

ISSUE BRIEF

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Ending Work for Welfare: An Overview

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On July 12, the Obama Administration released a policy directive from the Department of Health and Human Services (HHS) rewriting the successful welfare reform law of 1996. The 1996 reform restructured the largest federal cash welfare program, Aid to Families with Dependent Children (AFDC), by inserting work requirements and renamed the program Temporary Assistance for Needy Families (TANF). As a result of the reform, within five years welfare rolls decreased by approximately 50 percent and child poverty dropped precipitously.

The Obama Administration's new directive allows states to waive the TANF work requirement, gutting the reform of its most critical element and bludgeoning the letter and intent of the law.

Obama Administration Violating the Law. In establishing welfare reform, Congress made the core work requirements of the TANF program mandatory and non-waiveable; it explicitly protected the work requirements from any future Administration that might wish to weaken them.

The Obama Administration is now illegally claiming authority to waive the TANF work requirements through a legal device called the section 1115 waiver authority under the Social Security law (42 U.S.C. 1315). Section 1115 states that “the Secretary may waive compliance with any of the requirements” of specified parts of various laws. However, this is not an open-ended authority. Any provision of law that can be waived under section 1115 must be listed in section 1115 itself. The work provisions of the TANF program are contained in section 407 (titled, appropriately, “Mandatory Work Requirements”). Section 407 and most other TANF requirements are deliberately not listed in section 1115 and hence are explicitly not waiveable.

Of the roughly 35 sections of the TANF law, only one is listed as waiveable under section 1115: section

402, which describes the reports that state governments must file to HHS describing the actions they will undertake to comply with the requirements established in the TANF law. The authority to waive section 402 provides the option to waive state reporting requirements only, not to overturn the core requirements of the TANF program contained in the other sections of the TANF law.

The HHS directive asserts that because the work requirements (established in section 407) are an item that state governments must report on in section 402, and HHS has the authority to waive section 402, all of the work requirements can be waived. This removes the core of the TANF program; TANF becomes a blank slate that HHS bureaucrats and liberal state bureaucrats can rewrite at will.

Congressional Research Service: “There Are No TANF Waivers.” In a December 2001 document,¹ the non-partisan Congressional Research Service clarified that the limited authority to waive state reporting requirements in section 402 does not grant authority to override work and other major requirements in the other sections

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of the TANF law (sections that were deliberately not listed under the section 1115 waiver authority):

Technically, there is waiver authority for TANF state plan requirement; however, [the] major TANF requirements are not in state plans. Effectively, there are no TANF waivers.

If Congress had wanted HHS to be able to waive the TANF work requirements laid out in section 407, it would have listed that section as waiveable under section 1115. It did not. The HHS action to waive the TANF work requirement blatantly violates the intent and letter of the law.

Welfare Reform Under Clinton.

The underlying concept of welfare reform was that able-bodied adults should be required to work or prepare for work as a condition of receiving welfare aid. The welfare reform law is often characterized as simply giving state governments more flexibility in operating welfare programs, but this is a serious misunderstanding. While the new law (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) did grant states more flexibility in some respects, the core of the act was the creation of rigorous new federal work standards that state governments were required to implement.

Under the old, pre-reform AFDC program, welfare was a one-way handout. Government mailed checks to recipients, who were not required to do anything in return. The new TANF program was based on reciprocal responsibility: Taxpayers continued to provide aid, but beneficiaries were required, in exchange, to engage in constructive behavior to increase self-sufficiency and reduce dependence.

The TANF work requirements were not onerous. Under the law, some 30–40 percent of adult TANF recipients in a state were required to engage in “work activities,” which is defined as unsubsidized employment, subsidized employment, on-the-job training, attending high school or a GED program, vocational education, community service work, job search, or job readiness training. Participation was part-time: 20 hours per week for mothers with children under six and 30 hours for mothers with older children.

