

QUESTIONS & ANSWERS ON THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (Recovery Act)

**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)
PROGRAM
EMERGENCY FUND**

GENERAL

Q1: How much additional funding does the Emergency Contingency Fund (Emergency Fund) provide?

A1: The Emergency Fund was appropriated \$5 billion covering fiscal year (FY) 2009 and FY 2010.

Q2: What can Emergency Fund dollars be used for?

A2: Emergency Fund grants can be used to provide benefits and services to families that comply with the four statutory purposes of the Temporary Assistance for Needy Families (TANF) program. The four purposes are: (1) to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for preventing and reducing the incidence of these pregnancies; and (4) to encourage the formation and maintenance of two-parent families. However, the funds cannot be transferred to either the Social Services Block Grant or the Child Care and Development Block Grant. Emergency funds are available until expended; a jurisdiction may carry over emergency funds for use in a later fiscal year.

Q3: Who is eligible to apply for these funds?

A3: States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and federally-recognized Indian Tribes and Alaska Native Organizations that are operating TANF programs are eligible to apply for these funds.

Q4: Are there conditions that must be met in order to apply for these funds?

A4: Yes, a jurisdiction eligible to apply for emergency funds must meet at least one of the following three conditions for a quarter during FY 2009 or FY 2010:

(1) The jurisdiction's average monthly assistance caseload in a quarter is higher than its average monthly assistance caseload for the corresponding quarter in the Emergency Fund base year (i.e., FY 2007 or FY 2008), and its expenditures for basic assistance in the quarter are higher than its expenditures for such assistance in the corresponding quarter of the Emergency Fund base year;

(2) The jurisdiction's expenditures for non-recurrent short-term benefits in the quarter are higher than its expenditures for such benefits in the corresponding quarter of the Emergency Fund base year (i.e., FY 2007 or FY 2008);

(3) The jurisdiction's expenditures for subsidized employment in the quarter are higher than such expenditures in the corresponding quarter of the Emergency Fund base year (i.e., FY 2007 or FY 2008).

Q5: How does a jurisdiction apply for funding?

A5: We are developing an application form to facilitate the submittal of necessary data to us. Jurisdictions may apply for funds for the first three quarters of FY 2009 before the form has been approved for use by submitting the information described in the statute (see A4 above).

Q6: Are jurisdictions permitted to apply for funds using estimates for the base-year quarters of FY 2007 or FY 2008?

A6: No, estimates for base-year quarters are unacceptable. This is because the base years have passed and actual quarterly expenditures are available. However, we will permit estimates for request-year quarters, but awards based on estimates must be revised once final data become available.

Q7: What is the time frame for availability of these funds?

A7: The \$5 billion in emergency funds are available until the end of FY 2010.

Q8: If a jurisdiction qualifies for funds, what amount can it receive?

A8: A jurisdiction that qualifies under one or more of the aforementioned conditions will receive 80 percent of the amount by which Federal TANF expenditures and qualified State expenditures (Maintenance-of-Effort, or MOE) in the quarter for which it is requesting emergency funds exceed such expenditures in the corresponding base-year quarter. Under the law, the Emergency Fund base year is the lesser of FY 2007 or FY 2008 for a category. In other words, for the first category, it is the year with the lower assistance caseload; for the second, it is the year with the lower non-recurrent short-term benefit expenditures; for the third, it is the year with the lower subsidized employment expenditures. A jurisdiction may request funds under any or all of the three categories.

The law imposes a cumulative cap on the amount of emergency funding that a jurisdiction can receive for the two-year period. Cumulative combined grants from the existing Contingency Fund and the Emergency Fund cannot exceed 50 percent of the jurisdiction's annual Federal TANF family assistance grant. For example, if a State's Federal TANF family assistance grant is \$100 million, the State could receive no more than \$50 million in funding from both the TANF Contingency Fund and the Emergency Fund combined during the two-year period.

Q9: Can income-eligible adults without children receive any of the TANF services that qualify a state to receive emergency funds (e.g., subsidized jobs and/or non-recurrent benefits), or are only low-income families with children able to benefit from the Emergency Fund?

