were outside his or her financial expertise. They were also concerned that a program addendum might interfere with a timely filing of the Financial Report, and thus subject the State to a penalty.

As an alternative, almost all commenters on this section recommended that the information in the annual report be included in the TANF State Plan (if it was not already there) or be submitted as a free-standing report. They based this recommendation on the programmatic nature of the information, its similarity to other State Plan information, and the fact that most of the information was relatively stable over time. They also recommended that, because it was relatively stable, we should require that States submit this information on a one-time only basis and allow States to amend it only if the information changed, rather than requiring its re-submittal every year.

Response: We agree with these recommendations. First, we defer to State concerns about the role and responsibility of the State's Comptroller or Chief Financial Officer and have specified in paragraph (a) that a State may submit the annual report either as a free-standing report or as an addendum to the fourth quarter TANF Data Report.

Second, we have specified in paragraph (d) that if the State has submitted the information required in paragraphs (b) and (c) in the State Plan, it may meet the annual reporting requirements by reference in lieu of re-submission.

Third, in paragraph (d), we further provide that if the information has not changed since the previous annual report, the State may reference this information in lieu of re-submission.

We would point out, however, that not all information in the annual report is relatively stable. At a minimum, for example, States will need to develop annual information on child care disregards required under paragraph (b)(4), on the annual total number of families served for which MOE expenditures are claimed in paragraph (c)(5), and on State and MOE expenditures in each TANF-MOE and SSP-MOE program in paragraph (c)(4). The annual report is due at the same time as the fourth quarter TANF Data Report, i.e., November 15 of each year.

Comment: Several commenters urged that we assure that the information in the annual report is current. They were concerned that changes could occur in State definitions of services or program eligibility—information that was important to them for monitoring

purposes—that would not be known until the following annual report, perhaps as much as eleven months later.

Response: We agree and have added new paragraph (e) to this section to require that, if a State makes a substantive change in certain information required as a part of its annual report, it must file a copy of the change with the next quarterly Data Report or as an amendment to its State Plan. The State must also indicate the effective date of the change. This requirement is applicable only to the information in paragraphs (b)(1), (b)(2), (b)(3), (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8).

Comment: As we discussed in the earlier preamble section entitled, "Child-only Cases," a number of commenters objected to reporting the information on certain families excluded from the State's definition of families receiving assistance as proposed in § 275.9(a)(1), i.e., the number of cases excluded from the calculations of the overall participation rate, the two-parent work participation rate, and the time-limit calculations. They believed we had created a time-consuming, costly reporting burden "to prevent something that HHS has no indication that is actually occurring." They also cited a number of legitimate reasons for child-only cases.

Response: We have deleted this provision. However, we will be collecting case-record information on families receiving assistance that will help inform us about the number and nature of child-only cases, as well as new conversions to child-only cases.

Comment: Commenters strongly objected to four items of disaggregated data in the NPRM on child care services.

Response: Our explanation in the NPRM was that this was a requirement of the Child Care and Development Block Grant (CCDBG) statute and that TANF reporting provided the most cost-effective way to collect these data.

However, we reviewed the CCDBG statute and determined that this was not a disaggregated data collection requirement, but an annual aggregate reporting requirement. Therefore, we have removed these data elements from the TANF Data Report and have added this reporting requirement in paragraph (b)(4), to more closely follow the specific provisions of the CCDBG statute. The information in paragraph (b)(4) that States will report parallels the annual information that the State Child Care agency will report in ACF-800, State-level Data Standards, CCIS Technical Bulletin #1, revised January 23, 1998.

Comment: We received many comments on § 273.7 of the NPRM, "How will we determine State expenditures?" Because we have moved the annual reporting requirements on State MOE program(s), proposed in § 273.7 to § 265.9(c) of the final rule, we are addressing these comments here.

Some commenters generally supported the collection of these data. Other commenters strongly urged that we require additional data, particularly on expenditures. Others objected to the proposed data collection on the grounds that MOE expenditures are a financial commitment on the part of a State, not a program commitment. They alleged that the program information we proposed to collect went beyond the requirements in the statute. Alternatively, they recommended that only financial information on MOE programs be collected. Still other commenters objected to the reporting burden of specific provisions in § 273.7.

Response: In § 273.7 of the NPRM, we proposed that the State must submit eight items of information on its separate State MOE program(s). This information included descriptive program information, a definition of work activities under separate State programs, eligibility criteria, certain expenditure information, and a certification that families served under separate State programs met the State's criteria for "eligible families."

The preamble to the NPRM explained that these data, in addition to the data in the TANF Financial Report, were necessary to our ability to monitor whether State expenditures met the definition of "qualified expenditures." In addition, Congress recognized that State contributions would play an important role in making welfare reform a success. The NPRM and this final rule reflect widespread public interest in learning about the ways in which States help move families toward economic self-support and self-sufficiency. Given this interest, we intend to publish information on our web site regarding State MOE programs.

We disagree that the MOE requirements represent only a financial commitment. We continue to believe that minimal program and expenditure information on State MOE programs is necessary for assessment and monitoring purposes.

Comment: Several commenters requested that we clarify whether the annual reporting requirements on MOE programs apply to only those under the TANF program, to separate State programs, or to both.

Response: We have revised the language in paragraph (c) to clarify that

the annual reporting requirements in paragraph (c) apply to any MOE program for which the State claims MOE expenditures.

We also want to clarify that the State must report the information in paragraph (c) only to the extent that the information is applicable to expenditures claimed as MOE. For example, the State need not report on the total number of persons served under an MOE program; only on the number of persons served for whom MOE expenditures are claimed. We believe we have made this clear throughout paragraph (c).

Comment: Two commenters provided detailed analysis and recommendations for additional MOE expenditure data. They believed that, unless the Department obtained these data, we would not be able to determine whether States met MOE requirements, including whether State expenditures claimed for MOE purposes met the "new spending" requirement in section 409(a)(7)(B)(II) of the Act. (These provisions limit countable expenditures for certain State or local programs to spending above FY 1995 levels.)

They recommended that States be required to report:

- (1) Expenditure data on MOE programs under both the TANF program and separate State programs;
- (2) Total State expenditures and total expenditures claimed as MOE under each program for the current year;
- (3) Total 1995 expenditures for all programs in which State spending is claimed toward the MOE requirement;
- (4) 1995 State spending on eligible families; and
- (5) 1995 State expenditures used to draw down Federal AFDC-related matching funds.

Response: We reviewed these recommendations, and we have accepted two of the recommendations as follows:

(1) As noted above, we have revised paragraph (c) to clarify that the annual report requirements apply to both MOE programs under TANF and separate State programs.

(2) We have added a new paragraph (c)(4) to require, for each MOE program, both the total annual State expenditures and total annual State expenditures claimed as MOE.

We agree, in part, with the third recommendation. The NPRM proposed to collect FY 1995 expenditures for each program/activity not authorized and allowable (under title IV-A) as of August 21, 1996. We have retained this provision in paragraph (c)(8). We intend that this provision collect expenditure data on all MOE programs not

previously authorized and allowable under section 403 of prior law and have added that language to paragraph (c)(8).

We disagree, however, with the recommendation to collect FY 1995 expenditure data on all FY 1995 programs. FY 1995 data on programs funded under section 403 are only needed to the extent that the expenditures in the program are claimed for MOE and the "new spending" requirements apply.

We also did not accept recommendations four and five. For a full discussion of the issues raised by these recommendations, please refer to the preamble discussion related to § 263.5.

While not accepting all of these recommendations, we have significantly strengthened the reporting on MOE programs under this final rule. The MOE requirements in TANF are central to the success of welfare reform. Under the final rule, we believe that we will be in a good position to ensure that States maintain the investments in needy families that Congress intended.

Comment: One commenter recommended that we allow States to report either the average monthly number or the total number of persons served under State MOE program(s), given the variation in how States collect such information.

Response: We agree and have amended paragraph (c)(5) to reflect this option. The commenter was also concerned that the numbers reported would not be an unduplicated count of persons served. We believe that a requirement for an unduplicated count of persons served for purposes of this report would be unduly burdensome on States and have chosen not to require it.

Comment: Several commenters questioned the need for the certification proposed in § 273.7(b)(8) on the grounds that it was either unnecessary or inappropriate. The NPRM required a certification that the families served under MOE programs met the State's criteria for eligible families.

Response: We disagree that a certification is unnecessary. Under many Federal programs, it is standard procedure to require such a certification, particularly for critical program information needed for accountability and for expenditure data.

We agree, however, that the certification as proposed in paragraph (b)(8) was not intended to apply to all families served under MOE programs but only to those families for which the State is claiming MOE expenditures. We have made this change in paragraph (c)(9) of this section.

We have also accepted the following suggestions for editorial clarity recommended by commenters:

- The description of work activities in paragraph (c)(3) must be reported only if applicable to a State's MOE programs. (Some commenters appeared to believe that this reporting requirement meant that the State must offer work activities as a part of their MOE programs.)

Please note that paragraph (c)(3) is the only requirement in § 265.9(c) that applies only to separate State MOE programs. That is because we ask for a description of the work activities under the MOE program(s) in TANF in paragraph (b)(1).

- We deleted paragraph (a) as it appeared in § 273.7 of the NPRM. Paragraph (a) duplicated the requirement that States submit a quarterly TANF Financial Report in § 265.3(c).

Specific Comments on the Proposed Annual Program and Performance Report

Under section 411(b) of the Act, the Secretary is required to submit an annual report to Congress six months after the end of fiscal year 1997 and every year thereafter. The report is to describe whether the States are meeting the work participation rates; the objectives of increasing employment and earnings of needy families as increasing child support collections and decreasing out-of-wedlock pregnancies and child poverty; the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that became ineligible to receive assistance; the characteristics of each State program funded under this part; and the trends in employment and earnings of needy families with minor children living at home.

In the NPRM, we proposed that States supplement the information that we would obtain through the TANF Data Reports and TANF Financial Reports by providing information in an annual program and performance report. We would include that information in the Department's annual report to Congress on the TANF program.

We proposed that States would describe the characteristics and achievements of each State program; the design and operation of the program; the services, benefits, and assistance provided; and the extent to which the State has met its goals and objectives for the program. We also proposed that States could include additional materials on unique features of their programs, accomplishments and

innovations they wished to highlight, or other information appropriate to the report to Congress.

Comment: Without exception, all who commented on this section strongly objected to this requirement. They alleged that we lacked statutory authority for the proposed report and inappropriately shifted the burden of the Secretary's report to States. States also believed that they were also providing much of this information in State plans or that we could obtain it by more efficient and less costly means, e.g., we could conduct national sampling studies in cooperation with the States.

Response: In preparing the NPRM, we were cognizant of the data that we would obtain from the TANF Data and Financial Reports, as well as other sources. We found that State plans varied in the amount of information they contained, and we did not believe we could rely on them as a source of information for the annual report to Congress. We believed that other State and national research and evaluation studies might provide some, but not all, of the information specified in the statute.

We have accepted the recommendation to delete this provision. We will also continue to consider and evaluate multiple sources of data in preparing the report to Congress; for example, we expect to compile information on program characteristics from State plans. If we identify substantive weaknesses in the data we have available through this approach, we will assess our options. We appreciate the offer from States to work together to collect this information in the most efficient way possible.

Additional Reporting Requirements

The discussion above relates to the information now included in the annual report based on the provisions of the NPRM. Following our review of comments and consideration of policy issues that arose in the development of the final rule, we have added five new reporting requirements in § 265.9. While we dropped our proposal for a separate annual program and performance report, we still need information on key aspects of State programs in order to prepare the annual report to Congress. To the maximum extent possible, we will draw upon data available through the State plans and other reports submitted by States.

(1) Family Violence Option

If a State has adopted the Family Violence Option and wants Federal recognition of its good cause domestic

violence waivers under subpart B of part 260 of this chapter, the State must provide: (1) A description of the strategies and procedures in place to ensure that victims of domestic violence receive appropriate alternative services, and (2) an aggregate figure for the total number of good cause waivers granted.

This new reporting requirement in paragraph (b)(5) of this section will tell us and other interested parties about the activities States are carrying out to ensure that individuals granted waivers receive appropriate attention from TANF staff, access to services, and appropriate consideration of their safety issues. In addition, at §§ 260.54, 260.58, and 260.59, we have specified that a State may receive special penalty consideration under these regulatory provisions if it submits this information.

(2) Nature of Nonrecurrent, Short-Term Benefits

In paragraph (b)(6) of this section, we are asking States to provide a description of the nonrecurrent, short-term benefits they are providing, including:

- The eligibility criteria for these benefits (together with any restrictions on the amount, duration, or frequency of payments);
- Any policies they have instituted that limit such payments to families eligible for assistance or that have the effect of delaying or suspending eligibility for assistance; and
- Any procedures or activities developed under the TANF program to ensure that individuals diverted from TANF assistance receive appropriate information about, referrals to, and access to Medicaid, food stamps, and other programs that provide benefits that could help them successfully transition to work.

To the extent that a State provides the required information, either in the State plan or in the annual report, it would not have to duplicate this information.

As discussed earlier in the preamble, we strongly believe that effective procedures to ensure that diverted individuals access Medicaid, food stamps, or other programs are critical to the success of TANF programs in achieving lasting employment for the families they serve. In addition, such procedures might help States avoid compliance and legal problems in other programs. Given the importance of this issue, the additional information on State practices that we are requiring in the annual report will be extremely helpful in assuring the role TANF agencies are playing with individuals receiving diversion benefits.

For more detailed information, see our discussion on “Nonrecurrent, short-term benefits” at § 260.31.

(3) Displacement Procedures

We have added a new reporting requirement in paragraph (b)(7) of this section. Under this provision, each State must include a description of the grievance procedures that are in place in the State to resolve complaints that it receives about displacement.

Each State must create displacement procedures under section 407(f) of the Act. This provision and the related provision at section 403(a)(5)(J) of the Act (which applies to the WtW program) reflects longstanding concern among unions, labor groups, and others about the possibility that welfare recipients being placed at work sites could displace other workers from their jobs. States are also concerned about displacement because of its potential negative effect on their labor force and the long-term success of their TANF programs. Given these multiple concerns, we believe it is important that we monitor State activity in this area. For further discussion, see the preamble discussion on “Recipient and Workplace Protections.”

(4) Activities Directed at Other Purposes of the Act

It is clear from the statement of findings in section 101 of PRWORA, the stated TANF goals at § 260.20, the preamble discussions on allowable uses of Federal and MOE funds, and activities underway outside the scope of these rules that the TANF legislation recognizes out-of-wedlock pregnancy prevention and family formation as critical components of welfare reform; and, subject to some general restrictions, State may spend Federal TANF and State MOE dollars on such efforts.

Because of the significance of this issue, in paragraph (b)(8), we are asking States to include a description of the activities that they provide under their TANF program to address both these purposes. (We are also asking States annually to provide a break-out of their expenditures on these activities in the TANF Financial Report.)

(5) Number of Individuals in Subsidized Employment

Given our more narrow definition of assistance, we will not be collecting disaggregated information from States on the number of individuals who have participated in subsidized employment under § 261.30(b) or (c). In paragraph (b)(9), we are asking States to estimate this information as an annual aggregate number. We believe this information is

highly relevant to understanding the efforts State are making to move individuals, particularly hard-to-place individuals, into employment and accomplishing the second goal of the TANF program.

Section 265.10—When Are Annual Reports Due? (§ 275.10 of the NPRM)

This section of the NPRM proposed due dates for the annual addendum and the annual program and performance report. We received no substantive comments on this section.

In light of the decision to delete the annual program and performance report in § 265.9, we have deleted paragraph (b) of this section as it appeared in the NPRM. We have revised the language of this section to specify that the annual report is due at the same time as the fourth quarter TANF Data Report, i.e., November 15 of each year.

XI. Regulatory Impact Analyses

A. Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This rulemaking implements statutory authority based on broad consultation and coordination. It reflects our response to comments received both on the burden estimates for the proposed data collection and on the NPRM that we issued on November 20, 1997.

The Executive Order encourages agencies, as appropriate, to provide the public with meaningful participation in the regulatory process. As described elsewhere in the preamble, ACF consulted with State and local officials and their representative organizations as well as a broad range of advocacy groups, researchers and others to obtain their views prior to the publication of the NPRM.

We also considered comments received in response to the NPRM and had a small number of meetings with major national organizations that asked for the opportunity to present their comments in person. We respond to the comments that we received in the **SUPPLEMENTARY INFORMATION** section of the preamble and in the discussions of individual regulatory provisions.

To a considerable degree, these rules reflect the comments that we received in response to the NPRM. They also reflect the intent of PRWORA to achieve a balance between granting States the flexibility they need to develop and operate effective and responsive

programs and ensuring that they meet the objectives of the statute. Under the new law, State flexibility is achieved by converting the welfare program into a block grant and limiting Federal rules; ensuring that program goals are accomplished is achieved through a number of penalty and bonus provisions and detailed data collection. The limited scope of this regulation is also consistent with Administration policy, as articulated in Executive Order 12866 and its Regulatory Reinvention initiatives. At the same time, we have created a sufficient regulatory structure to enable enforcement of key statutory requirements.

We support State flexibility in numerous ways—such as by exercising regulatory restraint; giving States the ability to define key program terms; and clarifying that States have the ability to continue their welfare reform demonstrations, serve victims of domestic violence and noncustodial parents, use State funds to provide assistance to certain nonqualified immigrants, provide supports to working families, and operate separate State programs that are not subject to all the TANF requirements.

We support the achievement of program goals by ensuring that we capture key information on what is happening under the State TANF programs and maintaining the integrity of the work and other penalty provisions. We take care, in provisions such as the MOE penalty provisions, sanction penalty provisions, and caseload reduction factor approval process, to protect against negative impacts on needy families.

One of our key goals in developing the penalty rules was to ensure State performance in all key areas provided under statute, including work participation, time limits, State maintenance-of-effort, proper use of Federal TANF funds, and data reporting. The law specified that we should enforce State actions in these areas and also specified the penalty for each failure. Through the “reasonable cause” and “corrective compliance” provisions in the rules we give some consideration to special circumstances within a State to help ensure that neither the State nor needy families within the State will be unfairly penalized for circumstances beyond their control.

In the work and penalty areas, this rulemaking provides information to the States that will help them understand our specific expectations and take the steps necessary to avoid penalties. These rules may ultimately affect the number and size of penalties that are

imposed on States, but the basic expectations on States are statutory.

The financial impacts of these rules should be minimal because of the fixed level of funding provided through the block grant. A State’s Federal grant could be affected by the penalty decisions made under the law and these rules, and State expenditures on needy families could be affected indirectly by the rules on caseload reduction. (That is, as the result of caseload reduction, a State might meet the required participation rates and expend State funds at the 75-percent MOE level rather than the 80-percent level.) Otherwise, we do not believe that the rulemaking will affect the overall level of funding or expenditures. However, it could have minor impacts on the nature and distribution of such expenditures.

In the area of data collection, the statutory requirements are specific—especially with respect to case-record or disaggregated data. These rules also include data reporting with respect to program expenditures and characteristics and, under certain circumstances, disaggregated and aggregated case-record information on SSP cases. These data collection requirements help ensure that States continue to contribute meaningful amounts of State dollars to programs that assist needy families, monies go for the intended purposes, and the financial integrity of the program is maintained.

We have retained SSP-MOE data collection in order to assess the overall impact of the program and enable us to determine whether the creation of separate State programs could undermine the objectives of the Act. However, consistent with some of the programmatic changes we have made, we have reduced the amount of case-record data we include in this SSP-MOE data collection and (in changing the definition of assistance) have narrowed the types of separate State programs for which States must provide case-record reporting.

The impacts of these rules on needy individuals and families will depend on the choices that a State makes in implementing the new law. Our data collection should enable tracking of these effects over time and across States. Overall, our assessment of these rules indicates that they represent the least burdensome approach consistent with the regulatory objectives.

Based on the comments that we received both on the data collection burden and the NPRM, we reassessed some of our proposed policies. We have identified an approach to certain issues that is less burdensome than we initially

proposed, but that is still consistent with our regulatory objectives.

This is a significant regulatory action under section (3)(f)(1) of Executive Order 12866 and, therefore, these final rules have been reviewed by the Office of Management and Budget in accordance with that Order. This rule also has been determined to be a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996.

We have estimated the annualized Paperwork Reduction Act costs to be approximately \$30 million, as indicated in section D below, and the penalty costs to be approximately \$50 million, beginning in FY 2001, as reflected in the Administration’s budget.

These final rules implement the new welfare reform block grant program, the Temporary Assistance for Needy Families program. The legislation and these rules reflect new Federal, State, and Tribal relationships in the administration of welfare programs; a new focus on moving recipients into work; and a new emphasis on program information, measurement, and performance. These rules also strengthen State efforts to develop creative and diverse responses to help recipients become self-sufficient; provide recipients with child care, transportation, and other supportive services they need as they move from welfare to work; and address the many factors that contribute to poverty and dependency.

We believe these objectives are reflected in these final rules and that the benefits to families and children, as well as to States, far outweigh the costs, as reflected in the preamble sections that address the substantive provisions of this rule.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, the Secretary has determined that the benefits of these regulations justify the costs. The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. Small entities are defined in the Act to include small businesses, small nonprofit organizations, and small governmental entities. This rule will affect primarily the 50 States, the District of Columbia,

and certain Territories. Therefore, the Secretary certifies that this rule will not have a significant impact on small entities.

C. Assessment of the Impact on Family Well-Being

We certify that we have made an assessment of this rule's impact on the well-being of families, as required under section 654 of The Treasury and General Government Appropriations Act of 1999. The purpose of the TANF program is to strengthen the economic and social stability of families, in part by supporting the formation and maintenance of two-parent families and reducing out-of-wedlock child-bearing. As required by statute, this rule gives flexibility to States to design programs that can best serve this purpose.

D. Paperwork Reduction Act

This rule contains information collection requirements that have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA). Under this Act, no persons are required to respond to a collection of information unless it displays a valid OMB control number. If you have any comments on these information collection requirements, please submit them to OMB within 30 days. The address is: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street N.W., Washington, D.C. 20503, Attn: ACF/DHHS Desk Officer. The public will have an opportunity to provide comments before OMB makes a final decision.

This final rule incorporates our response to comments regarding the reporting burden that we received in response to the NPRM and the Paperwork Notice we published November 27, 1997. It requires States to submit three quarterly reports and one annual report. In addition, States must provide documentation in support of or related to caseload reduction credit, the reasonable cause/corrective compliance process, the Governor's certification on State waiver programs, and the domestic violence good cause waiver redetermination process.

We are publishing in this issue of the **Federal Register** the quarterly data reports and instructions (including the specific data elements); the quarterly financial report and instructions; and two reporting forms: the Annual Report on State Maintenance-of-Effort Programs and instructions (a part of the annual report information specified in § 265.9(c)) and the Caseload Reduction Report and instructions. We discussed the burden of the content of the latter

two reporting forms in the NPRM, but we are publishing the report forms themselves to facilitate compliance.

Quarterly Data and Financial Reports

The three quarterly reports required are the TANF Data Report (Appendices A through C), the SSP-MOE Data Report (Appendices E through G), and the TANF Financial Report (Appendix D) (or, as applicable, the Territorial Financial Report). The TANF Data Report and SSP-MOE Data Report consist of three sections each. Two of the three sections of each Data Report contain disaggregated data elements, and one section of each Data Report contains aggregated data elements.

We need this information collection to meet the requirements of section 411(a) and to implement other sections of the Act, including sections 407 (work participation requirements), 409 (penalties), and 413 (annual rankings).

In the final rule, we have significantly reduced the burden on States of collecting case-record information on current recipients and closed cases. As discussed in the preamble section regarding part 265, we accepted many of the commenters' recommendations to reduce or eliminate burden. For example, we reduced the number of data elements in each Data Report; clarified that States are not required to track closed cases but report only data from the month of closure; and reduced the type of SSP-MOE programs subject to case-record reporting under the revised definition of assistance. At the same time, we also modified, revised, or expanded a very few data elements for clarity or specificity, e.g., adding break-out items on case closure. In deciding which changes to make, we focused on the statutory requirements and the importance of the data in informing us about what was happening to needy families under TANF.

States are required to report MOE expenditure data on the TANF Financial Report; case-record reporting in the SSP-MOE Data Report is optional. However, if a State claims MOE expenditures under a separate State program and wishes to receive a high performance bonus or qualify for caseload reduction credit, it must file disaggregated and aggregated information on a separate State program(s) that is similar to the data reported for the TANF program.

In response to comments and as a consequence of our more narrow definition of "assistance," we have reduced the number of data elements in the SSP-MOE Data Report and the number of TANF and separate State programs that are covered by the SSP-

MOE Data Report. (See Appendices E through G for the data elements.)

The TANF Financial Report consists of one form. (See Appendix D.) We need this report to meet the requirements of sections 405(c)(2), 411(a)(2), 411(a)(3), and 411(a)(5) and to carry out our other financial management and oversight responsibilities. These responsibilities include providing information that could be used in determining whether States are subject to penalties under section 409(a)(1), 409(a)(3), 409(a)(7), 409(a)(9), or 409(a)(14); tracking expenditures under our definition of "assistance"; learning the extent to which recipients of benefits and services are covered by program requirements, and helping to validate the disaggregated data we receive on TANF and SSP cases.

Annual Report

Based on comments, we eliminated the proposed Annual Program and Performance Report (§ 275.9(c) of the NPRM) and the Addendum to the Fourth Quarter Financial Report (§ 275.9(a) and (b) of the NPRM). However, the content of the proposed Addendum is now contained in and required to be reported as a part of the Annual Report in § 265.9. In addition, § 265.9 requires States to report more detailed information on the State's MOE program(s), strategies to implement the Family Violence Option, State diversion programs, and other program characteristics. (We have developed a form for reporting the information on State MOE programs; see Appendix I.)

Other Information Collection Requirements

There are four other circumstances in this rulemaking that will create a reporting burden. The first circumstance concerns instances in which a State wants to qualify for caseload reduction credit. The second addresses a situation in which a State is subject to a penalty under section 409 and wishes to avoid the penalty or receive a reduced penalty. The third is the Governor's certification with respect to waivers, and the fourth is the domestic violence good cause waiver redetermination process.

- If a State elects to request a pro-rata reduction in the minimum participation rates, based on caseload reduction, § 261.41 requires that it must file certain data. We have developed a form for States to report these data at Appendix H.

- If a State wishes to dispute a penalty determination or wants to be considered for a waiver of a penalty based on "reasonable cause" or

corrective compliance, § 262.4 requires that the State provide us with certain information. A State must use a similar process if it is seeking a reduced penalty for failure to meet the work participation rates, as discussed at § 261.51.

- If a State is claiming a waiver inconsistency for work requirements or time limits, the Governor must provide a certification (and documentation) to the Secretary on the nature and scope of the waiver and the inconsistency. See § 260.75.

- If a State wants recognition of good cause domestic violence waivers it issues under the Family Violence Option (subpart B of § 260), it must conduct a redetermination of the need for any waivers extending beyond six months. (We estimate that 45 States will conduct between 500 and 600 redeterminations annually. Only a portion of cases receiving waivers will need redeterminations. We estimate that each determination and redetermination will take approximately one hour.)

Changes in the Estimate of Burden

In the NPRM, the respondents for the TANF Financial Report were listed as the 50 States of the United States and the District of Columbia. (We proposed that the Territories would report expenditure data on the Territorial Financial Report.) The respondents for the remaining reporting requirements, i.e., the TANF Data Report, the SSP-MOE Data Report, the annual program and performance report, the Caseload Reduction Credit documentation process, and the Reasonable Cause/ Corrective Compliance documentation process, were listed as the 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the United States Virgin Islands. (American Samoa is eligible for the TANF program and could use funds that it receives under section 1108 to operate the TANF program. However, it did not elect to operate a TANF program, and we did not include this jurisdiction in our calculation of State burden.)

In the final rule, we have generally assumed the same number of respondents for most of the quarterly Data Reports, the quarterly Financial Report, and the new Annual Report.

However, because we reduced the scope of the SSP-MOE reporting, we also reduced the number of respondents to the SSP-MOE Data Report from 54 to 17. This is the current number of States that we believe will have programs that meet the definition of "assistance."

In addition, we have estimated 32 States as possible respondents to the Governor's certification on waivers because there are 32 States that currently operate programs under approved waivers.

We have estimated that 45 States will be respondents under the domestic violence good cause waiver redetermination process because the majority of States have implemented the Family Violence Option, and many others are taking the legislative or administrative steps necessary to implement this provision.

While the statute requires Tribal organizations with TANF programs to submit some of the same data as States, we have not calculated the burden for the Tribal organizations in this rule. The reporting burden of Tribal organizations is addressed in the Tribal Work and TANF NPRM published July 22, 1998 (63 FR 39366).

Burden Estimates

In estimating the reporting burden in the NPRM, we pointed out that some of the reporting burden that used to exist in the AFDC program had disappeared. We also pointed out that most of the data elements required under the TANF Data Report were similar to previous data elements required in the AFDC or JOBS program and built upon the data elements in the Emergency TANF Data Report. However, States alleged that our assumptions in this area were not totally valid.

In addition, we assumed that most States would collect the data by means of a review sample. In the NPRM, we used as a starting point the OMB-inventoried QC burden hours as a standard for estimating the TANF burden. We also assumed that when a State provided us the information for their entire caseload, there would be a one-time burden and cost of developing or modifying its automated system.

These assumptions were based on a belief that the proposed information was

currently being collected and could be extracted from State automated data systems. State commenters challenged both of these assumptions and the burden estimates we derived from them. They asserted that a significant amount of the proposed information was not available and would require manual collection from TANF recipients. (We note that 30 States are currently reporting data on their entire caseload in the quarterly Emergency TANF Data Report.)

We considered these comments and recalculated what the burden estimate would have been assuming that we had the same number of data elements and respondents as originally proposed in the NPRM. Based on these assumptions, the overall burden estimate would have increased from 241,128 hours (the total burden estimate in the NPRM) to 1,153,944 hours. However, this increase has been offset significantly by the changes we have made in the final rule, e.g., the decrease in the total number of data elements and the substantial reduction in the number of SSP-MOE respondents. These reductions were in large part the result of our response to comments on the NPRM. The estimated total annual burden hours have been reduced to 583,912.

The annual burden estimates include any time involved pulling records from files, abstracting information, returning records to files, assembling any other material necessary to provide the requested information, and transmitting the information.

Table A contains our burden estimates for the final rule and revised estimates for the NPRM. The columns entitled "Final" incorporate the estimates of the burden associated with the requirements in the final rule. These estimates reflect both the revised assumptions and the overall reductions in burden. The columns entitled "NPRM As Revised" provide revised estimates of the burden associated with the requirements in the NPRM, i.e., assuming we retained all the data elements proposed in the NPRM. All numbers have been rounded where indicated.

