



Michigan League FOR Human Services

November 14, 2006

## RECENT CHANGES IN TANF AND THEIR IMPLICATIONS FOR MICHIGAN

*On February 8, 2006, the President signed the Deficit Reduction Act of 2005 (DRA) which, among other things, reauthorized the Temporary Assistance for Needy Families (TANF) block grant through Fiscal Year 2011. TANF was first authorized as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and although it was scheduled to expire after five years unless reauthorized, it was extended through a series of continuing resolutions while Congress debated what modifications to make to the block grant as part of reauthorization.*

*Despite the fact that Congress had been deliberating changes to the TANF block grant for more than four years prior to reauthorization, the DRA enacted few of the proposed changes into law. The most significant change made to TANF as part of reauthorization through the DRA is in the calculation of states' work participation rates, which indicate the percentage of a state's TANF cases that are engaged in countable work activities. The DRA also stipulated that explicit definitions of countable work activities and revised guidelines concerning who may be counted would be forthcoming from the U.S. Department of Health and Human Services (HHS), and an interim final rule to this effect was issued in June 2006. This paper discusses the new changes and their implications for program design in Michigan.*

### The New TANF State Work Participation Requirements

#### Work Participation Requirements in PRWORA

Engagement in work activities was a centerpiece of the 1996 welfare reform legislation. Households receiving cash assistance are required to engage in work activities for a specified number of hours each week according to their household type, with a certain number of those hours being in "core" activities. Weekly work requirements are as follows:

- Single parent with child under 6 years old –20 hours;
- Single parent with no child under 6 years old –30 hours (with at least 20 hours in core activities);
- Two-parent family not receiving federally-funded child care assistance –35 hours (with at least 30 hours in core activities);
- Two-parent family receiving federally-funded child care assistance –55 hours (with at least 50 hours in core activities).

1115 SOUTH PENNSYLVANIA AVENUE • SUITE 202 • LANSING, MICHIGAN 48912

517.487.5436/PHONE • 517.371.4546/FAX • [WWW.MILHS.ORG](http://WWW.MILHS.ORG)

A UNITED WAY AGENCY

The activities in which a family may engage in order to meet its work requirements are as follows:

Fully Countable Core Activities:

- Unsubsidized Employment
- Subsidized Employment
- Unpaid Work Experience (sometimes called workfare and permitted only if sufficient private sector experience is unavailable)
- On-the-Job Training
- Community Service Programs
- Providing childcare for a community service program participant
- High school or GED preparation classes (for teen parents age 19 or younger without a GED or high school diploma)

Core Activities Countable for a Limited Time:

- Job Search and Job Readiness (max. 4 weeks at a time; up to 12 weeks a year in Michigan)
- Vocational Educational Training (max. 12 months in a lifetime)

Activities Countable Only When Also Participating in Core Activities:

- Job skills training directly related to employment
- Education directly related to employment (for recipients without GED or high school diploma)
- High school or GED preparation classes (for recipients age 20 or older without a GED or high school diploma)

States are required to have a specified percentage (called the state's *work participation rate*) of their non-exempted cash assistance recipients meeting their

work requirements, and a state whose work participation rate does not meet the requirement is subject to penalty. States can exclude single parents with a child under age one, families who receive assistance under a tribal assistance plan or work program, and families facing sanctions (the latter can be excluded for up to three months). For the past several years, the work participation requirement for all states has been 50 percent when counting all families on TANF cash assistance, and 90 percent when counting only two-parent families on cash assistance.

Under PRWORA, states are required to match federal funds with their own; this is called the *maintenance of effort* (MOE) requirement. As an incentive to states to engage TANF recipients in work activities, states are permitted to match the federal grant money with a lower amount of state spending if they meet the federal work participation requirements. PRWORA specifies that states meeting the participation rates have an MOE requirement of 75 percent of the state's general fund contribution to the AFDC program in FY 1994-1995. States not meeting the requirement have an 80 percent MOE requirement.

Michigan's actual participation rate each year has not met the 50 percent target since 1999, and its two-parent rate has never met the 90 percent target. This has been the case for most other states as well. The 1996 welfare reform legislation, however, gave each state a *caseload reduction credit* that reduces a state's work participation requirement each year based on how many percentage points the state's average monthly number of TANF cases during the previous year fell below the average monthly number during 1995. (For example, if a state's average monthly number of cases during a given year was 5 percent lower than

the average number in 1995, then the state's for the following year.) The legislation stipulates that there shall be no credit for reduction that is attributable to new rules such as those pertaining to income and resource limits, time limits, or sanctions; however, a state may count caseload declines resulting from new or more rigorously utilized enforcement mechanisms or procedures.

adjusted target would be 45 percent. Because of the steep decrease in the number of cash assistance caseloads in Michigan during the late 1990s, the caseload reduction credit has given Michigan and many other states an adjusted work participation requirement of 0 percent since 1999, thus allowing them to meet their targets.