A9: Under limited circumstances an adult without children can receive a TANF service, as long as it does not constitute “assistance” as defined in the TANF regulations. Some categories of increased spending on these adults could make a jurisdiction eligible for emergency funds (for example, increased spending on subsidized employment). While eligibility for the Emergency Fund is based on only three categories of increased expenditures, once they are awarded, Emergency Fund grants are Federal TANF funds. Therefore, a jurisdiction that receives emergency funds must use the funds in virtually the same ways as it may use its annual Federal TANF block grant funds (except that emergency funds may not be transferred to either the CCDF or the SSBG programs). For example, Federal TANF funds may be used in any manner that is reasonably calculated to accomplish a purpose of the TANF program. Those are: (a) help 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 (d) encourage the formation and maintenance of two-parent families.

Examples of services (that do not meet the definition of “assistance”) that potentially could be provided to some single individuals without children include jobs skills training or re-training activities, employment placement services, subsidized employment, employment counseling services, mentoring and tutoring services, pre-marital and marital counseling, parental counseling or mediation services, teen pregnancy prevention services, financial counseling services, and financial planning seminars (e.g., topics such as household management, budgeting, banking, and handling of financial transactions).

Q10: Can emergency funds be used for non-assistance poverty reduction programs such as teen pregnancy prevention?

A10: Yes. If a jurisdiction receives emergency funds, then it may use those funds in any manner that is reasonably calculated to accomplish a purpose of the TANF program. One TANF purpose is to prevent and reduce the incidence of out-of-wedlock pregnancies. Teen pregnancy prevention activities would be reasonably calculated to accomplish this purpose.

Q11: Must a jurisdiction have both an increase in TANF expenditures and an increase in caseload to receive TANF emergency funds?

A11: Not necessarily. Emergency Fund grants are available to a jurisdiction if it has increased expenditures in any one of three categories: basic assistance expenditures; non-recurrent short-term benefits expenditures; or subsidized employment expenditures. Only for the basic assistance expenditures category must a jurisdiction also have an increase in its assistance caseload.

Q12: Can a State use its TANF Contingency Fund dollars for expenditures in one of the three Emergency Fund categories to help it qualify for Emergency Fund dollars (e.g., use a TANF Contingency Fund award to create subsidized jobs)?

A12: Yes. For each Emergency Fund category, a jurisdiction that qualifies may request 80 percent of the amount by which Federal TANF expenditures (including both TANF contingency funds and TANF emergency funds) and qualified State expenditures (i.e., maintenance-of-effort (MOE)) in the quarter for which it is requesting emergency funds exceed such expenditures in the corresponding base-year quarter.

Q13: For a jurisdiction receiving a TANF Emergency Fund award for a prior quarter (for example the first two quarters of FY 2009), is the requirement that this award be expended in accordance with section 404 of the Social Security Act satisfied by the increased expenditures made by the jurisdiction during these quarters (for assistance, short-term non-recurrent benefits or subsidized employment) that exceeded the base year spending levels?

A13: The requirement to use Emergency Funds in accordance with section 404 of the Social Security Act is not satisfied simply because the jurisdiction received an Emergency Fund award due to increased expenditures in a quarter. See section 403(c)(6) of the Social Security Act (as amended by ARRA) which expressly addresses the use of emergency funds.

The Congressional Conference Report (111-16) for section 2101 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) explicitly states that the TANF Emergency Fund “. . . reimburses States for 80% of the increased expenditures on basic assistance (cash welfare), short-term non-recurrent benefits, or subsidized employment in TANF and separate State programs, up to a cap.” Therefore, jurisdictions may use Federal TANF Emergency Funds to reimburse themselves for expenditures in past quarters that were made in accordance with section 404 of the Social Security Act. They may also decide to spend those funds in the future on allowable benefits/activities that are in accordance with section 404 of the Social Security Act.

Also, please be advised of the following caveats:

- Jurisdictions must report any revisions in expenditure amounts for all quarters in which they received Emergency Funds, as we must reconcile the award amounts accordingly.
- Federal TANF Emergency Funds must be spent in the jurisdiction’s TANF program in accordance with section 404 of the Social Security Act, unless a limitation, restriction, or prohibition elsewhere in law or the TANF regulations applies. However, jurisdictions may not transfer any emergency funds to either the Social Services Block Grant or the Child Care and Development Block Grant because the transfer authority in section 404(d) of the Social Security Act only applies to Federal TANF grants under section 403(a) of the Social Security Act.
- The same TANF programmatic rules that apply to Federal TANF block grant funds also apply to the use of Federal TANF emergency funds. For example, if emergency funds are spent on assistance, requirements such as assignment of support rights and the Federal 60-month time limit must be met.
- If Federal TANF Emergency Funds are used to replace State-funded expenditures, the State must still meet its maintenance-of-effort requirement for the fiscal year.