A. Recalculated Burden Estimates for the Final Rule

Instrument or requirement	Number of respondents		Yearly submittals	Average burden hours per response		Total burden hours	
	NPRM as revised ¹	Final		NPRM as revised ¹	Final	NPRM as revised ¹	Final
TANF Data Report—§ 265.3(b)	254	254	4	3,185	2,183	687,960	471,528
SSP—MOE Data Report—§ 265.3(d)	354	317	4	2,041	664	440,856	45,152
TANF Financial Report—§ 265.3(c)	451	451	4	12	30	2,448	6,120

Instrument or requirement	Number of respondents		Yearly submittals	Average burden hours per response		Total burden hours	
	NPRM as revised ¹	Final		NPRM as revised ¹	Final	NPRM as revised ¹	Final
Annual Report—§ 265.9(b)–(c)6	⁵ NA	² 54	1	⁵ NA	128	⁵ NA	6,912
Caseload Reduction Documentation Process—§ 261.41 & § 261.44	² 54	² 54	1	100	160	5,400	8,640
Reasonable Cause/Corrective Compliance Documentation Process—§§ 262.4, 262.6, & 262.7; § 261.51	¹ 54	¹ 54	2	160	160	17,280	17,280
Governor's Waiver Certification Process—§ 260.75	⁵ NA	32	1	⁵ NA	40	⁵ NA	1,280
Domestic Violence Good Cause Waiver Redetermination Process—§ 260.55	⁵ NA	45	600	⁵ NA	1	⁵ NA	27,000
Estimated Total Annual Burden Hours: ⁷						1,153,944	583,912

¹ This column reflects what the burden estimate would have been assuming we retained all data elements proposed in the NPRM.

² The 50 States, the District of Columbia, Guam, Puerto Rico, and the United States Virgin Islands will be respondents.

³ We estimate that 17 States will be respondents based on the number of States that currently have SSP-MOE programs.

⁴ The 50 States and the District of Columbia will be respondents.

⁵ Not applicable. These reporting requirements did not appear in the NPRM.

⁶ In the NPRM, the annual report referred to the Annual Program and Performance Report, now eliminated.

⁷ The total burden estimate for the NPRM (using the original assumptions) was 241,128.

Therefore, while the burden estimate would have increased by approximately 140 percent (based on the provisions in the NPRM), the actual burden decreased by approximately 50 percent.

We did not consider the burden for the Territorial Financial Report because it has fewer than ten respondents and, therefore, is not covered by the PRA. Also, we no longer require an annual addendum to the fourth quarter TANF Financial Report (the burden for the addendum was estimated in the NPRM as a part of the financial report). We now include the content and burden of the Addendum as a part of the Annual Report requirement.

Finally, in the NPRM, we proposed a caseload reduction process requiring 40 annual burden hours per respondent. In response to comments on the caseload reduction process and the revisions we have made, we increased the estimated annual burden to 160 hours per respondent and developed a form for reporting this information. (See Appendix H.)

Cost Estimates

Many commenters expressed the opinion that we had greatly underestimated the costs associated with significant systems overhaul and redesign that would require substantial investment in staff and resources, as well as the costly ongoing operations and reporting efforts.

We have reconsidered the costs in light of these comments and have revised our estimates accordingly. Specifically, we have increased the estimate of the annualized cost of the hour burden from \$3,520,469 to \$17,050,230. This figure is based on an

estimated average hourly wage of \$29.20 (including fringe benefits, overhead, and general and administrative costs) for the State staff performing the work multiplied by 583,912 burden hours. (If we had not reduced the actual burden by approximately 50 percent, the estimated cost of the hour burden would have been \$33,695,164 (\$29.20 times 1,153,944 burden hours).)

We had originally estimated average annualized capital/start-up and operational and maintenance costs (CSO&M) to be \$2,700,000 across all States, or \$50,000 per respondent. Many States expressed the opinion that the data collection will require costly systems overhaul and redesign and that the overall burden should be anywhere from 5 to 20 times our original estimate.

As indicated above, we have made a substantial upward adjustment in the annualized cost of the hour burden. In addition, we have calculated a substantial increase of 500 percent in the annualized CSO&M based on the assertions of the States. Therefore, we have estimated annualized CSO&M cost to be \$13,500,000. When added to the \$17,050,230 estimate of the annualized cost of the hour burden, it yields a total estimated annualized cost of \$30,550,230, or an average of \$565,745 per respondent. Without the actual reduction in burden, the cost would have been \$47,195,164, or an average of \$873,985 per respondent.

We considered comments by the public on these collections of information in:

- Evaluating whether the collections are necessary for the proper performance of our functions, including

whether the information will have practical utility;

- Evaluating the accuracy of our estimate of the burden of the collections of information, including the validity of the methodology and assumptions used, and the frequency of collection;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., the electronic submission of responses.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the rule.

We have determined that the rules will not result in the expenditure by State, local, and Tribal governments, in

the aggregate, or by the private sector, of more than \$100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

List of Subjects in 45 CFR Parts 260 Through 265

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements, Vocational education.

(Catalogue of Federal Domestic Assistance Programs: 93.558 TANF programs—State Family Assistance Grants, Assistance grants to Territories, Matching grants to Territories, Supplemental Grants for Population Increases and Contingency Fund; 93.559—Loan Fund; 93.595—Welfare Reform Research, Evaluations and National Studies)

Dated: March 26, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: March 29, 1999.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we are amending 45 CFR chapter II by adding parts 260 through 265 to read as follows:

PART 260—GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROVISIONS

Subpart A—What Provisions Generally Apply to the TANF Program?

Sec.

260.10 What does this part cover?

260.20 What is the purpose of the TANF program?

260.30 What definitions apply under the TANF regulations?

260.31 What does the term “assistance” mean?

260.32 What does the term “WtW cash assistance” mean?

260.33 When are expenditures on State or local tax credits allowable expenditures for TANF-related purposes?

260.35 What other Federal laws apply to TANF?

260.40 When are these provisions in effect?

Subpart B—What Special Provisions Apply to Victims of Domestic Violence?

260.50 What is the purpose of this subpart?

260.51 What definitions apply to this subpart?

260.52 What are the basic provisions of the Family Violence Option (FVO)?

260.54 Do States have flexibility to grant good cause domestic violence waivers?

260.55 What are the additional requirements for Federal recognition of good cause domestic violence waivers?

260.58 What penalty relief is available to a State whose failure to meet the work participation rates is attributable to providing federally recognized good cause domestic violence waivers?

260.59 What penalty relief is available to a State that failed to comply with the five-year limit on Federal assistance because it provided federally recognized good cause domestic violence waivers?

Subpart C—What Special Provisions Apply to States That Were Operating Programs Under Approved Waivers?

260.70 What is the purpose of this subpart?

260.71 What definitions apply to this subpart?

260.72 What basic requirements must State demonstration components meet for the purpose of determining if inconsistencies exist with respect to work requirements or time limits?

260.73 How do existing welfare reform waivers affect the participation rates and work rules?

260.74 How do existing welfare reform waivers affect the application of the Federal time-limit provisions?

260.75 If a State is claiming a waiver inconsistency for work requirements or time limits, what must the Governor certify?

260.76 What special rules apply to States that are continuing evaluations of their waiver demonstrations?

Authority: 42 U.S.C. 601, 601 note, 603, 604, 606, 607, 608, 609, 610, 611, 619, and 1308.

Subpart A—What Rules Generally Apply to the TANF Program?

§ 260.10 What does this part cover?

This part includes regulatory provisions that generally apply to the Temporary Assistance for Needy Families (TANF) program.

§ 260.20 What is the purpose of the TANF program?

The TANF program has the following four purposes:

(a) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(b) End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(c) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(d) Encourage the formation and maintenance of two-parent families.

§ 260.30 What definitions apply under the TANF regulations?

The following definitions apply under parts 260 through 265 of this chapter:

ACF means the Administration for Children and Families.

Act means Social Security Act, unless otherwise specified.

Adjusted State Family Assistance Grant, or adjusted SFAG, means the SFAG amount, minus any reductions for Tribal Family Assistance Grants paid to Tribal grantees on behalf of Indian families residing in the State and any transfers to the Social Services Block Grant or the Child Care and Development Block Grant.

Administrative costs has the meaning specified at § 263.0(b) of this chapter.

Adult means an individual who is not a “minor child,” as defined elsewhere in this section.

AFDC means Aid to Families with Dependent Children.

Aid to Families with Dependent Children means the welfare program in effect under title IV–A of prior law.

Assistance has the meaning specified at § 260.31.

Basic MOE means the expenditure of State funds that must be made in order to meet the MOE requirement at section 409(a)(7) of the Act.

Cash assistance, when provided to participants in the Welfare-to-Work program (WtW), has the meaning specified at § 260.32.

CCDBG means the Child Care and Development Block Grant Act of 1990, as amended, 42 U.S.C. 9858 *et seq.*

CCDF means the Child Care and Development Fund, or those child care programs and services funded either under section 418(a) of the Act or CCDBG.

Commingled State TANF expenditures means expenditures of State funds that are made within the TANF program and commingled with Federal TANF funds.

Contingency fund means Federal TANF funds available under section 403(b) of the Act, and contingency funds means the Federal monies made available to States under that section. Neither term includes any State funds expended pursuant to section 403(b).

Contingency fund MOE means the MOE expenditures that a State must make in order to meet the MOE requirements at sections 403(b)(6) and 409(a)(10) of the Act and subpart B of part 264 of this chapter and retain contingency funds made available to the State. The only expenditures that qualify for Contingency Fund MOE are State TANF expenditures.

Control group is a term relevant to continuation of a “waiver” and has the meaning specified at § 260.71.

Countable State expenditures has the meaning specified at § 264.0 of this chapter.

Discretionary fund of the CCDF refers to child care funds appropriated under the CCDBG.

EA means Emergency Assistance.

Eligible State means a State that, during the 27-month period ending with the close of the first quarter of the fiscal year, has submitted a TANF plan that we have determined is complete.

Emergency assistance means the program option available to States under sections 403(a)(5) and 406(e) of prior law to provide short-term assistance to needy families with children.

Expenditure means any amount of Federal TANF or State MOE funds that a State expends, spends, pays out, or disburses consistent with the requirements of parts 260 through 265 of this chapter. It may include expenditures on the refundable portions of State or local tax credits, if they are consistent with the provisions at § 260.33. It does not include any amounts that merely represent avoided costs or foregone revenue. Avoided costs include such items as contractor penalty payments for poor performance and purchase price discounts, rebates, and credits that a State receives. Foregone revenue includes State tax provisions—such as waivers, deductions, exemptions, or nonrefundable tax credits—that reduce a State's tax revenue.

Experimental group is a term relevant to continuation of a "waiver" and has the meaning specified at § 260.71.

FAG has the meaning specified at § 264.0(b) of this chapter.

Family Violence Option (or FVO) has the meaning specified at § 260.51.

FAMIS means the automated statewide management information system under sections 402(a)(30), 402(e), and 403 of prior law.

Federal expenditures means expenditures by a State of Federal TANF funds.

Federal TANF funds means all funds provided to the State under section 403 of the Act except WtW funds awarded under section 403(a)(5), including the SFAG, any bonuses, supplemental grants, or contingency funds.

Federally recognized good cause domestic violence waiver has the meaning specified at § 260.51.

Fiscal year means the 12-month period beginning on October 1 of the preceding calendar year and ending on September 30.

FY means fiscal year.

Good cause domestic violence waiver has the meaning specified at § 260.51.

Governor means the Chief Executive Officer of the State. It thus includes the

Governor of each of the 50 States and the Territories and the Mayor of the District of Columbia.

IEVS means the Income and Eligibility Verification System operated pursuant to the provisions in section 1137 of the Act.

Inconsistent is a term relevant to continuation of a "waiver" and has the meaning specified at § 260.71.

Indian, Indian Tribe and Tribal Organization have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except that the term "Indian tribe" means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

- (1) Arctic Slope Native Association;
- (2) Kawerak, Inc.;
- (3) Maniilaq Association;
- (4) Association of Village Council Presidents;
- (5) Tanana Chiefs Council;
- (6) Cook Inlet Tribal Council;
- (7) Bristol Bay Native Association;
- (8) Aleutian and Pribilof Island Association;
- (9) Chugachmuit;
- (10) Tlingit Haida Central Council;
- (11) Kodiak Area Native Association;

and
(12) Copper River Native Association.
Individual Development Account, or IDA, has the meaning specified at § 263.20 of this chapter.

Job Opportunities and Basic Skills Training Program means the program under title IV–F of prior law to provide education, training and employment services to welfare recipients.

JOBS means the Job Opportunities and Basic Skills Training Program.

Minor child means an individual who:

- (1) Has not attained 18 years of age; or
- (2) Has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

MOE means maintenance-of-effort.

Needy State is a term that pertains to the provisions on the Contingency Fund and the penalty for failure to meet participation rates. It means, for a month, a State where:

- (1)(i) The average rate of total unemployment (seasonally adjusted) for the most recent 3-month period for which data are published for all States equals or exceeds 6.5 percent; and
- (ii) The average rate of total unemployment (seasonally adjusted) for such 3-month period equals or exceeds 110 percent of the average rate for either (or both) of the corresponding 3-month

periods in the two preceding calendar years; or

(2) The Secretary of Agriculture has determined that the average number of individuals participating in the Food Stamp program in the State has grown at least 10 percent in the most recent 3-month period for which data are available.

Noncustodial parent means a parent of a minor child receiving assistance who:

- (1) Lives in the State; and
- (2) Does not live in the same household as the child.

Prior law means the provisions of title IV–A and IV–F of the Act in effect as of August 21, 1996. They include provisions related to Aid to Families with Dependent Children (or AFDC), Emergency Assistance (or EA), Job Opportunities and Basic Skills Training (or JOBS), and FAMIS.

PRWORA means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or Pub. L. 104–193, 42 U.S.C. 1305 note.

Qualified Aliens has the meaning prescribed under section 431 of PRWORA, as amended, 8 U.S.C. 1641.

Qualified State Expenditures means the total amount of State funds expended during the fiscal year that count for basic MOE purposes. It includes expenditures, under any State program, for any of the following with respect to eligible families:

- (1) Cash assistance;
- (2) Child care assistance;
- (3) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures involving the provision of services or assistance of an eligible family that is not generally available to persons who are not members of an eligible family;
- (4) Any other use of funds allowable under subpart A of part 263 of this chapter; and
- (5) Administrative costs in connection with the matters described in paragraphs (1), (2), (3) and (4) of this definition, but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

Secretary means Secretary of the Department of Health and Human Services or any other Department official duly authorized to act on the Secretary's behalf.

Segregated State TANF expenditures means expenditures of State funds within the TANF program that are not commingled with Federal TANF funds.

Separate State program, or SSP, means a program operated outside of

TANF in which the expenditures of State funds may count for basic MOE purposes.

SFAG means State family assistance grant, as defined in this section.

SFAG payable means the SFAG amount, reduced, as appropriate, for any Tribal Family Assistance Grants made on behalf of Indian families residing in the State and any penalties imposed on a State under this chapter.

Single audit means an audit or supplementary review conducted under the authority of the Single Audit Act at 31 U.S.C. chapter 75.

Social Services Block Grant means the social services program operated under title XX of the Act, pursuant to 42 U.S.C. 1397.

SSBG means the Social Services Block Grant.

State means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa, unless otherwise specified.

State agency means the agency that the Governor certifies as the administering and supervising agency for the TANF program, pursuant to section 402(a)(4) of the Act.

State family assistance grant means the amount of the basic block grant allocated to each eligible State under the formula at section 403(a)(1) of the Act.

State MOE expenditures means the expenditure of State funds that may count for purposes of the basic MOE requirements at section 409(a)(7) of the Act and the Contingency Fund MOE requirements at sections 403(b)(4) and 409(a)(10) of the Act.

State TANF expenditures means the expenditure of State funds within the TANF program.

TANF means The Temporary Assistance for Needy Families Program.

TANF program means a State program of family assistance operated by an eligible State under its State TANF plan.

Territories means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

Title IV-A refers to the title and part of the Act that now includes TANF, but previously included AFDC and EA. For the purpose of the TANF program regulations, this term does not include child care programs authorized and funded under section 418 of the Act, or their predecessors, unless we specify otherwise.

Tribal family assistance grant means a grant paid to a Tribe that has an approved Tribal family assistance plan under section 412(a)(1) of the Act.

Tribal grantee means a Tribe that receives Federal TANF funds to operate

a Tribal TANF program under section 412(a) of the Act.

Tribal TANF program means a TANF program developed by an eligible Tribe, Tribal organization, or consortium and approved by us under section 412 of the Act.

Tribe means Indian Tribe or Tribal organization, as defined elsewhere in this section. The definition may include Tribal consortia (i.e., groups of federally recognized Tribes or Alaska Native entities that have banded together in a formal arrangement to develop and administer a Tribal TANF program).

Victim of domestic violence has the meaning specified at § 260.51.

Waiver, when used in subpart C of this part, has the meaning specified at § 260.71.

We (and any other first person plural pronouns) means the Secretary of Health and Human Services or any of the following individuals or organizations acting in an official capacity on the Secretary's behalf: the Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

Welfare-to-Work means the new program for funding work activities at section 403(a)(5) of the Act.

WtW means Welfare-to-Work.

WtW cash assistance has the meaning specified at § 260.32.

§ 260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under § 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) It excludes:

(1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

(c) The definition of the term assistance specified in paragraphs (a) and (b) of this section:

(1) Does not apply to the use of the term assistance at part 263, subpart A, or at part 264, subpart B, of this chapter; and

(2) Does not preclude a State from providing other types of benefits and services in support of the TANF goal at § 260.20(a).

§ 260.32 What does the term "WtW cash assistance" mean?

(a) For the purpose of § 264.1(b)(1)(iii) of this chapter, WtW cash assistance only includes benefits that:

(1) Meet the definition of assistance at § 260.31; and

(2) Are directed at basic needs.

(b) Thus, it includes benefits described in paragraphs (a)(1) and (a)(2) of § 260.31, but excludes benefits described in paragraph (a)(3) of § 260.31.

(c) It only includes benefits identified in paragraphs (a) and (b) of this section when they are provided in the form of cash payments, checks, reimbursements, electronic funds transfers, or any other form that can legally be converted to currency.

§ 260.33 When are expenditures on State or local tax credits allowable expenditures for TANF-related purposes?

(a) To be an allowable expenditure for TANF-related purposes, any tax credit program must be reasonably calculated to accomplish one of the purposes of the TANF program, as specified at § 260.20.

(b)(1) In addition, pursuant to the definition of expenditure at § 260.30, we

would only consider the refundable portion of a State or local tax credit to be an allowable expenditure.

(2) Under a State Earned Income Tax Credit (EITC) program, the refundable portion that may count as an expenditure is the amount that exceeds a family's State income tax liability prior to application of the EITC. (The family's tax liability is the amount owed prior to any adjustments for credits or payments.) In other words, we would count only the portion of a State EITC that the State refunds to a family and that is above the amount of EITC used as credit towards the family's State income tax liability.

(3) For other refundable (and allowable) State and local tax credits, such as refundable dependent care credits, the refundable portion that would count as an expenditure is the amount of the credit that exceeds the taxpayer's tax liability prior to the application of the credit. (The taxpayer's liability is the amount owed prior to any adjustments for credits or payments.) In other words, we would count only the portion of the credit that the State refunds to the taxpayer and that is above the amount of the credit applied against the taxpayer's tax bill.

§ 260.35 What other Federal laws apply to TANF?

(a) Under section 408(d) of the Act, the following provisions of law apply to any program or activity funded with Federal TANF funds:

- (1) The Age Discrimination Act of 1975;
- (2) Section 504 of the Rehabilitation Act of 1973;
- (3) The Americans with Disabilities Act of 1990; and
- (4) Title VI of the Civil Rights Act of 1964.

(b) The limitation on Federal regulatory and enforcement authority at section 417 of the Act does not limit the effect of other Federal laws, including Federal employment laws (such as the Fair Labor Standards Act (FLSA), the Occupational Safety and Health Act (OSHA) and unemployment insurance (UI) and nondiscrimination laws. These laws apply to TANF beneficiaries in the same manner as they apply to other workers.

§ 260.40 When are these provisions in effect?

(a) In determining whether a State is subject to a penalty under parts 261 through 265 of this chapter, we will not apply the regulatory provisions in parts 260 through 265 of this chapter retroactively. We will judge State actions that occurred prior to the

effective date of these rules and expenditures of funds received prior to the effective date only against a reasonable interpretation of the statutory provisions in title IV-A of the Act.

(b) The effective date of these rules is October 1, 1999.

Subpart B—What Special Provisions Apply to Victims of Domestic Violence?

§ 260.50 What is the purpose of this subpart?

Under section 402(a)(7) of the Act, under its TANF plan, a State may elect to implement a special program to serve victims of domestic violence and to waive program requirements for such individuals. This subpart explains how adoption of these provisions affects the penalty determinations applicable if a State fails to meet its work participation rate or comply with the five-year limit on Federal assistance.

§ 260.51 What definitions apply to this subpart?

Family Violence Option (or FVO) means the provision at section 402(a)(7) of the Act under which a State certifies in its State plan if it has elected the option to implement comprehensive strategies for identifying and serving victims of domestic violence.

Federally recognized good cause domestic violence waiver means a good cause domestic violence waiver that meets the requirements at §§ 260.52(c) and 260.55.

Good cause domestic violence waiver means a waiver of one or more program requirements granted by a State to a victim of domestic violence under the FVO, as described at § 260.52(c).

Victim of domestic violence means an individual who is battered or subject to extreme cruelty under the definition at section 408(a)(7)(C)(iii) of the Act.

§ 260.52 What are the basic provisions of the Family Violence Option (FVO)?

Section 402(a)(7) of the Act provides that States electing the FVO certify that they have established and are enforcing standards and procedures to:

- (a) Screen and identify individuals receiving TANF and MOE assistance with a history of domestic violence, while maintaining the confidentiality of such individuals;
- (b) Refer such individuals to counseling and supportive services; and
- (c) Provide waivers, pursuant to a determination of good cause, of normal program requirements to such individuals for so long as necessary in cases where compliance would make it more difficult for such individuals to

escape domestic violence or unfairly penalize those who are or have been victimized by such violence or who are at risk of further domestic violence.

§ 260.54 Do States have flexibility to grant good cause domestic violence waivers?

(a) Yes; States have broad flexibility to grant these waivers to victims of domestic violence. For example, they may determine which program requirements to waive and decide how long each waiver might be necessary.

(b) However, if a State wants us to take the waivers that it grants into account in deciding if it has reasonable cause for failing to meet its work participation rates or comply with the five-year limit on Federal assistance, has achieved compliance or made significant progress towards achieving compliance with such requirements during a corrective compliance period, or qualifies for a reduction in its work penalty under § 261.51 of this chapter, the waivers must be federally recognized good cause domestic violence waivers, within the meaning of §§ 260.52(c) and 260.55, and the State must submit the information specified at § 265.9(b)(5) of this chapter on its strategies and procedures for serving victims of domestic violence and the number of waivers granted.

§ 260.55 What are the additional requirements for Federal recognition of good cause domestic violence waivers?

To be federally recognized, good cause domestic violence waivers must:

- (a) Identify the specific program requirements that are being waived;
- (b) Be granted appropriately based on need, as determined by an individualized assessment by a person trained in domestic violence and redeterminations no less often than every six months;
- (c) Be accompanied by an appropriate services plan that:
 - (1) Is developed by a person trained in domestic violence;
 - (2) Reflects the individualized assessment and any revisions indicated by the redetermination; and
 - (3) To the extent consistent with § 260.52(c), is designed to lead to work.

§ 260.58 What penalty relief is available to a State whose failure to meet the work participation rates is attributable to providing federally recognized good cause domestic violence waivers?

(a)(1) We will determine that a State has reasonable cause if its failure to meet the work participation rates was attributable to federally recognized good cause domestic violence waivers granted to victims of domestic violence.

(2) To receive reasonable cause under the provisions of § 262.5(b) of this chapter, the State must provide evidence that it achieved the applicable rates, except with respect to any individuals who received a federally recognized good cause domestic violence waiver of work participation requirements. In other words, it must demonstrate that it met the applicable rates when such waiver cases are removed from the calculations at §§ 261.22(b) and 261.24(b) of this chapter.

(b)(1) We will reduce a State's penalty based on the degree of noncompliance to the extent that its failure to meet the work participation rates was attributable to federally recognized good cause domestic violence waivers.

(2) To receive a reduction based on degree of noncompliance under the provisions of § 261.51 of this chapter, a State granting federally recognized good cause domestic violence waivers of work participation requirements must demonstrate that it achieved participation rates above the threshold at § 261.51(b)(3) of this chapter, when such waiver cases are removed from the calculations at §§ 261.22(b) and 261.24(b) of this chapter.

(c) We may take federally recognized good cause domestic violence waivers of work requirements into consideration in deciding whether a State has achieved compliance or made significant progress towards achieving compliance in meeting the work participation rates during a corrective compliance period.

(d) To receive the penalty relief specified in paragraphs (a), (b), and (c) of this section, the State must submit the information specified at § 265.9(b)(5) of this chapter.

Section 260.59—What Penalty Relief is Available to a State That Failed To Comply With the Five-Year Limit on Federal Assistance Because It Provided Federally Recognized Good Cause Domestic Violence Waivers?

(a)(1) We will determine that a State has reasonable cause if it failed to comply with the five-year limit on Federal assistance because of federally recognized good cause domestic violence waivers granted to victims of domestic violence.

(2) More specifically, to receive reasonable cause under the provisions at § 264.3(b) of this chapter, a State must demonstrate that:

(i) It granted federally recognized good cause domestic violence waivers to extend time limits based on the need for continued assistance due to current or past domestic violence or the risk of further domestic violence; and

(ii) When individuals and their families are excluded from the calculation, the percentage of families receiving federally funded assistance for more than 60 months did not exceed 20 percent of the total.

(b) We may take federally recognized good cause domestic violence waivers to extend time limits into consideration in deciding whether a State has achieved compliance or made significant progress towards achieving compliance in meeting the five-year limit on Federal assistance during a corrective compliance period.

(c) To receive the penalty relief specified in paragraphs (a) and (b) of this section, the State must submit the information specified at § 265.9(b)(5) of this chapter.

Subpart C—What Special Provisions Apply to States that Were Operating Programs Under Approved Waivers?

§ 260.70 What is the purpose of this subpart?

(a) Under section 415 of the Act, if a State was granted a waiver under section 1115 of the Act and that waiver was in effect on August 22, 1996, the amendments made by PRWORA do not apply for the period of the waiver, to the extent that they are inconsistent with the waiver and the State elects to continue its waiver.

(b) Identification of waiver inconsistencies is relevant for the determination of penalties in three areas:

(1) Under § 261.50 of this chapter for failing to meet the work participation rates at part 261 of this chapter;

(2) Under § 264.2 of this chapter for failing to comply with the five-year limit on Federal assistance at subpart A of part 264 of this chapter; and

(3) Under § 261.54 of this chapter for failing to impose sanctions on individuals who fail to work.

(c) This subpart explains how we will determine waiver inconsistencies and apply them in the penalty determination process for these penalties.

§ 260.71 What definitions apply to this subpart?

(a) *Inconsistent* means that complying with the TANF work participation or sanction requirements at section 407 of the Act or the time-limit requirement at section 408(a)(7) of the Act would necessitate that a State change a policy reflected in an approved waiver.

(b) *Waiver* consists of the work participation or time-limit component of the State's demonstration project under section 1115 of the Act. The component includes the revised AFDC requirements

indicated in the State's waiver list, as approved by the Secretary under the authority of section 1115, and the associated AFDC provisions that did not need to be waived.

(c) *Control group* and *experimental group* have the meanings specified in the terms and conditions of the State's demonstration.

§ 260.72 What basic requirements must State demonstration components meet for the purpose of determining if inconsistencies exist with respect to work requirements or time limits?

(a) The policies must be consistent with the requirements of section 415 of the Act and the requirements of this subpart.

(b) The policies must be within the scope of the approved waivers both in terms of geographical coverage and the coverage of the types of cases specified in the waiver approval package.

(c) The State must have applied its waiver policies on a continuous basis from the date that it implemented its TANF program, except that it may have adopted modifications that have the effect of making its policies more consistent with the provisions of PRWORA.

(d) An inconsistency may not apply beyond the earlier of the following dates:

(1) The expiration of waiver authority as determined in accordance with the demonstration terms and conditions; or

(2) For any specific inconsistency, the date upon which the State discontinued the applicable waiver policy.

(e) The State must submit the Governor's certification specified in § 260.75.

(f) In general, the policies in this subpart do not have the effect of delaying the date when a State might be subject to the work or time-limit penalties at §§ 261.50, 261.54, and 264.1 of this chapter or the data collection requirements at part 265 of this chapter.

§ 260.73 How do existing welfare reform waivers affect the participation rates and work rules?

(a) If a State is implementing a work participation component under a waiver, in accordance with this subpart, the provisions of section 407 of the Act will not apply in determining if a penalty should be imposed, to the extent that the provision is inconsistent with the waiver.

(b) For the purpose of determining if the State's demonstration has a work participation component, the waiver list for the demonstration must include one or more specific provisions that directly correspond to the work policies in section 407 of the Act (i.e., change

allowable JOBS activities, exemptions from JOBS participation, hours of required JOBS participation, or sanctions for noncompliance with JOBS participation).

(c) Corresponding to the inconsistencies certified by the Governor under § 260.75:

(1) We will calculate the State's work participation rates, by:

(i) Excluding cases exempted from participation under the demonstration component and, if applicable, experimental and control cases not otherwise exempted, in calculating the rate;

(ii) Defining work activities as defined in the demonstration component in determining the numerator; and

(iii) Including cases meeting the required number of hours of participation in work activities in accordance with demonstration component policy, in determining the numerator.

(2) We will determine whether a State is taking appropriate sanctions when an individual refuses to work based on the State's certified waiver policies.

(d) We will use the data submitted by States pursuant to § 265.3 of this chapter to calculate and make public a State's work participation rates under both the TANF requirements and the State's alternative waiver requirements.

§ 260.74 How do existing welfare reform waivers affect the application of the Federal time-limit provisions?

(a)(1) If a State is implementing a time-limit component under a waiver, in accordance with this subpart, the provisions of section 408(a)(7) of the Act will not apply in determining if a penalty should be imposed, to the extent that they are inconsistent with the waiver.

(2) For the purpose of determining if the State's demonstration has a time-limit component, the waiver list for the demonstration must include provisions that directly correspond to the time-limit policies enumerated in section 408(a)(7) of the Act (i.e., address which individuals or families are subject to, or exempt from, terminations of assistance based solely on the passage of time or who qualifies for extensions to the time limit).

(b)(1) Generally, under an approved waiver, except as provided in paragraph (b)(3) of this section, a State will count, toward the Federal five-year limit, all months for which the head-of-household or spouse of the head-of-household subject to the State time limit receives assistance with Federal TANF funds, just as it would if it did not have an approved waiver.

(2) The State need not count, toward the Federal five-year limit, any months for which a head-of-household or spouse of the head-of-household receives assistance with Federal TANF funds while that individual is exempt from the State's time limit under the State's approved waiver.

(3) Where a State has continued a time limit under waivers that only terminates assistance for adults, the State need not count, toward the Federal five-year limit, any months for which an adult subject to the State time limit receives assistance with Federal TANF funds.

(4) The State may continue to provide assistance with Federal TANF funds for more than 60 months, without a numerical limit, to families provided extensions to the State time limit, under the provisions of the terms and conditions of the approved waiver.

(c) Corresponding to the inconsistencies certified by the Governor under § 260.75, we will calculate the State's time-limit exceptions by:

(1) Excluding, from the determination of the number of months of Federal assistance received by a family:

(i) Any month in which the adult(s) were exempt from the State's time limit under the terms of an approved waiver or any months in which the children received assistance under a waiver that only terminated assistance to adults; and

(ii) If applicable, experimental and control group cases not otherwise exempted; and

(2) Applying the State's waiver policies with respect to the availability of extensions to the time limit.

§ 260.75 If a State is claiming a waiver inconsistency for work requirements or time limits, what must the Governor certify?

