

OPEGA Recommendation for Project Direction

Temporary Assistance for Needy Families (TANF) Program

Background

The Temporary Assistance for Needy Families Program (TANF) was first voted onto the Government Oversight Committee's (GOC) "On Deck List" in February of 2017. On March 24, 2017, the GOC voted to move the review of the TANF program to OPEGA's Work Plan. OPEGA began preliminary research in May of 2017. OPEGA's preliminary research for this project included:

- seeking input from GOC members and members and staff of the Health and Human Services Committee on concerns, or questions, regarding the TANF program;
- interviewing the current director, eligibility staff, and financial staff for the TANF program, located in the Office of Family Independence (OFI) within the Department of Health and Human Services (DHHS);
- interviewing representatives from the DHHS Office of Child and Family Services (OCFS), the Division of Contract Management and DHHS administrative staff regarding their roles related to the TANF program;
- interviewing Office of the State Auditor (OSA) staff assigned to audit the TANF program;
- reviewing relevant statutes, legislative history, rules, and relevant departmental guidance documents;
- reviewing reports submitted to the U.S. Department of Health and Human Services (USDHHS) Administration for Children and Families (ACF); and
- analyzing TANF program expenditure and enrollment data for 2007-2016.

Summary of Preliminary Research

Federal TANF Program Overview

The TANF program was enacted in 1997 by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to help needy families achieve self-sufficiency. The USDHHS Office of Family Assistance (OFA), a program office within ACF, administers the TANF federal grant program.

TANF replaced the Aid to Families with Dependent Children (AFDC) program and expanded the ways in which states could expend funds. States have increased flexibility in spending grant funds under TANF provided they are used for one of TANF's established purposes. At the time TANF was enacted, the federal Job Opportunities and Basic Skills Training program was replaced with ASPIRE-TANF (Additional Support for People in Retraining and Employment), and the Parents as Scholars program was established.

In 2010, a rule change was enacted by the American Recovery and Reinvestment Act of 2009 that allowed states to use TANF program funds carried over from prior years for any allowable TANF benefit, service or activity. Previously, these funds could only be used to provide direct client benefits such as cash assistance.

To be eligible for the TANF federal block grant, states must submit a State Plan every three years. The State Plan must include how the state intends to assist needy families and provide objective criteria for the delivery of benefits and the determination of eligibility.

Federal Funding Amounts and Conditions

A state's block grant is fixed at an amount equal to its peak expenditure on AFDC-related programs between federal fiscal year¹ (FFY) 92-95. States estimate the costs for the upcoming quarter and draw down funds on a weekly basis for qualifying expenses. Funds that have not been drawn down at the end of the federal fiscal year are referred to as carryover funds. They remain with the U.S. Treasury's office until the state accesses them.

States must meet annual cost-sharing requirements, referred to as maintenance of effort (MOE). The MOE requirement is 80% of a state's FFY1994 share of expenditures during the former AFDC program. Qualifying MOE expenditures are those made on behalf of TANF-eligible families, including (but not limited to) cash assistance, child care assistance, and education activities designed to increase self-sufficiency. Additional qualifying expenditures include pro-family healthy marriage and responsible fatherhood activities, and third-party in-kind contributions (e.g. contributions by a non-profit organization).

States receiving the TANF federal block grant must also meet minimum work participation rates as follows:

- 50% of all families receiving assistance within the state must have an adult or head of household participating in work activities for at least 30 hours per week; and
- 90% of two-parent families must have both parents participating in work activities for a combined total of at least 35 hours per week, or 55 hours for those receiving federally funded childcare assistance.

When work participation rates are met, a state's MOE requirement is reduced to 75% of its FFY1994 share of expenditures during the former AFDC program. States failing to meet minimum work participation rates for a fiscal year could be subject to a financial penalty, which is reflected as a reduction in TANF federal block grant funds. Additionally, states must make up for that reduction by increasing their own spending by a commensurate amount in the following federal fiscal year. States have the opportunity to claim reasonable cause or enter into a corrective compliance plan before financial penalties are imposed.