Work Participation Rates for Michigan								
Fiscal Year	Federal Target				Michigan			
	All Families		Two-Parent		Adjusted Target		Actual Participation Rates	
	Percent	Hours Per Week	Percent	Hours Per Week	All Families	Two-Parent families	All Families	Two-Parent families
1997	25%	20	75%	35	13.3%	60.3%	41.1%	47.4%
1998	30%	20	75%	35	5.2%	38.4%	49.2%	63.9%
1999	35%	25	90%	35	0.0%	15.2%	43.8%	69.1%
2000	40%	30	90%	35	0.0%	4.1%	36.4%	61.7%
2001	45%	30	90%	35	0.0%	5.0%	33.8%	53.5%
2002	50%	30	90%	35	0.0%	4.6%	28.9%	46.5%
2003	50%	30	90%	35	0.0%	6.4%	25.3%	36.2%
2004	50%	30	90%	35	0.0%	6.0%	24.5%	35.7%
2005	50%	30	90%	35	0.0%	8.0%	21.9%	30.4%
2006	50%	30	90%	35	0.0%	8.0%	22.7%	26.3%

*Produced by Michigan League for Human Services*

### New Changes to the State Work Participation Policies

The number of hours that recipients are required to participate did not change with the reauthorization under DRA, nor did the list of activities that are countable toward those requirements. However, the new law makes four key changes to the participation rate structure:

1. It modifies the base year of the caseload reduction credit from 1995 to 2005, beginning on October 1, 2006.

2. It discontinues the PRWORA policy of counting recipients in TANF-funded programs toward state participation rates, but not those in separate state-funded programs that count toward state maintenance-of-effort requirements. Beginning October 1, 2006, state work participation rates must include both TANF cash assistance recipients *and* recipients in separate state-funded

programs that are counted toward the maintenance-of-effort requirement.

3. While the DRA did not change the list of activities that are countable toward family work requirements, it directed the U.S. Department of Health and Human Services (HHS) to adopt specific definitions of those activities to eliminate ambiguity about what counts and what does not. It also called for the Department to adopt regulations specifying the circumstances under which a parent who resides with a child receiving assistance should be included in a state's work participation rates, and for uniform methods for reporting and verifying hours of work. These new definitions and regulations were released on June 28, 2006, and are discussed later in this paper.<sup>1</sup>

4. It establishes a new penalty for not meeting the requirements. Under the new rules, if a state fails to meet either the all-family or the two-parent-family work participation requirements, it will lose 5 percent of its adjusted State Family Assistance Grant (SFAG) for the first year of failure, and would have to replace that amount with state spending.<sup>1</sup> This amount increases by 2 percentage points for each subsequent year of failure to meet the requirement, up to a maximum of 21 percent of the adjusted grant. If the state fails to meet the two-parent rate but meets the all-families rate, the 5 percent maximum penalty is limited by the share of the state's cases that are made up of two-parent families (i.e. if five percent of Michigan's families were two-parent families, then

Michigan would be assessed a penalty of 5 percent of 5 percent, or 0.2 percent of the adjusted SFAG). It should be noted that 5 percent followed by 2 percent for subsequent years is the maximum penalty HHS may impose. HHS can reduce the penalty based on the extent of a state's non-compliance, and can waive a state from penalties altogether if it is determined that the state has good cause for noncompliance.

### **What these Changes Mean for Michigan**

Of the changes that the DRA legislation itself makes to TANF, the most significant for Michigan is the change in the baseline year for calculating the caseload reduction credit. In its annual report to the U.S. Department of Health and Human Services, the Michigan Department of Human Services reported that the Family Independence Program had provided TANF cash assistance to a monthly average of 78,296 families in Fiscal Year 2005. As this figure is similar to those of the past several years, it can be assumed that if no policy changes are implemented, Michigan will continue to serve approximately this many families in future years. This will eliminate the caseload reduction credit for Michigan, forcing it to meet the 50 percent and 90 percent target rates for families and two-parent families, respectively. Because Michigan's current participation rates (22.7 percent for all families and 26.3 percent for two-parent families) are so far below the targets, Michigan will either have to modify its policies significantly or pay significant penalties.

<sup>1</sup> The new HHS regulations are found in Part IV of the *Federal Register* for June 29, 2006.

<sup>2</sup> The adjusted SFAG equals the basic TANF block grant minus the amount transferred to the Child Care and Development Block Grant (CCDBG) or the Social Services Block Grant (Title XX) and the amount spent on tribal programs. PRWORA requires that the TANF funds transferred to Title XX shall be used only for programs and services to children and their families whose income is less than 200 percent of the federal poverty threshold.

Michigan's TANF block grant is \$775,353,000 per year, but because it transfers \$27 million of this to the Social Services Block Grant and approximately \$130 million to the Child Care and Development Block Grant, Michigan's adjusted grant (called the State Family Assistance Grant, or SFAG) is approximately \$617.4 million.

Based on this amount, the 5 percent grant reduction for Fiscal Year 2008, resulting from failure to meet work requirements in FY 2007, would be approximately \$31 million. Michigan would have to make up this amount with state spending, or face an additional penalty of up to 2 percent of its TANF grant for each subsequent year of noncompliance (i.e. approximately \$43.2 million in 2009). If Michigan met the all-families target but not the two-parent-families target, the 5 percent penalty would be imposed in proportion to the percentage of the caseload that is comprised of two-parent families.