Q14: On a prospective basis, does the jurisdiction satisfy the requirement of section 404 of the Social Security Act by using a TANF Emergency Fund award for current or future expenditures on assistance, short-term non-recurrent benefits or subsidized employment that exceeds the base year expenditures?

A14: Yes, a jurisdiction that receives a TANF Emergency Fund award can use these funds to cover current and future expenditures for basic assistance, short-term non-recurrent benefits, and

subsidized employment. Those expenses may be the basis for subsequent TANF Emergency Fund awards.

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TANF SUPPLEMENTAL FUND

Q1: Who qualifies for TANF Supplemental Funds, which have been extended via the Recovery Act through FY 2010?

A1: A total of 17 States qualify for TANF Supplemental Funds for FY 2010. They are as follows: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Louisiana, Mississippi, Montana, Nevada, New Mexico, North Carolina, Tennessee, Texas, and Utah.

USE OF RESERVE/CARRY-OVER FUND

Q1: Did the Recovery Act include a change in the use of unspent Federal TANF funds carried over into a succeeding fiscal year?

A1: Yes. The Recovery Act includes a provision that lifts the restriction on unspent Federal TANF funds reserved or “carried over” into a succeeding fiscal year. Previously, carry-over funds could only be used to provide assistance (the ongoing basic needs payment, and supportive services such as transportation and child care to families not employed). Now jurisdictions (States, Territories, D.C., and Tribes) may use any unspent Federal TANF money from a prior fiscal year to provide any allowable TANF benefit, service, or activity – i.e., not just assistance.

Q2: Is it possible to transfer any of the carry-over money to the Social Services Block Grant Program and/or the Child Care and Development Block Grant Program?

A2: No. This part of the law did not change. States, D.C., and Territories may only transfer up to 30% of their current fiscal year Federal TANF block grant funds to these programs. (The transfer provision has never applied to Tribes operating approved Tribal TANF programs.) Jurisdictions must spend any carry-over funds in their TANF programs.

Q3: Is this change permanent?

A3: Yes.

Q4: Can TANF carry-over funds be used for non-assistance poverty reduction programs?

A4: Yes, the ARRA allows jurisdictions administering TANF programs to use TANF program funds carried over from a prior year for any allowable TANF benefit, service, or activity. Prior to FY 2009, these funds could be used to provide assistance to needy families. However, such carry-over funds may not be transferred to either the CCDF or the SSBG programs.

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CASELOAD REDUCTION CREDIT/TANF WORK PARTICIPATION RATES

Q1: Did the Recovery Act include a change in calculating a State's caseload reduction credit for determining the work participation rate it must meet?

A1: Yes, the caseload reduction credit reduces a State's required work participation rate for a fiscal year by the decline in its caseload between FY 2005 and the year prior to the current fiscal year, called the comparison year. The Recovery Act allows a State to substitute the lower of the FY 2007 or FY 2008 caseload for the normal comparison-year caseload in FYs 2009, 2010, and 2011. This means that if a State serves more TANF families in the normal comparison year than it did in FYs 2007 or 2008, this provision holds the State harmless in the caseload reduction credit calculation. This lowers the State's target work participation rate for that year compared to what it would have been had we used the normal comparison year.

TANF EMERGENCY FUND

USE OF FUNDS

Q1: For a jurisdiction receiving a TANF Emergency Fund award for a prior quarter (for example the first two quarters of FY 2009), is the requirement that this award be expended in accordance with section 404 of the Social Security Act satisfied by the increased expenditures made by the jurisdiction during these quarters (for assistance, short-term non-recurrent benefits or subsidized employment) that exceeded the base year spending levels?

A1: The requirement to use emergency funds in accordance with section 404 of the Social Security Act (Act) is not satisfied simply because the jurisdiction received an Emergency Fund award due to increased expenditures in a quarter. See section 403(c)(6) of the Act which expressly addresses the use of emergency funds.

The congressional conference report for section 2101 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) explicitly states that the TANF Emergency Fund “. . . reimburses States for 80% of the increased expenditures on basic assistance (cash welfare), short-term non-recurrent benefits, or subsidized employment in TANF and separate State programs, up to a cap.” Therefore, jurisdictions may use Federal TANF emergency funds to reimburse themselves for expenditures in past quarters that were made in accordance with section 404 of the Act. They may also decide to spend those funds in the future on allowable benefits/activities that are in accordance with section 404 of the Act.

