



Questions and Answers about the TANF Emergency Fund

November 2, 2009

Elizabeth Lower-Basch

The Temporary Assistance for Needy Families (TANF) block grant is a flexible funding stream that provides states with funds that can be used for a wide range of activities that are aimed at any of the four purposes of TANF:

- assisting needy families so that children can be cared for in their own homes;
- reducing the dependency of needy parents by promoting job preparation, work and marriage;
- preventing out-of-wedlock pregnancies; and
- encouraging the formation and maintenance of two-parent families.

The TANF block grant has provided states with \$16.5 billion annually since 1996. States must also continue to meet a “maintenance of effort” (MOE) requirement of 75 or 80 percent of their pre-welfare reform spending levels on Aid to Families with Dependent Children (AFDC) and related programs, which were replaced by TANF. Families that receive cash assistance under TANF are subject to a number of rules, including time limits on federally funded benefits and work participation requirements.¹ Many families benefit from TANF but do not get cash assistance; instead these families get other kinds of services paid for by the TANF block grant.

Index of Questions:

1. What additional TANF funding is available under the Recovery Act?
2. What happened to the existing Contingency Fund?
3. How can a state qualify for funds from the Emergency Fund?
4. What spending counts under each of these categories?
5. If the TANF Emergency Fund provides 80 percent reimbursement, why do people say it provides a 4:1 match?
6. Can administrative costs be reimbursed under the Emergency Fund?
7. What kinds of adjustments will HHS make to the data?
8. What if my state has a general assistance or subsidized employment program that is outside TANF?
9. Can the increased spending come from the Contingency Fund?
10. Can the increased spending come from other Recovery Act sources, such as the Workforce Investment Act, Community Services Block Grant, or the Homelessness Prevention and Rapid Rehousing Funds?
11. If a program serves some individuals who are members of needy families and some who are not, does it need to track spending on the individual level to ensure that only spending on members of needy families is claimed as MOE?

¹ For further background on TANF, see [Implementing the TANF Changes in the DRA: "Win-Win" Solutions for Families and States, Second Edition](http://www.clasp.org/publications/tanfguide.pdf) by CLASP and CBPP, available for download at <http://www.clasp.org/publications/tanfguide.pdf>

12. Can the increased spending come from third-party sources, such as local governments, foundations, non-profit service providers?
13. Are individuals receiving benefits or services funded from the Emergency Fund subject to the TANF participation rate requirement?
14. Must spending on non-recurrent short-term benefits or subsidized employment be for TANF recipients?
15. Can summer jobs for youth be claimed as subsidized jobs?
16. When can states receive money from the Emergency Fund?
17. How does a state apply for money from the Emergency Fund?
18. What is the deadline for applying for Emergency Funds?
19. How may money from the Emergency Fund be used?
20. Where can I look up the caseload and spending data for my state to see the base year figures?

1. What additional TANF funding is available under the Recovery Act?

Section 2101 of the American Recovery and Reinvestment Act of 2009 (the Recovery Act) creates a new \$5 billion TANF Emergency Contingency Fund, or Emergency Fund² under which states³ can receive 80 percent federal funding for spending increases in FYs 2009 or 2010 over FYs 2007 or 2008 in certain categories of TANF-related expenditures. The three categories are basic assistance, non-recurrent short-term benefits, and subsidized employment. The cap on total funding is more than double what the Congressional Budget Office estimated states would draw; as of October 27, 2009, the Department of Health and Human Services (HHS) had obligated \$828 million from the Emergency Fund.⁴ It thus appears that states can safely assume they will receive the full amount for which they qualify under the Emergency Fund.

2. What happened to the existing Contingency Fund?

The original TANF law provided a \$2 billion Contingency Fund, which allows states meeting economic triggers to draw additional funds based upon high levels of state MOE spending. The Recovery Act did not change this provision. Seven states received contingency funds in FY 2008, and eighteen states received contingency funds in FY 2009. States may receive funds from both pools, but each state can receive no more than 50 percent of its annual block grant over the two-year period from the combination of the new Emergency Fund and the old Contingency Fund.⁵ However, HHS has reported that as of July 20, 2009, only \$228 million remained in the Contingency Fund, and it is likely that the Contingency Fund will run out of money in early FY 2010. For additional information about the Contingency Fund, see:

² The statute refers to this as the Emergency Contingency Fund, but in the Policy Announcement HHS refers to it as the Emergency Fund, in order to reduce the confusion with the original Contingency Fund.