Allowable Use of Federal TANF Block Grant Funds

According to federal statute, TANF's purpose is to increase states' flexibility in operating a program designed to:

1. provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
2. end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
3. prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
4. encourage the formation and maintenance of two-parent families.

Generally, states are permitted to use the federal grant funds in any manner that is reasonably intended to accomplish one of the four statutory purposes, or in any manner that the state was previously authorized to use funds under the AFDC program. States must *only* serve the "needy," as defined by state eligibility criteria, when conducting activities or providing benefits to accomplish either of the first two statutory purposes. States may serve *both* the needy and non-needy using federal TANF funds for accomplishing

¹ The federal fiscal year begins October 1 and ends September 30.

either of the other two purposes. These regulations apply both to the agency directly administering TANF and to organizations subcontracted to provide services.

TANF funds may be used on direct financial assistance and “non-assistance”. Non-assistance includes child care and transportation for employed families, subsidies to employers, and programs and services such as education and training, case management, job search, and counseling. Federal regulations include express permissions for certain uses of funds including:

- to make payments to job placement agencies that provide employment placement services to individuals receiving assistance;
- to fund individual development accounts to accumulate funds for post-secondary education, first home purchase, or business capitalization; and
- to provide services through contracts with charitable, religious, or private organizations.

States may also transfer a maximum of 30% of annual TANF funds into the state’s Social Services Block Grant (SSBG) and the Child Care and Development Block Grant (also known as Child Care Development Fund or CCDF), combined. Only 10% of the total 30% may be transferred into SSBG. All funds transferred to SSBG must only be used for programs and services to children or their families whose income is less than 200% of the federal poverty line.

Federal regulations also specifically restrict states from using funds to provide assistance for the following:

- a family that does not include a minor child who resides with the family or a pregnant individual;
- teenage parents who do not attend high school or an equivalent training, or who do not live in adult-supervised settings;
- medical services;
- a family that includes an adult who has received assistance for 60 months (including non-consecutive months), subject to hardship extension;
- cash assistance for a period of 10 years to a person found to have fraudulently misrepresented their residence to obtain assistance;
- fugitive felons and probation/parole violators; and
- minor children who are absent from the home for a significant period of time.

Federal Monitoring of TANF

ACF oversees states’ use of TANF funds through mandated annual and quarterly reporting of expenditures. TANF programs are also audited by state entities, on behalf of ACF. In Maine, OSA performs an annual audit of the state’s administration of the TANF program as part of the larger Single Audit.

OSA’s audit is performed in accordance with the OMB A-133 Compliance Supplement, which identifies important compliance requirements. As directed by the supplement, OSA’s audit of TANF addresses allowed and unallowed activities; eligibility requirements for assistance recipients; MOE requirements; earmarking of funds; reporting of expenditures and work participation rates; special tests and provisions; and transfers of funds to the SSBG and the CCDF.

During the 2016 Single Audit, OSA identified two material weaknesses:

- TANF grant funds transferred to SSBG were used for unallowable purposes; and
- monitoring of sub-recipients needs improvement.

The Department disagreed with both findings. With regard to the transfer to SSBG, DHHS explained that they determined that the transfer did not meet the federal requirements and reversed the transfer in the same fiscal year, such that it did not impact the federal grant.

Maine TANF Program Overview

Maine P.L. 1997, ch. 530 enacted the TANF program at the State level and required DHHS to establish eligibility criteria and benefit levels. Since that time, every Maine Legislature except the 121st Legislature has passed legislation impacting the program.

Maine statute states that DHHS shall promote family economic self-support and assist parents who receive TANF assistance to move as quickly as possible into employment that will sustain the family. Statute requires DHHS to report annually on the TANF program to the Legislature's Joint Standing Committee on Health and Human Services. The reports is to include, but is not limited to:

- the number of TANF households and family members;
- the number of TANF participants in training, education, and work activities;
- the rates at which individuals who have found employment through ASPIRE return to the TANF program; and
- a summary of any federal laws enacted in the previous fiscal year that may require changes to the ASPIRE program and the potential impact of these changes on both TANF and ASPIRE.