(a) The Governor of the State must certify in writing to the Secretary that:

(1) The applicable policies have been continually applied in operating the TANF program, as described in § 260.72(c);

(2) The inconsistencies claimed by the State are within the scope of the approved waivers, as described in § 260.72(b);

(b) The certification must identify the specific inconsistencies that the State chooses to continue with respect to work and time limits.

(1) If the waiver inconsistency claim includes work provisions, the certification must specify the standards that will apply, in lieu of the provisions in subparts B and C of part 261 of this chapter, to determine:

(i) The number of two-parent and all-parent cases that are exempt from

participation, if any, for the purpose of determining the denominator of the work participation rate;

(ii) The number of nonexempt two-parent and all-parent cases that are participating in work activities for the purpose of determining the numerator of the work participation rate, including standards applicable to;

(A) Countable work activities; and
(B) Required hours of work for participation for individual participants; and

(iii) The penalty against an individual or family when an individual refuses to work.

(2) If the waiver inconsistency claim includes time-limit provisions, the certification must include the standards that will apply, in lieu of the provisions in § 264.1 of this chapter, in determining:

(i) Which families are counted toward the Federal time limit; and

(ii) Whether a family is eligible for an extension of its time limit on federally funded assistance.

(3) If the State is continuing policies for evaluation purposes in accordance with § 260.76:

(i) The certification must specify any special work or time-limit standards that apply to the control group and experimental group cases; and

(ii) The State may choose to exclude cases assigned to the experimental and control groups, which are not otherwise exempt, for the purpose of calculating the work participation rate or determining State compliance related to limiting assistance to families including adults who have received 60 months of Federal TANF assistance. In doing so, the State may effectively exclude all experimental group cases and/or control group cases, not otherwise exempt, but may not exclude individual cases on a selective basis.

(c) The certification may include a claim of inconsistency with respect to hours of required participation in work activities only if the State has written evidence that, when implemented, the waiver policies established specific requirements related to hours of work for nonexempt individuals.

(d)(1) The Governor's certification must be provided no later than October 1, 1999.

(2) If a State modifies its waiver policies in a way that has a substantive effect on the determination of its work sanctions, or the calculation of its work participation rates or its time-limit exceptions, it must submit an amended certification no later than the end of the fiscal quarter in which the modifications take effect.

§ 260.76 What special rules apply to States that are continuing evaluations of their waiver demonstrations?

If a State is continuing research that employs an experimental design in order to complete an impact evaluation of a waiver demonstration, the experimental and control groups may continue to be subject to prior AFDC law, except as modified by the waiver.

PART 261—ENSURING THAT RECIPIENTS WORK

Sec.

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261.70 What safeguards are there to ensure that participants in work activities do not displace other workers?

Authority: 42 U.S.C. 601, 602, 607, and 609.

§ 261.1 What does this part cover?

This part includes the regulatory provisions relating to the mandatory work requirements of TANF.

§ 261.2 What definitions apply to this part?

The general TANF definitions at §§ 260.30 through 260.33 of this chapter apply to this part.

Subpart A—What Are the Provisions Addressing Individual Responsibility?

§ 261.10 What work requirements must an individual meet?

(a)(1) A parent or caretaker receiving assistance must engage in work activities when the State has determined that the individual is ready to engage in work or when he or she has received

assistance for a total of 24 months, whichever is earlier, consistent with section 407(e)(2) of the Act.

(2) The State must define what it means to engage in work for this requirement; its definition may include participation in work activities in accordance with section 407 of the Act.

(b) If a parent or caretaker has received assistance for two months, he or she must participate in community service employment, consistent with section 407(e)(2) of the Act, unless the State has exempted the individual from work requirements or he or she is already engaged in work activities as described at § 261.30. The State will determine the minimum hours per week and the tasks the individual must perform as part of the community service employment.

§ 261.11 Which recipients must have an assessment under TANF?

(a) The State must make an initial assessment of the skills, prior work experience, and employability of each recipient who is at least age 18 or who has not completed high school (or equivalent) and is not attending secondary school.

(b) The State may make any required assessments within 30 days (90 days, at State option) of the date an individual becomes eligible for assistance.

§ 261.12 What is an individual responsibility plan?

An individual responsibility plan is a plan developed at State option, in consultation with the individual, on the basis of the assessment made under § 261.11. The plan:

(a) Should set an employment goal and a plan for moving immediately into private-sector employment;

(b) Should describe the obligations of the individual. These could include going to school, maintaining certain grades, keeping school-aged children in school, immunizing children, going to classes, or doing other things that will help the individual become or remain employed in the private sector;

(c) Should be designed to move the individual into whatever private-sector employment he or she is capable of handling as quickly as possible and to increase over time the responsibility and the amount of work the individual handles;

(d) Should describe the services the State will provide the individual to enable the individual to obtain and keep private sector employment, including job counseling services; and

(e) May require the individual to undergo appropriate substance abuse treatment.

§ 261.13 May an individual be penalized for not following an individual responsibility plan?

Yes. If an individual fails without good cause to comply with an individual responsibility plan that he or she has signed, the State may reduce the amount of assistance otherwise payable to the family, by whatever amount it considers appropriate. This penalty is in addition to any other penalties under the State's TANF program.

§ 261.14 What is the penalty if an individual refuses to engage in work?

(a) If an individual refuses to engage in work required under section 407 of the Act, the State must reduce or terminate the amount of assistance payable to the family, subject to any good cause or other exceptions the State may establish. Such a reduction is governed by the provisions of § 261.16.

(b)(1) The State must, at a minimum, reduce the amount of assistance otherwise payable to the family pro rata with respect to any period during the month in which the individual refuses to work.

(2) The State may impose a greater reduction, including terminating assistance.

(c) A State that fails to impose penalties on individuals in accordance with the provisions of section 407(e) of the Act may be subject to the State penalty specified at § 261.54.

§ 261.15 Can a family be penalized if a parent refuses to work because he or she cannot find child care?

(a) No, the State may not reduce or terminate assistance based on an individual's refusal to engage in required work if the individual is a single custodial parent caring for a child under age six who has a demonstrated inability to obtain needed child care, as specified at § 261.56.

(b) A State that fails to comply with the penalty exception at section 407(e)(2) of the Act and the requirements at § 261.56 may be subject to the State penalty specified at § 261.57.

§ 261.16 Does the imposition of a penalty affect an individual's work requirement?

A penalty imposed by a State against the family of an individual by reason of the failure of the individual to comply with a requirement under TANF shall not be construed to be a reduction in any wage paid to the individual.

Subpart B—What Are the Provisions Addressing State Accountability?

§ 261.20 How will we hold a State accountable for achieving the work objectives of TANF?

(a) Each State must meet two separate work participation rates, one—the two-parent rate—based on how well it succeeds in helping adults in two-parent families find work activities described at § 261.30, the other—the overall rate—based on how well it succeeds in finding those activities for adults in all the families that it serves.

(b) Each State must submit data that allows us to measure its success in requiring adults to participate in work activities, as specified at § 265.3 of this chapter.

(c) If the data show that a State met both participation rates in a fiscal year, then the percentage of historic State expenditures that it must expend under TANF, pursuant to § 263.1 of this chapter, decreases from 80 percent to 75 percent for that fiscal year. This is also known as the State's TANF "maintenance-of-effort" requirement.

(d) If the data show that a State did not meet either minimum work participation rate for a fiscal year, a State could be subject to a financial penalty.

(e) Before we impose a penalty, a State will have the opportunity to claim reasonable cause or enter into a corrective compliance plan, pursuant to §§ 262.5 and 262.6 of this chapter.

§ 261.21 What overall work rate must a State meet?

Each State must achieve the following minimum overall participation rate:

If the fiscal year is:	Then the minimum participation rate is:
1997	25
1998	30
1999	35
2000	40
2001	45
2002 and thereafter	50

§ 261.22 How will we determine a State's overall work rate?

(a) The overall participation rate for a fiscal year is the average of the State's overall participation rates for each month in the fiscal year.

(b) We determine a State's overall participation rate for a month as follows:

(1) The number of families receiving TANF assistance that include an adult or a minor head-of-household who is engaged in work for the month (i.e., the numerator), divided by,

(2) The number of families receiving TANF assistance during the month that include an adult or a minor head-of-household, minus the number of families that are subject to a penalty for refusing to work in that month (i.e., the denominator). However, if a family has been sanctioned for more than three of the last 12 months, we will not exclude it from the participation rate calculation.

(3) The State may direct us, through its reported participation data, to include in the participation calculation families that have been sanctioned for no more than three of the last 12 months.

(c)(1) A State has the option of not requiring a single custodial parent caring for a child under age one to engage in work.

(2) At State option, we will disregard a family with such a parent from the participation rate calculation for a maximum of 12 months.

(d)(1) If a family receives assistance for only part of a month, we will count it as a month of participation if an adult in the family is engaged in work for the minimum average number of hours in each full week that the family receives assistance in that month.

(2) If a State pays benefits retroactively (i.e., for the period between application and approval of benefits), it has the option to consider the family to be receiving assistance during the period of retroactivity.

§ 261.23 What two-parent work rate must a State meet?

A State receiving a TANF grant for a fiscal year must achieve the following minimum two-parent participation rate:

If the fiscal year is:	Then the minimum participation rate is:
1997	75
1998	75
1999 and thereafter	90

§ 261.24 How will we determine a State's two-parent work rate?

(a) The two-parent participation rate for a fiscal year is the average of the State's two-parent participation rates for each month in the fiscal year.

(b) We determine a State's two-parent participation rate for a month as follows:

(1) The number of two-parent families receiving TANF assistance that include an adult or minor child head-of-household and other parent who meet the requirements set forth in § 261.32 for the month (i.e., the numerator), divided by,

(2) The number of two-parent families receiving TANF assistance during the month, minus the number of two-parent families that are subject to a penalty for refusing to work in that month (i.e., the denominator). However, if a family has been sanctioned for more than three of the last 12 months, we will not exclude it from the participation rate calculation.

(3) The State may direct us, through its reported participation data, to include in the participation calculation families that have been sanctioned for no more than three of the last 12 months.

(c) For purposes of the calculation in paragraph (b) of this section, a two-parent family includes, at a minimum, all families with two natural or adoptive parents (of the same minor child) receiving assistance and living in the home, unless both are minors and neither is a head-of-household.

(d)(1) If a family receives assistance for only part of a month, we will count it as a month of participation if an adult in the family (or both adults, if they are both required to work) is engaged in work for the minimum average number of hours in each full week that the family receives assistance in that month.

(2) If a State pays benefits retroactively (i.e., for the period between application and approval of benefits), it has the option to consider the family to be receiving assistance during the period of retroactivity.

(e) If a family includes a disabled parent, we will not consider the family to be a two-parent family under paragraph (b) of this section; i.e., we will not include such a family in either the numerator or denominator of the two-parent rate.

§ 261.25 Does a State include Tribal families in calculating these rates?

At State option, we will include families that are receiving assistance under an approved Tribal family assistance plan or under a Tribal work program in calculating the State's participation rates under §§ 261.22 and 261.24.

Subpart C—What Are the Work Activities and How Do They Count?

§ 261.30 What are the work activities?

The work activities are:

- (a) Unsubsidized employment;
- (b) Subsidized private-sector employment;
- (c) Subsidized public-sector employment;
- (d) Work experience if sufficient private-sector employment is not available;

- (e) On-the-job training (OJT);
- (f) Job search and job readiness assistance;

- (g) Community service programs;
- (h) Vocational educational training;
- (i) Job skills training directly related to employment;

(j) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

(k) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, if a recipient has not completed secondary school or received such a certificate; and

(l) Providing child care services to an individual who is participating in a community service program.

§ 261.31 How many hours must an individual participate to count in the numerator of the overall rate?

(a) An individual counts as engaged in work for a month for the overall rate if:

(1) He or she participates in work activities during the month for at least the minimum average number of hours per week listed in the following table:

If the fiscal year is:	Then the minimum average hours per week is:
1997	20
1998	20
1999	25
2000 or thereafter	30

and

(2) At least 20 of the above hours per week come from participation in the activities listed in paragraph (b) of this section.

(b) The following nine activities count toward the first 20 hours of participation: unsubsidized employment; subsidized private-sector employment; subsidized public-sector employment; work experience; on-the-job training; job search and job readiness assistance; community service programs; vocational educational training; and providing child care services to an individual who is participating in a community service program.

(c) Above 20 hours per week, the following three activities may also count as participation: job skills training directly related to employment; education directly related to employment; and satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence.

§ 261.32 How many hours must an individual participate to count in the numerator of the two-parent rate?

(a) Subject to paragraph (d) of this section, an individual counts as engaged in work for the month for the two-parent rate if:

(1) If an individual and the other parent in the family are participating in work activities for an average of at least 35 hours per week during the month, and

(2) At least 30 of the 35 hours per week come from participation in the activities listed in paragraph (b) of this section.

(b) The following nine activities count for the first 30 hours of participation: unsubsidized employment; subsidized private-sector employment; subsidized public-sector employment; work experience; on-the-job training; job search and job readiness assistance; community service programs; vocational educational training; and providing child care services to an individual who is participating in a community service program.

(c) Above 30 hours per week, the following three activities may also count for participation: job skills training directly related to employment; education directly related to employment; and satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence.

(d)(1) If the family receives federally funded child care assistance and an adult in the family is not disabled or caring for a severely disabled child, then the individual and the other parent must be participating in work activities for an average of at least 55 hours per week for the individual to count as a two-parent family engaged in work for the month.

(2) At least 50 of the 55 hours per week must come from participation in the activities listed in paragraph (b) of this section.

(3) Above 50 hours per week, the three activities listed in paragraph (c) of this section may also count as participation.

§ 261.33 What are the special requirements concerning educational activities in determining monthly participation rates?

(a) Vocational educational training may only count for a total of 12 months for any individual.

(b)(1) A recipient who is married or a single head-of-household under 20 years old counts as engaged in work in a month if he or she:

- (i) Maintains satisfactory attendance at a secondary school or the equivalent during the month; or

(ii) Participates in education directly related to employment for an average of at least 20 hours per week during the month.

(2)(i) For a married recipient, such participation counts as the greater of 20 hours or the actual hours of participation.

(ii) If both parents in the family are under 20 years old, the requirements at § 261.32(d) are met if both meet the conditions of paragraphs (b)(1)(i) or (b)(1)(ii) of this section.

(c) In counting individuals for each participation rate, not more than 30 percent of individuals engaged in work in a month may be included in the numerator because they are:

(1) Participating in vocational educational training; and

(2) In fiscal year 2000 or thereafter, individuals deemed to be engaged in work by participating in educational activities described in paragraph (b) of this section.

§ 261.34 Are there any limitations in counting job search and job readiness assistance toward the participation rates?

Yes. There are four limitations concerning job search and job readiness.

(a) Except as provided in paragraph (b) of this section, an individual's participation in job search and job readiness assistance counts for a maximum of six weeks in any fiscal year.

(b) If the State's total unemployment rate is at least 50 percent greater than the United States' total unemployment rate or if the State meets the definition of a needy State, specified at § 260.30 of this chapter, then an individual's participation in job search and job readiness assistance counts for a maximum of 12 weeks in that fiscal year.

(c) An individual's participation in job search and job readiness assistance does not count for a week that immediately follows four consecutive weeks of such participation in a fiscal year.

(d) Not more than once for any individual in a fiscal year, a State may count three or four days of job search and job readiness assistance during a week as a full week of participation.

§ 261.35 Are there any special work provisions for single custodial parents?

Yes. A single custodial parent or caretaker relative with a child under age six will count as engaged in work if he or she participates for at least an average of 20 hours per week.

§ 261.36 Do welfare reform waivers affect the calculation of a State's participation rates?

A welfare reform waiver could affect the calculation of a State's participation rate, pursuant to subpart C of part 260 and section 415 of the Act.

Subpart D—How Will We Determine Caseload Reduction Credit for Minimum Participation Rates?

§ 261.40 Is there a way for a State to reduce the work participation rates?

(a)(1) If the average monthly number of cases receiving assistance, including assistance under a separate State program (as provided at § 261.42(b)), in a State in the preceding fiscal year was lower than the average monthly number of cases that received assistance in FY 1995, the minimum overall participation rate the State must meet for the fiscal year (as provided at § 261.21) decreases by the number of percentage points the prior-year caseload fell in comparison to the FY 1995 caseload.

(2) The minimum two-parent participation rate the State must meet for the fiscal year (as provided at § 261.23) decreases, at State option, by either:

(i) The number of percentage points the prior-year two-parent caseload, including two-parent cases receiving assistance under a separate State program (as provided at § 261.42(b)), fell in comparison to the FY 1995 two-parent caseload or;

(ii) The number of percentage points the prior-year overall caseload, including assistance under a separate State program (as provided at § 261.42(b)), fell in comparison to the FY 1995 overall caseload.

(b) The calculations in paragraph (a) of this section must disregard the net caseload reduction (i.e., caseload decreases offset by increases) due either to requirements of Federal law or to changes that a State has made in its eligibility criteria in comparison to its criteria in effect in FY 1995.

(c)(1)(i) To establish the caseload base for fiscal year 1995, we will use the number of AFDC cases and Unemployed Parent cases reported on ACF-3637, Statistical Report on Recipients under Public Assistance.

(ii) We will automatically adjust the Unemployed Parent caseload proportionally upward, based on the percentage of cases with two parents in the household, as shown in Quality Control data for the period prior to the State's reporting two-parent data under TANF.

(2) To determine the prior-year caseload for subsequent years, we will

use caseload information from the TANF Data Report and the SSP-MOE Data Report.

(3) To qualify for a caseload reduction, a State must have reported monthly caseload information, including cases in separate State programs, for the preceding fiscal year for cases receiving assistance as defined at § 261.43.

(d)(1) A State may correct erroneous data or submit accurate data to adjust IV-A program data or to include unduplicated cases. For example, a State may submit accurate data for Emergency Assistance cases and two-parent cases outside the Unemployed Parent program.

(2) A State may submit data to adjust the caseload for FY 1999 and thereafter to include two-parent or other State program cases covered by Federal TANF or State MOE expenditures, but not otherwise reported.

(3) We will adjust both the FY 1995 baseline and the caseload information for subsequent years, as appropriate, based on these State submissions.

(e) We refer to the number of percentage points by which a caseload falls, disregarding the cases described in paragraph (b), as a caseload reduction credit.

§ 261.41 How will we determine the caseload reduction credit?

(a)(1) We will determine the total and two-parent caseload reduction credits that apply to each State based on the information and estimates reported to us by the State on eligibility policy changes, application denials, and case closures.

(2) We will accept the information and estimates provided by a State, unless they are implausible based on the criteria listed in paragraph (d) of this section.

(3) We may conduct on-site reviews and inspect administrative records on applications and terminations to validate the accuracy of the State estimates.

(b) In order to receive a caseload reduction credit, a State must submit a Caseload Reduction Report to us containing the following information:

(1) A listing of, and implementation dates for, all State and Federal eligibility changes, as defined at § 261.42, made by the State since the beginning of FY 1995;

(2) A numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures or other analyses);

(3) An overall estimate of the total net positive or negative impact on the

applicable caseload as a result of all such eligibility changes;

(4) An estimate of the State's caseload reduction credit;

(5) The number of application denials and case closures for fiscal year 1995 and the prior fiscal year;

(6) The distribution of such denials and case closures, by reason, for fiscal year 1995 and the prior fiscal year;

(7) A description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;

(8) A certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated all net reductions resulting from Federal and State eligibility changes; and

(9) A summary of all public comments.

(c) A State requesting a caseload reduction credit for both rates must provide separate estimates and information for the two-parent credit if it wishes to base the caseload reduction credit for the two-parent rate on reductions in the two-parent caseload.

(1) The State must base its estimates of the impact of eligibility changes for the overall participation rate on decreases in its overall caseload compared to the FY 1995 overall caseload baseline established in accordance with § 261.40(d).

(2) The State must base its estimates of the impact of eligibility changes for two-parent cases on decreases in its two-parent caseload compared to the FY 1995 two-parent caseload baseline established in accordance with § 261.40(d).

(d)(1) For each State, we will assess the adequacy of information and estimates using the following criteria: its methodology; its estimates of impact compared to other States; the quality of its data; and the completeness and adequacy of its documentation.

(2) If we request additional information to develop or validate estimates, the State may negotiate an appropriate deadline or provide the information within 30 days of the date of our request.

(3) The State must provide sufficient data to document the information submitted under paragraph (b) of this section.

(e) We will not calculate a caseload reduction credit unless the State reports case-record data on individuals and families served by any separate State program, as required under § 265.3(d) of this chapter.

(f) A State may only apply to its participation rate a caseload reduction

credit that we have calculated. If a State disagrees with the caseload reduction credit, it may appeal the decision as an adverse action in accordance with § 262.7 of this chapter.

§ 261.42 Which reductions count in determining the caseload reduction credit?

(a)(1) A State's caseload reduction estimate must not include net caseload decreases (i.e., caseload decreases offset by increases) due to Federal requirements or State changes in eligibility rules since FY 1995 that directly affect a family's eligibility for assistance. These include more stringent income and resource limitations, time limits, full family sanctions, and other new requirements that deny families assistance when an individual does not comply with work requirements, cooperate with child support, or fulfill other behavioral requirements.

(2) A State may count the reductions attributable to enforcement mechanisms or procedural requirements that are used to enforce existing eligibility criteria (e.g., fingerprinting or other verification techniques) to the extent that such mechanisms or requirements identify or deter families otherwise ineligible under existing rules.

(b) A State must include cases receiving assistance in separate State programs as part of its prior-year caseload. However, if a State provides documentation that separate State program cases meet the following conditions, we will exclude them from the caseload count:

(1) The cases overlap with, or duplicate, cases in the TANF caseload; or

(2) They are cases made ineligible for Federal benefits by Pub. L. 104-193 that are receiving only State-funded cash assistance, nutrition assistance, or other benefits.

§ 261.43 What is the definition of a "case receiving assistance" in calculating the caseload reduction credit?

(a)(1) The caseload reduction credit is based on decreases in caseloads receiving assistance (other than those excluded pursuant to § 261.42) both in a State's TANF program and in separate State programs that address basic needs and are used to meet the maintenance-of-effort requirement.

(2) A State that is investing State MOE funds in eligible families in excess of the required 80 percent or 75 percent basic MOE amount need only include the pro rata share of caseloads receiving assistance that are required to meet basic MOE requirements.

(b)(1) Depending on a State's TANF implementation date, for fiscal years

1995, 1996 and 1997, we will use adjusted baseline caseload data as established in accordance with § 261.40(d).

(2) For subsequent fiscal years, we will determine the caseload based on all cases in a State receiving assistance (according to the definition of assistance at § 260.31 of this chapter).

§ 261.44 When must a State report the required data on the caseload reduction credit?

(a) A State must report the necessary documentation on caseload reductions for the preceding fiscal year by December 31.

(b) We will notify the State of its caseload reduction credit no later than March 31.

Subpart E—What Penalties Apply to States Related to Work Requirements?

§ 261.50 What happens if a State fails to meet the participation rates?

(a) If we determine that a State did not achieve one of the required minimum work participation rates, we must reduce the SFAG payable to the State.

(b)(1) If there was no penalty for the preceding fiscal year, the base penalty for the current fiscal year is five percent of the adjusted SFAG.

(2) For each consecutive year that the State is subject to a penalty under this part, we will increase the amount of the base penalty by two percentage points over the previous year's penalty. However, the penalty can never exceed 21 percent of the State's adjusted SFAG.

(c) We impose a penalty by reducing the SFAG payable for the fiscal year that immediately follows our final determination that a State is subject to a penalty and our final determination of the penalty amount.

(d) In accordance with the procedures specified at § 262.4 of this chapter, a State may dispute our determination that it is subject to a penalty.

§ 261.51 Under what circumstances will we reduce the amount of the penalty below the maximum?

(a) We will reduce the amount of the penalty based on the degree of the State's noncompliance.

(1) If the State fails only the two-parent participation rate specified at § 261.23, reduced by any applicable caseload reduction credit, its maximum penalty will be a percentage of the penalty specified at § 261.50. This percentage will equal the percentage of two-parent cases in the State's total caseload.

(2) If the State fails the overall participation rate specified at § 261.21, reduced by any applicable caseload

reduction credit, or both rates, its maximum penalty will be the penalty specified at § 261.50.

(b)(1) In order to receive a reduction of the penalty amounts determined under paragraphs (a)(1) or (a)(2) of this section:

(i) The State must achieve participation rates equal to a threshold level defined as 50 percent of the applicable minimum participation rate at § 261.21 or § 261.23, minus any caseload reduction credit determined pursuant to subpart D of this part; and

(ii) The adjustment factor for changes in the number of individuals engaged in work, described in paragraph (b)(4) of this section, must be greater than zero.

(2) If the State meets the requirements of paragraph (b)(1) of this section, we will base its reduction on the severity of the failure. For this purpose, we will calculate the severity of the State's failure based on:

(i) The degree to which it missed the target rate;

(ii) An adjustment factor that accounts for changes in the number of individuals who are engaged in work in the State since the prior year; and

(iii) The number of consecutive years in which the State failed to meet the participation rates and the number of rates missed.

(3) We will determine the degree to which the State missed the target rate using the ratio of the following two factors:

(i) The difference between the participation rate achieved by the State and the 50-percent threshold level (adjusted for any caseload reduction credit determined pursuant to subpart D of this part); and

(ii) The difference between the minimum applicable participation rate and the threshold level (both adjusted for any caseload reduction credit determined pursuant to subpart D of this part).

(4) We will calculate the adjustment factor for changes in the number of individuals engaged in work using the following formula:

(i) The average monthly number of individuals engaged in work in the penalty year minus the average monthly number of individuals engaged in work in the prior year, divided by,

(ii) The product of 0.15 and the average monthly number of individuals engaged in work in the prior year.

(5) Subject to paragraph (c) of this section, if the State fails only the two-parent participation rate specified at § 261.23, and qualifies for a penalty reduction under paragraph (b)(1) of this section, its penalty reduction will be the product of:

(i) The amount determined in paragraph (a)(1) of this section;

(ii) The ratio described in paragraph (b)(3) of this section computed with respect to two-parent families; and

(iii) The adjustment factor described in paragraph (b)(4) of this section computed with respect to two-parent families.

(6) Subject to paragraph (c) of this section, if the State fails the overall participation rate specified at § 261.21, or both rates, and qualifies for a penalty reduction under paragraph (b)(1) of this section, its penalty reduction will be the product of:

(i) The amount determined in paragraph (a)(2) of this section;

(ii) The ratio described in paragraph (b)(3) of this section computed with respect to all families; and

(iii) The adjustment factor described in paragraph (b)(4) of this section.

(7) Pursuant to § 260.58 of this chapter, we will adjust the calculations in this section to exclude cases for which a State has granted federally recognized good cause domestic violence waivers.

(c)(1) If the State was not subject to a penalty the prior year, the State will receive:

(i) The full applicable penalty reduction described in paragraph (b)(5) or (b)(6) of this section if it failed only one participation rate; or

(ii) 50 percent of the penalty reduction described in paragraph (b)(6) of this section if it failed both participation rates.

(2) If the penalty year is the second successive year in which the State is subject to a penalty, the State will receive:

(i) 50 percent of the applicable penalty reduction described in paragraph (b)(5) or (b)(6) of this section if it failed only one participation rate; or

(ii) 25 percent of the penalty reduction described in paragraph (b)(6) of this section if it failed both participation rates.

(3) If the penalty year is the third or greater successive year in which the State is subject to a penalty, the State will not receive a penalty reduction described in paragraph (b)(5) or (b)(6) of this section.

(d)(1) We may reduce the penalty if the State failed to achieve a participation rate because:

(i) It meets the definition of a needy State, specified at § 260.30 of this chapter; or,

(ii) Noncompliance is due to extraordinary circumstances such as a natural disaster, regional recession, or substantial caseload increase.

(2) In determining noncompliance under paragraph (d)(1)(ii) of this

section, we will consider such objective evidence of extraordinary circumstances as the State chooses to submit.

§ 261.52 Is there a way to waive the State's penalty for failing to achieve either of the participation rates?

(a) We will not impose a penalty under this part if we determine that the State has reasonable cause for its failure.

(b) In addition to the general reasonable cause criteria specified at § 262.5 of this chapter, a State may also submit a request for a reasonable cause exemption from the requirement to meet the minimum participation rate in two specific case situations.

(1) We will determine that a State has reasonable cause if it demonstrates that failure to meet the work participation rates is attributable to its provision of federally recognized good cause domestic violence waivers (i.e., it provides evidence that it achieved the applicable work rates when individuals receiving federally recognized good cause domestic violence waivers of work requirements, in accordance with the provisions at §§ 260.54(b) and 260.55 of this chapter, are removed from the calculations in §§ 261.22(b) and 261.24(b)).

(2) We will determine that a State has reasonable cause if it demonstrates that its failure to meet the work participation rates is attributable to its provision of assistance to refugees in federally approved alternative projects under section 412(e)(7) of the Immigration and Nationality Act (8 U.S.C. 1522(e)(7)).

(c) In accordance with the procedures specified at § 262.4 of this chapter, a State may dispute our determination that it is subject to a penalty.

§ 261.53 May a State correct the problem before incurring a penalty?

(a) Yes. A State may enter into a corrective compliance plan to remedy a problem that caused its failure to meet a participation rate, as specified at § 262.6 of this chapter.

(b) To qualify for a penalty reduction under § 262.6(j)(1) of this chapter, based on significant progress towards correcting a violation, a State must reduce the difference between the participation rate it achieved in the year for which it is subject to a penalty and the rate applicable during the penalty year (adjusted for any caseload reduction credit determined pursuant to subpart D of this part) by at least 50 percent.

§ 261.54 Is a State subject to any other penalty relating to its work program?

(a) If we determine that, during a fiscal year, a State has violated section 407(e) of the Act, relating to imposing

penalties against individuals, we must reduce the SFAG payable to the State.

(b) The penalty amount for a fiscal year will equal between one and five percent of the adjusted SFAG.

(c) We impose a penalty by reducing the SFAG payable for the fiscal year that immediately follows our final determination that a State is subject to a penalty and our final determination of the penalty amount.

§ 261.55 Under what circumstances will we reduce the amount of the penalty for not properly imposing penalties on individuals?

(a) We will reduce the amount of the penalty based on the degree of the State's noncompliance.

(b) In determining the size of any reduction, we will consider objective evidence of:

(1) Whether the State has established a control mechanism to ensure that the grants of individuals are appropriately reduced for refusing to engage in required work; and

(2) The percentage of cases for which the grants have not been appropriately reduced.

§ 261.56 What happens if a parent cannot obtain needed child care?

(a)(1) If the individual is a single custodial parent caring for a child under age six, the State may not reduce or terminate assistance based on the parent's refusal to engage in required work if he or she demonstrates an inability to obtain needed child care for one or more of the following reasons:

(i) Appropriate child care within a reasonable distance from the home or work site is unavailable;

(ii) Informal child care by a relative or under other arrangements is unavailable or unsuitable; or

(iii) Appropriate and affordable formal child care arrangements are unavailable.

(2) Refusal to work when an acceptable form of child care is available is not protected from sanctioning.

(b)(1) The State will determine when the individual has demonstrated that he or she cannot find child care, in accordance with criteria established by the State.

(2) These criteria must:

(i) Address the procedures that the State uses to determine if the parent has a demonstrated inability to obtain needed child care;

(ii) Include definitions of the terms "appropriate child care," "reasonable distance," "unsuitability of informal care," and "affordable child care arrangements"; and

(iii) Be submitted to us.