In addition to losing 5 percent of its block grant, Michigan's inability to meet its work participation requirements would also increase its Maintenance-of-Effort (MOE) requirement. Each year since TANF was established, Michigan's MOE requirement has been \$468,518,375 million per year, or 75 percent of its spending in the AFDC program in Fiscal Year 1995. Failure to meet the new requirements would require Michigan to pay 80 percent of its 1995 spending, or \$499,752,933 per year (\$31,234,558 more than the current MOE requirement). Thus,

failure to meet the work participation requirements in FY 2007 could add up to more than \$62 million in penalties in FY 2008, the first year the state could incur a penalty. With the additional 2 percent penalty added, this amount would increase to more than \$74 million for failure to meet the target in FY 2009.

Each state has sixty days after notification of penalty to claim reasonable cause and/or to submit a corrective compliance plan. The plan must describe why the state failed, how it will correct the problem, and a timeline for achieving compliance. HHS states that it will give some leeway in how it responds to state failures to meet participation requirements in the event of reasonable cause. If a state has achieved at least 50 percent of its adjusted rate (after the caseload reduction credit is applied), it may, at the discretion of the department, receive a penalty reduction based on the rate achieved, the increase in the number of engaged recipients and the number of consecutive years of failure.

Nevertheless, penalties that the state will face if it does not meet the targets could be significant. The challenge for Michigan will be to redesign its FIP program in such a way that it will be able to meet the new targets, and to do so without discontinuing cash assistance to families while they are still in need or pushing them into dead-end, poverty-wage jobs that do little to build their employment prospects for the future.

### **The New Definitions of "Who Counts" in the Work Participation Rates**

In addition to changes in the work participation rate structure, the DRA required the U.S. Department of Health and Human Services (HHS) to issue more explicit rules identify the circumstances under which a

parent who resides with a child receiving assistance should be included in the work participation rate calculation. On June 29, 2006, these definitions and rules were issued in the form of an interim final rule printed in

the Federal Register and effective immediately.

The new rules create a term "work-eligible individual" which will be used to define individuals who must be included in the work participation rate calculation. This new term replaces the former approach, in which families including an adult recipient are included in the work rate and those without an adult recipient ( "child-only cases" ) are excluded.

Under the new definitions, a "work-eligible individual" is:

1. An adult (or minor head-of-household) who is included in the assistance grant, unless he or she is:
  - receiving MOE-funded assistance under a tribal assistance plan
  - is a parent caring for a disabled family member who is living in the home and does not attend school full time
2. A non-recipient parent (as opposed to a relative) living with a child receiving assistance, unless he or she is:
  - ineligible to receive assistance due to immigration status
  - a parent receiving Supplemental Security Income (SSI)
  - a minor parent who is not the head of household

The new rule states that any other non-recipient parent residing with a recipient child will be included. These include partial sanction cases (which do not apply to Michigan as it only utilizes full-family sanctions), and cases in which parents are disqualified for reasons of fraud or fleeing felony convictions. This also means that a non-recipient in a two-parent family could now be counted if the other parent is receiving assistance.

Of particular concern is how these new regulations will affect parents who are caring for a disabled family member. Parents in this situation are *not* considered work-eligible and will not be counted in the calculation if:

1. the disabled family member is living in the home
2. the need for such care is medically documented
3. the family member does not attend school on a full-time basis "

There are three primary problems with the way the new regulations are worded which could negatively impact Michigan recipients who are disabled themselves or caring for a disabled family member. First, it is not clear what the word "attending" means in this context. If it is strictly interpreted, then parents caring for a disabled family member would be counted in the work participation rates when the child is not in school, such as during summer vacation or extended periods of hospitalization. If, however, "attending" in this context is defined as being *enrolled* in school on a full-time basis, this will be less problematic. It is hoped that HHS will issue a clarification on this point in the future.

The other two disability-related problems have to do with disabled adult recipients. While a person who is on SSI is excluded from the calculation, a person who is awaiting an SSI determination is not, thus discouraging Michigan from waiving such recipients from work requirements. The new wording also impacts adults who are not on SSI and are not considered disabled, but who are temporarily incapacitated and cannot work. Michigan has up until now been exempting such recipients from work requirements, but the wording of the new TANF regulations does not list such families among those who may be excluded from work participation rates. The rationale given by HHS for not exempting such

recipients from work rates is that because states can have up to 50 percent of their TANF population not working, this should provide enough leeway to waive these recipients. However, because the non-

working TANF recipients are primarily the hardest to serve, Michigan and other states do not expect that this will provide enough flexibility for these cases.

## The New Work Activity Definitions

The interim final rule also includes explicit definitions for the work activities that may be counted in a state's TANF participation rate. DRA directed HHS to issue these definitions because PRWORA listed the activities that would count toward the work requirements but did not explicitly define them. As a result there has been much ambiguity among the states around how to interpret the law, and which activities may count toward the states' work participation rates. These definitions seek to define the countable work activities in a way that clarifies how states may and may not interpret the work categories, and to make the categories mutually exclusive.

Following is a description of the activities that are countable toward work participation rates, taking into account the new definitions of those activities issued by HHS and the significance of these definitions to Michigan's current policies and practices.