Also, please be advised of the following caveats:

- Jurisdictions must report any revisions in expenditure amounts for all quarters in which they received emergency funds, as we must reconcile the award amounts accordingly.
- Federal TANF emergency funds must be spent in the jurisdiction's TANF program in accordance with section 404 of the Act, unless a limitation, restriction, or prohibition

elsewhere in law or the TANF regulations applies. However, jurisdictions may not transfer any emergency funds to either the Social Services Block Grant or the Child Care and Development Block Grant because the transfer authority in section 404(d) of the Act only applies to Federal TANF grants under section 403(a) of the Act.

- The same TANF programmatic rules that apply to Federal TANF block grant funds also apply to the use of Federal TANF emergency funds. For example, if emergency funds are spent on assistance, assignment of support rights and the Federal 60-month time limit requirements must be met.
- If Federal TANF emergency funds are used to replace State-funded expenditures, the State must still meet its maintenance-of-effort requirement for the fiscal year.

Q2: On a prospective basis, does the jurisdiction satisfy the requirement of section 404 of the Social Security Act by using a TANF Emergency Fund award for current or future expenditures on assistance, short-term non-recurrent benefits or subsidized employment that exceeds the base year expenditures?

A2: Yes, a jurisdiction that receives a TANF Emergency Fund award can use these funds to cover current and future expenditures for basic assistance, short-term non-recurrent benefits, and subsidized employment. Those expenses may be the basis for subsequent TANF Emergency Fund awards.

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Administrative Costs

Q1: Should a jurisdiction requesting emergency funds include administrative costs when reporting expenditures for basic assistance, non-recurrent short-term benefits, or subsidized employment?

A1: The administrative costs associated with each type of expenditure measured by the Emergency Fund could be included with the expenditures for a category. While administrative costs are not program expenditures, they are necessary to permit the program to operate and to incur basic assistance, non-recurrent short-term benefit and subsidized employment costs. Therefore, a jurisdiction may opt to include associated administrative costs with each category under the Emergency Fund.

If a jurisdiction does opt to include administrative costs, it must allocate the portion of its total administrative costs that are associated with each respective funding category. Thus, for example, it should only include the administrative costs associated with providing basic assistance in the basic assistance expenditures. In addition, if the jurisdiction includes the administrative costs in a request-year quarter, it must also include them in the base-year quarters.

Jurisdictions should continue to report expenditures that meet the definition of “administrative costs” in the TANF regulations separately on their respective TANF financial reports.

Third-Party Expenditures

Q1: Under what circumstances can a State count expenditures by a third party as State spending for purposes of the Emergency Fund?

A1: A State that has appropriate agreements in place and otherwise follows Federal requirements is allowed to count third-party expenditures as maintenance-of-effort (MOE) if the expenditures are for eligible families and meet a TANF purpose. Any dollars claimed as MOE in accordance with those requirements and spent in any of the three Emergency Fund categories will count when calculating the amount of emergency funds for which the State is eligible.

We remind States that the regulations at 45 CFR 263.2(e) specify the requirements for counting third-party expenditures as MOE. Policy Announcement TANF-ACF-PA-2004-01, issued December 1, 2004, provides additional guidance concerning third-party expenditures counted as MOE, including the restriction on counting as MOE third-party expenditures used to satisfy a cost-sharing requirement of another Federal program.

Q2: If a State claims the value of third-party as MOE in FY 2009 or FY 2010, will ACF adjust Emergency Fund base-year expenditure data to include similar third-party spending if the State did not claim such expenditures as MOE in the base year?

A2: Yes. HHS has the authority under the Recovery Act to adjust caseload and expenditure data to ensure that the respective request-year and base-year quarters are comparable “with respect to the groups of families served and types of aid provided.” This adjustment language is intended to ensure that a jurisdiction that has made changes to the structure of its program or funding sources has neither a disadvantage nor an advantage because of those changes. In general, we will make any adjustments to quarterly base-year data rather than request quarters.