(c) The TANF agency must inform parents about:

(1) The penalty exception to the TANF work requirement, including the criteria and applicable definitions for determining whether an individual has demonstrated an inability to obtain needed child care;

(2) The State's process or procedures (including definitions) for determining a family's inability to obtain needed child care, and any other requirements or procedures, such as fair hearings, associated with this provision; and

(3) The fact that the exception does not extend the time limit for receiving Federal assistance.

§ 261.57 What happens if a State sanctions a single parent of a child under six who cannot get needed child care?

(a) If we determine that a State has not complied with the requirements of § 261.56, we will reduce the SFAG payable to the State by no more than five percent for the immediately succeeding fiscal year unless the State demonstrates to our satisfaction that it had reasonable cause or it achieves compliance under a corrective compliance plan pursuant to §§ 262.5 and 262.6 of this chapter.

(b) We will impose the maximum penalty if:

(1) The State does not have a statewide process in place to inform parents about the exception to the work requirement and enable them to demonstrate that they have been unable to obtain child care; or

(2) There is a pattern of substantiated complaints from parents or organizations verifying that a State has reduced or terminated assistance in violation of this requirement.

(c) We may impose a reduced penalty if the State demonstrates that the violations were isolated or that they affected a minimal number of families.

Subpart F—How Do Welfare Reform Waivers Affect State Penalties?

§ 261.60 How do existing welfare reform waivers affect a State's penalty liability under this part?

A welfare reform waiver could affect a State's penalty liability under this part, subject to subpart C of part 260 of this chapter and section 415 of the Act.

Subpart G—What Nondisplacement Rules Apply in TANF?

§ 261.70 What safeguards are there to ensure that participants in work activities do not displace other workers?

(a) An adult taking part in a work activity outlined in § 261.30 may not fill a vacant employment position if:

(1) Another individual is on layoff from the same or any substantially equivalent job; or

(2) The employer has terminated the employment of any regular employee or caused an involuntary reduction in its work force in order to fill the vacancy with an adult taking part in a work activity.

(b) A State must establish and maintain a grievance procedure to resolve complaints of alleged violations of the displacement rule in this section.

(c) This section does not preempt or supersede State or local laws providing greater protection for employees from displacement.

PART 262—ACCOUNTABILITY PROVISIONS—GENERAL

Sec.

262.0 What definitions apply to this part?

262.1 What penalties apply to States?

262.2 When do the TANF penalty provisions apply?

262.3 How will we determine if a State is subject to a penalty?

262.4 What happens if we determine that a State is subject to a penalty?

262.5 Under what general circumstances will we determine that a State has reasonable cause?

262.6 What happens if a State does not demonstrate reasonable cause?

262.7 How can a State appeal our decision to take a penalty?

Authority: 31 U.S.C. 7501 *et seq.*; 42 U.S.C. 606, 609, and 610.

§ 262.0 What definitions apply to this part?

The general TANF definitions at §§ 260.30 through 260.33 of this chapter apply to this part.

§ 262.1 What penalties apply to States?

(a) We will assess fiscal penalties against States under circumstances defined in parts 261 through 265 of this chapter. The penalties are:

(1) A penalty of the amount by which a State misused its TANF funds;

(2) An additional penalty of five percent of the adjusted SFAG if such misuse was intentional;

(3) A penalty of four percent of the adjusted SFAG for each quarter a State fails to submit an accurate, complete and timely required report;

(4) A penalty of up to 21 percent of the adjusted SFAG for failure to satisfy the minimum participation rates;

(5) A penalty of no more than two percent of the adjusted SFAG for failure to participate in IEVS;

(6) A penalty of no more than five percent of the adjusted SFAG for failure to enforce penalties on recipients who are not cooperating with the State Child Support Enforcement (IV-D) agency;

(7) A penalty equal to the outstanding loan amount, plus interest, for failure to repay a Federal loan;

(8) A penalty equal to the amount by which a State fails to meet its basic MOE requirement;

(9) A penalty of five percent of the adjusted SFAG for failure to comply with the five-year limit on Federal assistance;

(10) A penalty equal to the amount of contingency funds that were received but were not remitted for a fiscal year, if the State fails to maintain 100 percent of historic State expenditures in that fiscal year;

(11) A penalty of no more than five percent of the adjusted SFAG for the failure to maintain assistance to an adult single custodial parent who cannot obtain child care for a child under age six;

(12) A penalty of no more than two percent of the adjusted SFAG plus the amount a State has failed to expend of its own funds to replace the reduction to its SFAG due to the assessment of penalties in this section in the immediately succeeding fiscal year;

(13) A penalty equal to the amount of the State's Welfare-to-Work formula grant for failure to meet its basic MOE requirement during a year in which it receives the formula grant; and

(14) A penalty of not less than one percent and not more than five percent of the adjusted SFAG for failure to impose penalties properly against individuals who refuse to engage in required work in accordance with section 407 of the Act.

(b) In the event of multiple penalties for a fiscal year, we will add all applicable penalty percentages together. We will then assess the penalty amount against the adjusted SFAG that would have been payable to the State if we had assessed no penalties. As a final step, we will subtract other (fixed) penalty amounts from the adjusted SFAG.

(c)(1) We will take the penalties specified in paragraphs (a)(1), (a)(2) and (a)(7) of this section by reducing the SFAG payable for the quarter that immediately follows our final decision.

(2) We will take the penalties specified in paragraphs (a)(3), (a)(4), (a)(5), (a)(6), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), and (a)(14) of this section by reducing the SFAG payable for the fiscal year that immediately follows our final decision.

(d) When imposing the penalties in paragraph (a) of this section, the total reduction in an affected State's quarterly SFAG amount must not exceed 25 percent. If this 25-percent limit prevents the recovery of the full penalty amount imposed on a State during a quarter or

a fiscal year, as appropriate, we will apply the remaining amount of the penalty to the SFAG payable for the immediately succeeding quarter until we recover the full penalty amount.

(e)(1) In the immediately succeeding fiscal year, a State must expend additional State funds to replace any reduction in the SFAG resulting from penalties.

(2) The State must document compliance with this replacement provision on its TANF Financial Report (or Territorial Financial Report).

§ 262.2 When do the TANF penalty provisions apply?

(a) A State will be subject to the penalties specified in § 262.1(a)(1), (2), (7), (8), (9), (10), (11), (12), (13), and (14) for conduct occurring on and after the first day the State operates the TANF program.

(b) A State will be subject to the penalties specified in § 262.1(a)(3), (4), (5), and (6) for conduct occurring on and after July 1, 1997, or the date that is six months after the first day the State operates the TANF program, whichever is later.

(c) For the time period prior to October 1, 1999, we will assess State conduct as specified in § 260.40(b) of this chapter.

§ 262.3 How will we determine if a State is subject to a penalty?

(a)(1) We will use the single audit under OMB Circular A-133, in conjunction with other reviews, audits, and data sources, as appropriate, to determine if a State is subject to a penalty for misusing Federal TANF funds (§ 263.10 of this chapter), intentionally misusing Federal TANF funds (§ 263.12 of this chapter), failing to participate in IEVS (§ 264.10 of this chapter), failing to comply with paternity establishment and child support requirements (§ 264.31 of this chapter), failing to maintain assistance to an adult single custodial parent who cannot obtain child care for child under six (§ 261.57 of this chapter), and failing to reduce assistance to a recipient who refuses without good cause to work (§ 261.54 of this chapter).

(2) We will also use the single audit as a secondary method of determining if a State is subject to other penalties if an audit detects lack of compliance in other penalty areas.

(b)(1) We will use the TANF Data Report required under part 265 of this chapter to determine if a State failed to meet participation rates (§§ 261.21 and 261.23 of this chapter) or failed to comply with the five-year limit on Federal assistance (§ 264.1 of this chapter).

(2) Data in these reports are subject to our verification in accordance with § 265.7 of this chapter.

(c)(1) We will use the TANF Financial Report (or, as applicable, the Territorial Financial Report) as the primary method for determining if a State has failed to meet the basic MOE requirement (§ 263.8 of this chapter), meet the Contingency Fund MOE requirement (§ 264.76 of this chapter), or replace SFAG reductions with State-only funds (§ 264.50 of this chapter).

(2) Data in these reports are subject to our verification in accordance with § 265.7 of this chapter.

(d) We will determine that a State is subject to the specific penalties for failure to perform if we find information in the reports under paragraphs (b) and (c) of this section to be insufficient to show compliance or if we determine that the State has not adequately documented actions verifying that it has met the participation rates or the time limits.

(e) To determine if a State has met its MOE requirements, we will also use the supplemental information in the annual report required in accordance with § 265.9(c) of this chapter.

(f) States must maintain records in accordance with § 92.42 of this title.

§ 262.4 What happens if we determine that a State is subject to a penalty?

(a) If we determine that a State is subject to a penalty, we will notify the State agency in writing, specifying which penalty we will impose and the reasons for the penalty. This notice will:

(1) Specify the penalty provision at issue, including the penalty amount;

(2) Specify the source of information and the reasons for our decision;

(3) Invite the State to present its arguments if it believes that the information or method that we used were in error or were insufficient or that its actions, in the absence of Federal regulations, were based on a reasonable interpretation of the statute; and

(4) Explain how and when the State may submit a reasonable cause justification under § 262.5 and/or corrective compliance plan under § 262.6.

(b) Within 60 days of when it receives our notification, the State may submit a written response that:

(1) Demonstrates that our determination is incorrect because our information or the method that we used in determining the violation or the amount of the penalty was in error or was insufficient, or that the State acted, in the absence of Federal rules, on a reasonable interpretation of the statute;

(2) Demonstrates that the State had reasonable cause for failing to meet the requirement(s); and/or

(3) Provides a corrective compliance plan, pursuant to § 262.6.

(c) If we find that we determined the penalty erroneously, or that the State has adequately demonstrated that it had reasonable cause for failing to meet one or more requirements, we will not impose the penalty.

(d) Reasonable cause and corrective compliance plans are not available for failing to repay a Federal loan; meet the basic MOE requirement; meet the Contingency Fund MOE requirement; expend additional State funds to replace adjusted SFAG reductions due to the imposition of one or more penalties listed in § 262.1; or maintain 80 percent, or 75 percent, as appropriate, basic MOE during a year in which the State receives a Welfare-to-Work grant.

(e)(1) If we request additional information from a State that we need to determine reasonable cause, the State must ordinarily provide such information within 30 days.

(2) Under unusual circumstances, we may give the State an extension of the time to respond to our request.

(f)(1)(i) We will notify the State in writing of our findings with respect to reasonable cause generally within 60 days of the date when we receive its response to our penalty notice (in accordance with paragraph (b) of this section).

(ii) If the finding is negative and the State has not yet submitted a corrective compliance plan, it may do so in response to this notice in accordance with § 262.6.

(2) We will notify the State of our decision regarding its corrective compliance plan in accordance with the provisions of § 262.6(g).

(g) We will impose a penalty in accord with the provisions in § 262.1(c) after we make our final decision and the appellate process is completed, if applicable. If there is an appellate decision upholding the penalty, we will take the penalty and charge interest back to the date that we formally notified the Governor of the adverse action pursuant to § 262.7(a)(1).

§ 262.5 Under what general circumstances will we determine that a State has reasonable cause?

(a) We will not impose a penalty against a State if we determine that the State had reasonable cause for its failure. The general factors a State may use to claim reasonable cause include:

(1) Natural disasters and other calamities (e.g., hurricanes, earthquakes, fire) whose disruptive impact was so significant as to cause the State's failure;

(2) Formally issued Federal guidance that provided incorrect information resulting in the State's failure; or

(3) Isolated problems of minimal impact that are not indicative of a systemic problem.

(b)(1) We will grant reasonable cause to a State that:

(i) Clearly demonstrates that its failure to submit complete, accurate, and timely data, as required at § 265.8 of this chapter, for one or both of the first two quarters of FY 2000, is attributable, in significant part, to its need to divert critical system resources to Year 2000 compliance activities; and

(ii) Submits complete and accurate data for the first two quarters of FY 2000 by June 30, 2000.

(2) A State may also use the additional factors for claiming reasonable cause for failure to comply with the five-year limit on Federal assistance or the minimum participation rates, as specified at §§ 261.52 and 264.3 and subpart B of part 260 of this chapter.

(c) In determining reasonable cause, we will consider the efforts the State made to meet the requirement, as well as the duration and severity of the circumstances that led to the State's failure to achieve the requirement.

(d)(1) The burden of proof rests with the State to fully explain the circumstances and events that constitute reasonable cause for its failure to meet a requirement.

(2) The State must provide us with sufficient relevant information and documentation to substantiate its claim of reasonable cause.

§ 262.6 What happens if a State does not demonstrate reasonable cause?

(a) A State may accept the penalty or enter into a corrective compliance plan that will correct or discontinue the violation in order to avoid the penalty if:

(1) A State does not claim reasonable cause; or

(2) We find that the State does not have reasonable cause.

(b) A State that does not claim reasonable cause will have 60 days from receipt of our notice described in § 262.4(a) to submit its corrective compliance plan.

(c) A State that unsuccessfully claimed reasonable cause will have 60 days from the date that it received our second notice, described in § 262.4(f), to submit its corrective compliance plan.

(d) The corrective compliance plan must include:

(1) A complete analysis of why the State did not meet the requirements;

(2) A detailed description of how the State will correct or discontinue, as

appropriate, the violation in a timely manner;

(3) The time period in which the violation will be corrected or discontinued;

(4) The milestones, including interim process and outcome goals, that the State will achieve to assure it comes into compliance within the specified time period; and

(5) A certification by the Governor that the State is committed to correcting or discontinuing the violation, in accordance with the plan.

(e) The corrective compliance plan must correct or discontinue the violation within the following time frames:

(1) For a penalty under § 262.1(a)(4) or (a)(9), by the end of the first fiscal year ending at least six months after our receipt of the corrective compliance plan; and

(2) For the remaining penalties, by a date the State proposes that reflects the minimum period necessary to achieve compliance.

(f) During the 60-day period following our receipt of the State's corrective compliance plan, we may request additional information and consult with the State on modifications to the plan.

(g) We will accept or reject the State's corrective compliance plan, in writing, within 60 days of our receipt of the plan, although a corrective compliance plan is deemed to be accepted if we take no action during the 60-day period following our receipt of the plan.

(h) If a State does not submit an acceptable corrective compliance plan on time, we will assess the penalty immediately.

(i) We will not impose a penalty against a State with respect to any violation covered by a corrective compliance plan that we accept if the State completely corrects or discontinues, as appropriate, the violation within the period covered by the plan.

(j) Under limited circumstances, we may reduce the penalty if the State fails to completely correct or discontinue the violation pursuant to its corrective compliance plan and in a timely manner. To receive a reduced penalty, the State must demonstrate that it met one or both of the following conditions:

(1) Although it did not achieve full compliance, the State made significant progress towards correcting or discontinuing the violation; or

(2) The State's failure to comply fully was attributable to either a natural disaster or regional recession.

§ 262.7 How can a State appeal our decision to take a penalty?

(a)(1) We will formally notify the Governor and the State agency of an adverse action (i.e., the reduction in the SFAG) within five days after we determine that a State is subject to a penalty under parts 261 through 265 of this chapter.

(2) Such notice will include the factual and legal basis for taking the penalty in sufficient detail for the State to be able to respond in an appeal.

(b)(1) The State may file an appeal of the action, in whole or in part, with the HHS Departmental Appeals Board (the Board) within 60 days after the date it receives notice of the adverse action. The State must submit its brief and supporting documents when it files its appeal.

(2) The State must send a copy of the appeal, and any supplemental filings, to the Office of the General Counsel, Children, Families and Aging Division, Room 411-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

(c) We will submit our reply brief and supporting documentation within 45 days of the receipt of the State's submission under paragraph (b) of this section.

(d) The State may submit a reply and any supporting documentation within 21 days of its receipt of our reply under paragraph (c) of this section.

(e) The appeal to the Board must follow the provisions of the rules under this section and those at §§ 16.2, 16.9, 16.10, and 16.13-16.22 of this title, to the extent that they are consistent with this section.

(f) The Board will consider an appeal filed by a State on the basis of the documentation and briefs submitted, along with any additional information the Board may require to support a final decision. Such information may include a hearing if the Board determines that it is necessary. In deciding whether to uphold an adverse action or any portion of such action, the Board will conduct a thorough review of the issues.

(g)(1) A State may obtain judicial review of a final decision by the Board by filing an action within 90 days after the date of such decision. It should file this action with the district court of the United States in the judicial district where the State agency is located or in the United States District Court for the District of Columbia.

(2) The district court will review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by 5 U.S.C. 706(2). The court will base its

review on the documents and supporting data submitted to the Board.

PART 263—EXPENDITURES OF STATE AND FEDERAL TANF FUNDS

Sec.

263.0 What definitions apply to this part?

Subpart A—What Rules Apply to a State's Maintenance of Effort?

263.1 How much State money must a State expend annually to meet the basic MOE requirement?

263.2 What kinds of State expenditures count toward meeting a State's basic MOE expenditure requirement?

263.3 When do child care expenditures count?

263.4 When do educational expenditures count?

263.5 When do expenditures in State-funded programs count?

263.6 What kinds of expenditures do not count?

263.8 What happens if a State fails to meet the basic MOE requirement?

263.9 May a State avoid a penalty for failing the basic MOE requirement through reasonable cause or through corrective compliance?

Subpart B—What Rules Apply to the Use of Federal TANF Funds?

263.10 What actions would we take against a State if it uses Federal TANF funds in violation of the Act?

263.11 What uses of Federal TANF funds are improper?

263.12 How will we determine if a State intentionally misused Federal TANF funds?

263.13 Is there a limit on the amount of Federal TANF funds that a State may spend on administrative costs?

Subpart C—What Rules Apply to Individual Development Accounts?

263.20 What definitions apply to Individual Development Accounts (IDAs)?

263.21 May a State use the TANF grant to fund IDAs?

263.22 Are there any restrictions on IDA funds?

263.23 How does a State prevent a recipient from using the IDA account for unqualified purposes?

Authority: 42 U.S.C. 604, 607, 609, and 862a.

§ 263.0 What definitions apply to this part?

(a) Except as noted in § 263.2(d), the general TANF definitions at § 260.30 through § 260.33 of this chapter apply to this part.

(b) The term "administrative costs" means costs necessary for the proper administration of the TANF program or separate State programs.

(1) It excludes direct costs of providing program services.

(i) For example, it excludes costs of providing diversion benefits and services, providing program information to clients, screening and assessments,

development of employability plans, work activities, post-employment services, work supports, and case management. It also excludes costs for contracts devoted entirely to such activities.

(ii) It excludes the salaries and benefits costs for staff providing program services and the direct administrative costs associated with providing the services, such as the costs for supplies, equipment, travel, postage, utilities, rental of office space and maintenance of office space.

(2) It includes costs for general administration and coordination of these programs, including contract costs and all indirect (or overhead) costs. Examples of administrative costs include:

(i) Salaries and benefits of staff performing administrative and coordination functions;

(ii) Activities related to eligibility determinations;

(iii) Preparation of program plans, budgets, and schedules;

(iv) Monitoring of programs and projects;

(v) Fraud and abuse units;

(vi) Procurement activities;

(vii) Public relations;

(viii) Services related to accounting, litigation, audits, management of property, payroll, and personnel;

(ix) Costs for the goods and services required for administration of the program such as the costs for supplies, equipment, travel, postage, utilities, and rental of office space and maintenance of office space, provided that such costs are not excluded as a direct administrative cost for providing program services under paragraph (b)(1) of this section;

(x) Travel costs incurred for official business and not excluded as a direct administrative cost for providing program services under paragraph (b)(1) of this section;

(xi) Management information systems not related to the tracking and monitoring of TANF requirements (e.g., for a personnel and payroll system for State staff); and

(xii) Preparing reports and other documents.

Subpart A—What Rules Applies to a State's Maintenance of Effort?**§ 263.1 How much State money must a State expend annually to meet the basic MOE requirement?**

(a)(1) The minimum basic MOE for a fiscal year is 80 percent of a State's historic State expenditures.

(2) However, if a State meets the minimum work participation rate

requirements in a fiscal year, as required under §§ 261.21 and 261.23 of this chapter, after adjustment for any caseload reduction credit under § 261.41 of this chapter, then the minimum basic MOE for that fiscal year is 75 percent of the State's historic State expenditures.

(3) A State that does not meet the minimum participation rate requirements in a fiscal year, as required under §§ 261.21 and 261.23 of this chapter (after adjustment for any caseload reduction credit under § 261.41 of this chapter), but which is granted full or partial penalty relief for that fiscal year, must still meet the minimum basic MOE specified under paragraph (a)(1) of this section.

(b) The basic MOE level also depends on whether a Tribe or consortium of Tribes residing in a State has received approval to operate its own TANF program. The State's basic MOE level for a fiscal year will be reduced by the same percentage as we reduced the SFAG as the result of any Tribal Family Assistance Grants awarded to Tribal grantees in the State for that year.

§ 263.2 What kinds of State expenditures count toward meeting a State's basic MOE expenditure requirement?

(a) Expenditures of State funds in TANF or separate State programs may count if they are made for the following types of benefits or services:

(1) Cash assistance, including the State's share of the assigned child support collection that is distributed to the family, and disregarded in determining eligibility for, and amount of the TANF assistance payment;

(2) Child care assistance (see § 263.3);

(3) Education activities designed to increase self-sufficiency, job training, and work (see § 263.4);

(4) Any other use of funds allowable under section 404(a)(1) of the Act (such as nonmedical treatment services for alcohol and drug abuse and some medical treatment services, provided that the State has not commingled its MOE funds with Federal TANF funds to pay for the services), if consistent with the goals at § 260.20 of this chapter; and

(5)(i) Administrative costs for activities listed in paragraphs (a)(1) through (a)(4) of this section, not to exceed 15 percent of the total amount of countable expenditures for the fiscal year.

(ii) Costs for information technology and computerization needed for tracking or monitoring required by or under part IV-A of the Act do not count towards the limit in paragraph (5)(i) of this section, even if they fall within the definition of "administrative costs."

(A) This exclusion covers the costs for salaries and benefits of staff who develop, maintain, support or operate the portions of information technology or computer systems used for tracking and monitoring.

(B) It also covers the costs of contracts for development, maintenance, support, or operation of those portions of information technology or computer systems used for tracking or monitoring.

(b) The benefits or services listed under paragraph (a) of this section count only if they have been provided to or on behalf of eligible families. An "eligible family," as defined by the State, must:

(1) Be comprised of citizens or aliens who:

(i) Are eligible for TANF assistance;

(ii) Would be eligible for TANF assistance, but for the time limit on the receipt of federally funded assistance; or

(iii) Would be eligible for TANF assistance, but for the application of title IV of PRWORA;

(2) Include a child living with a custodial parent or other adult caretaker relative (or consist of a pregnant individual); and

(3) Be financially eligible according to the appropriate income and resource (when applicable) standards established by the State and contained in its TANF plan.

(c) Benefits or services listed under paragraph (a) of this section provided to a family that meets the criteria under paragraphs (b)(1) through (b)(3) of this section, but who became ineligible solely due to the time limitation given under § 264.1 of this chapter, may also count.

(d) Expenditures for the benefits or services listed under paragraph (a) of this section count whether or not the benefit or service meets the definition of assistance under § 260.31 of this chapter.

(e)(1) The expenditures for benefits or services in State-funded programs listed under paragraph (a) of this section count only if they also meet the requirements of § 263.5.

(2) Expenditures that fall within the prohibitions in § 263.6 do not count.

§ 263.3 When do child care expenditures count?

(a) State funds expended to meet the requirements of the CCDF Matching Fund (i.e., as match or MOE amounts) may also count as basic MOE expenditures up to the State's child care MOE amount that must be expended to qualify for CCDF matching funds.

(b) Child care expenditures that have not been used to meet the requirements of the CCDF Matching Fund (i.e., as match or MOE amounts), or any other

Federal child care program, may also count as basic MOE expenditures. The limit described in paragraph (a) of this section does not apply.

(c) The child care expenditures described in paragraphs (a) and (b) of this section must be made to, or on behalf of, eligible families, as defined in § 263.2(b).

§ 263.4 When do educational expenditures count?

(a) Expenditures for educational activities or services count if:

(1) They are provided to eligible families (as defined in § 263.2(b)) to increase self-sufficiency, job training, and work; and

(2) They are not generally available to other residents of the State without cost and without regard to their income.

(b) Expenditures on behalf of eligible families for educational services or activities provided through the public education system do not count unless they meet the requirements under paragraph (a) of this section.

§ 263.5 When do expenditures in State-funded programs count?

(a) If a current State or local program also operated in FY 1995, and expenditures in this program would have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Care programs, then current fiscal year expenditures in this program count in their entirety, provided that the State has met all requirements under § 263.2.

(b) If a current State or local program also operated in FY 1995, and expenditures in this program would not have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Care programs, then countable expenditures are limited to the amount by which total current fiscal year expenditures that meet the requirements under § 263.2 exceed total State expenditures in the program during FY 1995.

§ 263.6 What kinds of expenditures do not count?

The following kinds of expenditures do not count:

(a) Expenditures of funds that originated with the Federal government;

(b) State expenditures under the Medicaid program under title XIX of the Act;

(c) Expenditures that a State makes as a condition of receiving Federal funds under another program, except as provided under § 263.3;

(d) Expenditures that a State made in a prior fiscal year;

(e) Expenditures that a State uses to match Federal Welfare-to-Work funds provided under section 403(a)(5) of the Act; and

(f) Expenditures that a State makes in the TANF program to replace the reductions in the SFAG as a result of penalties, pursuant to § 264.50 of this chapter.

§ 263.8 What happens if a State fails to meet the basic MOE requirement?

(a) If any State fails to meet its basic MOE requirement for any fiscal year, then we will reduce dollar-for-dollar the amount of the SFAG payable to the State for the following fiscal year.

(b) If a State fails to meet its basic MOE requirement for any fiscal year, and the State received a WtW formula grant under section 403(a)(5)(A) of the Act for the same fiscal year, we will also reduce the amount of the SFAG payable to the State for the following fiscal year by the amount of the WtW formula grant paid to the State.

§ 263.9 May a State avoid a penalty for failing to meet the basic MOE requirement through reasonable cause or corrective compliance?

No. The reasonable cause and corrective compliance provisions at §§ 262.4, 262.5, and 262.6 of this chapter do not apply to the penalties in § 263.8.

Subpart B—What Rules Apply to the Use of Federal TANF Funds?

§ 263.10 What actions would we take against a State if it uses Federal TANF funds in violation of the Act?

(a) If a State misuses its Federal TANF funds, we will reduce the SFAG payable for the immediately succeeding fiscal year quarter by the amount misused.

(b) If the State fails to demonstrate that the misuse was not intentional, we will further reduce the SFAG payable for the immediately succeeding fiscal year quarter in an amount equal to five percent of the adjusted SFAG.

(c) The reasonable cause and corrective compliance provisions of §§ 262.4 through 262.6 of this chapter apply to the penalties specified in paragraphs (a) and (b) of this section.

§ 263.11 What uses of Federal TANF funds are improper?

(a) States may use Federal TANF funds for expenditures:

(1) That are reasonably calculated to accomplish the purposes of TANF, as specified at § 260.20 of this chapter; or

(2) For which the State was authorized to use IV-A or IV-F funds

under prior law, as in effect on September 30, 1995 (or, at the option of the State, August 21, 1996).

(b) We will consider use of funds in violation of paragraph (a) of this section, sections 404 and 408 and other provisions of the Act, section 115(a)(1) of PRWORA, the provisions of part 92 of this title, or OMB Circular A-87 to be misuse of funds.

§ 263.12 How will we determine if a State intentionally misused Federal TANF funds?

(a) The State must show, to our satisfaction, that it used these funds for purposes that a reasonable person would consider to be within the purposes of the TANF program (as specified at § 260.20 of this chapter) and consistent with the provisions listed in § 263.11.

(b) We may determine that a State misused funds intentionally if there is supporting documentation, such as Federal guidance or policy instructions, precluding the use of Federal TANF funds for such purpose.

(c) We may also determine that a State intentionally misused funds if the State continues to use the funds in the same or similarly improper manner after receiving notification that we had determined such use to be improper.

§ 263.13 Is there a limit on the amount of Federal TANF funds that a State may spend on administrative costs?

(a)(i) Yes, a State may not spend more than 15 percent of the amount that it receives as its adjusted SFAG, or under other provisions of section 403 of the Act, on "administrative costs," as defined at § 263.0(b).

(ii) Any violation of the limitation in paragraph (a)(i) of this section will constitute a misuse of funds under § 263.11(b).

(b) Expenditures on the information technology and computerization needed for tracking and monitoring required by or under part IV-A of the Act do not count towards the limit specified in paragraph (a) of this section.

(1) This exclusion covers the costs for salaries and benefits of staff who develop, maintain, support or operate the portions of information technology or computer systems used for tracking and monitoring.

(2) It also covers the costs of contracts for development, maintenance, support, or operation of those portions of information technology or computer systems used for tracking or monitoring.

Subpart C—What Rules Apply to Individual Development Accounts?

§ 263.20 What definitions apply to Individual Development Accounts (IDAs)?

The following definitions apply with respect to IDAs:

Date of acquisition means the date on which a binding contract to obtain, construct, or reconstruct the new principal residence is entered into.

Eligible educational institution means an institution described in section 481(a)(1) or section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections were in effect on August 21, 1996. Also, an area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)) that is in any State (as defined in section 521(33) of such Act), as such sections were in effect on August 21, 1996.

Individual Development Account (IDA) means an account established by, or for, an individual who is eligible for assistance under the TANF program, to allow the individual to accumulate funds for specific purposes.

Notwithstanding any other provision of law (other than the Internal Revenue Code of 1986), the funds in an IDA account must be disregarded in determining eligibility for, or the amount of, assistance in any Federal means-tested programs.

Post-secondary educational expenses means a student's tuition and fees required for the enrollment or attendance at an eligible educational institution, and required course fees, books, supplies, and equipment required at an eligible educational institution.

Qualified acquisition costs means the cost of obtaining, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

Qualified business means any business that does not contravene State law or public policy.

Qualified business capitalization expenses means business expenses pursuant to a qualified plan.

Qualified entity means a nonprofit, tax-exempt organization, or a State or local government agency that works cooperatively with a nonprofit, tax-exempt organization.

Qualified expenditures means expenses entailed in a qualified plan, including capital, plant equipment, working capital, and inventory expenses.

Qualified first-time home buyer means a taxpayer (and, if married, the taxpayer's spouse) who has not owned a principal residence during the three-year period ending on the date of acquisition of the new principal residence.

Qualified plan means a business plan that is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity. It includes a description of services or goods to be sold, a marketing plan, and projected financial statements, and it may require the eligible recipient to obtain the assistance of an experienced entrepreneurial advisor.

Qualified principal residence means the place a qualified first-time home buyer will reside in accordance with the meaning of section 1034 of the Internal Revenue Code of 1986 (26 U.S.C. 1034). The qualified acquisition cost of the residence cannot exceed the average purchase price of similar residences in the area.

§ 263.21 May a State use the TANF grant to fund IDAs?

If the State elects to operate an IDA program, then the States may use Federal TANF funds or WtW funds to fund IDAs for individuals who are eligible for TANF assistance and exercise flexibility within the limits of Federal regulations and the statute.

§ 263.22 Are there any restrictions on IDA funds?

The following restrictions apply to IDA funds:

(a) A recipient may deposit only earned income into an IDA.

(b) A recipient's contributions to an IDA may be matched by, or through, a qualified entity.