### *Core Activities*

(Core activities can count toward all hours of participation.)

Unsubsidized employment: This category consists of full- or part-time employment in the public or private sector that is not subsidized by TANF or any public program.

This is the most common way that individuals meet their work requirements in Michigan and most other states, and is normally seen as the goal for TANF recipients who are not disabled or otherwise unable to attach to the labor market.

While it is true that unsubsidized, permanent employment is the best way out of poverty and should be the ultimate goal of most TANF recipients, this does not mean that the TANF population is best served with a work-first approach. For many recipients, skill-building and/or barrier removal activities are necessary prerequisites to sustainable employment and should be accessible to any recipients whose value in the labor market would be enhanced by such activity. Conversely, the work-first approach taken by many states often leads to large numbers of recipients leaving welfare for dead-end jobs that keep them in poverty. Fortunately, Michigan is moving away from this approach with its implementation of the Jobs, Education and Training (JET) program.

Subsidized private or public sector employment: This refers to employment in the private sector for which the employer receives a subsidy from TANF or another public funding source to offset some or all of the wages and costs of employing a recipient.<sup>3</sup>

<sup>3</sup> Some employers are federally subsidized through the tax code (i.e. the Work Opportunity Tax Credit or the Welfare-to-Work Tax Credit) for hiring welfare recipients and other difficult-to-employ groups. Subsidization through these means alone does not constitute subsidized employment for purposes of this definition; welfare recipients whose employment is supported only through tax credits are considered to be in unsubsidized employment. ”

Jobs in this category pay wages and benefits similar to non-subsidized employees performing similar work. The regulations discuss three possible approaches to subsidized employment:

- a) Using TANF funds that would otherwise have been paid as assistance to reimburse all or part of an employer's costs of employing the recipient. This was referred to as grant diversion or work supplementation under the AFDC program.
- b) Using a third-party, such as a temporary staffing agency, as the employer of record during the subsidy period. The third-party entity would receive a fee from both the employer and the appropriate public agency—in Michigan's case, the Department of Human Services (DHS) and/or the Department of Labor and Economic Growth (DLEG)—to cover the salary and support services. This however, is not seen as an effective strategy for accessing jobs and is not recommended for Michigan.
- c) Subsidizing supported work for individuals with disabilities, who would work side-by-side with non-disabled workers and would receive comparable wages.

The regulations state that the period of subsidy is to be seen as a trial period, with the expectation that satisfactory performance will result in the employer retaining the participant as a regular employee without receiving a public subsidy. While on the surface this wording might seem positive because it encourages employers who receive a subsidy to commit to investing in recipients as long-term employees, it is problematic for two reasons. First, as it is only an "expectation" and is not explicitly required, there is no clear

mechanism by which the expectation will be enforced. Second, the expectation does not allow room for *transitional jobs programs*, which are temporary by definition yet involve a comprehensive set of services to help the participant address barriers, build work skills, and transition into unsubsidized employment. States that wish to implement transitional jobs programs may count participants in these programs in this category, provided there is an understanding that these jobs are in fact transitional and are not expected to lead to permanent employment at the work site involved.

Michigan currently strictly limits the use of subsidized private or public sector employment. The Office of Workforce Development has stipulated that it shall be limited to a maximum of four weeks in total during a 12-month period, and only initiated with a reasonable assurance that the participant will remain employed after completion of the probationary period. The recipient is required to test the labor market before being placed in such an arrangement, the primary purpose of which is to allow the employer the opportunity to observe how the participant functions in a work environment. Michigan may wish to consider expanding the use of subsidized employment in the future, including transitional jobs programs.

Transitional jobs programs prepare cash recipients with low skill or work experience levels for participation in the labor force. A well-designed program uses time-limited, wage-paying jobs that combine real work, skill development and support services to transition hard-to-employ individuals into the labor market, and follows successful completion of the program with job placement services. According to the Center for Law and Social Policy, a good transitional jobs program consists of the following elements:<sup>4</sup>

---

<sup>4</sup> Baider, Allegra and Abbey Frank, *Transitional Jobs: Helping TANF Recipients with Barriers to Employment Succeed in the Labor Market*, Center for Law and Social Policy, May 2006.



- 1) Orientation and Assessment
- 2) Life Skills/Job Readiness
- 3) Case Management
- 4) Transitional Job
- 5) Unsubsidized Job Placement and retention
- 6) Additional Client Support
- 7) Education and Training

Often, transitional jobs programs are undertaken in collaboration with state corrections departments and are targeted to persons exiting the corrections system. In these cases, the programs help to divert individuals from TANF rather than serving those already on TANF assistance, and thus would not help their states increase their work participation rates. However, the transitional jobs strategy arose and developed as a response to PRWORA and holds great potential for states seeking effective ways to meet participation requirements. Currently, two states (Washington and Georgia) have statewide programs that specifically target TANF recipients nearing their time limit. Many other states have local programs that serve primarily TANF recipients.

Transitional jobs programs require significant investment by the state. Many states use TANF and Welfare-to-Work funds for this purpose. Additionally, they require collaboration among state and local, as well as public, private and non-profit, entities. However, they have generally shown strong placement outcomes in return for this investment of time, staff and money.