Maine's Legislature has enacted many changes to the State TANF statute over the last decade. Several significant changes were enacted by the 2011 budget bill. The most notable change was the implementation of the 60 month time limit for individuals to receive assistance, subject to the hardship exception. Prior to this change, Maine funded benefits continuing beyond 60 months with state resources with the amount of assistance counting toward the State's MOE requirement. Other changes in 2011 included:

- elimination of TANF for certain non-citizens;
- permission to administer drug tests for TANF recipients convicted of a drug-related felony and to terminate assistance for a positive test, subject to conditions; and
- repeal of the requirement for the Department to provide transitional food benefits to ASPIRE-TANF recipients losing eligibility due to employment, and authorization to provide limited transitional food benefits to working families, under certain conditions.

More recently enacted changes became effective October 1, 2017. These include:

- elimination of the deprivation eligibility requirement²;
- an increase of the benefit amount by 20% and annual Cost of Living Adjustment (COLA) thereafter;
- an increase to the special needs housing allowance and eligibility;
- one-time stipends for obtaining employment for four months;
- an expansion of Low Income Home Energy Assistance Program; and
- a pilot program to provide vehicles for TANF families.

² Prior to this change, children had to be deprived of parental support or care due to death/absence/incapacity/or underemployment of a parent, in order to be eligible for TANF.

In Maine, TANF is administered by OFI. DHHS is responsible for identifying and implementing a sustainable plan for TANF federal fund expenditure and managing MOE spending requirements. OFI and the Service Center at the Department of Administrative and Financial Services are responsible for reporting both federal fund and MOE expenditures to ACF. OFI also determines eligibility of applicants for public assistance including TANF, SNAP and MaineCare. Additionally, OFI is responsible for developing Maine's TANF State Plan. The current plan became effective January 1, 2015 and expires December 31, 2017.

Maine's Federal Grant Funds

Maine's annual federal block grant is \$78 million. The amount has not changed since TANF's inception in 1997. According to DHHS, as of the beginning of State fiscal year³ (SFY) 2018, Maine had a carryover balance of \$85,941,362 from federal grant years 2015 and 2016. At that time, Maine also had \$53,971,276 in unspent federal grant funds from federal grant year 2017, which concluded on September 30, 2017.

Maine's MOE requirement is \$37.5 million annually, provided work participation rates are met. For years in which work participation rates are not met, the MOE is \$40 million. OPEGA notes that the State's MOE expenditures have met, or exceeded, federal requirements for the years 2008-2016.

The Department told OPEGA that Maine did not meet workforce participation requirements for FFY07-15, resulting in \$29 million in accumulated State penalties. These penalties, however, can be reduced based on corrective actions plans agreed to with ACF. OFI reported receiving notification that the FFY07 penalties will begin taking effect in FFY18 as all corrective actions have been exhausted for that year. The penalties for FFY07 will result in a \$1 million reduction of the TANF federal block grant on a quarterly basis. Additionally, Maine will need to increase its state expenditures on the TANF program by \$1 million in the federal fiscal year following the grant reduction. This spending does not count toward the MOE requirement. The final penalty amounts for FFY08-15 will be re-assessed after all corrective action has been exhausted for those years.

Maine's Use of TANF Funds

Basic Assistance

Maine has historically spent TANF funds primarily on basic assistance for families. This assistance includes cash payments and vouchers to meet a family's on-going basic needs. Until recent years, all federal TANF funds were expended on basic assistance and administration costs.