(c) A recipient may withdraw funds only for the following reasons:

(1) To cover post-secondary education expenses, if the amount is paid directly to an eligible educational institution;

(2) For the recipient to purchase a first home, if the amount is paid directly to the person to whom the amounts are due and it is a qualified acquisition cost for a qualified principal residence by a qualified first-time home buyer; or

(3) For business capitalization, if the amounts are paid directly to a business capitalization account in a federally insured financial institution and used for a qualified business capitalization expense.

§ 263.23 How does a State prevent a recipient from using the IDA account for unqualified purposes?

To prevent recipients from using the IDA account improperly, States may do the following:

(a) Count withdrawals as earned income in the month of withdrawal (unless already counted as income);

(b) Count withdrawals as resources in determining eligibility; or

(c) Take such other steps as the State has established in its State plan or written State policies to deter inappropriate use.

PART 264—OTHER ACCOUNTABILITY PROVISIONS

Sec.

264.0 What definitions apply to this part?

Subpart A—What Specific Rules Apply for Other Program Penalties?

264.1 What restrictions apply to the length of time Federal TANF assistance may be provided?

264.2 What happens if a State does not comply with the five-year limit?

264.3 How can a State avoid a penalty for failure to comply with the five-year limit?

264.10 Must States do computer matching of data records under IEVS to verify recipient information?

264.11 How much is the penalty for not participating in IEVS?

264.30 What procedures exist to ensure cooperation with the child support enforcement requirements?

264.31 What happens if a State does not comply with the IV-D sanction requirement?

264.40 What happens if a State does not repay a Federal loan?

264.50 What happens if, in a fiscal year, a State does not expend, with its own funds, an amount equal to the reduction to the adjusted SFAG resulting from a penalty?

Subpart B—What are the Requirements for the Contingency Fund?

264.70 What makes a State eligible to receive a provisional payment of contingency funds?

264.71 What determines the amount of the provisional payment of contingency funds that will be made to a State?

264.72 What requirements are imposed on a State if it receives contingency funds?

264.73 What is an annual reconciliation?

264.74 How will we determine the Contingency Fund MOE level for the annual reconciliation?

264.75 For the annual reconciliation, what are qualifying State expenditures?

264.76 What action will we take if a State fails to remit funds after failing to meet its required Contingency Fund MOE level?

264.77 How will we determine if a State met its Contingency Fund expenditure requirements?

Subpart C—What Rules Pertain Specifically to the Spending Levels of the Territories?

264.80 If a Territory receives Matching Grant funds, what funds must it expend?

264.81 What expenditures qualify for Territories to meet the Matching Grant MOE requirement?

264.82 What expenditures qualify for meeting the Matching Grant FAG amount requirement?

264.83 How will we know if a Territory failed to meet the Matching Grant funding requirements at § 264.80?

264.84 What will we do if a Territory fails to meet the Matching Grant funding requirements at § 264.80?

264.85 What rights of appeal are available to the Territories?

Authority: 31 U.S.C. 7501 *et seq.*; 42 U.S.C. 609, 654, 1302, 1308, and 1337.

§ 264.0 What definitions apply to this part?

(a) The general TANF definitions at §§ 260.30 through 260.33 of this chapter apply to this part.

(b) The following definitions also apply to this part:

Countable State Expenditures means the amount of qualifying State expenditures, as defined in § 264.75, plus the amount of contingency funds expended by the State in the fiscal year.

FAG means the Family Assistance Grant granted to a Territory pursuant to section 403(a)(1) of the Act. It is thus the Territorial equivalent of the SFAG, as defined at § 260.30 of this chapter.

Food Stamp Trigger means a State's monthly average of individuals participating in the Food Stamp program (as of the last day of the month) for the most recent three-month period that exceeds its monthly average of individuals in the corresponding three-month period in the Food Stamp caseload for FY 1994 or FY 1995, whichever is less, by at least ten percent, assuming that the immigrant provisions of title IV and the Food Stamp provisions under title VII of PRWORA had been in effect in those years.

Unemployment Trigger means a State's average unemployment rate for the most recent three-month period of at least 6.5 percent and equal to at least 110 percent of the State's unemployment rate for the corresponding three-month period in either of the two preceding calendar years.

Subpart A—What Specific Rules Apply for Other Program Penalties?

§ 264.1 What restrictions apply to the length of time Federal TANF assistance may be provided?

(a)(1) Subject to the exceptions in this section, no State may use any of its Federal TANF funds to provide assistance (as defined in § 260.31 of this chapter) to a family that includes an adult head-of-household or a spouse of the head-of-household who has received Federal assistance for a total of five years (i.e., 60 cumulative months, whether or not consecutive).

(2) The provision in paragraph (a)(1) of this section also applies to a family that includes a pregnant minor head-of-household, minor parent head-of-household, or spouse of such a head-of-household who has received Federal assistance for a total of five years.

(3) Notwithstanding the provisions of paragraphs (a)(1) and (a)(2) of this section, a State may provide assistance under WtW, pursuant to section 403(a)(5) of the Act, to a family that is ineligible for TANF solely because it has reached the five-year time limit.

(b)(1) States must not count toward the five-year limit:

(i) Any month of receipt of assistance by an individual who is not the head-of-household or married to the head-of-household;

(ii) Any month of receipt of assistance by an adult while living in Indian country (as defined in section 1151 of title 18, United States Code) or a Native Alaskan Village where at least 50 percent of the adults were not employed; and

(iii) Any month for which an individual receives only noncash assistance provided under WtW, pursuant to section 403(a)(5) of the Act.

(2) Only months of assistance that are paid for with Federal TANF funds (in whole or in part) count towards the five-year time limit.

(c) States have the option to extend assistance paid for by Federal TANF funds beyond the five-year limit for up to 20 percent of the average monthly number of families receiving assistance during the fiscal year or the immediately preceding fiscal year, whichever the State elects. States are permitted to extend assistance to families only on the basis of:

(1) Hardship, as defined by the State; or

(2) The fact that the family includes someone who has been battered, or subject to extreme cruelty based on the fact that the individual has been subjected to:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual;

(ii) Sexual abuse;

(iii) Sexual activity involving a dependent child;

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

(v) Threats of, or attempts at, physical or sexual abuse;

(vi) Mental abuse; or

(vii) Neglect or deprivation of medical care.

(d) If a State opts to extend assistance to part of its caseload as permitted

under paragraph (c) of this section, it would grant such an extension to a specific family once a head-of-household or spouse of a head-of-household in the family has received 60 cumulative months of assistance.

(e) To determine whether a State has failed to comply with the five-year limit on Federal assistance established in paragraph (c) of this section for a fiscal year, we would divide the average monthly number of families with a head-of-household or a spouse of a head-of-household who has received assistance for more than 60 cumulative months by the average monthly number of all families that received assistance during that fiscal year or during the immediately preceding fiscal year.

(f) If the five-year limit is inconsistent with a State's waiver granted under section 1115 of the Act, we will determine State compliance with the Federal time limit in accordance with the provisions of subpart C of part 260.

§ 264.2 What happens if a State does not comply with the five-year limit?

If we determine that a State has not complied with the requirements of § 264.1, we will reduce the SFAG payable to the State for the immediately succeeding fiscal year by five percent of the adjusted SFAG unless the State demonstrates to our satisfaction that it had reasonable cause, or it corrects or discontinues the violation under an approved corrective compliance plan.

§ 264.3 How can a State avoid a penalty for failure to comply with the five-year limit?

(a) We will not impose the penalty if the State demonstrates to our satisfaction that it had reasonable cause for failing to comply with the five-year limit on Federal assistance or it achieves compliance under a corrective compliance plan, pursuant to §§ 262.5 and 262.6 of this chapter.

(b) In addition, we will determine a State has reasonable cause if it demonstrates that it failed to comply with the five-year limit on Federal assistance of federally recognized good cause domestic violence waivers provided to victims of domestic violence in accordance with the provisions of subpart B of part 260.

§ 264.10 Must States do computer matching of data records under IEVS to verify recipient information?

(a) Pursuant to section 1137 of the Act and subject to paragraph (a)(2) of that section, States must meet the requirements of IEVS and request the following information from the Internal Revenue Service (IRS), the State Wage Information Collections Agency (SWICA), the Social Security

Administration (SSA), and the Immigration and Naturalization Service (INS):

(1) IRS unearned income;

(2) SWICA employer quarterly reports of income and unemployment insurance benefit payments;

(3) IRS earned income maintained by SSA; and

(4) Immigration status information maintained by the INS.

(b) The requirements at §§ 205.51 through 205.62 of this chapter also apply to the TANF IEVS requirement.

§ 264.11 How much is the penalty for not participating in IEVS?

If we determine that the State has not complied with the requirements of § 264.10, we will reduce the SFAG payable for the immediately succeeding fiscal year by two percent of the adjusted SFAG unless the State demonstrates to our satisfaction that it had reasonable cause or achieved compliance under a corrective compliance plan pursuant to §§ 262.5 and 262.6 of this chapter.

§ 264.30 What procedures exist to ensure cooperation with the child support enforcement requirements?

(a)(1) The State agency must refer all appropriate individuals in the family of a child, for whom paternity has not been established or for whom a child support order needs to be established, modified or enforced, to the child support enforcement agency (i.e., the IV-D agency).

(2) Referred individuals must cooperate in establishing paternity and in establishing, modifying, or enforcing a support order with respect to the child.

(b) If the IV-D agency determines that an individual is not cooperating, and the individual does not qualify for a good cause or other exception established by the State agency responsible for making good cause determinations in accordance with section 454(29) of the Act or for a good cause domestic violence waiver granted in accordance with § 260.52 of this chapter, then the IV-D agency must notify the IV-A agency promptly.

(c) The IV-A agency must then take appropriate action by:

(1) Deducting from the assistance that would otherwise be provided to the family of the individual an amount equal to not less than 25 percent of the amount of such assistance; or

(2) Denying the family any assistance under the program.

§ 264.31 What happens if a State does not comply with the IV–D sanction requirement?

(a)(1) If we find that, for a fiscal year, the State IV–A agency did not enforce the penalties against recipients required under § 264.30(c), we will reduce the SFAG payable for the next fiscal year by one percent of the adjusted SFAG.

(2) Upon a finding for a second fiscal year, we will reduce the SFAG by two percent of the adjusted SFAG for the following year.

(3) A third or subsequent finding will result in the maximum penalty of five percent.

(b) We will not impose a penalty if:

(1) The State demonstrates to our satisfaction that it had reasonable cause pursuant to § 262.5 of this chapter; or

(2) The State achieves compliance under a corrective compliance plan pursuant to § 262.6 of this chapter.

§ 264.40 What happens if a State does not repay a Federal loan?

(a) If a State fails to repay the amount of principal and interest due at any point under a loan agreement developed pursuant to section 406 of the Act:

(1) The entire outstanding loan balance, plus all accumulated interest, becomes due and payable immediately; and

(2) We will reduce the SFAG payable for the immediately succeeding fiscal year quarter by the outstanding loan amount plus interest.

(b) Neither the reasonable cause provisions at § 262.5 of this chapter nor the corrective compliance plan provisions at § 262.6 of this chapter apply when a State fails to repay a Federal loan.

§ 264.50 What happens if, in a fiscal year, a State does not expend, with its own funds, an amount equal to the reduction to the adjusted SFAG resulting from a penalty?

(a)(1) When we withhold Federal TANF funds from a State during a fiscal year because of other penalty actions listed at § 262.1 of this chapter, the State must replace these Federal TANF funds with State funds during the subsequent fiscal year.

(2) If the State fails to replace funds during the subsequent year, then we will assess an additional penalty of no more than two percent of the adjusted SFAG during the year that follows the subsequent year.

(b) A State must expend such replacement funds under its TANF program, not under “separate State programs.”

(c) We will assess a penalty of no more than two percent of the adjusted SFAG plus the amount equal to the

difference between the amount the State was required to expend and the amount it actually expended in the fiscal year.

(1) We will assess the maximum penalty amount if the State made no additional expenditures to compensate for the reductions to its adjusted SFAG resulting from penalties.

(2) We will reduce the percentage portion of the penalty if the State has expended some of the amount required. In such case, we will calculate the applicable percentage portion of the penalty by multiplying the percentage of the required expenditures that the State failed to make in the fiscal year by two percent.

(d) The reasonable cause and corrective compliance plan provisions at §§ 262.5 and 262.6 of this chapter do not apply to this penalty.

Subpart B—What Are the Requirements for the Contingency Fund?

§ 264.70 What makes a State eligible to receive a provisional payment of contingency funds?

(a) In order to receive a provisional payment of contingency funds, a State must:

(1) Be a needy State, as defined in § 260.30 of this chapter; and

(2) Submit to ACF a request for contingency funds for an eligible month (i.e., a month in which a State is a needy State).

(b) A determination that a State is a needy State for a month makes that State eligible to receive a provisional payment of contingency funds for two consecutive months.

(c) Only the 50 States and the District of Columbia may receive contingency funds. Territories and Tribal TANF grantees are not eligible.

§ 264.71 What determines the amount of the provisional payment of contingency funds that will be made to a State?

We will make a provisional payment to a State that meets the requirements of § 264.70, within the following limits:

(a) The amount that we will pay to a State in a fiscal year will not exceed an amount equal to $\frac{1}{12}$ times 20 percent of that State’s SFAG for that fiscal year, multiplied by the number of eligible months for which the State has requested contingency funds;

(b) The total amount that we will pay to all States during a fiscal year will not exceed the amount appropriated for this purpose; and

(c) We will pay contingency funds to States in the order in which we receive requests for such payments.

§ 264.72 What requirements are imposed on a State if it receives contingency funds?

(a)(1) A State must meet a Contingency Fund MOE level of 100 percent of historic State expenditures for FY 1994.

(2) A State must exceed the Contingency Fund MOE level to keep any of the contingency funds that it received. It may be able to retain a portion of the amount of contingency funds that match countable State expenditures, as defined in § 264.0, that are in excess of the State’s Contingency Fund MOE level, after the overall adjustment required by section 403(b)(6)(C) of the Act.

(b) A State must complete an annual reconciliation, in accordance with § 264.73, in order to determine how much, if any, of the contingency funds that it received in a fiscal year it may retain.

(c) If required to remit funds under the annual reconciliation, a State must remit all (or a portion) of the funds paid to it for a fiscal year within one year after it has failed to meet either the Food Stamp trigger or the Unemployment trigger, as defined in § 264.0, for three consecutive months.

(d) A State must expend contingency funds in the fiscal year in which they are awarded.

(e) A State may not transfer contingency funds to the Discretionary Fund of the CCDF or the SSBG.

(f) A State must follow the restrictions and prohibitions in effect for Federal TANF funds, including the provisions of § 263.11 of this chapter, in its use of contingency funds.

§ 264.73 What is an annual reconciliation?

(a) The annual reconciliation involves the calculation, for a fiscal year, of:

(1) The amount of a State’s qualifying expenditures;

(2) The amount by which a State’s countable State expenditures, as defined in § 264.0, exceed the State’s required Contingency Fund MOE level; and

(3) The amount of contingency funds that the State may retain or must remit.

(b) If a State exceeded its required Contingency Fund MOE level, it may be able to retain some or all of the contingency funds that it received.

(c) A State determines the amount of contingency funds that it may retain by performing the following calculations:

(1) From the lesser of the following two amounts:

(i) The amount of contingency funds paid to it during the fiscal year; or

(ii) Its countable State expenditures, as defined in § 264.0, minus its required Contingency Fund MOE level, multiplied by:

(A) The State's Federal Medical Assistance Percentage (FMAP) applicable for the fiscal year for which funds were awarded; and

(B) $\frac{1}{12}$ times the number of months during the fiscal year for which the State received contingency funds.

(2) Subtract the State's proportionate remittance (as reported to the State by ACF) for the overall adjustment of the Contingency Fund for that fiscal year required by section 403(b)(6)(C) of the Act.

§ 264.74 How will we determine the Contingency Fund MOE level for the annual reconciliation?

(a)(1) The Contingency Fund MOE level includes the State's share of expenditures for AFDC benefit payments, administration, and FAMIS; EA; and the JOBS program for FY 1994.

(2) We will use the same data sources and date, i.e., April 28, 1995, that we used to determine the basic MOE levels for FY 1994. We will exclude the State's share of expenditures from the former IV-A child care programs (AFDC/JOBS, Transitional and At-Risk child care) in the calculation.

(b) We will reduce a State's Contingency Fund MOE level by the same percentage that we reduce the basic MOE level for any fiscal year in which we reduce the State's annual SFAG allocation to provide funding to Tribal grantees operating a Tribal TANF program.

§ 264.75 For the annual reconciliation, what are qualifying State expenditures?

(a) Qualifying State expenditures are expenditures of State funds made in the State TANF program, with respect to eligible families, for the following:

(1) Cash assistance, including assigned child support collected by the State, distributed to the family, and disregarded in determining eligibility for, and amount of the TANF assistance payment;

(2) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures involving the provision of services or assistance to an eligible family that are not generally available to persons who are not members of an eligible family;

(3) Any other services allowable under section 404(a)(1) of the Act and consistent with the goals at § 260.20 of this chapter; and

(4) Administrative costs in connection with the provision of the benefits and services listed in paragraphs (a)(1) through (a)(3) of this section, but only to the extent that such costs are

consistent with the 15-percent limitation at § 263.2(a)(5) of this chapter.

(b) Qualifying State expenditures do not include:

(1) Child care expenditures; and

(2) Expenditures made under separate State programs.

§ 264.76 What action will we take if a State fails to remit funds after failing to meet its required Contingency Fund MOE level?

(a) If, for a fiscal year in which it receives contingency funds, a State fails to meet its required Contingency Fund MOE level, we will penalize the State by reducing the SFAG payable for the next fiscal year by the amount of contingency funds not remitted.

(b) A State may appeal this decision, as provided in § 262.7 of this chapter.

(c) The reasonable cause exceptions and corrective compliance regulations at §§ 262.5 and 262.6 of this chapter do not apply to this penalty.

§ 264.77 How will we determine if a State met its Contingency Fund expenditure requirements?

(a) States receiving contingency funds for a fiscal year must complete the quarterly TANF Financial Report. As part of the fourth quarter's report, a State must complete its annual reconciliation.

(b) The TANF Financial Report and State reporting on expenditures are subject to our review.

Subpart C—What Rules Pertain Specifically to the Spending Levels of the Territories?

§ 264.80 If a Territory receives Matching Grant funds, what funds must it expend?

(a) If a Territory receives Matching Grant funds under section 1108(b) of the Act, it must:

(1) Contribute 25 percent of the expenditures funded under the Matching Grant for title IV-A or title IV-E expenditures;

(2) Expend 100 percent of the amount of historic expenditures for FY 1995 for the AFDC program (including administrative costs and FAMIS), the EA program, and the JOBS program; and

(3) Expend 100 percent of the amount of the Family Assistance Grant annual allocation using Federal TANF, title IV-E funds and/or Territory-only funds, without regard to any penalties applied in accordance with section 409 of the Act.

(b) Territories may not use the same Territorial expenditures to satisfy the requirements of paragraphs (a)(1), (a)(2) and (a)(3) of this section.

§ 264.81 What expenditures qualify for Territories to meet the Matching Grant MOE requirement?

To meet the Matching Grant MOE requirements, Territories may count:

(a) Territorial expenditures made in accordance with §§ 263.2, 263.3, 263.4, and 263.6 of this chapter that are commingled with Federal TANF funds or made under a segregated TANF program; and

(b) Territorial expenditures made pursuant to the regulations at 45 CFR parts 1355 and 1356 for the Foster Care and Adoption Assistance programs and section 477 of the Act for the Independent Living program.

§ 264.82 What expenditures qualify for meeting the Matching Grant FAG amount requirement?

To meet the Matching Grant FAG amount requirement, Territories may count:

(a) Expenditures made with Federal TANF funds pursuant to § 263.11 of this chapter;

(b) Expenditures made in accordance with §§ 263.2, 263.3, 263.4, and 263.6 of this chapter that are commingled with Federal TANF funds or made under a segregated TANF program;

(c) Amounts transferred from TANF funds pursuant to section 404(d) of the Act; and

(d) The Federal and Territorial shares of expenditures made pursuant to the regulations at 45 CFR parts 1355 and 1356 for the Foster Care and Adoption Assistance programs and section 477 of the Act for the Independent Living program.

§ 264.83 How will we know if a Territory failed to meet the Matching Grant funding requirements at § 264.80?

We will require the Territories to report the expenditures required by § 264.80(a)(2) and (a)(3) on the quarterly Territorial Financial Report.

§ 264.84 What will we do if a Territory fails to meet the Matching Grant funding requirements at § 264.80?

If a Territory does not meet the requirements at either or both of § 264.80(a)(2) and (a)(3), we will disallow all Matching Grant funds received for the fiscal year.

§ 264.85 What rights of appeal are available to the Territories?

The Territories may appeal our decisions to the Departmental Appeals Board in accordance with our regulations at part 16 of this title if we decide to take disallowances under section 1108(b) of the Act.

PART 265—DATA COLLECTION AND REPORTING REQUIREMENTS

Sec.

- 265.1 What does this part cover?
 265.2 What definitions apply to this part?
 265.3 What reports must the State file on a quarterly basis?
 265.4 When are quarterly reports due?
 265.5 May States use sampling?
 265.6 Must States file reports electronically?
 265.7 How will we determine if the State is meeting the quarterly reporting requirements?
 265.8 Under what circumstances will we take action to impose a reporting penalty for failure to submit quarterly and annual reports?
 265.9 What information must the State file annually?
 265.10 When is the annual report due?

Authority: 42 U.S.C. 603, 605, 607, 609, 611, and 613.

§ 265.1 What does this part cover?

(a) This part explains how we will collect the information required by section 411(a) of the Act (data collection and reporting); the information required to implement section 407 of the Act (work participation requirements), as authorized by section 411(a)(1)(A)(xii); the information required to implement section 409 (penalties), section 403 (grants to States), section 405 (administrative provisions), section 411(b) (report to Congress), and section 413 (annual rankings of State TANF programs); and the data necessary to carry out our financial management and oversight responsibilities.

(b) This part describes the information in the quarterly and annual reports that each State must file, as follows:¹

(1) The case record information (disaggregated and aggregated) on individuals and families in the quarterly TANF Data Report;

(2) The expenditure data in the quarterly TANF Financial Report (or, as applicable, the Territorial Financial Report); and

(3) The definitions and other information on the State's TANF and MOE programs that must be filed annually.

(c) If a State claims MOE expenditures under a separate State program(s), this part specifies the circumstances under which the State must collect and report case-record information on individuals and families served by the separate State program(s).

¹ The Appendices contain the specific data elements in the quarterly Data Report, the quarterly Financial Report, and the Annual Report on State MOE Programs, as well as the instructions for filing these reports. They also include the form and instructions for the Caseload Reduction Report described at § 261.41(b) of this chapter.

(d) This part describes when reports are due, how we will determine if reporting requirements have been met, and how we will apply the statutory penalty for failure to file a timely report. It also specifies electronic filing and sampling requirements.

§ 265.2 What definitions apply to this part?

(a) Except as provided in paragraph (b) of this section, the general TANF definitions at §§ 260.30 through 260.33 of this chapter apply to this part.

(b) For data collection and reporting purposes only, *family* means:

(i) All individuals receiving assistance as part of a family under the State's TANF or separate State program (including noncustodial parents, where required under § 265.3(f)); and

(2) The following additional persons living in the household, if not included under paragraph (b)(1) of this section:

(i) Parent(s) or caretaker relative(s) of any minor child receiving assistance;

(ii) Minor siblings of any child receiving assistance; and

(iii) Any person whose income or resources would be counted in determining the family's eligibility for or amount of assistance.

§ 265.3 What reports must the State file on a quarterly basis?

(a) *Quarterly reports.* (1) Each State must collect on a monthly basis, and file on a quarterly basis, the data specified in the TANF Data Report and the TANF Financial Report (or, as applicable, the Territorial Financial Report).

(2) Under the circumstances described in paragraph (d)(1) of this section, the State must collect and file the data specified in the SSP-MOE (Separate State Program-Maintenance-of-Effort) Data Report.

(b) *TANF Data Report.* The TANF Data Report consists of three sections. Two sections contain disaggregated data elements and one section contains aggregated data elements.

(1) *Disaggregated Data on Families Receiving TANF Assistance—Section one.* Each State must file disaggregated information on families receiving TANF assistance.² This section specifies identifying and demographic data such as the individual's Social Security Number; and information such as the type and amount of assistance received, educational level, employment status, work participation activities, citizenship status, and earned and unearned income. The data apply to adults and children.

(2) *Disaggregated Data on Families No Longer Receiving TANF Assistance—*

² See Appendix A for the specific data elements and instructions.

Section two. Each State must file disaggregated information on families no longer receiving TANF assistance.³ This section specifies the reasons for case closure and data similar to the data in section one.

(3) *Aggregated Data—Section three.* Each State must file aggregated information on families receiving, applying for, and no longer receiving TANF assistance.⁴ This section of the Report requires aggregate figures in such areas as: The number of applications and their disposition; the number of recipient families, adult recipients, and child recipients; the number of births and out-of-wedlock births for families receiving TANF assistance; the number of noncustodial parents participating in work activities; and the number of closed cases.

(c) *The TANF Financial Report (or Territorial Financial Report).*

(1) Each State must file quarterly expenditure data on the State's use of Federal TANF funds, State TANF expenditures, and State expenditures of MOE funds in separate State programs.⁵

(2) If a State is expending Federal TANF funds received in prior fiscal years, it must file a separate quarterly TANF Financial Report (or, as applicable, Territorial Financial Report) for each fiscal year that provides information on the expenditures of that year's TANF funds.

(3) Territories must report their expenditure and other fiscal data on the Territorial Financial Report, as provided at § 264.85 of this chapter, in lieu of the TANF Financial Report.

(d) *SSP-MOE Data Report.* (1) Subject to paragraph (d)(2) of this section, if a State claims MOE expenditures under a separate State program(s), it must collect and file disaggregated and aggregated information on families receiving assistance and families no longer receiving assistance under the separate State program(s) as follows:

(i) If a State wishes to receive a high performance bonus, it must file the information in sections one and three of the SSP-MOE Data Report; and

(ii) If a State wishes to qualify for caseload reduction credit under subpart D of part 261 of this chapter, it must file the information in sections one, two, and three of the SSP-MOE Data Report.

(2) The State must file the SSP-MOE Data Report only on separate State programs that provide benefits that meet

³ See Appendix B for the specific data elements and instructions.

⁴ See Appendix C for the specific data elements and instructions.

⁵ See Appendix D for the TANF Financial Report and filing instructions.

the definition of assistance at § 260.31 of this chapter.

(3) The SSP–MOE Data Report consists of three sections. Section one contains disaggregated information on families receiving assistance under separate State programs; section two contains disaggregated information on families no longer receiving assistance under separate State programs; and section three contains aggregated data on families receiving and families no longer receiving assistance under separate State programs.⁶

(e) *Optional data elements.* A State has the option not to report on some data elements for some individuals in the TANF Data Report and the SSP–MOE Data Report, as specified in the instructions to these reports.

(f) *Noncustodial parents.* A State must report information on a noncustodial parent (as defined in § 260.30 of this chapter) if the noncustodial parent:

- (1) Is receiving assistance as defined in § 260.31 of this chapter;
- (2) Is participating in work activities as defined in section 407(d) of the Act; or
- (3) Has been designated by the State as a member of a family receiving assistance.

§ 265.4 When are quarterly reports due?

(a) Each State must file the TANF Data Report and the TANF Financial Report (or, as applicable, the Territorial Financial Report) within 45 days following the end of the quarter or be subject to a penalty.

(b) A State that fails to submit the reports within 45 days will be subject to a penalty unless the State files complete and accurate reports before the end of the fiscal quarter that immediately succeeds the quarter for which the reports were required to be submitted.

(c) Each State may file its quarterly SSP–MOE Data Report:

- (1) At the same time as it submits its quarterly TANF Data Report; or
- (2) At the time it seeks to be considered for a high performance bonus or a caseload reduction credit as long as it submits the required data for the full period for which these determinations will be made.

§ 265.5 May States use sampling?

(a) Each State may report the disaggregated data in the TANF Data Report and the SSP–MOE Data Report on all recipient families or on a sample of families selected through the use of a scientifically acceptable sampling method that we have approved. States

may use sampling to generate certain aggregated data elements as identified in the instructions to the reports. States may not use sampling to report expenditure data.

(b) “Scientifically acceptable sampling method” means:

- (1) A probability sampling method in which every sampling unit in the population has a known, non-zero chance to be included in the sample; and
 - (2) Our sample size requirements are met.
- (c) In reporting data based on sampling, the State must follow the specifications and procedures in the TANF Sampling Manual.

§ 265.6 Must States file reports electronically?

Each State must file all quarterly reports (i.e., the TANF Data Report, the TANF Financial Report (or, as applicable, the Territorial Financial Report), and the SSP–MOE Data Report) electronically, based on format specifications that we will provide.

§ 265.7 How will we determine if the State is meeting the quarterly reporting requirements?

(a) Each State’s quarterly reports (the TANF Data Report, the TANF Financial Report (or Territorial Financial Report), and the SSP–MOE Data Report) must be complete and accurate and filed by the due date.

(b) For a disaggregated data report, “a complete and accurate report” means that:

- (1) The reported data accurately reflect information available to the State in case records, financial records, and automated data systems;
- (2) The data are free from computational errors and are internally consistent (e.g., items that should add to totals do so);
- (3) The State reports data for all required elements (i.e., no data are missing);

(4)(i) The State provides data on all families; or

(ii) If the State opts to use sampling, the State reports data on all families selected in a sample that meets the specification and procedures in the TANF Sampling Manual (except for families listed in error); and

(5) Where estimates are necessary (e.g., some types of assistance may require cost estimates), the State uses reasonable methods to develop these estimates.

(c) For an aggregated data report, “a complete and accurate report” means that:

- (1) The reported data accurately reflect information available to the State

in case records, financial records, and automated data systems;

(2) The data are free from computational errors and are internally consistent (e.g., items that should add to totals do so);

(3) The State reports data on all applicable elements; and

(4) Monthly totals are unduplicated counts for all families (e.g., the number of families and the number of out-of-wedlock births are unduplicated counts).

(d) For the TANF Financial Report (or, as applicable, the Territorial Financial Report), “a complete and accurate report” means that:

(1) The reported data accurately reflect information available to the State in case records, financial records, and automated data systems;

(2) The data are free from computational errors and are internally consistent (e.g., items that should add to totals do so);

(3) The State reports data on all applicable elements; and

(4) All expenditures have been made in accordance with § 92.20(a) of this title.

(e) We will review the data filed in the quarterly reports to determine if they meet these standards. In addition, we will use audits and reviews to verify the accuracy of the data filed by the States.

(f) States must maintain records to adequately support any report, in accordance with § 92.42 of this title.

§ 265.8 Under what circumstances will we take action to impose a reporting penalty for failure to submit quarterly and annual reports?

(a) We will take action to impose a reporting penalty under § 262.1(a)(3) of this chapter if:

(1) A State fails to file the quarterly TANF Data Report or the quarterly TANF Financial Report (or, as applicable, the Territorial Financial Report) within 45 days of the end of the quarter;

(2) The disaggregated data in the TANF Data Report is not accurate or does not include all the data required by section 411(a) of the Act (other than section 411(a)(1)(A)(xii) of the Act) or the nine additional elements necessary to carry out the data collection system requirements, including the social security number;

(3) The aggregated data elements in the TANF Data Report required by section 411(a) of the Act are not accurate and the report does not include the data elements necessary to carry out the data collection system requirements and to verify and validate the disaggregated data;

⁶ See Appendices E, F, and G for the specific data elements and instructions.