There are currently two transitional jobs programs in Detroit: Women Arise and the

New Start Employment Project (though the latter is a Goodwill Industries program geared primarily toward individuals exiting the corrections system rather than TANF clients).<sup>5</sup> Michigan policy should do everything possible to encourage the implementation of more transitional jobs programs. Not only do they assist in preparing hard-to-employ recipients for unsubsidized private sector employment, but enrolling recipients in these programs can further help Michigan to meet its work participation rates.

On-the-job training (OJT): While this is considered a component of employment, it differs from subsidized employment in that it subsidizes the employer to offset the cost of training provided to the participant rather than the cost of the employment itself. It also differs from the unsubsidized employment category in that the participant must be supervised daily. However, like subsidized employment, it is expected that the employer will retain the participant as an employee after the subsidy has ceased.

The OJT option provides a vast array of choices for states, although many states including Michigan have yet to make significant use of it. Because it is a core activity with no limitation on how long it can count toward work participation requirements, it is more flexible than the vocational training option. Other significant differences between vocational training and on-the-job training are that OJT, as defined in the context of TANF, is provided by the employer rather than a third-party educational institution and is not required to lead to a credential.

---

<sup>5</sup> Based on membership in the National Transitional Jobs Network, a project of the Heartland Alliance.

Because OJT can encompass many different kinds of skills training, this is a TANF option that Michigan would do well to utilize to a greater degree than it is currently doing. Training in basic skills and English as a Second Language (ESL) can count toward recipients' weekly work requirements under this option, as long as the training is provided by an employer and is specifically geared toward employment with that employer. One example of how this might be used is if Michigan partially subsidizes ESL training for a business that hires a significant number of workers with low English skills. The business would hire the teachers, and the workers would receive a specified number of hours of training at the worksite, in a classroom, or at a Michigan Works! Agency in place of hours spent in performing work duties for the employer.

In the interim final rule, HHS indicated that it is considering whether the definition of OJT should be expanded to encompass other training that is not associated with paid employment. Such an expansion would be of benefit to Michigan as it seeks to retrain dislocated workers and build the skills of its many low-skilled workers. It would also increase the options for Michigan to provide adult basic education or ESL training to TANF recipients without the constraints of either a time limit or the requirement that the training be directly affiliated with an employer.

Work experience programs: Also called workfare, this refers to work activity that is performed in exchange for a welfare grant rather than a wage.<sup>6</sup> HHS specifies that these programs are to be implemented only when sufficient private sector employment is not

available, and must provide an individual with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment. Participants are to be supervised daily. The new regulations make clear that these programs, unlike some other options, do not in and of themselves provide a pathway to unsubsidized employment. While some states have been counting job search, job readiness activities, and vocational training as part of a work experience program, this is no longer permitted under the interim final rule.

Michigan has never had a comprehensive work experience program. Work experience programs have been perhaps the most controversial of the options available to states. Such programs have generally shown negligible outcomes on employment, welfare receipt or payments. They often provide make-work activities that do not really provide the participants with the experience or skills necessary to transition into regular employment. There have been questions as to whether the amount of money that it takes to administer such programs is a wise use of TANF or MOE funds, in light of the other activities in which recipients can engage in order to become more employable. There is also the danger that states might use this option to save money by using work experience participants to do work that is normally done by public employees, thus displacing state workers or at least jeopardizing their employment security. Taking these problems into consideration, the wisest course is to avoid the implementation of state work experience programs unless they are specifically designed to move participants into better employment.

---

<sup>6</sup> Because the Fair Labor Standards Act (FLSA) applies, the welfare benefits that the participant receives must be of an amount comparable to the federal minimum wage.

Community service programs: Recipients are allowed to count participating in a community service program, or providing child care services to an individual who is participating in a community service program, as a work activity. The term "community service program" refers to a structured activity that is supervised daily and is designed to improve the employability of those who are not otherwise able to obtain employment. The interim final rule gives such examples as work performed for a school, Head Start program, church, government agency or nonprofit agency, or participation in a volunteer organization such as AmeriCorps or Vista. The requirement that activities must be structured and supervised clarifies that activities such as shoveling snow for a neighbor may not be counted if done informally, but may be counted if they are done as part of an established community service program. This makes participation in such activities similar in many ways to participation in work experience programs.

The new regulations make clear that activities such as short-term training (i.e. computer or office training) may be counted in this category only if they are of limited duration and are necessary to the performance of the community service activity. However, such activities as life skills classes, job readiness instruction, mental health and substance abuse treatment, and family violence counseling (all of which some states had been counting) may not be counted as a work participation activity under this category.

Regarding recipients who are caring for the child or children of a community service participant, such a recipient may be counted in this category only if he or she is not receiving wages for this work and is providing child care as part of a structured

and supervised program in exchange for welfare benefits. HHS specifies that if the recipient is receiving wages in exchange for the child care services, then the activity should be counted as employment.