If the State claims third-party MOE in a request quarter but did not claim those third-party expenditures as MOE in the corresponding quarter of a base year, we will adjust the base-year data to include comparable expenditures made by that third party in the base year. We will make these adjustments because the Emergency Fund is intended to reimburse jurisdictions for the *increase* in expenditures in the category; base-year expenditures by a third party factor into calculating the amount of the increase. We will adjust the data whether the third party providing services is another governmental agency or a non-governmental organization. The State must include such third party data in its application for emergency funds.

To illustrate the sort of data that HHS needs to make this adjustment, suppose a State establishes an agreement in FY 2009 with ABC community group to count the funds that ABC expends in its emergency housing program as MOE. The State complies with all Federal requirements to count those expenditures as MOE and correctly includes this program in its State plan as a non-recurrent, short-term benefit. In applying for emergency funds, the State should provide information on the expenditures that ABC made in FY 2007 and FY 2008 for TANF-eligible families in the emergency housing program so that we can fund the increase in the expenditure category in FY 2009.

Q3: If HHS adjusts base-year data for third-party expenditures, does the State need to revise its MOE claiming to include those expenditures in FY 2007 or FY 2008?

A3: No. The point of such an adjustment is to account for the fact that those expenditures were *not* MOE expenditures in the base year.

Q4: Is it permissible for a foundation or other private entity to donate funds to a State that it could use as part of its increased expenditures in one of the three Emergency Fund categories?

A4: Yes, a third party could make an unrestricted cash donation to a State's general treasury. Such a cash donation that a State subsequently spends as MOE in one of the three Emergency Fund categories must comport with applicable Federal requirements, including the requirements of 45 part 92 and 45 CFR 263.2(e).

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Purchase of Gift Cards

Q1: Can a TANF jurisdiction purchase gift cards for TANF recipients?

A1: Yes, providing gift cards as an award to TANF recipients is a permissible use of Federal TANF funds (including TANF related ARRA funds) and State maintenance-of-effort (MOE) funds so long as the expenditure can be justified as meeting one or more of the statutory purposes of the TANF program as described in section 401 of the Social Security Act. Depending on their purpose, gift cards may be considered as basic assistance or non-assistance (including as a non recurrent short-term benefit provided that the regulatory requirements at 45 CFR 260.31(b)(1) for States or 45 CFR 286.10(b)(1) for Tribes are satisfied) depending on the purpose of the cards. Further, TANF jurisdictions must adhere to their disclosure and confidentiality requirements with regard to the sharing of TANF case information with retailers.

Q2: At what point do expenditures for gift cards occur?

A2: For TANF program purposes, the expenditure occurs at the time the gift cards are purchased from a retailer. However, any unredeemed portion of a gift card must be returned to the TANF agency and treated as a rebate or credit (see 2 CFR Part 220 Appendix A, C5). The returned amount must be spent on an allowable TANF purpose. These requirements will necessitate an agreement between the TANF jurisdiction and the retailer involving the return of any unredeemed amounts (and the time frame for doing so) to the TANF jurisdiction. The fiscal control and accounting procedures explained in the regulations at 45 CFR 92.20 as well as the audit requirements at 45 CFR 92.26 will apply to these expenditures. TANF jurisdictions must exercise sufficient oversight to ensure that unredeemed amounts on these gift cards are identified and documented.

Note: We understand that not all businesses will be able to meet the requirement mandating the return of unredeemed amounts, and we recognize that in some cases, this will preclude purchasing gift cards from them, but we have concluded that this policy is needed in order to ensure that program funds are actually spent for the purposes for which they're intended under the statute.

Q3: If the retailer of the gift cards agrees to donate a portion of the card's value to the State TANF agency, can the donated amount be treated as a third-party contribution to the State TANF agency's MOE requirement?

A3: Yes, the retailer's donation can be treated as a third-party in-kind contribution to the State TANF agency's MOE requirement provided that the regulatory requirements at 45 CFR 92.3, 92.24, and 263.2(e) are met. A key feature of these requirements is the need to establish a documented agreement between the State TANF agency and the retailer that allows the State TANF agency to count the value of the retailer's contribution toward its MOE requirement. Further, the State TANF agency will count the retailer's donation to the value of the gift cards as an MOE expenditure at the time the gift cards are actually purchased by the State TANF agency.

Subsidized Employment Questions

Q1: May a jurisdiction subsidize a job in the public sector?

A1: Yes, public sector subsidized employment is an allowable activity. This could be in any setting including, local or county office or in State or Tribal government.

Q2: Are there any special rules for determining program costs in public sector employment?