(4) The TANF Financial Report (or, as applicable, the Territorial Financial Report) does not contain complete and accurate information on total expenditures and expenditures on administrative costs and transitional services; or

(5) The annual report under § 265.9 does not contain the definition of work activities and the description of transitional services provided by a State to families no longer receiving assistance due to employment.

(b) We will not apply the reporting penalty to the SSP-MOE Data Report.

(c) If we determine that a State meets one or more of the conditions set forth in paragraph (a) of this section, we will notify the State that we intend to reduce the SFAG payable for the immediately succeeding fiscal year.

(d) We will not impose the penalty at § 262.1(a)(3) of this chapter if the State files the complete and accurate quarterly report or the annual report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the reports were required.

(e) If the State does not file all reports as provided under paragraph (a) of this section by the end of the immediately succeeding fiscal quarter, the penalty provisions of §§ 262.4 through 262.6 of this chapter will apply.

(f) Subject to paragraphs (a) through (d) of this section and §§ 262.4 through 262.6 of this chapter, for each quarter for which a State fails to meet the reporting requirements, we will reduce the SFAG payable by an amount equal to four percent of the adjusted SFAG (or a lesser amount if the State achieves substantial compliance under a corrective compliance plan).

§ 265.9 What information must the State file annually?

(a) Each State must file an annual report containing information on the TANF program and the State's MOE program(s) for that year. The report may be filed as:

(1) An addendum to the fourth quarter TANF Data Report; or

(2) A separate annual report.

(b) Each State must provide the following information on the TANF program:

(1) The State's definition of each work activity;

(2) A description of the transitional services provided to families no longer receiving assistance due to employment;

(3) A description of how a State will reduce the amount of assistance payable to a family when an individual refuses to engage in work without good cause pursuant to § 261.14 of this chapter;

(4) The average monthly number of payments for child care services made

by the State through the use of disregards, by the following types of child care providers:

(i) Licensed/regulated in-home child care;

(ii) Licensed/regulated family child care;

(iii) Licensed/regulated group home child care;

(iv) Licensed/regulated center-based child care;

(v) Legally operating (i.e., no license category available in State or locality) in-home child care provided by a nonrelative;

(vi) Legally operating (i.e., no license category available in State or locality) in-home child care provided by a relative;

(vii) Legally operating (i.e., no license category available in State or locality) family child care provided by a nonrelative;

(viii) Legally operating (i.e., no license category available in State or locality) family child care provided by a relative;

(ix) Legally operating (i.e., no license category available in State or locality) group child care provided by a nonrelative;

(x) Legally operating (i.e., no license category available in State or locality) group child care provided by a relative; and

(xi) Legally operated (i.e., no license category available in State or locality) center-based child care;

(5) If the State has adopted the Family Violence Option and wants Federal recognition of its good cause domestic violence waivers under subpart B of part 260 of this chapter, a description of the strategies and procedures in place to ensure that victims of domestic violence receive appropriate alternative services and an aggregate figure for the total number of good cause domestic waivers granted;

(6) A description of any nonrecurrent, short-term benefits provided, including:

(i) The eligibility criteria associated with such benefits, including any restrictions on the amount, duration, or frequency of payments;

(ii) Any policies that limit such payments to families that are eligible for TANF assistance or that have the effect of delaying or suspending a family's eligibility for assistance; and

(iii) Any procedures or activities developed under the TANF program to ensure that individuals diverted from assistance receive information about, referrals to, or access to other program benefits (such as Medicaid and food stamps) that might help them make the transition from welfare to work;

(7) A description of the procedures the State has established and is

maintaining to resolve displacement complaints, pursuant to section 407(f)(3) of the Act. This description must include the name of the State agency with the lead responsibility for administering this provision and explanations of how the State has notified the public about these procedures and how an individual can register a complaint;

(8) A summary of State programs and activities directed at the third and fourth statutory purposes of TANF (as specified at § 260.20(c) and (d) of this chapter); and

(9) An estimate of the total number of individuals who have participated in subsidized employment under § 261.30(b) or (c) of this chapter.

(c) Each State must provide the following information on the State's program(s) for which the State claims MOE expenditures:

(1) The name of each program and a description of the major activities provided to eligible families under each such program;

(2) Each program's statement of purpose;

(3) If applicable, a description of the work activities in each separate State MOE program in which eligible families are participating;

(4) For each program, both the total annual State expenditures and the total annual State expenditures claimed as MOE;

(5) For each program, the average monthly total number or the total number of eligible families served for which the State claims MOE expenditures as of the end of the fiscal year;

(6) The eligibility criteria for the families served under each program/activity;

(7) A statement whether the program/activity had been previously authorized and allowable as of August 21, 1996, under section 403 of prior law;

(8) The FY 1995 State expenditures for each program/activity not authorized and allowable as of August 21, 1996, under section 403 of prior law (see § 263.5(b) of this chapter); and

(9) A certification that those families for which the State is claiming MOE expenditures met the State's criteria for "eligible families."⁷

(d) If the State has submitted the information required in paragraphs (b) and (c) of this section in the State Plan, it may meet the annual reporting requirements by reference in lieu of re-submission. If the information in the

⁷ See Appendix I for the reporting form for the Annual Report on State Maintenance-of-Effort Programs.

annual report has not changed since the previous annual report, the State may reference this information in lieu of re-submission.

(e) If a State makes a substantive change in certain data elements in paragraphs (b) and (c) of this section, it must file a copy of the change with the next quarterly data report or as an amendment to its State Plan. The State must also indicate the effective date of the change. This requirement is applicable to the following data elements:

- (1) Paragraphs (b)(1), (b)(2), and (b)(3) of this section; and
- (2) Paragraphs (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) of this section.

§ 265.10 When is the annual report due?

The annual report required by § 265.9 is due at the same time as the fourth quarter TANF Data Report.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices

- Appendix A—TANF Data Report—Section One (Disaggregated Data Collection for Families Receiving Assistance under the TANF Program)
- Appendix B—TANF Data Report—Section Two (Disaggregated Data Collection for Families No Longer Receiving Assistance under the TANF Program)
- Appendix C—TANF Data Report—Section Three (Aggregated Data Collection for Families Applying for, Receiving, and No Longer Receiving Assistance under the TANF Program)
- Appendix D—TANF Financial Report
- Appendix E—SSP—MOE Data Report—Section One (Disaggregated Data Collection for Families Receiving Assistance under the Separate State Programs)
- Appendix F—SSP—MOE Data Report—Section Two (Disaggregated Data Collection for Families No Longer Receiving Assistance under the Separate State Programs)
- Appendix G—SSP—MOE Data Report—Section Three (Aggregated Data Collection for Families Receiving Assistance under the Separate State Programs)
- Appendix H—Caseload Reduction Report
- Appendix I—Annual Report on State Maintenance-of-Effort Programs

Appendix A—TANF Data Report—Section One Disaggregated Data Collection for Families Receiving Assistance under the TANF Program

Instructions and Definitions

General Instruction: The State agency or Tribal grantee should collect and report data for each data element. The data must be complete (unless explicitly instructed to leave the field blank) and accurate (i.e., correct).

An "Unknown" code may appear only on four sets of data elements ([#32 and #67] Date of Birth, [#33 and #68] Social Security Number, [#41 and #74] Educational Level,

and [#42 and #75] Citizenship/Alienage). For these data elements, unknown is not an acceptable code for individuals who are members of the eligible family (i.e., family affiliation code "1").

There are five data elements for which States have the option to report based on either the budget month or the reporting month. These are: #16 Amount of Food Stamps Assistance; #19 Amount of Child Support; #20 Amount of Families Cash Resources; #64 Amount of Earned Income; and [#35 and #76] Amount of Unearned Income. Whichever choice the State selects must be used for all families reported each month and must be used for all months in the fiscal year.

1. *State FIPS Code:* Enter your two-digit State code from the following listing. These codes are the standard codes used by the National Institute of Standards and Technology. Tribal grantees should leave this field blank.

State	Code
Alabama	01
Alaska	02
American Samoa	60
Arizona	04
Arkansas	05
California	06
Colorado	08
Connecticut	09
Delaware	10
District of Columbia	11
Florida	12
Georgia	13
Guam	66
Hawaii	15
Idaho	16
Illinois	17
Indiana	18
Iowa	19
Kansas	20
Kentucky	21
Louisiana	22
Maine	23
Maryland	24
Massachusetts	25
Michigan	26
Minnesota	27
Mississippi	28
Missouri	29
Montana	30
Nebraska	31
Nevada	32
New Hampshire	33
New Jersey	34
New Mexico	35
New York	36
North Carolina	37
North Dakota	38
Ohio	39
Oklahoma	40
Oregon	41
Pennsylvania	42
Puerto Rico	72
Rhode Island	44
South Carolina	45
South Dakota	46
Tennessee	47
Texas	48
Utah	49
Vermont	50
Virgin Islands	78

State	Code
Virginia	51
Washington	53
West Virginia	54
Wisconsin	55
Wyoming	56

2. *County FIPS Code:* Enter the three-digit code established by the National Institute of Standards and Technology for classification of counties and county equivalents. Codes were devised by listing counties alphabetically and assigning sequentially odd integers; e.g., 01, 03, 05. A complete list of codes is available in Appendix F of the TANF Sampling and Statistical Methods Manual. Tribal grantees should leave this field blank.

3. *Tribal Code:* For Tribal grantees, enter the three-digit Tribal code that represents your Tribe (See Appendix E of the TANF Sampling and Statistical Methods Manual for a complete listing of Tribal Codes.) State agencies should leave this field blank.

4. *Reporting Month:* Enter the four-digit year and two-digit month codes that identify the year and month for which the data are being reported.

5. *Stratum:*
Guidance: All TANF families selected in the sample from the same stratum must be assigned the same stratum code. Valid stratum codes may range from "00" to "99." States and Tribes with stratified samples should provide the ACF Regional Office with a listing of the numeric codes utilized to identify any stratification. If a State or Tribe opts to provide data for its entire caseload, enter the same stratum code (any two-digit number) for each TANF family.

Instruction: Enter the two-digit stratum code.

Family-Level Data

Definition: For reporting purposes, the TANF family means (a) all individuals receiving assistance as part of a family under the State's TANF Program; and (b) the following additional persons living in the household, if not included under (a) above:

- (1) Parent(s) or caretaker relative(s) of any minor child receiving assistance;
- (2) Minor siblings of any child receiving assistance; and
- (3) Any person whose income or resources would be counted in determining the family's eligibility for or amount of assistance.

6. *Case Number—TANF:*

Guidance: If the case number is less than the allowable eleven characters, a State should use lead zeros to fill in the number.

Instruction: Enter the number assigned by the State agency or Tribal grantee to uniquely identify the case.

7. *ZIP Code:* Enter the five-digit ZIP code for the TANF family's place of residence for the reporting month.

8. *Funding Stream:*

Guidance: The TANF Data Report collects information on families receiving assistance as defined in § 260.31. We do not collect information on families receiving benefits and services that do not meet the definition of assistance. A family that receives TANF

assistance funded, entirely or in part, with Federal funds is subject to the Federal time limits. A family that receives assistance under a segregated State TANF program funded solely with State funds is not subject to the Federal time limits. We will collect information on families who receive assistance under a separate State program in the SSP-MOE Data Report.

Instructions: For States that bifurcate their caseloads, enter the appropriate code for the funding stream used to provide assistance to this TANF family. If the State (Tribe) does not bifurcate its caseload, enter code "1."

1=Funded, in whole or in part, with Federal TANF block grant funds.

2=Funded entirely from State-only funds. (segregated State TANF program) which are subject to most, but not all, TANF rules.

9. Disposition:

Guidance: A family that did not receive any assistance for the reporting month but was listed on the monthly sample frame for the reporting month is "listed in error." States must collect and report complete data for all sampled cases that are not listed in error.

Instruction: Enter one of the following codes for each TANF sampled case.

1=Data collection completed.

2=Not subject to data collection/listed in error.

10. New Applicant:

Guidance: A newly-approved applicant means the current reporting month is the first month in which the TANF family receives TANF assistance (and thus has had a chance to be selected into the TANF sample). This may be either the first month that the TANF family has ever received assistance or the first month of a new spell on assistance. A TANF family that is reinstated from a suspension is not a newly, approved applicant.

Instruction: Enter the one-digit code that indicates whether or not the TANF family is a newly-approved applicant.

1=Yes, a newly-approved application

2=No.

11. **Number of Family Members:** Enter two digits that represent the number of members in the family receiving assistance under the State's (Tribe's) TANF Program during the reporting month. Include in the number of family members, the noncustodial parent who the State (Tribe) has opted to include as part of the eligible family, who is receiving assistance as defined in § 260.31, or who is participating in work activities as defined in section 407(d) of the Act.

12. Type of Family for Work Participation:

Guidance: This data element identifies whether the family will be used to calculate both the overall and two-parent work participation rates, will be used to calculate only the overall work participation rate, or will not be used to calculate either work participation rate.

A family with an adult or minor child head-of-household is included in the overall work participation rate unless explicitly disregarded. See data element #48 "Work Participation Status" for reasons for disregarding a family.

For the purpose of calculating the two-parent work participation rate, the two-

parent families include any family with two or more natural or adoptive parents (of the same minor child) receiving assistance and living in the home, unless both are minors and neither is a head-of-household. All two-parent families must be included in the two-parent work participation rate unless the family is explicitly disregarded. See the "Work Participation Status" data element for reasons for disregarding a family. A two-parent family that includes a disabled parent will not be included in the two-parent work participation rate.

A family with a minor child head-of-household should be coded as either a single-parent family or two-parent family, whichever is appropriate.

A noncustodial parent is defined in § 260.30 as a parent who lives in the State and does not live with his/her child(ren). The State must report information on the noncustodial parent if the noncustodial parent: (1) is receiving assistance as defined in § 260.31; (2) is participating in work activities as defined in section 407(d) of the Act; or (3) has been designated by the State as a member of a family receiving assistance.

However, the State may choose whether a two-parent family with a noncustodial parent as one of the two parents is a two-parent family for the purposes of calculating the two-parent work participation rate. If a State chooses to exclude a two-parent family with a noncustodial parent as one of the parents from the two-parent work participation rate, the State must code the data element "Type of Family for Work Participation" with a "1" and code the data element "Work Participation Status" for the noncustodial parent with a "99".

Instruction: Enter the one-digit code that represents the type of family for purposes of calculating the work participation rates.

1=Family included only in overall work participation rate.

2=Two-Parent Family included in both the overall and two-parent work participation rates.

3=Family excluded from both the overall and two-parent work participation rates.

13. Receives Subsidized Housing:

Guidance: Subsidized housing refers to housing for which money was paid by the Federal, State, or local government or through a private social service agency to the family or to the owner of the housing to assist the family in paying rent. Two families sharing living expenses does not constitute subsidized housing.

Instruction: Enter the one-digit code that indicates whether or not the TANF family received subsidized housing for the reporting month.

1=Public housing.

2=Rent subsidy.

3=No housing subsidy.

14. **Receives Medical Assistance:** Enter "1" if, for the reporting month, any TANF family member is enrolled in Medicaid and thus eligible to receive medical assistance under the State plan approved under Title XIX or "2" if no TANF family member is enrolled in Medicaid.

1=Yes, enrolled in Medicaid.

2=No.

15. **Receives Food Stamps:** Enter the one-digit code that indicates whether or not the

TANF family is receiving food stamp assistance.

1=Yes, receives food stamp assistance.

2=No.

16. Amount of Food Stamp Assistance:

Guidance: For situations in which the food stamp household differs from the TANF family, code this element in a manner that most accurately reflects the resources available to the TANF family. One acceptable method for calculating the amount of food stamp assistance available to the TANF family is to prorate the amount of food stamps equally among each food stamp recipient then add together the amounts belonging to the TANF recipients to get the total amount for the TANF family.

Instruction: Enter the TANF family's authorized dollar amount of food stamp assistance for the reporting month or for the month used to budget for the reporting month.

17. Receives Subsidized Child Care:

Instruction: If the TANF family receives subsidized child care for the reporting month, enter code "1" or "2," whichever is appropriate. Otherwise, enter code "3."

1=Yes, receives child care funded entirely or in part with Federal funds (e.g., receives TANF, CCDF, SSBG, or other federally funded child care).

2=Yes, receives child care funded entirely under a State, Tribal, and/or local program (i.e., no Federal funds used).

3=No subsidized child care received.

18. Amount of Subsidized Child Care:

Guidance: Subsidized child care means a grant by the Federal, State or local government to or on behalf of a parent (or caretaker relative) to support, in part or whole, the cost of child care services provided by an eligible provider to an eligible child. The grant may be paid directly to the parent (or caretaker relative) or to a child care provider on behalf of the parent (or caretaker relative).

Instruction: Enter the total dollar amount of subsidized child care from all sources (e.g., CCDF, TANF, SSBG, State, local, etc.) that the TANF family has received for services in the reporting month. If the TANF family did not receive any subsidized child care for services in the reporting month, enter "0."

19. **Amount of Child Support:** Enter the total dollar value of child support received on behalf of the TANF family in the reporting month or for the month used to budget for the reporting month. This includes current payments, arrearages, recoupment, and pass-through amounts whether paid to the State or the family.

20. Amount of the Family's Cash

Resources: Enter the total dollar amount of the TANF family's cash resources as the State defines them for determining eligibility and/or computing benefits for the reporting month or for the month used to budget for the reporting month.

Amount of Assistance Received and the Number of Months That the Family has Received Each Type of Assistance Under the State (Tribal) TANF Program

Guidance: The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing

basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses). It includes such benefits even when they are provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients and conditioned on their participation in work experience, community service, or other work activities (i.e., under the CFR § 261.30).

Except where excluded as indicated in the following paragraph, it also includes supportive services such as transportation and child care provided to families who are not employed.

The term "assistance" excludes:

(1) Nonrecurrent, short-term benefits (such as payments for rent deposits or appliance repairs) that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under an Access to Jobs or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

The exclusion of nonrecurrent, short-term benefits under (1) of this paragraph also covers supportive services for recently employed families, for temporary periods of unemployment, in order to enable continuity in their service arrangements.

Instruction: For each type of assistance provided under the State's (Tribal) TANF Program, enter the dollar amount of assistance that the TANF family received or that was paid on behalf of the TANF family for the reporting month and the number of months that the TANF family has received assistance under the State's (Tribe's) TANF program. For TANF Child Care also enter the number of children covered by the dollar amount of child care. If, for a "type of assistance," no dollar amount of assistance was provided during the reporting month, enter "0" as the amount. If, for a "type of assistance," no assistance has been received (since the State began its TANF Program) by the TANF eligible family, enter "0" as the number of months of assistance.

21. *Cash and Cash Equivalents:*

A. *Amount*

B. *Number of Months*

22. *TANF Child Care:*

Guidance: For TANF Child Care, enter the dollar amount, the number of children covered by the dollar amount of child care,

and the total number of months that the family has received TANF child care assistance for families not employed. For example, a TANF family may receive a total of \$500.00 in TANF child care assistance for two children for the reporting month. Furthermore, the family may have received TANF child care for one or more child(ren) for a total of six months under the State (Tribal) TANF Program. In this example, the State (Tribe) would code 500, 2, and 6 for the amount, number of children and number of months respectively. Include only the child care funded directly by the State (Tribal) TANF Program. Do not include child care funded under the Child Care and Development Fund, even though some of the funds were transferred to the CCDF from the TANF program.

Number of:

A. *Amount*

B. *Children Covered*

C. *Number of Months*

23. *Transportation:*

A. *Amount*

B. *Number of Months*

24. *Transitional Services:*

A. *Amount*

B. *Number of Months*

25. *Other:*

A. *Amount*

B. *Number of Months*

26. *Reason for and Amount of Reductions in Assistance:*

Instruction: The amount of assistance received by a TANF family may have been reduced for one or more of the following reasons. For each reason listed below, indicate whether the TANF family received a reduction in assistance. Enter the total dollar value of the reduction(s) for each group of reasons for the reporting month. If for any reason there was no reduction in assistance, enter "0."

a. *Sanctions:*

i. *Total Dollar Amount of Reductions due to Sanctions:* Enter the total dollar value of reduction in assistance due to sanctions.

ii. *Work Requirements Sanction:*

1=Yes.

2=No.

iii. *Family Sanction for an Adult with No High School Diploma or Equivalent:*

1=Yes.

2=No.

iv. *Sanction for Teen Parent not Attending School:*

1=Yes.

2=No.

v. *Non-Cooperation with Child Support:*

1=Yes.

2=No.

vi. *Failure to Comply with an Individual Responsibility Plan:*

1=Yes.

2=No.

vii. *Other Sanction:*

1=Yes.

2=No.

b. *Recoupment of Prior Overpayment:*

Enter the total dollar value of reduction in assistance due to recoupment of a prior overpayment.

c. *Other:*

i. *Total Dollar Amount of Reductions due to Other Reasons (exclude amounts for*

sanctions and recoupment): Enter the total dollar value of reduction in assistance due to reasons other than sanctions and recoupment.

ii. *Family Cap:*

1=Yes.

2=No.

iii. *Reduction Based on Family Moving into State From Another State:*

1=Yes.

2=No.

iv. *Reduction Based on Length of Receipt of Assistance:*

1=Yes.

2=No.

v. *Other, Non-sanction:*

1=Yes.

2=No.

27. *Waiver Evaluation Experimental and Control Groups:*

Guidance: If this data element is not applicable to your State (Tribe), either code this element "9" or leave this data element blank. In connection with waivers that are approved to allow States to implement Welfare Reform Demonstrations, a State assigned a portion of its cases to control groups (subject to the provisions of the regular, statutory AFDC program as defined by prior law) and experimental groups (subject to the provisions of the regular, statutory AFDC program as defined by prior law as modified by waivers). A State may choose, for the purpose of completing impact analyses, to maintain applicable control and experimental group treatment policies as they were implemented under their welfare reform demonstration (including prior law policies not modified by waivers), even if such policies are inconsistent with TANF. However, cases not assigned to an experimental or control group, but subject to waiver policies in accordance with terms and conditions of the waiver approval, may not apply prior law policies inconsistent with TANF unless such policies are specifically linked to approved waivers. When a State continues waivers, but does not maintain experimental and control groups for impact evaluation purposes, all cases in the demonstration site will be treated as cases subject to waiver policies in accordance with the terms and conditions regardless of their original assignment as control group cases (i.e., prior law policies may only apply to the extent they are specially linked to approved waivers and former control group cases will now be subject to waiver policies.)

Instruction: Enter the one-digit code that indicates the family's waiver evaluation case status.

1=Control group case (for impact analysis purposes).

2=Experimental group case.

3=Other cases subject to waiver policies.

9=Not applicable (no waivers apply to this case).

28. *Is the TANF Family Exempt from the Federal Time-Limit Provisions:*

Guidance: Under TANF rules, an eligible family that does not include a recipient who is an adult head-of-household, a spouse of the head-of-household, or a minor child head-of-household who has received federally-funded assistance for 60 countable months may continue to receive assistance. A

countable month is a month of assistance for which the adult head-of-household, the spouse of the head-of-household, or the minor child head-of-household is not exempt from the Federal time-limit provisions. TANF rules provide for two categories of exceptions. Certain families are exempt from the accrual of months of assistance (i.e., the clock is not ticking). Certain families with an adult head-of-household, a spouse of a head-of-household, or minor child head-of-household who has received 60 countable months of assistance may be exempt from termination of assistance. Exemptions from termination of assistance include a hardship exemption that allows up to 20% of the families to receive assistance beyond the 60-month time limit. In lieu of the 20% hardship exemptions, States with prior-approved welfare reform waivers may choose to employ extension policies prescribed under their waivers.

Instruction: If the TANF family has no exemption from the Federal five-year time limit, enter code "01." If the TANF family does not include an adult head-of-household, a spouse of the head-of-household, or a minor child head-of-household who has received federally-funded assistance for 60 countable months or is otherwise exempt from accrual of months of assistance or termination of assistance under the Federal five-year time limit for the reporting month, enter "02." If the TANF family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has not received federally-funded assistance for 60 countable months and the family is exempt from the accrual of months of assistance, enter "03," "04," or "05," whichever is appropriate. If the TANF family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has received assistance for 60 countable months and the family is exempt from termination of assistance, enter code "06" "07," "08," "09," "10," or "11," whichever is appropriate.

01=Family is not exempt from Federal time limit.

Family does not include an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has received federally-funded assistance for 60 countable months:

02=Yes, family is exempt from accrual of months and termination of assistance under the Federal five-year time limit for the reporting month because no adult head-of-household, a spouse of the head-of-household, or minor child head-of-household in the eligible family is receiving assistance.

Family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household, but has accrued less than 60 months of assistance:

03=Yes, family is exempt from accrual of months under the Federal five-year time limit for the reporting month because assistance to family is funded entirely from State-only funds.

04=Yes, family is exempt from accrual of months under the Federal five-year time limit for the reporting month because the family is living in Indian country or an Alaskan native

village, where at least 50 percent of the adults living in the Indian country or Alaskan native village are not employed.

05=Yes, family is exempt from accrual of months under the Federal five-year time limit for the reporting month based on an approved welfare reform waiver policy.

Family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has received federally-funded assistance for 60 countable months:

06=Yes, family is exempt from termination of assistance under the Federal five-year time limit for the reporting month because assistance to the family is funded entirely from State-only funds.

07=Yes, family is exempt from termination of assistance under the Federal five-year time limit for the reporting month due to a hardship exemption, battery, or extreme cruelty.

08=Yes, family is exempt from termination of assistance under State policy for the reporting month based on a federally recognized good cause domestic violence waiver of time limits.

09=Yes, family is exempt from termination of assistance under the Federal five-year time limit for the reporting month because the adult head-of-household, the spouse of the head-of-household, or minor child head-of-household is living in Indian country or an Alaskan native village, where at least 50 percent of whose adults are not employed.

10=Yes, family (including adults) is exempt from termination of assistance under the Federal five-year time limit for the reporting month in accordance with extension policies prescribed under approved welfare reform waivers.

11=Yes, the children in the family are receiving assistance beyond the 60 countable months and the family is exempt from termination of assistance under the Federal five-year time limit for the reporting month in accordance with extension policies prescribed under approved welfare reform waivers (i.e., under an adult-only time limit).

29. *Is the TANF Family A New Child-Only Family?:*

Guidance: A child-only family is a TANF family that does not include an adult or a minor child head-of-household who is receiving TANF assistance. For purposes of this data element, a new child-only family is a TANF family that: (a) has received TANF assistance for at least two months (i.e., the reporting month and the month prior to the reporting month); (b) received benefits in the prior month, but not as a child-only case; and (c) is a child-only family for the reporting month. All other families—including those that are not a child-only case during the reporting month—get coded as "not a new-child-only family," i.e., as code 2.

Instructions: If the TANF family is a new child-only family, enter code "1." Otherwise, enter code "2."

1=Yes, a new child-only family.

2=No, not a new child-only family.

Person-Level Data

Person-level data has two sections: (1) The adult and minor child head-of-household characteristic section and (2) the child

characteristics section. Section 419 of the Act defines adult and minor child. An adult is an individual that is not a minor child. A minor child is an individual who (a) has not attained 18 years of age or (b) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

Detailed data elements must be reported on all individuals unless, for a specific data element, the instructions explicitly give States (Tribes) an option to not report for a specific group of individuals.

Adult and Minor Child Head-of-Household Characteristics

This section allows for coding up to six adults (or a minor child who is either a head-of-household or married to the head-of-household and up to five adults) in the TANF family. A minor child who is either a head-of-household or married to the head-of-household should be coded as an adult and will hereafter be referred to as a "minor child head-of-household." For each adult (or minor child head-of-household) in the TANF family, complete the adult characteristics section. A noncustodial parent is defined in section 260.30 as a parent who lives in the State and does not live with his/her child(ren). The State must report information on the noncustodial parent if the noncustodial parent: (1) Is receiving assistance as defined in § 260.31; (2) is participating in work activities as defined in section 407(d) of the Act; or (3) has been designated by the State as a member of a family receiving assistance.

The State has the option to count a family with a noncustodial parent receiving assistance as a two-parent family for work participation rate purposes. As indicated below, reporting for certain specified data elements in this section is optional for certain individuals (whose family affiliation code is a 2, 3, or 5).

If there are more than six adults (or a minor child head-of-household and five adults) in the TANF family, use the following order to identify the persons to be coded: (1) The head-of-household; (2) parents in the eligible family receiving assistance; (3) other adults in the eligible family receiving assistance; (4) parents not in the eligible family receiving assistance; (5) caretaker relatives not in the eligible family receiving assistance; and (6) other persons whose income or resources count in determining eligibility for or amount of assistance of the eligible family receiving assistance, in descending order from the person with the most income to the person with least income.

30. Family Affiliation:

Guidance: This data element is used both for (1) The adult and minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for adults.

Instruction: Enter the one-digit code that shows the adult's (or minor child head-of-household's) relation to the eligible family receiving assistance.

1=Member of the eligible family receiving assistance.

Not in eligible family receiving assistance, but in the household:

- 2=Parent of minor child in the eligible family receiving assistance.
- 3=Caretaker relative of minor child in the eligible family receiving assistance.
- 4=Minor sibling of child in the eligible family receiving assistance.
- 5=Person whose income or resources are considered in determining eligibility for or amount of assistance for the eligible family receiving assistance.

31. Noncustodial Parent Indicator:

Guidance: A noncustodial parent is defined in section 260.30 as a parent who lives in the State and does not live with his/her child(ren). The State must report information on the noncustodial parent if the noncustodial parent: (1) Is receiving assistance as defined in § 260.31; (2) is participating in work activities as defined in section 407(d) of the Act; or (3) has been designated by the State as a member of a family receiving assistance.

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) noncustodial parent status.

- 1=Yes, a noncustodial parent.
- 2=No.

32. Date of Birth: Enter the eight-digit code for date of birth for the adult (or minor child head-of-household) under the State (Tribal) TANF Program in the format YYYYMMDD. If the adult's (or minor child head-of-household's) date of birth is unknown and the family affiliation code is not "1," enter the code "99999999".

33. Social Security Number: Enter the nine-digit Social Security Number for the adult (or minor child head-of-household) in the format nnnnnnnn. If the social security number is unknown and the family affiliation code is not "1," enter "999999999".

34. Race/Ethnicity:

Instruction: To allow for the multiplicity of race/ethnicity, please enter the one-digit code for each category of race and ethnicity of the TANF adult (or minor child head-of-household). Reporting of this data element is optional for individuals whose family affiliation code is 5.

Ethnicity:

- a. Hispanic or Latino:
- 1=Yes, Hispanic or Latino.
- 2=No.

Race:

- b. American Indian or Alaska Native:
- 1=Yes, American Indian or Alaska Native.
- 2=No.
- c. Asian:
- 1=Yes, Asian.
- 2=No.
- d. Black or African American:
- 1=Yes, Black or African American.
- 2=No.
- e. Native Hawaiian or Other Pacific

Islander:

- 1=Yes, Native Hawaiian or Pacific Islander.
- 2=No.
- f. White:
- 1=Yes, White.
- 2=No.

35. Gender: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) gender:

- 1=Male.

2=Female.