The community service category is very similar to the work experience category in that the participant performs work in a structured program in exchange for a welfare benefit rather than a wage. Consequently, the same concerns about the ability of work experience programs to provide meaningful preparation for unsubsidized employment also apply to community service programs. While the community may benefit from such programs, the highest priority when enrolling a FIP recipient in such a program should be helping him or her find paid employment or build marketable skills. This holds particularly true in the case of allowing a recipient to meet work requirements by caring for the child of a community service participant, an option that for this reason should be used sparingly if at all.

### ***Core Activities with Limited Time Duration***

Job search and job readiness: This is a single category of activity for federal participation rates. Job search refers to the act of seeking or obtaining employment, while job readiness can refer to: a) preparation to seek or obtain employment (including life skills training), b) substance abuse or mental health treatment and c) rehabilitation activities for those who are otherwise employable. In fact, while some states had been incorporating such activities into other work participation categories, under the new HHS definitions this is the only category under which these activities may be counted.

The new regulations have made the monitoring and reporting requirements for activities in this category much stricter. As with other categories of work activity, the policy now explicitly says that the activities must be supervised daily. It also specifies that hours of job search cannot be deemed based on employer contacts, but that states may only count actual hours. Moreover, actual hours of job readiness activities such as substance abuse treatment must now be combined with other activities if they do not add up to the required number of hours.

It has been shown that, in general, unstructured job search is not very effective. Staff time is often spent verifying job contacts rather than in direct intervention with clients, and client success in finding permanent jobs is often mixed. Requiring more frequent contact and structure may improve the effectiveness of job search programs. On the other hand, for many clients, a highly structured job search program will mean less flexibility in finding child care. Job search programs will need to take this into account as they work with recipients in this area. Ideally, child care arrangements would be set up that remain in place after the participant finds employment.

Job search/job readiness activities are limited by statute to six weeks per fiscal year and four consecutive weeks. (The time limit is applied to the activity as a whole, not to job search

and job readiness separately.) However, there is an exception that allows states classified as "needy" to allow recipients to participate for a maximum of twelve weeks per year, with no more than four consecutive weeks countable.<sup>7</sup> Though job search is currently utilized in Michigan, its classification as a needy state will allow for slightly more flexibility in using this option to both help workers and meet participation rates. However, twelve weeks is still not enough time to address the needs of many recipients who face barriers to work. Individuals with mental health, domestic violence or substance abuse problems will likely need more time than what is allowed in order to address and resolve these issues prior to being work-ready.

Furthermore, there is concern about the way weeks are measured in this context. The preamble to the definitions section states that a week is a period of seven days, and appears to convey that even one hour of counted participation during a seven-day period uses up a full week for counting purposes. Because this will likely cause recipients to use up their options for engaging in these activities before they have reached their goals, it creates great difficulty in designing self-sufficiency plans that optimally utilize options for participation. (As the new regulations were issued as an interim final rule, the wording in this section might be changed if states can demonstrate to HHS the difficulty this will cause).

---

<sup>7</sup> A needy state is defined as one in which food assistance caseloads are at least 10 percent higher than in 1994 and 1995, and/or the average rate of seasonally adjusted unemployment for the most recent three-month period is at least 6.5 percent and is at least 110 percent of the rate for the corresponding rate in either of the two previous calendar years. 31 states (including Michigan) plus the District of Columbia are currently classified as needy.

HHS acknowledges the difficulty of fitting barrier-removal activities into six or twelve weeks, but responds that the fifty percent work participation rate provides for flexibility in this area, as half the caseload at any given time can be participating in activities that do not count. The Center on Budget and Policy Priorities and the Center for Law and Social Policy suggest several ways in which states can maximize the use of the Job Search/ Job Readiness option without jeopardizing their work participation rate:<sup>8</sup>

- 1) Allow recipients to participate in barrier-removal activities even if they are not always countable. However, count the weeks and hours strategically; if it turns out that a recipient's overall work hours are not going to count for a specific month, then don't report the hours engaged in job search/job readiness and save that week. "
- 2) Since each recipient receiving TANF funds has two days of excused absence per month, provide for ongoing job search and barrier removal activity under the excused absence policy.
- 3) Consider using solely state funded (SSF) programs for this purpose, if possible and appropriate.

It should be acknowledged that Michigan, unlike many other states, has a severe shortage of human services caseworkers due to the large number of early-out retirements in recent years. It may thus be impractical to divert valuable staff time toward strategically counting hours according to the first two suggestions. However, Michigan would do well to at least consider these methods and determine their feasibility.

<sup>8</sup> Lower-Basch, Elizabeth, Evelyn Ganzglass, Elisa Minoff, Sharon Parrot, and Liz Schott, *Analysis of the New Interim Final Rules*, Center on Budget and Policy Priorities and Center for Law and Social Policy, 2006.

Vocational educational training: PRWORA specified that vocational educational training may be counted for up to one year, and that no more than thirty percent of a TANF caseload may be engaged in this activity at one time. The interim final rule introduces new restrictions to this category that directly affect Michigan policies in at least three ways:

- 1) *It prohibits counting unsupervised study time toward weekly work requirements.* Michigan currently allows some TANF cash recipients to participate in a '0/10/10' program, in which the recipient puts in ten hours of employment activity, ten hours of classroom time and ten hours of study time each week. Michigan's counting of unsupervised study time toward work requirements acknowledged the need for parents to have flexibility as they juggle work, family and school (allowing parents to study at home while their children are sleeping, for example). The new restriction not only takes away the flexibility such parents need, but it will make counting study hours impossible for students for which a supervised study arrangement is unavailable. Many community college or vocational education programs do not have a study hall type of program to verify study hours because it is correctly assumed that adult students are self-motivated. Because such a program requires additional expenditures, staff time and space, this requirement puts up new obstacles to community colleges and other educational organizations as they try to accommodate the needs of low-income students.