The Federal statute requires states to determine eligibility requirements for individuals and families to receive TANF basic assistance, which includes cash assistance, vouchers and payments for basic needs. State eligibility guidelines are defined in the TANF State Plan. In order to qualify for TANF benefits in Maine some key eligibility requirements include:

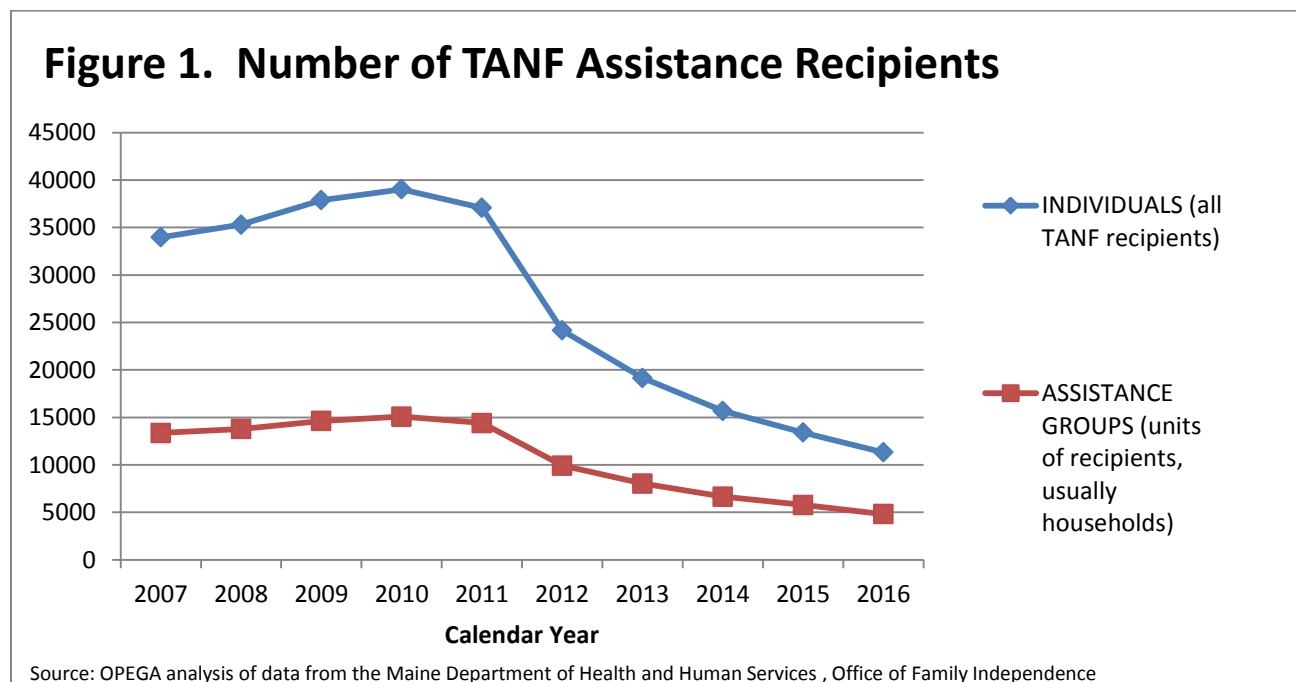
- live in Maine;
- be a U.S. Citizen or meet certain immigration requirements;
- be at least 6 months pregnant or have a child under age 18 (or up to 21 if in high school) in the home;
- have income and assets below TANF limits;
- develop a Family Contract, which is an agreement on what services DHHS will provide and how recipients must comply to receive services; and

³ The state fiscal year begins July 1 and ends June 30.