36. Receives Disability Benefits: The Act specifies five types of disability benefits. For each type of disability benefits, enter the one-digit code that indicates whether or not the adult (or minor child head-of-household) received the benefit.

a. **Receives Federal Disability Insurance Benefits Under the Social Security OASDI Program (Title II of the Social Security Act):**

- 1=Yes, received Federal disability insurance.
- 2=No.

b. **Receives Benefits Based on Federal Disability Status Under Non-Social Security Act Programs:** These programs include Veteran's disability benefits, Worker's disability compensation, and Black Lung Disease disability benefits.

1=Yes, received benefits based on Federal disability status.

2=No.

c. **Receives Aid to the Permanently and Totally Disabled Under Title XIV-APDT of the Social Security Act:**

1=Yes, received aid under Title XIV-APDT.

2=No.

d. **Receives Aid to the Aged, Blind, and Disabled Under Title XVI-AABD of the Social Security Act:**

1=Yes, received aid under Title XVI-AABD.

2=No.

e. **Receives Supplemental Security Income Under Title XVI-SSI of the Social Security Act:**

- 1=Yes, received aid under Title XVI-SSI.
- 2=No.

37. Marital Status: Enter the one-digit code for the adult's (or minor child head-of-household's) marital status for the reporting month. Reporting of this data element is optional for individuals whose family affiliation code is 5.

- 1=Single, never married.
- 2=Married, living together.
- 3=Married, but separated.
- 4=Widowed.
- 5=Divorced.

38. Relationship to Head-of-Household:

Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for adults.

Instruction: Enter the two-digit code that shows the adult's relationship (including by marriage) to the head of the household, as defined by the Food Stamp Program or as determined by the State (Tribe) (i.e., the relationship to the principal person of each person living in the household). If minor child head-of-household, enter code "01."

- 01=Head-of-household.
- 02=Spouse.
- 03=Parent.
- 04=Daughter or son.
- 05=Stepdaughter or stepson.
- 06=Grandchild or great grandchild.
- 07=Other related person (brother, niece, cousin).
- 08=Foster child.
- 09=Unrelated child.
- 10=Unrelated adult.

39. Parent With Minor Child in the Family:

Guidance: A parent with a minor child in the family may be a natural parent, adoptive parent, or step-parent of a minor child in the family. Reporting of this data element is optional for individuals whose family affiliation code is 3 or 5.

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) parental status.

1=Yes, a parent with a minor child in the family and used in two-parent participation rate.

2=Yes, a parent with a minor child in the family, but not used in two-parent participation rate.

3=No.

40. Needs of a Pregnant Woman: Some States (Tribes) consider the needs of a pregnant woman in determining the amount of assistance that the TANF family receives. If the adult (or minor child head-of-household) is pregnant and the needs associated with this pregnancy are considered in determining the amount of assistance for the reporting month, enter a "1" for this data element. Otherwise enter a "2" for this data element. This data element is applicable only for individuals whose family affiliation code is 1.

1=Yes, additional needs associated with pregnancy are considered in determining the amount of assistance.

2=No.

41. Educational Level: Enter the two-digit code to indicate the highest level of education attained by the adult (or minor child head-of-household). Unknown is not an acceptable code for individuals whose family affiliation code is "1". Reporting of this data element is optional for individuals whose family affiliation code is 5.

01-11=Grade level completed in primary/secondary school including secondary level vocational school or adult high school.

12=High school diploma, GED, or National External Diploma Program.

13=Awarded Associate's Degree.

14=Awarded Bachelor's Degree.

15=Awarded graduate degree (Master's or higher).

16=Other credentials (degree, certificate, diploma, etc.).

98=No formal education.

99=Unknown.

42. Citizenship/Alienage:

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) citizenship/alienage. Unknown is not an acceptable code for individuals whose family affiliation code is "1".

Reporting of this data element is optional for individuals whose family affiliation code is 5.

1=U.S. citizen, including naturalized citizens.

2=Qualified alien.

9=Unknown.

43. Cooperation with Child Support: Enter the one-digit code that indicates if the adult (or minor child head-of-household) has cooperated with child support. Reporting of this data element is optional for individuals whose family affiliation code is 5.

1=Yes, adult (or minor child head-of-household) has cooperated with child support.

2=No.

9=Not applicable.

44. *Number of Months Countable toward*

Federal Time Limit: Enter the number of months countable toward the adult's (or minor child head-of-household's) Federal five-year time limit based on the cumulative amount of time the individual has received Federal TANF assistance received from both the State (Tribe) and other States or Tribes. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, or 5.

45. *Number of Countable Months Remaining Under State's (Tribe's) Time Limit:*

Enter the number of months that remain countable toward the adult's (or minor child head-of-household's) State (Tribal) time limit. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, or 5.

46. *Is Current Month Exempt from the State's (Tribe's) Time Limit:* Enter the one-digit code that indicates the adult's (or minor child head-of-household's) current exempt status from State's (Tribe's) time limit. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, or 5.

1=Yes, adult (or minor child head-of-household) is exempt from the State's (Tribe's) time limit for the reporting month.

2=No.

47. *Employment Status:* Enter the one-digit code that indicates the adult's (or minor child head-of-household's) employment status. Reporting of this data element is optional for individuals whose family affiliation code is 5.

1=Employed.

2=Unemployed, looking for work.

3=Not in labor force (i.e., unemployed, not looking for work, includes discouraged workers).

48. *Work Participation Status:*

Guidance: This item is used in calculating the work participation rates. The following two definitions are used in reporting this item and in determining which families are included in and excluded from the calculations.

"Disregarded" from the participation rate means the TANF family is not included in the calculation of the work participation rate.

"Exempt" means that the individual will not be penalized for failure to engage in work (i.e., good cause exception); however, the TANF family is included in the calculation of the work participation rate.

A State is not required to disregard all families that could be disregarded. For example, a family with a single custodial parent with child under 12 months (and the parent has not been disregarded for 12 months) may be disregarded. However, if the single custodial parent is meeting the work requirements, the State may want to include the family in its work participation rate. In this situation, the State should use work participation status code "19" rather than code "01".

Instruction: Enter the two-digit code that indicates the adult's (or minor child head-of-household's) work participation status. If the State chooses to include the noncustodial parent in the two-parent work participation

rate, the State must code the data element "Type of Family for Work Participation Rate" with a "2" and enter the applicable code for this data element. If a State chooses to exclude the noncustodial parent from the two-parent work participation rate, the State must code the data element "Type of Family for Work Participation" with a "1" and code the data element "Work Participation Status" for the noncustodial parent with a "99". This data element is not applicable for individuals whose family affiliation code is 2, 3, 4, or 5 (i.e., use code "99" or leave blank).

01=Disregarded from participation rate, single custodial parent with child under 12 months.

02=Disregarded from participation rate because all of the following apply: required to participate, but not participating; and sanctioned for the reporting month, but not sanctioned for more than 3 months within the preceding 12-month period (Note, this code should be used only in a month for which the family is disregarded from the participation rate. While one or more adults may be sanctioned in more than 3 months within the preceding 12-month period, the family may not be disregarded from the participation rate for more than 3 months within the preceding 12-month period).

03=Disregarded, family is part of an ongoing research evaluation (as a member of a control group or experimental group) approved under Section 1115 of the Social Security Act.

04=Disregarded from the work participation rate based on an inconsistency under an approved welfare reform waiver that exempts the family from participation.

05=Disregarded from participation rate, based on participation in a Tribal Work Program, and State has opted to exclude all Tribal Work Program participants from its work participation rate.

06=Exempt, single custodial parent with child under age 6 and child care unavailable.

07=Exempt, disabled (not using an extended definition under a State waiver).

08=Exempt, caring for a severely disabled child (not using an extended definition under a State waiver).

09=Exempt, under a federally recognized good cause domestic violence waiver.

10=Exempt, State waiver.

11=Exempt, other.

12=Required to participate, but not participating; sanctioned for the reporting month; and sanctioned for more than 3 months within the preceding 12-month period.

13=Required to participate, but not participating; and sanctioned for the reporting month, but not sanctioned for more than 3 months within the preceding 12-month period.

14=Required to participate, but not participating; and not sanctioned for the reporting month.

15=Deemed engaged in work—single teen head-of-household or married teen who maintains satisfactory school attendance.

16=Deemed engaged in work—single teen head-of-household or married teen who participates in education directly related to employment for an average of at least 20 hours per week during the reporting month.

17=Deemed engaged in work—parent or relative (who is the only parent or caretaker relative in the family) with child under age 6 and parent engaged in work activities for at least 20 hours per week.

18=Required to participate and participating, but not meeting minimum participation requirements.

19=Required to participate and meeting minimum participation requirements.

99=Not applicable (e.g., person living in household and whose income or resources are counted in determining eligibility for or amount of assistance of the family receiving assistance, but not in eligible family receiving assistance or noncustodial parent that the State opted to exclude in determining participation rate).

Adult Work Participation Activities

Guidance: To calculate the average number of hours per week of participation in a work activity, add the number of hours of participation across all weeks in the month and divide by the number of weeks in the month. Round to the nearest whole number.

Some weeks have days in more than one month. Include such a week in the calculation for the month that contains the most days of the week (e.g., the week of July 27–August 2, 1997 would be included in the July calculation). Acceptable alternatives to this approach must account for all weeks in the fiscal year. One acceptable alternative is to include the week in the calculation for whichever month the Friday falls (i.e., the JOBS approach.) A second acceptable alternative is to count each month as having 4.33 weeks.

During the first or last month of any spell of assistance, a family may happen to receive assistance for only part of the month. If a family receives assistance for only part of a month, the State (Tribe) may count it as a month of participation if an adult (or minor child head-of-household) in the family (both adults, if they are both required to work) is engaged in work for the minimum average number of hours for any full week(s) that the family receives assistance in that month.

Special Rules: Each adult (or minor child head-of-household) has a life-time limit for vocational educational training. Vocational educational training may only count as a work activity for a total of 12 months. For any adult (or minor child head-of-household) that has exceeded this limit, enter "0" as the average number of hours per week of participation in vocational education training, even if (s)he is engaged in vocational education training. The additional participation in vocational education training may be coded under "Other."

The exception to the above 12-month rule may be a State that received a waiver that is inconsistent with the provision limiting vocational education training. In this case the State would adhere to the terms and conditions of the waiver.

Limitations: The four limitations concerning job search and job readiness are: (1) Job search and job readiness assistance only count for 6 weeks in any fiscal year; (2) An individual's participation in job search and job readiness assistance counts for no more than 4 consecutive weeks; (3) If the

State's (Tribe's) total unemployment rate for a fiscal year is at least 50 percent greater than the United States' total unemployment rate for that fiscal year or the State is a needy State (within the meaning of section 403 (b)(6)), then an individual's participation in job search or job readiness assistance counts for up to 12 weeks in that fiscal year; and (4) A State may count 3 or 4 days of job search and job readiness assistance during a week as a full week of participation, but only once for any individual.

For each week in which an adult (or minor child head-of-household) exceeds any of these limitations, use "0" as the number of hours in calculating the average number of hours per week of job search and job readiness activities, even if (s)he may be engaged in job search or job readiness activities.

If a State is operating its TANF Program under a waiver that permits broader rules for participation in job search and job readiness training, the TANF rules apply. Any additional participation in job search and job readiness training permitted under the waiver rules should be coded under data element #61 "Additional Work Activities Permitted Under Waiver Demonstration."

Instruction: For each work activity in which the adult (or minor child head-of-household) participated during the reporting month, enter the average number of hours per week of participation, except as noted above. For each work activity in which the adult (or minor child head-of-household) did not participate, enter zero as the average number of hours per week of participation. These work activity data elements are applicable only for individuals whose family affiliation code is 1.

49. *Unsubsidized Employment.*

50. *Subsidized Private-Sector Employment.*

51. *Subsidized Public-Sector Employment.*

52. *Work Experience.*

53. *On-the-job Training.*

54. *Job Search and Job Readiness Assistance.*

Instruction: As noted above, the statute limits participation in job search and job readiness training in four ways. Enter, in this data element, the average number of hours per week of participation in job search and job readiness training that are within the statutory limitations.

Some State waivers permit participation in job search and job readiness training beyond the statutory limits. Do not count hours of participation in job search and job readiness training beyond the TANF limit where allowed by waivers in this item. Instead, count the hours of participation beyond the TANF limit in the item "Additional Work Activities Permitted Under Waiver Demonstration." Otherwise, count the additional hours of work participation under the work activity "Other Work Activities."

55. *Community Service Programs.*

56. *Vocational Educational Training:*

Instruction: As noted above, the statute contains special rules limiting an adult's (or minor child head-of-household's) participation in vocational educational training to twelve months. Enter, in this data element, the average number of hours per week of participation in vocational educational training that are within the statutory limits.

Some State waivers permit participation in vocational educational training beyond the statutory limits. Do not count hours of participation in vocational educational training beyond the TANF 12 month life-time limit where allowed by waivers in this item. Instead, count the hours of participation beyond the TANF limit in the item "Additional Work Activities Permitted Under Waiver Demonstration." Otherwise, count the additional hours of work participation under the work activity "Other Work Activities."

57. *Job Skills Training Directly Related to Employment.*

58. *Education Directly Related to Employment for Individuals with no High School Diploma or Certificate of High School Equivalency.*

59. *Satisfactory School Attendance for Individuals with No High School Diploma or Certificate of High School Equivalency.*

60. *Providing Child Care Services to an Individual Who Is Participating in a Community Service Program.*

61. *Additional Work Activities Permitted Under Waiver Demonstration:*

Instruction: Some States' waivers permit participation in work activities that are not permitted under the statute. Enter the adult's (or minor child head-of-household's) average number of hours per week of participation in such work activities in this data element. For example, some State waivers permit participation in vocational educational training and job search beyond the TANF statutory limits. Count hours of participation in these activities beyond the TANF limits where allowed by the State waivers in this item. Otherwise, count the additional hours of work participation in the activity "Other Work Activities."

62. *Other Work Activities:*

Guidance: This data element collects information on work activities provided that are not permitted under a State waiver and are beyond the requirements of the statute. Reporting on this data element is optional. States may want to demonstrate their additional efforts at helping individuals become self-sufficient even though these activities are not considered in the calculation of the work participation rates.

63. *Required Hours of Work Under Waiver Demonstration:*

Guidance: In approving waivers, ACF specified hours of participation in several instances. One type of hour change in the welfare reform demonstrations was the recognition, as part of a change in work activities and/or exemptions, that the hours individuals worked should be consistent with their abilities and in compliance with an employability or personal responsibility plan or other criteria in accordance with the waiver terms and conditions. If the hour requirement in this case was part of a specific work component waiver, the State could show inconsistency and could use the waiver hours instead of the hours in section 407.

Instruction: If applicable, enter the two-digit number that represents the average number of hours per week of work participation required of the individual under a work component waiver. Otherwise, leave blank or enter "0." This data element

is not applicable for individuals whose family affiliation code is 2, 3, 4, or 5.

64. *Amount of Earned Income:* Enter the dollar amount of the adult's (or minor child head-of-household's) earned income for the reporting month or for the month used to budget for the reporting month. Include wages, salaries, and other earned income in this item.

65. *Amount of Unearned Income:* Unearned income has five categories. For each category of unearned income, enter the dollar amount of the adult's (or minor child head-of-household's) unearned income for the reporting month or for the month used to budget for the reporting month.

a. *Earned Income Tax Credit (EITC):*

Guidance: Earned Income Tax Credit is a refundable Federal, State, or local tax credit for families and dependent children. EITC payments are received monthly (as advance payment through the employer), annually (as a refund from IRS), or both.

Instruction: Enter the total dollar amount of the Earned Income Tax Credit actually received, whether received as an advance payment or a single payment (e.g., tax refund), by the adult (or minor child head-of-household) during the reporting month or the month used to budget for the reporting month. If the State counts the EITC as a resource, report it here as unearned income in the month received (i.e., reporting month or budget month, whichever the State is using). If the State assumes an advance payment is applied for and obtained, only report what is actually received for this item.

b. *Social Security:* Enter the dollar amount of Social Security benefits that the adult in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

c. *SSI:* Enter the dollar amount of SSI that the adult in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

d. *Worker's Compensation:* Enter the dollar amount of Worker's Compensation that the adult in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

e. *Other Unearned Income:*

Guidance: Other unearned income includes (but is not limited to) RSDI benefits, Veterans benefits, Unemployment Compensation, other government benefits, a housing subsidy, a contribution or income-in-kind, deemed income, Public Assistance or General Assistance, educational grants/scholarships/loans, and other. Do not include EITC, Social Security, SSI, Worker's Compensation, value of food stamp assistance, the amount of a Child Care subsidy, or the amount of Child Support.

Instruction: Enter the dollar amount of other unearned income that the adult in the State TANF family has received for the reporting month or for the month used to budget for the reporting month.

Child Characteristics

This section allows for coding the child characteristics for up to ten children in the TANF family. A minor child head-of-

household should be coded as an adult, not as a child. The youngest child should be coded as the first child in the family, the second youngest child as the second child, and so on.

If there are more than ten children in the TANF family, use the following order to identify the persons to be coded: (1) children in the eligible family receiving assistance in order from youngest to oldest; (2) minor siblings of child in the eligible family receiving assistance from youngest to oldest; and (3) any other children.

66. Family Affiliation:

Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for children.

Instruction: Enter the one-digit code that shows the child's relation to the eligible family receiving assistance.

1=Member of the eligible family receiving assistance.

Not in eligible family receiving assistance, but in the household

2=Parent of minor child in the eligible family receiving assistance.

3=Caretaker relative of minor child in the eligible family receiving assistance.

4=Minor sibling of child in the eligible family receiving assistance.

5=Person whose income or resources are considered in determining eligibility for or amount of assistance for the eligible family receiving assistance.

67. Date of Birth: Enter the eight-digit code for date of birth for this child under the State (Tribal) TANF Program in the format YYYYMMDD. If the child's date of birth is unknown and the family affiliation code is not "1," enter the code "99999999".

68. Social Security Number: Enter the nine-digit Social Security Number for the child in the format nnnnnnnnn. Reporting of this data element is optional for individuals whose family affiliation code is 4. If the Social Security number is unknown and the family affiliation code is not "1," enter "999999999".

69. Race/Ethnicity

Instruction: To allow for the multiplicity of race/ethnicity, please enter the one-digit code for each category of race and ethnicity of the TANF child. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

Ethnicity:

a. Hispanic or Latino:

1=Yes, Hispanic or Latino.

2=No.

Race:

b. American Indian or Alaska Native:

1=Yes, American Indian or Alaska Native.

2=No.

c. Asian:

1=Yes, Asian.

2=No.

d. Black or African American:

1=Yes, Black or African American.

2=No.

e. Native Hawaiian or Other Pacific

Islander:

1=Yes, Native Hawaiian or Pacific Islander.

2=No.

f. White:

1=Yes, White.

2=No.

70. Gender: Enter the one-digit code that indicates the child's gender.

1=Male.

2=Female.

71. Receives Disability Benefits: The Act specifies five types of disability benefits. Two of these types of disability benefits are applicable to children. For each type of disability benefits, enter the one-digit code that indicates whether or not the child received the benefit.

a. *Receives Benefits Based on Federal Disability Status Under Non-Social Security Act Programs:* These programs include Veteran's disability benefits, Worker's disability compensation, and Black Lung Disease disability benefits.

1=Yes, received benefits based on Federal disability status.

2=No.

b. *Receives Supplemental Security Income Under Title XVI-SSI of the Social Security Act:*

1=Yes, received aid under Title XVI-SSI.

2=No.

72. Relationship to Head-of-Household:
Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for children.

Instruction: Enter the two-digit code that shows the child's relationship (including by marriage) to the head of the household, as defined by the Food Stamp Program or as determined by the State (Tribe), (i.e., the relationship to the principal person of each person living in the household.)

01=Head-of-household.

02=Spouse.

03=Parent.

04=Daughter or son.

05=Stepdaughter or stepson.

06=Grandchild or great grandchild.

07=Other related person (brother, niece, cousin).

08=Foster child.

09=Unrelated child.

10=Unrelated adult.

73. Parent With Minor Child In the Family:

Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Code "1" is not applicable for children. A parent with a minor child in the family may be a natural parent, adoptive parent, or step-parent of a minor child in the family. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

Instruction: Enter the one-digit code that indicates the child's parental status.

1=Yes, a parent with a minor child in the family and used in two-parent participation rate.

2=Yes, a parent with a minor child in the family, but not used in two-parent participation rate.

3=No.

74. Educational Level: Enter the two-digit code to indicate the highest level of

education attained by the child. Unknown is not an acceptable code for individuals whose family affiliation code is "1". Reporting of this data element is optional for individuals whose family affiliation code is 4.

01-11=Grade level completed in primary/secondary school including secondary level vocational school or adult high school.

12=High school diploma, GED, or National External Diploma Program.

13=Awarded Associate's Degree.

14=Awarded Bachelor's Degree.

15=Awarded graduate degree (Master's or higher).

16=Other credentials (degree, certificate, diploma, etc.).

98=No formal education.

99=Unknown.

75. Citizenship/Alienage:

Instruction: Enter the one-digit code that indicates the child's citizenship/alienage.

Unknown is not an acceptable code for an individual whose family affiliation code is "1". Reporting of this data element is optional for individuals whose family affiliation code is 4.

1=U.S. citizen, including naturalized citizens.

2=Qualified alien.

9=Unknown.

76. Amount of Unearned Income:

Unearned income has two categories. For each category of unearned income, enter the dollar amount of the child's unearned income.

a. *SSI:* Enter the dollar amount of SSI that the child in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

b. *Other Unearned Income:* Enter the dollar amount of other unearned income that the child in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

Appendix B—TANF Data Report—Section Two Disaggregated Data Collection for Families No Longer Receiving Assistance under the TANF Program

Instructions and Definitions

General Instruction: The State agency or Tribal grantee should collect and report data for each data element. The data must be complete (unless explicitly instructed to leave the field blank) and accurate (i.e., correct).

An "Unknown" code may appear only on four data elements (#15 Date of Birth, #16 Social Security Number, #24 Educational Level, and #25 Citizenship/Alienage). For these data elements, unknown is not an acceptable code for individuals who are members of the eligible family (i.e., family affiliation code "1"). States are not expected to track closed cases in order to collect information on families for months after the family has left the rolls. Rather, States are to report based on the last month of assistance.

1. *State FIPS Code:* Enter your two-digit State code from the following listing. These codes are the standard codes used by the National Institute of Standards and Technology. Tribal grantees should leave this field blank.

State	Code
Alabama	01
Alaska	02
American Samoa	60
Arizona	04
Arkansas	05
California	06
Colorado	08
Connecticut	09
Delaware	10
Dist. of Columbia	11
Florida	12
Georgia	13
Guam	66
Hawaii	15
Idaho	16
Illinois	17
Indiana	18
Iowa	19
Kansas	20
Kentucky	21
Louisiana	22
Maine	23
Maryland	24
Massachusetts	25
Michigan	26
Minnesota	27
Mississippi	28
Missouri	29
Montana	30
Nebraska	31
Nevada	32
New Hampshire	33
New Jersey	34
New Mexico	35
New York	36
North Carolina	37
North Dakota	38
Ohio	39
Oklahoma	40
Oregon	41
Pennsylvania	42
Puerto Rico	44
Rhode Island	42
South Carolina	45
South Dakota	46
Tennessee	47
Texas	48
Utah	49
Vermont	50
Virgin Islands	78
Virginia	51
Washington	53
West Virginia	54
Wisconsin	55
Wyoming	56

the year and month for which the data are being reported.
 5. **Stratum:**
Guidance: All families selected in the sample from the same stratum must be assigned the same stratum code. Valid stratum codes may range from "00" to "99."
 States and Tribes with stratified samples should provide the ACF Regional Office with a listing of the numeric codes utilized to identify any stratification. If a State or Tribe uses a non-stratified sample design or opts to provide data for its entire caseload, enter the same stratum code any two-digit number for each family.
Instruction: Enter the two-digit stratum code.

Family-Level Data

Definition: For reporting purposes, the TANF family means (a) all individuals receiving assistance as part of a family under the State's TANF Program; and (b) the following additional persons living in the household, if not included under (a) above:
 (1) Parent(s) or caretaker relative(s) of any minor child receiving assistance;
 (2) Minor siblings (including unborn children) of any child receiving assistance; and
 (3) Any person whose income or resources would be counted in determining the family's eligibility for or amount of assistance.

6. **Case Number—TANF:**
Guidance: If the case number is less than the allowable eleven characters, a State may use lead zeros to fill in the number.
Instruction: Enter the number that was assigned by the State agency or Tribal grantee to uniquely identify the TANF family.

7. **ZIP Code:** Enter the five-digit ZIP code for the family's place of residence for the reporting month.

8. **Disposition:** Enter one of the following codes for each TANF family.
 1=Data collection completed.
 2=Not subject to data collection/listed in error.

9. **Reason for Closure:**
Guidance: A closed case is a family whose assistance was terminated for the reporting month, but received assistance under the State's TANF Program in the prior month. A temporarily suspended case is not a closed case. If there is more than one applicable reason for closure, determine the principal (i.e., most relevant) reason. If two or more reasons are equally relevant, use the reason with the lowest numeric code. For example, when an adult marries, the income and resources of the new spouse are considered in determining eligibility. If, at the time of the marriage, the family becomes ineligible because of the addition of the spouse's income and/or resources, the case closure should be coded using code "2". If the family did not become ineligible based on the income and resources at the time of the marriage, but rather due to an increase in earnings subsequent to the marriage, then the case closure should be coded using code "1".
Instruction: Enter the two-digit code that indicates the reason for the TANF family no longer receiving assistance.

01=Employment and/or excess earnings.

02=Marriage.
 03=Federal five-year time limit.
Sanctions:
 04=Work-related sanction.
 05=Child support sanction.
 06=Teen parent failing to meet school attendance requirement.
 07=Teen parent failing to live in an adult setting.
 08=Failure to finalize an individual responsibility plan (e.g., did not sign plan).
 09=Failure to meet individual responsibility plan provision or other behavioral requirements (e.g., immunize a minor child, attend parenting classes).
State (Tribal) Policies:
 10=State (Tribal) time limit, if different than Federal.
 11=Child support collected.
 12=Excess unearned income (exclusive of child support collected).
 13=Excess resources.
 14=Youngest child too old to qualify for assistance.
 15=Minor child absent from the home for a significant time period.
 16=Failure to appear at eligibility/redetermination appointment, submit required verification materials, and/or cooperate with eligibility requirements.
 17=Transfer to separate State MOE program.
Other.
 18=Family voluntarily closes the case.
 99=Other.

10. **Received Subsidized Housing:**
Guidance: Subsidized housing refers to housing for which money was paid by the Federal, State, or local government or through a private social service agency to the family or to the owner of the housing to assist the family in paying rent. Two families sharing living expenses does not constitute subsidized housing.

Instruction: Enter the one-digit code that indicates whether or not the TANF family received subsidized housing for the reporting month (or for the last month of TANF assistance).

1=Public housing.
 2=Rent subsidy.
 3=No housing subsidy.

11. **Received Medical Assistance:** Enter "1" if, for the reporting month (or for the last month of TANF assistance), any TANF family member was enrolled in Medicaid and, thus eligible to receive medical assistance under the State plan approved under Title XIX or "2" if no TANF family member was enrolled in Medicaid.

1=Yes, enrolled in Medicaid.
 2=No.

12. **Received Food Stamps:** Enter the one-digit code that indicates whether or not the TANF family received food stamp assistance for the reporting month (or for the last month of TANF assistance).

1=Yes, received food stamp assistance.
 2=No.

13. **Received Subsidized Child Care:**
Instruction: If the TANF family received subsidized child care for services in the reporting month (or for the last month of TANF assistance), enter code "1" or "2," whichever is appropriate. Otherwise, enter code "3."

2. **County FIPS Code:** Enter the three-digit code established by the National Institute of Standards and Technology for classification of counties and county equivalents. Codes were devised by listing counties alphabetically and assigning sequentially odd integers; e.g., 001, 003, 005. A complete list of codes is available in Appendix F of the TANF Sampling and Statistical Methods Manual. Tribal grantees should leave this field blank.

3. **Tribal Code:** For Tribal grantees, enter the three-digit Tribal code that represents your Tribe (See Appendix E of the TANF Sampling and Statistical Methods Manual for a complete listing of Tribal Codes). State agencies should leave this field blank.

4. **Reporting Month:** Enter the four-digit year and two-digit month code that identifies

1=Yes, received federally funded (entirely or in part) child care (e.g., receives either TANF, CCDF, SSBG, or other federally funded child care).

2=Yes, received child care funded entirely under a State, Tribal, and/or local program (i.e., no Federal funds used).

3=No.

Person-Level Data

This section allows for coding up to sixteen persons in the TANF family. If there are more than sixteen persons in the TANF family, use the following order to identify the persons to be coded: (1) the head-of-household; (2) parents in the eligible family receiving assistance; (3) children in the eligible family receiving assistance; (4) other adults in the eligible family receiving assistance; (5) parents not in the eligible family receiving assistance; (6) caretaker relatives not in the eligible family receiving assistance; (7) minor siblings of a child in the eligible family; and (8) other persons, whose income or resources count in determining eligibility for or amount of assistance of the eligible family receiving assistance, in descending order from the person with the most income to the person with the least income. As indicated below, reporting for certain specified data elements in this section is optional for certain individuals (whose family affiliation code is a 2, 3, 4, or 5).

14. Family Affiliation:

Instruction: Enter the one-digit code that shows the individual's relation to the eligible family receiving assistance.

1=Member of the eligible family receiving assistance.

Not in eligible family receiving assistance, but in the household:

2=Parent of minor child in the eligible family receiving assistance.

3=Caretaker relative of minor child in the eligible family receiving assistance.

4=Minor sibling of child in the eligible family receiving assistance.

5=Person whose income or resources are considered in determining eligibility for or amount of assistance for the eligible family receiving assistance.

15. *Date of Birth:* Enter the eight-digit code for date of birth for this individual under TANF in the format YYYYMMDD. If the individual's date of birth is unknown and the individual's family affiliation code is not "1," enter the code "99999999".

16. *Social Security Number:* Enter the nine-digit Social Security Number for the individual in the format nnnnnnnnn. If the social security number is unknown and the individual's family affiliation code is not "1," enter "999999999".

17. *Race/Ethnicity:* Instructions: To allow for the multiplicity of race/ethnicity, please enter the one-digit code for each category of race and ethnicity of the TANF individual. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

Ethnicity:

a. Hispanic or Latino:

1=Yes, Hispanic or Latino.

2=No.

b. Race:

c. American Indian or Alaska Native:

1=Yes, American Indian or Alaska Native.

2=No.

d. Asian:

1=Yes, Asian.

2=No.

e. Black or African American:

1=Yes, Black or African American.

2=No.

f. Native Hawaiian or Other Pacific Islander:

1=Yes, Native Hawaiian or Pacific Islander.

2=No.

g. White:

1=Yes, White.

2=No.

18. *Gender:* Enter the one-digit code that indicates the individual's gender.

1=Male.

2=Female.

19. *Received Disability Benefits:*

Instructions: The Act specifies five types of disability benefits. For each type of disability benefits, enter the one-digit code that indicates whether or not the individual received the benefit.

a. *Received Federal Disability Insurance Benefits Under the Social Security OASDI Program (Title II of the Social Security Act):* Enter the one-digit code that indicates the adult received Federal disability insurance benefits for the reporting month (or the last month of TANF assistance). This item is not required to be coded for a child.

1=Yes, received Federal disability insurance.

2=No.

b. *Receives Benefits Based on Federal Disability Status Under Non-Social Security Act Programs:* These programs include Veteran's disability benefits, Worker's disability compensation, and Black Lung Disease disability benefits. Enter the one-digit code that indicates the individual received benefits based on Federal disability status for the reporting month (or the last month of TANF assistance). This data element should be coded for each adult and child with family affiliation code "1".