- 2) *It prohibits counting work toward a baccalaureate degree toward TANF participation requirements.* Michigan's policy explicitly allows this. Although presently very few FIP recipients work toward a four-year degree while on cash assistance (most vocational training participants work toward two-year degrees or other recognized certificates), this represents a setback for Michigan in efforts to use education and training to help recipients succeed in the workplace.
- 3) *It prohibits adult basic education and ESL training from being counted as vocational educational training unless they are embedded within a vocational program that prepares participants for employment in a specific occupation.* These activities had been authorized in statute under the Aid to Families with Dependent Children (AFDC) and Job Opportunity and Basic Skills (JOBS) programs that made up the federal welfare system before PRWORA. Although Michigan has not heretofore allowed adult basic education or ESL to count toward work requirements under any category, it can be argued that this new restriction closes off one option for doing so should Michigan's policy change in that regard. (It is important to note, however, that the new regulations do not state that the basic skills education must be contextualized or integrated, only that it must be of limited duration and a necessary part of the training.)

Regarding the third restriction, it could be argued that it would be more strategic for Michigan to promote participation in ESL or adult basic education under a category without a time limit (such as on-the-job training) rather than under the vocational

educational training category. This would allow those who successfully complete these activities to move on to vocational training without cutting into the one-year time limit for such training. However, this is a state-level policy decision and the new policy reduces the flexibility states have in making such decisions.

It is important to note also that the new definitions clearly allow vocational education to be counted if it is part of a bridge program that integrates basic skills and/or ESL with occupationally oriented postsecondary education. It can also be counted up to the associate's degree level of a career pathways program that links education and job opportunities in specific sectors. Michigan is currently attempting to increase the implementation and participation of both types of programs.

### *Non-Core Activities*

(Non-core activities can count for a single parent who participates at least 20 hours in core activity or for the workers in a two-parent family if they participate at least 30 combined hours in core activity.)

Job skills training directly related to employment: This category includes a broad range of education and training activities. Literacy, adult basic education and ESL can be counted in this category if they focus on skills needed for employment or are combined with job training. The new regulations clarify that barrier-removing and job readiness activities, such as substance abuse or mental health treatment, cannot be counted in this category.

Education directly related to employment:  
 Activities can count in this category only for recipients without a high school diploma or GED. This category is comprised of education that is related to a specific occupation, job or job offer. It can include adult basic education, ESL, and educational programs that lead to a high school diploma or GED, provided these types of education are required as a prerequisite to employment by a specific employer or in a specific occupation.

Satisfactory attendance at secondary school or in a course of study leading to a GED: As with the above category, this option is open only for those who do not have a high school diploma or GED. Other educational activities such as adult basic education or ESL are not permitted under this category. The new

regulations clarify that participants must make good and satisfactory progress and that standards of progress must be both qualitative (i.e. grade point average) and quantitative (i.e. time frame and attendance record)

### Education and Training under the New Regulations

Michigan should do everything it can, within the parameters of the new regulations, to increase the level of education and training among cash assistance recipients. Studies have consistently shown that individuals with a postsecondary credential earn more than those without. Enabling recipients to build skills that are in

**Table 1: How Certain Educational Activities Count In The New Work Activities Definitions**

	Countable as vocational educational training?	Countable as job skills training?	Countable as education directly related to employment for someone without high school diploma or GED?	Countable as satisfactory school attendance?	Countable as on-the-job training?
<b>ESL</b>	Yes –if included as preparation for specific occupation	Yes –if instruction is explicitly focused on skills for employment or combined with job training	Yes	Yes –if linked to attending a secondary school or leading to a GED	Yes –if provided by employer in the workplace
<b>Basic Education</b>	Yes –if included as preparation for specific occupation.	Yes –if instruction is explicitly focused on skills for employment or combined with job training	Yes	Yes –if linked to attending a secondary school or leading to a GED	Yes –if provided by employer in the workplace
<b>High School Equivalency</b>	No	Yes –if prerequisite for a job or occupation	Yes –if prerequisite for a job or occupation	Yes	No
<b>Post-secondary Education</b>	Yes –if related to an occupation, excluding a BA or advanced degree	Yes	No	No	No

*Produced by the Center on Budget and Policy Priorities and the Center for Law and Social Policy*

demand in the labor market decreases the likelihood that they will need to return to cash assistance and helps them toward the goal of economic self-sufficiency. Having a better-educated workforce is also important for attracting jobs to the state, and the welfare system needs to work in cooperation with the higher education system in order to facilitate this.