A2: No, the same cost principles apply to public sector subsidized employment that apply to other aspects of the TANF program; however, we remind jurisdictions of the importance of adhering to the principles of determining allowable costs expressed in OMB Circular A-87. In particular, they stipulate that costs must be reasonable and that consideration should be given to arm's length bargaining in setting reasonable costs.

Q3: May a jurisdiction use TANF funds to create or preserve jobs in its human services agency?

A3: Yes, but a jurisdiction cannot simply re-categorize program administrative staffing costs as subsidized employment. The Emergency Fund is not intended to cover the existing costs of TANF program administration.

Q4: If a State subsidizes a job, can the employer's costs for supervision and training or the employer's share of wages count as a third-party contribution for purposes of TANF maintenance-of-effort (MOE) and the Emergency Fund spending requirements?

A4: The employer's costs for supervising and training a subsidized employee can count as a State expenditure for MOE and the Emergency Fund, but *not* the employer's unreimbursed wage costs. While the TANF agency's wage subsidy to an employer is part of the cost of the subsidized employment program, the employer's share of the wages paid to a subsidized employee is not a subsidy and thus cannot be considered a program expenditure for MOE. To count the value of employer supervision and training as MOE, the expenditures must meet a TANF purpose and the State must meet all the requirements of 45 CFR 263.2 (e) and the applicable provisions of Part 92 relating to counting the third-party contributions as MOE.

Among the applicable requirements of Part 92 is the prohibition on counting the costs or the value of third-party expenditures if they have or will be used to meet cost sharing requirements of another Federal program.

Q5: Is there a methodology for computing the employer's costs for supervising and training a subsidized employee for purposes of counting such costs as a State expenditure for MOE and the Emergency Fund?

A5: If a State assumes that supervision and training costs equal no more than 25 percent of the employee's wage cost, we will accept the State's assumption without additional documentation. If a State thinks its supervision and training costs exceed this amount, it must submit a justification documenting greater costs. We will consider such requests on a State-by-State basis.

Q6: Can a State use TANF funds to create a subsidized employment slot if the State determines that a wage subsidy is needed to prevent a TANF-eligible individual from being laid off?

A6: The TANF regulations at 45 CFR 261.70 explicitly provide that a State may not create a subsidized job slot when an individual is on layoff from the same or a substantially equivalent job, and that a State may not create a subsidized job slot when an employer has terminated an individual from employment or caused an involuntary reduction in its work force in order to fill the vacancy with a subsidized worker.

Apart from these regulatory prohibitions, the program operates under the general principle that any expenditure of TANF funds must be reasonably calculated to accomplish the purposes of TANF. For example, we think it is reasonable to assume that if a State's subsidized employment program provided a TANF-eligible individual with an employment opportunity that would not have been available in the absence of the subsidy, then the subsidized employment meets a TANF purpose. In some instances, a State could conclude that saving a job for a TANF-eligible individual would further the purposes of TANF, but States need to be vigilant to ensure that TANF and MOE funds are actually accomplishing TANF purposes and not simply subsidizing activity that would have occurred in the absence of the subsidy.

Q7: If a State claims the value of third-party subsidized employment expenditures as MOE in FY 2009 or FY 2010, will ACF adjust Emergency Fund base-year expenditure data to include similar third-party spending as subsidized employment if the State did not claim such expenditures as MOE in the base year?

A7: If the subsidized employment program existed in the base year but the State did not claim it as MOE, ACF will adjust the base year data. If the employer did not participate in a subsidized employment program in the base year, there are no expenditures with which to adjust base-year data.

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Nutritional Supplement

Q1: A TANF agency is interested in cooperating with a community-based organization, such as a Boys and Girls Club, to provide meals for TANF eligible school children during the summer when they are unable to get their free/reduced Price school lunches. This would only be during the summer months when the children are not in school and the

funding would go to the third party agency doing meal prep. Would this qualify as a non-recurrent short-term benefit?