Welfare Reform Was Successful. Despite claims from liberals that welfare reform would lead to disastrous outcomes, the welfare reform law was very successful. Prior to the reform, AFDC caseloads had not declined significantly at any time since World War II. Within five years of welfare reform, the caseload promptly dropped by approximately 50 percent.² As the caseloads

plummeted, employment and earnings among low-income individuals surged upward.³

As welfare dependence fell and employment increased, child poverty among the affected groups also fell dramatically. For a quarter-century before the reform, poverty among black children and single mothers had remained frozen at high levels. Immediately after the reform, poverty for both groups experienced dramatic and unprecedented drops, reaching all-time lows.⁴

However, since 1996 TANF work requirements have been weakened, as liberals in Congress have blocked reauthorization of the reform law and states have used loopholes to get around the work requirement. Now, the Obama Administration’s directive guts the work requirement, rendering the definition of “work” virtually meaningless.

Welfare State Continues to Swell. The welfare-to-work provisions of TANF should be restored. However, TANF is only one small program in a much larger welfare state. The federal government operates more than 80 means-tested welfare programs to provide cash, food, housing, medical care, and social services to poor and low-income people.⁵ As of 2012, only three of these programs had active work requirements. Now, with HHS’s latest order, the list is down to two.

1. Gene Falk, “Welfare Reform Waivers and TANF,” Congressional Research Service *Report for Congress*, December 13, 2001.
2. See Robert Rector, “The Good News About Welfare Reform,” testimony before the Subcommittee on Competitiveness, Committee on Education and the Workforce, U.S. House of Representatives, September 20, 2001, <http://www.heritage.org/research/testimony/the-good-news-about-welfare-reform>.
3. Robert Rector and Patrick Fagan, “The Continuing Good News About Welfare Reform,” Heritage Foundation *Backgrounder* No. 1620, February 6, 2003, <http://www.heritage.org/research/reports/2003/02/the-continuing-good-news>.
4. *Ibid.*
5. See Robert Rector, “Examining the Means-Tested Welfare State: 79 Programs and \$927 Billion in Annual Spending,” testimony before the Committee on the Budget, U.S. House of Representatives, May 3, 2012, <http://www.heritage.org/research/testimony/2012/05/examining-the-means-tested-welfare-state>.

Additionally, Obama has increased federal means-tested welfare spending by a third since taking office. Last year, combined federal and state spending on means-tested welfare hit \$927 billion. (Social Security and Medicare are not included in this total.)⁶

Remarkably, President Obama plans to increase spending on means-tested welfare spending further after the current recession ends. The President's own budget calls for a permanent increase in annual means-tested spending from 4.5 percent to 6 percent of gross domestic product. Combined annual federal and state spending would reach \$1.56 trillion in 2022. Overall, President Obama plans to spend \$12.7 trillion on means-tested welfare over the next decade.⁷

What Washington Should Do. Instead of returning welfare

to a one-way handout and pouring more taxpayer dollars into an ever-increasing number of welfare programs, welfare-to-work requirements should be restored in the TANF program, and similar work requirements should be established in parallel programs such as food stamps—the fastest growing welfare program today—and public housing.

Finally, total welfare spending on the approximately 80 federal welfare programs should be scaled back to pre-recession levels when the current recession ends and capped at the rate of inflation.⁸

Mutual Responsibility.

Establishing welfare on the principles of work and personal responsibility are key to discouraging long-term government dependence and helping those in need reach self-reliance. The 1996 welfare reform was a first step toward accomplishing

this goal, and it helped millions of Americans escape dependence and poverty.

The principle that able-bodied adults who receive welfare should be required to work or prepare for work in exchange for assistance is fair to the taxpayers and helps those in need move toward financial independence. This principle should be strengthened and expanded, not undermined.

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6. Ibid.

7. Ibid.

8. Katherine Bradley and Robert Rector, "Confronting the Unsustainable Growth of Welfare Entitlements: Principles of Reform and the Next Steps," Heritage Foundation *Backgrounder* No. 2427, June 24, 2010, <http://www.heritage.org/research/reports/2010/06/confronting-the-unsustainable-growth-of-welfare-entitlements-principles-of-reform-and-the-next-steps>.