³ Tribes operating Tribal TANF programs are eligible on the same basis as states. However, this summary will refer to states rather than states or tribes.

⁴ Approved TANF Emergency Fund Applications by Category, <http://www.acf.hhs.gov/programs/ofa/tanf/apprTANFemerfund.html>

⁵ The April Policy Announcement includes a table showing the maximum amount that can be received for each state, territory and Indian tribe.

<http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2008/200804/PI200804.htm> and
<http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2009/200906/pi200906.htm>.

3. How can a state qualify for funds from the Emergency Fund?

Eligibility under each category of funding is determined separately:

- To qualify for the Emergency Fund based on increases in basic assistance, the state must have an increase in assistance caseloads (combined TANF and Separate State Program (SSP) compared to the equivalent quarter in the base year, FY 2007 or 2008, whichever had the lower average monthly assistance caseload. The state must also have an increase in expenditures on basic assistance compared to the equivalent quarter in the base year.
- To qualify for the Emergency Fund based on increases in non-recurrent short-term benefits, the state must have an increase in expenditures on such short-term benefits compared to the equivalent quarter in the base year, FY 2007 or 2008, whichever had the lower total expenditures on such short-term benefits.
- To qualify for the Emergency Fund based on increases in subsidized employment, the state must have an increase in expenditures on subsidized employment compared to the equivalent quarter in the base year, FY 2007 or 2008, whichever had the lower total expenditures on subsidized employment.

In each category, what matters is the total of spending in both TANF and state Maintenance of Effort (MOE). As discussed below, HHS is given broad authority to adjust the spending and caseload data to ensure comparability between the base year and the current year.

A state may qualify for funds in a given quarter in all three categories, or in just one or two. The base year can be different (FY 2007 or 2008) for different categories. States do not need to have a caseload increase to qualify for the Emergency Fund on the basis of increased expenditures on short-term benefits or subsidized employment.

4. What spending counts under each of these categories?

These three expenditure categories were not defined in the legislation. In the Policy Announcement, HHS stated that it expects participating jurisdictions to use definitions from regulations or the ACF-196 financial reporting form.⁶

Basic assistance thus means ‘cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs’ not including child care, transportation or other supportive services, or assistance

⁶ The ACF-196 form and instructions are available online at: <http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2003/pi2003-2.htm>

authorized solely under prior law. Assistance may be provided in the basic TANF program or “in another program that serves a particular subgroup of families or a particular purpose (e.g. an earnings supplement program.)”

Non-recurrent short-term benefits are payments that are “designed to deal with a specific crisis situation or episode of need,” are not intended to meet recurrent or ongoing needs, and will not extend beyond four months. This is a very broad category, and could include short-term housing subsidies or relocation expenses for families facing eviction, employment bonuses aimed at work expenses, and services such as post-childbirth home visits or domestic violence counseling and shelter. States can also use this category to serve broad populations, such as New York’s Back to School Initiative, which provided a one-time payment of \$200 to each school-age child in a family receiving either TANF or SNAP (food stamp) benefits. NCSL has recently published a list of examples of activities that could be claimed: <http://www.ncsl.org/?tabid=18674>

Subsidized employment is based on the ACF-196 category for “work subsidies.” This category includes “payments to employers or third parties to help cover the cost of employee wages, benefits, supervision or training.” HHS specifically directs states to include “all expenditures related to operating a subsidized employment program, including the cost of overseeing the program, developing work sites, and providing training to participants.”

5. If the TANF Emergency Fund provides 80 percent reimbursement, why do people say it provides a 4:1 match?

By statute, the Emergency Fund reimburses 80 percent of increased expenditures. However, because HHS is allowing states to apply for advance funding, this can also be thought of as a 4:1 match – if the funds received from the Emergency Fund are reinvested in one of the three countable activities.

For example, if a state has \$1 million to spend on subsidized jobs, it can submit an application that states it will increase spending on subsidized jobs by \$5 million. It can then receive 80 percent of the \$5 million, which is \$4 million. When it spends its original \$1 million and the \$4 million from the Emergency Fund, it will indeed have spent the \$5 million it promised in the application.

6. Can administrative costs be reimbursed under the Emergency Fund?

In the Frequently Asked Questions document issued in October, HHS clarified that associated administrative costs can be included as part of the expenditures under the three countable categories. HHS notes that if a jurisdiction includes administrative costs, it must allocate the portion of its total administrative costs to each of the categories. Thus, for example, a state should only include the administrative costs associated with providing

basic assistance in the basic assistance expenditures. If a state includes administrative costs as part of a category, it must also include them in the reported expenditures for that category in the base year.