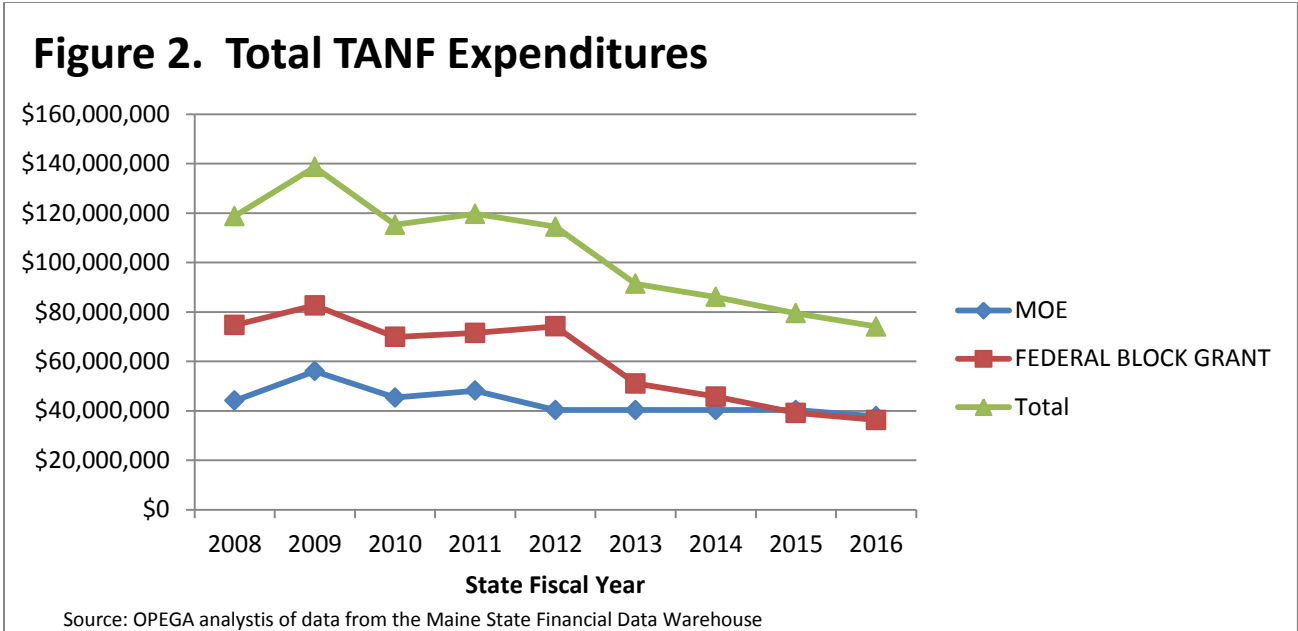
- participate in ASPIRE-TANF Support Services, the state’s training and employment program, if work-eligible.

Applications for TANF assistance are completed electronically through the DHHS My Maine Connections website, in person at a DHHS office, or mailed to DHHS. The application for TANF is also for SNAP, Parents as Scholars (PaS) and MaineCare, and the applicant must indicate which of the benefits they are applying for. TANF benefit amounts for eligible clients are determined using the Automated Client Eligibility System (ACES) program. TANF recipients are subject to ongoing eligibility requirements and are required to report any changes that may impact eligibility to DHHS within ten days of occurrence. Clients must also meet their obligations under the Family Contract and the ASPIRE-TANF family contract amendment. Additionally, a recipient’s continued eligibility for TANF must be recertified annually.

OPEGA analyzed TANF program and expenditure data for 2007 and 2016. As shown in Figure 1, TANF basic assistance enrollment slowly increased between 2007 and 2010. It began to decrease in 2011, with a dramatic reduction in caseload in 2012, and a continued downward trend through 2016.



As shown in Figure 2, the trend in overall TANF expenditures mirrors the TANF basic assistance enrollment numbers. Total TANF spending has decreased primarily through the decreased use of federal block grant funds. Maine’s MOE expenditures have remained consistent over the period of time reviewed, except for increased MOE spending in 2009.



Other Supports and Services

With a greater availability of funds due to the lower levels of funding for cash assistance, DHHS has begun to explore new ways to spend annual carryover funds on services. OPEGA notes that the shift to spending TANF federal funds on a broader range of allowable services is a national trend.

In SFY16, DHHS began using TANF to fund more contracts for services provided by external entities. The contracts are administered by OFI, OCFS, Maine Centers for Disease Control and Prevention (MCDCP), or the Office of the Commissioner. Prior to SFY16, there were no more than five contracts per year. In SFY16, there were 56 contracts involving TANF funds. OPEGA expects the expenditures for SFY16 contracts to be reflected in FY17 data which OPEGA has not yet analyzed. For SFY17, there are a total of 40 contracts using TANF funds. Those contracts are administered by OFI, OCFS, and MCDCP.