Michigan is currently implementing its JET pilot program that will integrate vocational training with work and provide a more rigorous screening for client barriers. Although ESL and adult basic education cannot by themselves count as a core activity and must be combined with at least 20 hours of work, Michigan should consider every possible way to make these activities available to recipients who are not ready for vocational training. Following is a chart by the Center on Budget and Policy Priorities and the Center for Law and Social Policy that shows under which categories ESL, adult basic education, and other types of training may be offered.

### **Strategic Approaches Michigan Can Take to Meet Work Requirements**

The new participation rate structure and work activity definitions pose a challenge to Michigan as it tries to meet its participation requirements while making its welfare system more effective in decreasing economic need. Some of the more troublesome aspects of the new policies are:

- The daily monitoring requirement for most work activities other than employment;
- The rule against counting homework and study time as hours of participation in vocational training unless the study time is supervised;
- The excused absence policy that allows participants to miss no more than two days per month and ten days per year;
- The fact that ESL, literacy and adult basic education may not count in any of the core activities, and may be undertaken only if the individual is working at least 20 hours per week in another activity; and
- The prohibition against allowing participation in a four-year degree program to count toward work requirements.

There is also the concern that many of the allowable activities that may be available to recipients, including employment in low-wage or dead-end jobs, are unlikely to help them move into self-sufficiency. For this reason, Michigan needs to adopt policies that not only allow recipients to engage in meaningful activities, but strengthen support services that enable the recipients to overcome barriers to participation in those activities (such as making child care more available by updating the child care subsidy rates).

Michigan should also try to adopt creative and flexible models of monitoring and verifying hours that can minimize the paperwork burden on providers and recipients. This is particularly important given that the state is trying to get many different players in the education and workforce system on board with increasing the skills of FIP recipients. Because states will have to submit an annual Work Verification Plan to HHS and get the plan approved, it is recommended that Michigan submit a plan each year that gives wide flexibility to providers and recipients alike in this regard. There is no penalty to the state if the plan is rejected, as long as it is resubmitted by September 30, 2007. Pushing the envelope in its Work Verification Plan



allows the state to experiment to see what is both effective and allowable within HHS parameters.

Because a recipient is allowed to have a maximum of only two excused absences per month and ten per year, it would be to Michigan's advantage to define an expansive set of holidays in its Work Verification Plan. Absence during these holidays would not count against the recipient's maximum allowable absences. All federal and state holidays should be listed, as well as all

holidays in the K-16 and community college systems (i.e. the entire period around Christmas and New Years Day when schools are closed would be listed as a holiday). Michigan may also want to include various religious holidays in this list (Easter, Ramadan, Yom Kippur, etc.). Again, it is in Michigan's interest to include as broad a list as possible in its annual plan, provided it can submit a final plan before September 2007 should parts of its initial submission be rejected.

### **Conclusion**

Michigan has a choice. It can make its cash assistance program a poverty-fighting tool, or it can simply focus on meeting its work participation rates and avoiding penalties. The JET pilot program, with its focus on education and screening for barriers, is certainly moving in the right direction. However, Michigan can do more to

help its FIP population to move forward on the road to economic self-sufficiency. Through careful policy choices and program design, FIP can be a program that encourages work and financial independence, builds the skills of Michigan's low-income workforce, and provides an effective safety net for families who fall on hard times.

<b>TANF Work Activities Countable in Light of the New DHHS Regulations</b>						
	<b>Activity</b>	<b>Type</b>	<b>Population</b>	<b>Time Limit</b>	<b>Supervision Required</b>	<b>Verification</b>
1	Unsubsidized Employment	Core	General	None	None	Pay stubs, employer reports, and/or time and attendance records. State may project the number of hours worked based on the number of hours paid for, including sick leave, for up to six months in advance.
2	Subsidized Employment	Core	"Workers who may have barriers to employment." (Office of Workforce Development Policy Issuance: 01-38)	No federal time limit. Michigan limits this activity to 4 weeks in a 12-month period.	None	Same as for "unsubsidized employment."
3	Work Experience	Core	Recipients not otherwise able to obtain employment.	None	Daily	Documentation every two weeks.
4	On-the-Job Training	Core	Individuals with low work skills	None	Daily	Documentation every two weeks.
5	Job Search and Job Readiness Assistance	Core	Recipients not otherwise able to obtain employment.	12 weeks per fiscal year, 4 weeks consecutive	Daily	Daily documentation
6	Community Service Programs	Core	Recipients not otherwise able to obtain employment.	None	Daily	Documentation every two weeks.

7	Vocational Education	Core	Up to 30% of recipients (total #s 7 and 8)	12 months	Daily	Documentation every two weeks.
8	Job Skills Training Directly Related to Employment	Non-core	Recipients not otherwise able to obtain employment.	None	Daily	Documentation every two weeks.
9	Education Directly Related to Employment	Non-core	Recipients without High School Diploma or GED	None	Daily	Documentation every two weeks.
10	Satisfactory Attendance at a Secondary School or in a Course of Study Leading to GED	Non-core (except for teen parents)	Recipients without HS Diploma or GED; up to 30% of recipients (combined with #7)	None	Daily	Progress must be verified by institution using qualitative and quantitative standards (i.e. school attendance records and grades)

*Produced by Michigan League for Human Services*

PKc:Joyce\TANFnew rules2.doc/pr