7. What kinds of adjustments will HHS make to the data?

The Recovery Act gives HHS the authority to adjust the caseload and expenditure data to ensure that the comparison between the base year and the current year (termed the “request year” by HHS) is a fair one – meaning states are not rewarded or penalized because they made changes to the structure of their programs. HHS mentions several types of circumstances when an adjustment may be required:

- If a state stopped serving a group of families within TANF, such as by creating a solely state-funded program, or started serving families that were previously served outside of TANF.
- If a state began or ended a front-end program that provided families with non-recurrent short-term benefits in lieu of ongoing assistance.
- If a state’s expenditure data does not reflect the real timing of when the benefits or services were provided, for example, if a subsidized employment contractor were paid in one quarter for services provided over the course of the year.
- If a state had previously failed to report certain activities as subsidized employment or short-term non-recurrent benefits even though they fall under the definitions of these activities, and now wishes to do so.
- If a state claims third-party expenditures as MOE in a request quarter but did not claim those third-party expenditures as MOE in the corresponding quarter of a base year.
- If a state claims administrative expenses as part of a category, but did not include them in the base year.

States must provide HHS with an estimate of what their caseload and expenditures would have been in the base year if the program structure or reporting procedures now in place had applied then. However, HHS explicitly says that states are not required to modify past TANF financial data reports to reflect these changes.

8. What if my state has a general assistance or subsidized employment program that is outside TANF?

Only spending that is within TANF or claimed as MOE can be counted toward the Emergency Fund requirements. A state that is operating a program outside of TANF/MOE may choose to bring it within this funding stream, but it must then adjust the base year data so that only true increases in caseload or spending are counted.

9. Can the increased spending come from the Contingency Fund?

Yes. Spending from the main TANF block grant, TANF supplemental grants, and TANF contingency funds, as well as state spending reported as MOE can all count toward the increased spending. Note that this means that a state that receives funds under the old Contingency Fund and reinvests them as increased spending in one of the countable categories can see these funds multiplied substantially.

10. Can the increased spending come from other Recovery Act sources, such as the Workforce Investment Act, Community Services Block Grant, or the Homelessness Prevention and Rapid Rehousing Funds?

No. MOE spending can not include any funds that originated from another federal program, or that are a condition of eligibility for another federal program. That excludes any spending that is a match for other federal funds, or part of a maintenance of effort requirement for another federal program.

11. If a program serves some individuals who are members of needy families and some who are not, does it need to track spending on the individual level to ensure that only spending on members of needy families is claimed as MOE?

HHS has not explicitly addressed this question in the Emergency Fund context. However, in the past HHS has accepted MOE reports that allocate to MOE a share of program costs that is proportionate to the share of eligible recipients in the population served by the program, without requiring individual-level tracking of costs.

12. Can the increased spending come from third-party sources, such as local governments, foundations, non-profit service providers?

Yes. The TANF final regulations at 45 CFR § 263.2 (e) state that MOE expenditures “may include allowable costs borne by others in the State (e.g., local government), including cash donations from non-Federal third parties (e.g., a non-profit organization) and the value of third party in-kind contributions if:

(1) The expenditure is verifiable and meets all applicable requirements in 45 CFR 92.3 and 92.24;

(2) There is an agreement between the State and the other party allowing the State to count the expenditure toward its MOE requirement; and, (3) The State counts a cash donation only when it is actually spent.”

In a recent guidance document sent to states, HHS confirmed that third-party expenditures may be claimed if the expenditures are for eligible families (see Q. 14) and meet a TANF purpose. If a state claims third-party MOE in a request quarter, but did not claim such expenditures in the corresponding quarter of the base year, HHS will adjust the base-year data to include comparable expenditures made by that third party in the base year. The state must therefore provide the data needed to make this adjustment. However, HHS is clear that the state does not need to revise its MOE claiming for the base years.

Note that base year spending of that third-party provider must be provided for the adjustments; spending on similar activities by different entities does not need to be reported. Thus, a state that comes to an agreement with a specific emergency shelter to claim its increased expenditures for the TANF Emergency Fund is not required to collect data from every shelter in the state.

For a compilation of federal rules on claiming third-party expenditures toward the TANF maintenance of effort requirement, see: <http://www.clasp.org/admin/site/publications/files/MOE-resources.pdf>

13. Are individuals receiving benefits or services funded from the Emergency Fund subject to the TANF participation rate requirement?