DHHS staff described the budgeting and planning process for TANF as evolving, with the ultimate goal of having a sustainable plan for using unspent federal funds that have accumulated. OFI holds standing budget meetings on a monthly basis, which include OFI leadership and representatives from the Service Center to assess the overall financial outlook of OFI. These meetings include a review of expenditures across all programs and funding streams, including TANF, and cover a forecast for future spending. OFI leadership and leadership in the Commissioners’ office have quarterly meetings to conduct a similar exercise. Additionally, the use of TANF funds on a short-term basis are proposed, discussed, approved, and budgeted in monthly meetings. During these meetings, the Department identifies core priorities and considers how to maximize TANF funds, with consideration to federal allowability requirements and the status of available funds. Potential services to be funded may be presented by a DHHS office, such as OCFS, or may come out of the group discussion.

A five-year spend plan was presented to the Legislature in May 2017 which projected the use of annual federal TANF allocations as well as spending down the accumulated carryover funds. DHHS has indicated that this plan is no longer current due to legislative changes impacting TANF in the most recent budget.

The Department has described their framework for current TANF spending as six categories of use:

1. Family Supports

DHHS describes the purpose of the Family Supports category as providing assistance to needy families so that children may be cared for in their own home or in the home of relatives. Another purpose is to provide services to promote safe, stable families, and to end families' dependence on government. Currently, this category of use includes basic assistance, family development savings accounts, domestic violence services, sexual assault program services, family planning services, and women's residential substance abuse treatment services.

2. Child Welfare

The purpose of TANF Child Welfare programs, as described by DHHS, is to assess and respond to reports of child abuse and neglect, to seek safety, well-being and permanency for Maine children. Additionally, this purpose supports transportation services and visitation services. This is accomplished by the transfer of TANF funds to SSBG, which is designed to support programs that reach families whose income is less than 200% of the Federal Poverty Level, and by working with other State agencies and contracting with providers for other child welfare-related services. Currently, this category of use includes family unification services, home visiting services, child abuse prevention, child welfare transportation services, supported visitation and other child welfare services.

3. Work/Education/Training

DHHS describes the purpose of Work, Education, and Training programs as providing services to help to end the dependence of needy parents on government benefits by promoting job preparation, work and marriage. Currently, services and programs provided include the ASPIRE employment program, which is contracted to a non-profit organization called FedCap, Two-Gen Collaborative education services for children and workforce development for parents and Earned Income Tax Credits through the Maine Revenue Service for TANF eligible families.

4. Child Care

DHHS describes the purpose of Child Care services as providing support for Maine's early intervention services, child development and safety and providing parents with assistance in creating self-sufficiency and independence. Additionally, this purpose provides safe and stable child care. Use of TANF funds for Child Care services is accomplished by DHHS transferring funds into the CCDF grant and providing child care subsidies.

5. At Risk Youth

DHHS describes the purpose of At Risk Youth programs as to promote safe, stable families and ending families' dependence on government by reducing risky behaviors, and to increase knowledge of health, wellness, work ethic and job skills. Currently, services and programs provided include Improving Outcomes for Youth programs, Pathways to Opportunities, Jobs for Maine Graduates, financial support for the Jobs for Maine Graduates Foster Care program, funding for higher education scholarships, before and after school programs, and homeless youth services.

6. Administration

TANF funds are also used for administration of the TANF program, including eligibility and program staff, and to pay the costs of EBT cards and the ACES computer system. The Federal Code of Regulations requires that states spend no more than 15 percent of the amount that it receives on administrative costs.

According to DHHS, the planned expenditures for these categories are designed to meet at least one of the four TANF statutory purposes.

OPEGA Recommendation on Project Direction

OPEGA recommends continuing this review of the TANF Program with a focus on the following questions:

1. What are the primary contributing factors to the decline in TANF basic assistance caseload since 2010?
2. How is Maine's use of federal TANF funds and the populations served with those funds changing?
3. To what extent does DHHS have effective processes for identifying and prioritizing potential uses of TANF funds and ensuring funds are spent on allowable supports and services?
4. To what extent is DHHS taking effective action to minimize negative fiscal impacts for failing to meet TANF's work participation requirements?