1=Yes, received benefits based on Federal disability status.

2=No.

c. *Received Aid to the Permanently and Totally Disabled Under Title XIV-APDT of the Social Security Act:* Enter the one-digit code that indicates the adult received aid under a State plan approved under Title XIV for the reporting month (or the last month of TANF assistance). This item is not required to be coded for a child.

1=Yes, received aid under Title XIV-APDT.

2=No.

d. *Received Aid to the Aged, Blind, and Disabled Under Title XVI-AABD of the Social Security Act:* Enter the one-digit code that indicates the adult received aid under a State plan approved under Title XVI-AABD for the reporting month (or the last month of TANF assistance). This item is not required to be coded for a child.

1=Yes, received aid under Title XVI-AABD.

2=No.

e. *Received Supplemental Security Income Under Title XVI-SSI of the Social Security Act:* Enter the one-digit code that indicates

the individual received aid under a State plan approved under Title XVI-SSI for the reporting month (or the last month of TANF assistance). This data element should be coded for each adult and child with family affiliation code "1".

1=Yes, received aid under Title XVI-SSI.

2=No.

20. *Marital Status:* Enter the one-digit code for the marital status of the adult recipient. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

1=Single, never married.

2=Married, living together.

3=Married, but separated.

4=Widowed.

5=Divorced.

21. *Relationship to Head-of-Household:*

Instruction: Enter the two-digit code that shows the individual's relationship (including by marriage) to the head of the household, as defined by the Food Stamp Program or as determined by the State (Tribe), (i.e., the relationship to the principal person of each person living in the household.) If a minor child head-of-household, enter code "01."

01=Head-of-household.

02=Spouse.

03=Parent.

04=Daughter or son.

05=Stepdaughter or stepson.

06=Grandchild or great grandchild.

07=Other related person (brother, niece, cousin).

08=Foster child.

09=Unrelated child.

10=Unrelated adult.

22. *Parent With Minor Child In the Family:* *Guidance:* A parent with a minor child in the family may be a natural parent, adoptive parent, or step-parent of a minor child in the family. Reporting of this data element is optional for individuals whose family affiliation code is 3, 4, or 5.

Instruction: Enter the one-digit code that indicates the individual's parental status.

1=Yes, a parent with a minor child in the family.

2=No.

23. *Needs of a Pregnant Woman:* Some States (Tribes) consider the needs of a pregnant woman in determining the amount of assistance that the TANF family receives. If the individual was pregnant and the needs associated with this pregnancy were considered in determining the amount of assistance for the last month of TANF assistance, enter a "1" for this data element. Otherwise enter a "2" for this data element. This data element is applicable only for individuals whose family affiliation code is 1.

1=Yes, additional needs associated with pregnancy were considered in determining the amount of assistance.

2=No.

24. *Educational Level:* Enter the two-digit code to indicate the highest level of education attained by the individual. Unknown is not an acceptable code for individuals whose family affiliation code is "1". Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

01–11=Grade level completed in primary/secondary school including secondary level vocational school or adult high school.

12=High school diploma, GED, or National External Diploma Program.

13=Awarded Associate's Degree.

14=Awarded Bachelor's Degree.

15=Awarded graduate degree (Master's or higher).

16=Other credentials (degree, certificate, diploma, etc.).

98=No formal education.

99=Unknown.

25. *Citizenship/Alienage:*

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) citizenship/alienage. Unknown is not an acceptable code for an individual whose family affiliation code is "1".

Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

1=U.S. citizen, including naturalized citizens.

2=Qualified alien.

9=Unknown.

26. *Number of Months Countable toward Federal Time Limit:* Enter the number of months countable toward the adult's (or minor child head-of-household's) Federal five-year time limit based on assistance received from (1) the State (Tribe) and (2) other States or Tribes. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, 4, or 5.

27. *Number of Countable Months Remaining Under State's (Tribe's) Time Limit:* Enter the number of months that remain countable toward the adult's (or minor child head-of-household's) State (Tribal) time limit. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, 4, or 5.

28. *Employment Status:* Enter the one-digit code that indicates the adult's (or minor child head-of-household's) employment status. Leave this field blank for other minor children. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

1=Employed.

2=Unemployed, looking for work.

3=Not in labor force (i.e., unemployed, not looking for work, includes discouraged workers).

29. *Amount of Earned Income:* Enter the amount of the adult's (or minor child head-of-household's) earned income for the last month on assistance or for the month used to budget for the last month on assistance.

30. *Amount of Unearned Income:* Enter the dollar amount of the individual's unearned income for the last month on assistance or for the month used to budget for the last month on assistance.

Appendix C—TANF Data Report—Section Three—Aggregated Data Collection for Families Applying for, Receiving, and No Longer Receiving Assistance Under the TANF Program

Instructions and Definitions

General Instruction: The State agency or Tribal grantee is to collect and report data for each data element, unless explicitly instructed to leave the field blank. Monthly

caseload counts (e.g., number of families, number of two-parent families, and number of closed cases) and number of recipients must be unduplicated monthly totals. States and Tribal grantees may use samples to estimate the monthly totals only for data elements #4, #5, #6, #15, #16, and #17.

1. *State FIPS Code:* Enter your two-digit State code. Tribal grantees should leave this field blank.

2. *Tribal Code:* For Tribal grantees only, enter the three-digit Tribal code that represents your Tribe (See Appendix E of the TANF Sampling and Statistical Methods Manual for a complete listing of Tribal Codes). State agencies should leave this field blank.

3. *Calendar Quarter:* The four calendar quarters are as follows:

First quarter—January–March.

Second quarter—April–June.

Third quarter—July–September.

Fourth quarter—October–December.

Enter the four-digit year and one-digit quarter code (in the format YYYYQ) that identifies the calendar year and quarter for which the data are being reported (e.g., first quarter of 1997 is entered as "19971").

Applications

Guidance: The term "application" means the action by which an individual indicates in writing to the agency administering the State (or Tribal) TANF Program his/her desire to receive assistance.

Instruction: All counts of applications should be unduplicated monthly totals.

4. *Total Number of Applications:* Enter the total number of approved and denied applications received for each month of the quarter. For each month in the quarter, the total in this item should equal the sum of the number of approved applications (in item #5) and the number of denied applications (in item #6). The monthly totals for this element may be estimated from samples.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

5. *Total Number of Approved Applications:* Enter the number of applications approved during each month of the quarter. The monthly totals for this element may be estimated from samples.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

6. *Total Number of Denied Applications:* Enter the number of applications denied (or otherwise disposed of) during each month of the quarter. The monthly totals for this element may be estimated from samples.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

Active Cases

For purposes of completing this report, include all TANF eligible cases receiving assistance (i.e., cases funded under the TANF block grant and State MOE funded TANF cases) as cases receiving assistance under the State (Tribal) TANF Program. All counts of families and recipients should be unduplicated monthly totals.

7. *Total Amount of Assistance:* Enter the dollar value of all assistance (cash and non-

cash) provided to TANF families under the State (Tribal) TANF Program for each month of the quarter. Round the amount of assistance to the nearest dollar.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

8. *Total Number of Families:* Enter the number of families receiving assistance under the State (Tribal) TANF Program for each month of the quarter. The total in this item should equal the sum of the number of two-parent families (in item #9), the number of one-parent families (in item #10) and the number of no-parent families (in item #11).

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

9. *Total Number of Two-parent Families:* Enter the total number of 2-parent families receiving assistance under the State (Tribal) TANF Program for each month of the quarter.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

10. *Total Number of One-Parent Families:* Enter the total number of one-parent families receiving assistance under the State (Tribal) TANF Program for each month of the quarter.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

11. *Total Number of No-Parent Families:* Enter the total number of no-parent families receiving assistance under the State (Tribal) TANF Program for each month of the quarter.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

12. *Total Number of Recipients:* Enter the total number of recipients receiving assistance under the State (Tribal) TANF Program for each month of the quarter. The total in this item should equal the sum of the number of adult recipients (in item #13) and the number of child recipients (in item #14).

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

13. *Total Number of Adult Recipients:* Enter the total number of adult recipients receiving assistance under the State (Tribal) TANF Program for each month of the quarter.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

14. *Total Number of Child Recipients:* Enter the total number of child recipients receiving assistance under the State (Tribal) TANF Program for each month of the quarter.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

15. *Total Number of Non-Custodial Parents Participating in Work Activities:* Enter the total number of noncustodial parents participating in work activities (even if not receiving assistance) under the State (Tribal) TANF Program for each month of the quarter. The monthly totals for this element may be estimated from samples.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

16. *Total Number of Births:* Enter the total number of births in families receiving

assistance under the State (Tribal) TANF Program for each month of the quarter. The monthly totals for this element may be estimated from samples.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

17. *Total Number of Out-of-Wedlock Births:* Enter the total number of out-of-

wedlock births in families receiving assistance under the State (Tribal) TANF Program for each month of the quarter. The monthly totals for this element may be estimated from samples.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

Closed Cases

18. *Total Number of Closed Cases:* Enter the total number of closed cases for each month of the quarter.

A. *First Month:*

B. *Second Month:*

C. *Third Month:*

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APPENDIX D

Department of Health and Human Services
Administration for Children and Families

Temporary Assistance for Needy Families (TANF) ACF - 196 Financial Report

STATE	FISCAL YEAR	CURRENT QTR. ENDED	NEXT QTR. ENDING	ANNUAL RECONCILIATION [] YES [] NO
	FEDERAL FUNDS	STATE FUNDS		CONTINGENCY FUND
	(A) FEDERAL AWARDS & TRANSFERS	(B)	(C)	FEDERAL SHARE AT FMAP RATE OF _____% (D) FEDERAL AWARDS
1. AWARDED	\$			\$
2. TRANSFERRED TO CCDF DISCRETIONARY	\$			
3. TRANSFERRED TO SSBG	\$			
4. ADJUSTED SFAG	\$			
EXPENDITURE CATEGORIES	FEDERAL TANF EXPENDITURES	STATE MOE EXPENDITURES IN TANF	MOE EXPENDITURES IN SEPARATE STATE PROGRAMS	FEDERAL EXPENDITURES
5. EXPENDITURES ON ASSISTANCE	\$	\$	\$	\$
a. BASIC ASSISTANCE	\$	\$	\$	\$
b. CHILD CARE	\$	\$	\$	\$
c. OTHER SUPPORTIVE SERVICES	\$	\$	\$	\$
d. ASSISTANCE AUTHORIZED SOLELY UNDER PRIOR LAW	\$	\$	\$	\$
6. EXPENDITURES ON NON-ASSISTANCE	\$	\$	\$	\$
a. WORK RELATED ACTIVITIES/EXPENSES	\$	\$	\$	\$
1. WORK SUBSIDIES	\$	\$	\$	\$
2. EDUCATION	\$	\$	\$	\$
3. OTHER WORK ACTIVITIES/EXPENSES	\$	\$	\$	\$
b. CHILD CARE	\$	\$	\$	\$
c. TRANSPORTATION	\$	\$	\$	\$
1. JOB ACCESS	\$	\$	\$	\$
2. OTHER	\$	\$	\$	\$
d. INDIVIDUAL DEVELOPMENT ACCOUNTS	\$	\$	\$	\$
e. REFUNDABLE EARNED INCOME TAX CREDITS	\$	\$	\$	\$
f. OTHER REFUNDABLE TAX CREDITS	\$	\$	\$	\$
g. DIVERSION PAYMENTS	\$	\$	\$	\$
h. PREVENTION OF OUT-OF-WEDLOCK PREGNANCIES	\$	\$	\$	\$
i. 2-PARENT FAMILY FORMATION AND MAINTENANCE	\$	\$	\$	\$
j. ADMINISTRATION	\$	\$	\$	\$
k. SYSTEMS	\$	\$	\$	\$
l. OTHER	\$	\$	\$	\$
7. TOTAL EXPENDITURES	\$	\$	\$	\$
8. TRANSITIONAL SERVICES FOR EMPLOYED	\$	\$	\$	\$
9. FEDERAL UNLIQUIDATED OBLIGATIONS	\$			\$
10. UNOBLIGATED BALANCE	\$			\$
11. STATE REPLACEMENT FUNDS		\$		
QUARTERLY ESTIMATE	TANF FEDERAL FUNDS			
12. ESTIMATE FOR NEXT QTR. ENDED	\$			
THIS IS TO CERTIFY THAT THE INFORMATION REPORTED ON ALL PARTS OF THIS FORM IS ACCURATE AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.				
SIGNATURE: AUTHORIZED STATE OFFICIAL			TYPED NAME, TITLE, AGENCY NAME	
DATE SUBMITTED:	SUBMITTAL: [] NEW [] REVISED			
PAGE 1 OF 1 APPROVED OMB NO. XXXX-XXXX FORM ACF-196 (xx/xx)				

Appendix D—Section 2—Instruction For Completion of Form ACF-196—Financial Reporting Form for the Temporary Assistance for Needy Families (TANF) Program

All States must complete and submit this report in accordance with these instructions on behalf of the State agency administering the TANF Program.

Due Dates: This form must be submitted quarterly by February 14, May 15, August 14 and November 14.

States must submit separate quarterly reports regarding the use of each fiscal year's funds. For example, States must submit a report regarding the expenditure of FY 98 funds in FY 99 separately from the report on the use of FY 99 funds in FY 99. Until the State reports that all of the Federal funds awarded for a given fiscal year have been transferred or expended, States must continue to submit quarterly reports on the use of funds from that fiscal year.

Distribution: The original copy (with an original signature) should be submitted to: Administration for Children and Families, Office of Financial Services, Division of Formula, Entitlement and Block Grants, Aerospace Building, 6th Floor, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447. An additional copy should be submitted to the ACF Regional Administrator.

General Instructions:

- Round all entries to the nearest dollar. Omit cents.
- Include costs of contracts and subcontracts in the appropriate reporting category based on their nature or function.
- Enter State Name.
- Enter the Fiscal Year for which this report is being submitted. Funding for each fiscal year is available until expended. Therefore, for each fiscal year, a State may be submitting reports simultaneously to cover two or more fiscal years. It is important to indicate the year for which information is being reported.
- The State must note that prior fiscal year unobligated balances may only be expended on assistance or on the related administrative costs of providing assistance. Expenditure of prior year unobligated balances must be reported on the Expenditures on Assistance categories (lines 5(a) through 5(d)) and any related administrative costs reported on line 6(j).
- Transfers of TANF funds to the CCDF or SSBG must be made in the current fiscal year with current fiscal year TANF funds. Transfers of unobligated balances are not allowed after the end of the Federal fiscal year in which the funds were awarded.
- Enter the ending dates for the current quarter (the quarter just ended for which this constitutes the report of actual expenditures and obligations) and the ending date of the next quarter (the upcoming quarter which estimates are being requested on line 12).

Example: the State is reporting for the 1st quarter of the Federal fiscal year (10/1 through 12/31), the report is due February 14, the current quarter ending date is 12/31, the next quarter ending date for which estimates are requested is 6/30. The estimate submitted

by the State will be for the quarter of 4/1 through 6/30. Estimates are not required on quarterly reports submitted for prior fiscal years.

- Enter whether this report is being used for annual reconciliation of the Contingency Fund.
- Enter the Federal Medical Assistance Percentage Rate used by the State for the fiscal year for which contingency funds were received.
- Indicate whether this is a new report or a revision of a report previously submitted for the same period.
- Entries are not required or are not applicable to blocks that are shaded.

Columns: All amounts reported in columns (A) through (D) must be actual expenditures or obligations made in accordance with all applicable statutes and regulations. Amounts reported in the estimates section are estimates of Federal expenditures to be made during the quarter indicated based on the best information available to the State.

Explanation of Columns:

Column (A) lines 1 through 4 refer to the Federal State Family Assistance Grant (SFAG) awards plus any Supplemental Grant or Bonus Funds, amounts transferred to the Child Care and Development Fund (CCDF) (Discretionary Fund) and the Social Services Block Grant (SSBG) program, and the amount Available for TANF.

Column: (A) lines 5 through 9 refer to the Federal TANF funds that the State expended and obligated under its TANF program.

Column: (A) line 10 refers to the unobligated balance, which is calculated by subtracting the amounts on lines 7 and 9 from the amount on line 4.

Column: (A) line 12 is the SFAG grant award amount or the percentage of the SFAG that the State estimates it will need for the next quarter ending on the date indicated at the top of the form. (See page 6 of Line Item Instructions)

Column: (B) lines 5 through 7 refer to State TANF expenditures that the State is making to meet its basic Maintenance-of-Effort (MOE) requirement. Include State funds that are commingled with Federal funds and segregated State funds expended under the State TANF program.

Note: States receiving contingency funds under section 403(b) for the fiscal year must also use this column to report State TANF expenditures made to meet the Contingency Fund (CF) MOE requirement and matching expenditures made above the 100-percent MOE level. Expenditures made to meet the CF MOE requirement and expenditures made above the MOE level (for matching purposes) must be expenditures made under the State TANF program only; they cannot include expenditures made under "separate State programs." In addition, child care expenditures cannot be included as CF MOE expenditures or expenditures that are matched with contingency funds.

Column(B) line 11 refers to State replacement funds that the State must expend in the TANF program due to the assessment of a penalty and a reduction in its TANF grant awards.

Column (C) lines 5 through 7 refer to State expenditures that the State is making in

Separate State Programs, outside the State TANF program, to meet its basic MOE requirement.

Note: For the basic MOE requirement, the cumulative total expenditures (i.e., the sum of 7(B) + 7(C)) reported at the end of the Federal fiscal year must add up to 80% of fiscal year 1994 historic State expenditures if the State did not meet the TANF work participation requirements, or 75% of fiscal year 1994 historic State expenditures if the State met the TANF work participation requirements. Basic MOE requirements and tables were published in Program Instruction No. TANF-ACF-PI-97-9, dated October 31, 1997.

For States that received contingency funds, line 7(B) minus line 5(B)(b)(assistance—child care) minus line 6(B)(b)(non—assistance child care) must exceed 100 percent of the CF MOE requirement.

Column (D) line 1 refers to the Federal Contingency Fund grant awards.

Column (D) lines 5 through 7 refer to the Federal share of expenditures for which Federal funding is available at the FMAP rate for the fiscal year for which contingency funds were received. Contingency funds are available for match for State expenditures in excess of 100% of CF MOE requirements as explained in the "Note" above.

Example: The State received contingency funds of \$100,000 for 6 months of the fiscal year; the FMAP rate is 60% Federal and 40% State; the CF 100% MOE requirement is \$1,000,000; the State reported expenditures under Columns (B) and (D) of \$1,200,000. To determine how much of the contingency funds the State can keep, the expenditures of \$1,000,000 (CF MOE requirement) must be subtracted from the total State expenditures of \$1,200,000. That difference (\$200,000) is to be multiplied by 60 percent, i.e., $\$200,000 \times 60\% = \$120,000$. The \$120,000 must then be multiplied by $\frac{1}{12}$ times the number of months a State received contingency funds, i.e., $\$120,000 \times \frac{1}{12} \times 6 = \$60,000$. The State may keep no more than \$60,000 of the \$100,000 ACF awarded it for the Contingency Fund. (This \$60,000 may be further reduced as the result of the amendments to section 403(b)(6) under the Adoption and Safe Families Act.)

Determining how much, if any, a State may keep of the contingency funds awarded to it for a fiscal year, is possible only after annual reconciliation of the Contingency Fund account is completed. This form will serve as the annual reconciliation report when submitted for the fourth quarter of the fiscal year. Based on the example above, the amount claimed in line 7 of Column D (Total Expenditures – Contingency Fund) may be no more than \$60,000.

It is possible that a State will have received contingency funds after the end of the fiscal year that apply to expenditures made in the prior fiscal year. For a State receiving contingency funds for a fiscal year after it has ended, the State will be required to submit a revised fourth quarter report within 45 days of receipt of the additional contingency funds. There is no carryover of such funds from one fiscal year to the next.

Unobligated Balances Reported on a State Fourth Quarter Financial Report for the Immediately Preceding Fiscal Year

Pursuant to section 404(e) of PRWORA of 1996, a State may reserve amounts awarded to the State under section 403 (excluding contingency funds), without fiscal year limitation, to provide assistance under the State TANF program. Federal Unobligated Balances carried forward from previous fiscal years may only be expended on assistance and related administrative costs associated with providing such assistance. The related Administrative Costs to provide the assistance will be reported against the 15 percent administrative cost cap for the fiscal year for which the Federal funds were originally awarded.

Current Fiscal Year Federal Expenditures on Non-Assistance

The State must obligate by September 30 of the current fiscal year any funds for Expenditures on Non-Assistance. Non-Assistance expenditures are reported on Line 6 categories of this report. The State must liquidate these obligations by September 30 of the immediately succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, these funds must be included in the Unobligated Balance Line Item for the year in which they were awarded. As mentioned in the previous paragraph, unobligated balances from previous fiscal years may only be expended on assistance and the administrative costs related to providing the assistance.

Transfers

The State may transfer Federal funds to the CCDF Discretionary Fund and/or the SSBG programs only during the current fiscal year for which the funds were awarded. The State cannot transfer unobligated balances from a previous fiscal year to the CCDF and/or the SSBG programs. Limitations on transfers to these programs are explained in the Line Item instructions.

State Replacement of Grant Reductions Resulting From Penalties

If a State's State Family Assistance Grant is reduced because of the imposition of a penalty under section 409, section 409(a)(12) provides that the State must replace the funds lost due to the penalty with State funds in an amount that is no less than the amount withheld. The State replacement funds must be included in Line 11 Column (B). These funds must be in addition to funds reported under line 7(B).

Line Item Instructions—Cumulative Fiscal Year Expenditures and Obligations

Line 1. Awarded. Enter in column (A) the cumulative total of Federal TANF funds awarded to the State (after any Tribal adjustments) from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Enter in column (D) the cumulative total of contingency funds awarded to the State from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Note: The State must include all Federal TANF funds awarded for the current fiscal

year on Line 1(A), except contingency funds. This includes SFAG funds, Supplemental Funds or any Bonus Funds. It does not include Welfare-to-Work funds awarded under section 403(a)(5).

Line 2. Transferred to Child Care and Development Fund (CCDF). Enter in column (A) the cumulative total of funds that the State transferred to the Discretionary Fund of the Child Care and Development Fund from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Section 404(d)(1) of the Act governs the transfer of TANF funds to the Discretionary Fund. In compliance with section 404(d)(1), a State may not transfer more than 30% of its total annual TANF funds. A State may transfer this entire amount to the Discretionary Fund of the CCDF program. All funds transferred to the Discretionary Fund of the CCDF program take on the rules and regulations of that recipient Fund in place for the current fiscal year at the time when the transfer occurs. A State can transfer current-year Federal TANF funds only. The State may not transfer prior year unobligated balances to the CCDF.

Line 3. Transferred to SSBG. Enter in column (A) the cumulative total of funds the State transferred to the Social Services Block Grant (SSBG) program from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Section 404(d)(2) of the Act governs the transfer of TANF funds to the SSBG program; it limits the amount that a State may transfer to no more than 10% of its total annual TANF grant to SSBG. (Also, the combined amount transferred to SSBG and the Discretionary Fund may not exceed 30% of the annual TANF grant. In other words, for all financial reports applicable to grant funds for one fiscal year, the sum of the total cumulative amount reported on line 3 and the total cumulative amount reported on line 2 cannot exceed 30% of the annual TANF grant.) All funds transferred to the SSBG program are subject to the statute and regulations of the recipient SSBG program in place for the current fiscal year at the time when the transfer occurs. A State may transfer current-year Federal TANF funds only. The State may not transfer prior-year unobligated balances to SSBG.

Note: Beginning in FY 2001 the maximum amount of SFAG funds a State may transfer to the SSBG program is 4.25% of its annual TANF grant.

Also, the total amount transferred to SSBG and CCDBG affects the amount available for Job Access activities that may be used as the non-Federal match under that program. See instructions for line 6c1.

Line 4. Adjusted SFAG. Enter in column (A) the cumulative total of funds available for TANF after subtracting the amounts transferred to the CCDF program (Discretionary Fund) (line 2(A)) and/or the SSBG program (line 3(A)) from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 5. Expenditures on Assistance. Blocks are shaded. Expenditures in this category must be included in Lines 5a through 5d

from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 5a. Basic Assistance. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures for basic assistance from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Include benefits not reported on line 5d provided in the form of cash, payments, vouchers, or other forms designed to meet on going, basic needs. Include such benefits, even when provided in the form of payments by a TANF agency, or other agency on its behalf, to individuals and conditioned on their participation in work experience or community service (or any other work activity under section 261.30).

Line 5b. Child Care. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures for child care that meet the definition of assistance from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. The amounts reported in this category do not include funds transferred to the CCDF (Discretionary Fund—reported on the ACF-696) or SSBG programs. Include child care expenditures for families that are not employed, but need child care to participate in other work activities such as job search, community service, education, or training, or for respite purposes. Do not include child care provided as a nonrecurrent, short-term benefit (for example, during applicant job search or to recently employed families who need child care extended during a temporary period of unemployment in order to maintain continuity of care). Do not include expenditures on pre-K activities or other programs designed to provide early childhood development or educational services (e.g., following the Head Start model); such activities should be reported as "other" and identified as such in a footnote to that category in the 4th Quarter Financial Report.

Line 5c. Other Supportive Services. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures for transportation and other supportive services that meet the definition of assistance from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Include expenditures for families that are not employed but need supportive services to participate in other work activities such as job search, community service, education, or training, or for respite purposes. Do not include transportation or other supports provided as a nonrecurrent, short-term benefit (for example, during applicant job search).

Line 5d. Assistance Authorized Solely Under Prior Law. Enter in columns (A) and (D) any expenditures of Federal funds on assistance that are authorized solely under section 404(a)(2) of the Act from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

These are expenditures that are not otherwise consistent with the purposes of

TANF and/or with the prohibitions in section 408. States including expenditures on this line must include a footnote explaining the nature of these benefits (e.g., previously authorized juvenile justice or State foster care payments) and reference the State plan provision under which they were authorized.

Note: States may not report MOE expenditures in this category; all State MOE expenditures must be consistent with the purposes of TANF.

Line 6. Expenditures on Non-Assistance. Blocks are shaded. Expenditures in this category must be included in Lines 6a through 6l.

Line 6a. Work-Related Activities and Expenses. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures (sum of 6(a)1 + 6(a)2 + 6(a)3 for each column) for work-related activities and expenses, as described in the instructions for those 3 lines, from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 6a1. Work Subsidies. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures for work subsidies from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Work subsidies include payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, or training. Do not include expenditures related to payments to participants in community service and work experience activities that are within the definition of assistance.

Line 6a2. Education. Enter in columns (A), (B), (C), and (D) costs related to educational activities from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. These are expenditures on educational activities that are consistent with the recognized work activities at § 261.30 or as a supplement to such activities. Thus, include secondary education (including alternative programs); adult education, GED, and ESL classes; education directly related to employment; education provided as vocational educational training; and post-secondary education. Do not include costs of early childhood education or after-school or summer enrichment programs for children in elementary or junior high school; such activities should be reported as "other" and identified as such in a footnote to that category in the 4th Quarter Financial Report.

Line 6a3. Other Work Activities/Expenses. Enter in columns (A), (B), (C), and (D) expenditures on other work activities from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. These are expenditures on: (a) work activities that have not been reported as education or work subsidies (including staff costs related to providing work experience and community service activities, on-the-job training, job search and job readiness, job skills training, and training provided as vocational educational training); (b) related services (such as employment counseling, coaching, job development, information and referral, and outreach to business and non profit community groups); and (c) other work-

related expenses (such as costs for work clothes and equipment). Include such costs when provided as part of a diversion program or as transitional services to individuals who ceased to receive assistance due to employment.

Line 6b. Child Care. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures for child care that does not meet the definition of assistance from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Include child care provided to employed families (related either to their work or related job retention and advancement activities) and child care provided as a nonrecurrent, short-term benefit (e.g., during applicant job search or to a recently employed family during a temporary period of unemployment). Do not include amounts of funds transferred to the CCDF (Discretionary Fund—reported on the ACF-696) or SSBG programs. Also, do not include expenditures on pre-K activities or other programs designed to provide early childhood development or educational services (e.g., following the Head Start model); such activities should be reported as "other" and identified as such in a footnote to that category in the 4th Quarter Financial Report).

Line 6c. Transportation. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures (sum of 6(d)1 + 6(d)2 for each column) for transportation activities that do not meet the definition of assistance from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Include the value of transportation benefits (such as allowances, bus tokens, car payments, auto insurance reimbursement, and van services) provided to employed families (related either to their work or related job retention and advancement activities) and provided as a nonrecurrent, short-term benefit (e.g., during applicant job search).

Line 6c1. Job Access. Enter in Columns (A), (B), (C), and (D) the cumulative total expenditures for the Department of Transportation Job Access program from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Note: The amount of TANF funds expended on Job Access programs that may be used as non-Federal matching under the Job Access program is limited to the difference between 30 percent of TANF funds (amount reported on line 1(A)) and the total amount transferred to SSBG and the Discretionary Fund of CCDF (sum of amounts reported on lines 2(B) and 2(C)).

Line 6c2. Other Transportation. Enter in Columns (A), (B), (C), and (D) the cumulative total expenditures for other types of transportation activities that do not meet the definition of assistance from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 6d. Individual Development Accounts. Enter in columns (A), (B), (C), and (D) expenditures on contributions to Individual Development Accounts and any other expenditures related to the operation of

an IDA program that fall outside the definition of administrative costs from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 6e. Refundable Earned Income Tax Credits. Enter in columns (A), (B), (C), and (D) expenditures on refundable earned income tax credits paid to families and otherwise consistent with the requirements of parts 260 and 263 of the TANF regulations from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported. Include State and local tax credits that represent a specific portion of the Federal Earned Income Credit and expenditures on similar State programs designed to defray the costs of employment for low-income families.

Line 6f. Other Refundable Tax Credits. Enter in columns (A), (B), (C), and (D) expenditures on any other refundable tax credits provided under State or local law that are consistent with the purposes of TANF and the requirements of parts 260 and 263 of the TANF regulations from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 6g. Diversion Payments. Enter in columns (A), (B), (C), and (D) any expenditures on nonrecurrent, short-term benefits to families in the form of cash payments, vouchers, or similar form of payment to deal with a specific crisis situation or episode of need and excluded from the definition of assistance on that basis. Do not include expenditures on support services such as child care or transportation (including car repairs) or work activities and expenses (such as applicant job search) provided under a diversion program; these items should have been reported in prior reporting categories.

Line 6h. Prevention of Out-of-Wedlock Pregnancies. Enter in columns (A), (B), (C), and (D) the cumulative total program expenditures for prevention of out-of-wedlock pregnancies activities that have not otherwise been reported from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 6i. Two-Parent Family Formation and Maintenance. Enter in columns (A), (B), (C), and (D) the cumulative total program expenditures for two-parent family formation and maintenance activities that have not otherwise been reported from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

Line 6j. Administration. Enter in columns (A), (B), (C), and (D) the cumulative total expenditures for administrative costs (as defined at § 263.0) from October 1 of the Federal fiscal year for which the report is being submitted through the current quarter being reported.

For Federal TANF funds, the 15% administrative cost cap applies to the amount Available for TANF reported on line 4(A) of this form. For State expenditures reported in columns (B) and (C), the 15% administrative cost cap applies to the cumulative amount of Total Expenditures (i.e., the sum of line 7(B) + 7(C)) reported for these columns.