If individuals receive TANF-funded “assistance,” they are included in the TANF participation rate calculation, are subject to the five-year limit on federally funded benefits, and must be included in data reports. Non-recurrent short-term benefits and subsidized employment are not “assistance” and do not trigger these requirements.

14. Must spending on non-recurrent short-term benefits or subsidized employment be for TANF recipients?

No, these categories may include spending on both families who are receiving cash assistance and families who are not. However, the spending must qualify under one of the purposes of TANF. In addition, if it is non-federal spending claimed as MOE, it must be for a member of an eligible family, which is a family that includes a child living with a custodial parent or other adult caretaker relative (or a pregnant woman) and is financially needy by the standards set by a state.⁷

⁷ There is an exception to this restriction for activities that are permissible under the Healthy Marriage Promotion and Responsible Fatherhood grants. See 45 CFR § 263.2(a)(4)(ii).

15. Can summer jobs for youth be claimed as subsidized jobs?

In many cases, summer jobs for youth can be claimed as subsidized jobs. However, there are some restrictions that must be considered. As noted above, MOE spending is limited to members of eligible families – this could include low-income parents as well as youth who meet their state’s definition of a “child” and are members of needy families. If a summer jobs program serves a broader population, the state would need to provide a methodology for determining the share of expenditures that served members of eligible families.

With respect to TANF dollars, states may be able to claim summer jobs for young adults who are not parents if they can justify these activities under the out-of-wedlock prevention or two-parent family promotion goals of TANF.

16. When can states receive money from the Emergency Fund?

States may apply for funds either after a quarter has ended, or prospectively as much as one month before the start of the quarter. This means that states may now apply for funding for expenditures in any quarter of FY 2009, or for the first quarter of FY 2010.

States may apply for funds for the upcoming quarter based on “reasonable estimates” for caseloads and expenditure data, rather than having to wait for actual data at the end of the quarter. If a jurisdiction submits an estimate of expenditures that is substantially higher than previous levels, HHS requires it to explain the change it has made to the program that results in the higher estimates. The jurisdiction must revise the estimates as actual data becomes available.

17. How does a state apply for money from the Emergency Fund?

HHS has created a form, the OFA-100, for use in applying for funds. It was released on July 20, 2009, by Program Instruction TANF-ACF-PI-2009-05. Both the form and instructions are available online at: <http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2009/200905/pi200905.htm>.

Once a state has applied for funding for a quarter, it must update the data on caseloads and expenditures for that quarter during every subsequent reporting period (quarter).

18. What is the deadline for applying for Emergency Funds?

In the instructions for Form OFA-100, HHS states that the *initial request for a funding quarter* must be submitted by *September 1, 2010*, to allow sufficient time to obligate all emergency funds before September 30, 2010, when the program expires. HHS will accept revisions to prior data after that date.

The instructions further state that all jurisdictions must submit final Emergency Fund data by March 31, 2011. After that date, a jurisdiction may correct data in error, but will not receive any additional funds. Given the expiration of funds, it is not clear that states will actually be able to receive additional funds for changes made after September 30, 2009.

19. How may money from the Emergency Fund be used?

While only spending on certain categories of TANF-related expenditures qualifies a state to *receive* funds from the ECF, once received, these funds may be *used* for any purpose of the TANF program. However, they may not be transferred to the CCDBG or to SSBG. In addition, while only spending during FYs 2009 and 2010 counts for reimbursement from the Emergency Fund, the funds *received* do not need to be spent by the end of FY 2010. Like other TANF funds, they may be carried over from year to year without limit.

20. Where can I look up the caseload and spending data for my state to see the base year figures?

ACF posts the caseload data reported by states online at:

http://www.acf.hhs.gov/programs/ofa/data-reports/caseload/caseload_current.htm

Currently, the most recent data posted are for December 2008. Many states have more recent figures posted on their own websites. Note, however, that these caseload data may be adjusted by HHS to reflect changes to program configurations or funding streams.

HHS has now released expenditure data for both FY 2007 --

http://www.acf.hhs.gov/programs/ofs/data/2007/tanf_2007.html -- and FY 2008 --

http://www.acf.hhs.gov/programs/ofs/data/2008/tanf_2008.html

CLASP's analysis of this data is available at:

FY 2007: http://www.clasp.org/resources_and_publications/publication?id=0486&list=publications

FY 2008: http://www.clasp.org/resources_and_publications/publication?id=0659&list=publications

For additional information about the TANF Emergency Fund, visit
CLASP's resource page at: <http://www.clasp.org/TANFEmergencyFund>