A1: Yes, the above benefit satisfies the criteria as specified in the Federal regulations at 45 CFR 260.31(b)(1) - - i.e., it deals with an episode of need (the loss of the school breakfast/lunch program), will not extend beyond four months (covers the school summer recess), and is not intended to replace or substitute for the family's ongoing need for food. TANF jurisdictions that are interested in establishing such a benefit are advised to consider partnership and resource sharing opportunities that may be available from other Federal programs that provide similar benefits. In particular, Department of Agriculture programs can help to address the nutritional needs of children during the summer recess. A State may wish to explore options for using its funds to promote the expansion or development of services at summer feeding sites. For example, in some communities, summer feeding programs are not available because of a lack of sponsors or sites. In others, summer nutritional program locations face difficulties in getting children and youth to attend their programs; this may be due to a lack of transportation resources available to low-income households, especially in rural communities, or because the program does not offer a set of activities needed to generate sufficient attendance. Since Federal reimbursement is based on the number of meals served, summer nutritional program sites often experience a shortage in compensation for administrative and food preparation costs. TANF funds can be used to cover any portion of program costs that are not otherwise reimbursed. States can also support summer feeding programs by providing TANF funds for transporting children to a summer nutritional program site (which is especially important in rural areas), as well as covering the cost of recreational activities that help to attract more youth and children to program locations.

Serving Older Youth

Q1: Under what circumstances can TANF agencies provide Federally-funded TANF assistance payments to a single individual over the age of 18?

A1: As background, decisions about benefits and services to be provided under the TANF program and related expenditures of funds must satisfy one or more of the four statutory purposes of the TANF program, which can be found at section 401 of the Social Security Act or 42 USC 601. Purpose One is to “provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives”; Purpose Two is to “end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage”; Purpose Three is to “prevent and reduce the incidence of out-of-wedlock pregnancies . . .”; and Purpose Four is to “encourage the formation and maintenance of two-parent families.” Purposes One, Three, and Four are applicable to this discussion about providing TANF benefits and services to older youth.

The basic TANF provision, found at section 408(a)(1) of the Social Security Act or 42 USC 608(a)(1), specifies that except in the case of a pregnant woman, no assistance may be provided to families without a minor child. “A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family unless the family includes a minor

child who resides with the family (consistent with paragraph (10)) or a pregnant individual.” Under section 419(2) of the Social Security Act or 42 USC 619(2), a minor child is either under age 18, or under age 19 and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

In addition, if there is a minor child in the family unit, a State may choose to include other household members, including older siblings, when calculating assistance payments. According to the preamble to the final TANF regulations (see Federal Register/Vol. 64, No. 69/Monday, April 12, 1999, page 17823), “At minimum, an eligible family must consist of a minor child who resides with a parent or other caretaker relative (or consist of a pregnant individual). Beyond this minimum configuration, States may add other relative household members to comprise the eligible family.” Therefore, a sibling over the age of 18 may be included when calculating assistance payments as long as there is a minor child in the family unit.

Q2: Can States provide non-assistance to individuals over the age of 18 using Federal TANF Funds?

A2: Under TANF, it is allowable to provide non-assistance to an older youth over the age of 18 who is not a minor child, just as it is allowable to provide non-assistance to single adults, if the expenditure is reasonably calculated to further a TANF purpose of either preventing and reducing the incidence of out-of-wedlock pregnancies (Purpose Three) or encouraging the formation and maintenance of two-parent families (Purpose Four).

It is also possible to provide non-assistance to an older youth under Purpose One, which generally provides for providing assistance to needy families with children. Purpose One refers to a child rather than a minor child. A State may establish a reasonable definition of “child” for allowable non-assistance expenditures that fulfill Purpose One of TANF. For example, a State could operate a (non-assistance) subsidized job program for older youth under Purpose One without needing to go through a Purpose Three or Four analysis. Previous guidance has made clear that expenditures under Purpose One are not limited by the regulatory definition of assistance.

Q3: Can assistance and non-assistance provided to individuals over the age of 18 count towards a State’s Maintenance of Effort (MOE) requirement?

A3: Yes. A State has greater flexibility with regards to programs funded by MOE. The preamble to the final TANF rule (see Federal Register/Vol. 64, No. 69/Monday, April 12, 1999, page 17817) explains that for purposes of MOE, an eligible family has to have a child; a State can define “child” consistent with the “minor child” definition in section 419 of the Social Security Act “or some other definition applicable under State law.” The preamble discussion further specifies that “The State must be able to articulate a rational basis for the age they choose.” For example, if age 21 is the applicable age of majority for some purpose under State law, the State could provide segregated State-funded assistance up to age 21 and count that towards its MOE requirement.

Furthermore, a State may provide State-funded non-assistance under Purposes One, Three, and Four to an individual who is a child under State law and count that expenditure towards its MOE requirement.