

ISSUE BRIEF

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Ending Work for Welfare: Vague, Unverified Universal Engagement

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In July, the Obama Administration waived the core work requirements of the historic welfare reform law of 1996, which law required a portion of the able-bodied recipients in the Temporary Assistance for Needy Families (TANF) program work or prepare for work as a condition of receiving aid. The new bureaucratic directive from Obama's Department of Health and Human Services (HHS) declared that in the future, neither states nor TANF recipients would have to obey these workfare requirements. It replaces those work requirements with new, vague standards devised by HHS without any congressional input, such as "employment exits"¹ and "universal engagement."

The mainstream press has defended this illegal waiver,² declaring that the Obama Administration

merely wants to "tweak" the law's work standards. But the Obama policy does not "tweak" the work provisions in the law. In fact, it does not just weaken the law's work requirements; in many cases, the policy would bypass those work requirements entirely. The HHS directive establishing the new policy³ repeatedly asserts that the Administration will exempt states from the law's "work participation requirements" and replace those work requirements with new standards devised by HHS without any congressional input.

"Universal Engagement." Under the section of its executive guidance labeled "HHS Priorities," the Obama Administration explicitly declares that it will give waivers to promote state policies that use a "universal engagement system *in lieu of* certain participation rate requirements" (emphasis added).⁴ "Universal engagement" usually means a policy that seeks to have all adult work-eligible TANF recipients engage in constructive activities for at least one hour per week. Activities are defined very broadly to include things such as visiting a doctor or looking for day care.⁵

Universal engagement can be a positive policy if it is used in conjunction with existing TANF work

standards. But that is not what HHS is proposing: If the goal were to combine universal engagement with existing work participation standards, there would be no need to waive the existing law. Instead, HHS explicitly asserts that states should use universal engagement "in lieu of" the work participation standards in the TANF law.

So the standards of the reform law that require 30–40 percent of the adult TANF caseload to engage in clearly defined activities for 20–30 hours per week will be replaced by a new standard urging all adult TANF recipients to engage in vaguely defined activities for one hour per week.

In addition, HHS wants to weaken "verification procedures." This means that the information provided to federal policymakers on actual activities performed by TANF recipients will be reduced, making it difficult to determine even if the one hour of activity per week is actually being performed.

The Obama Administration has tossed aside the work requirements written in the welfare reform law. In its waiver policy, the Administration has explicitly granted itself unlimited authority to establish future new work policies of its own choosing.

This paper, in its entirety, can be found at <http://report.heritage.org/ib3715>

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Still, the Administration asserts that it should be trusted: It promises that it is merely “tweaking” the workfare system and is not really going to grant any waivers that make any significant changes. Regrettably, the Administration has already proved itself untrustworthy by flagrantly violating the welfare reform law by illegally claiming the authority to waive the work requirements in the first place.

Breaking Promises. It is noteworthy that the Administration has not produced any historical evidence to show that Congress intended to grant HHS authority to waive the TANF work requirements. The historical record is clear on this point.

As the summary of the reform law prepared by Congress shortly after enactment plainly states, “Waivers granted after the date of enactment may not override provisions of the TANF law that concern mandatory work requirements.”⁶

In the first 15 years after the enactment of welfare reform, no waivers of work requirements were issued by HHS. Indeed, no such waivers were ever mentioned or discussed, because it was abundantly clear to all parties that Congress had never granted such waiver authority to HHS.

The Administration now promises that it will only strengthen workfare. But it also promised to “faithfully

execute the laws of the United States.” It has already violated that promise by violating the letter and spirit of the 1996 welfare reform law and overturning the TANF work requirements in the first place. All the evidence suggests it will break its promises not to weaken workfare as well. This is no way to build on the success of welfare reform.

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1. See Robert Rector, “Ending Work for Welfare: Bogus Measures of Success,” Heritage Foundation Issue Brief No. 3710, August 24, 2012, <http://www.heritage.org/research/reports/2012/08/ending-work-for-welfare-bogus-measures-of-success>.
 2. Andrew Grossman, “Welfare Reform’s Work Requirements Cannot Be Waived,” Heritage Foundation Legal Memorandum No. 84, August 8, 2012, <http://www.heritage.org/research/reports/2012/08/welfare-reforms-work-requirements-cannot-be-waived>.
 3. U.S. Department of Health and Human Services, Administration for Children and Families, “Temporary Assistance for Needy Families Information Memorandum,” July 12, 2012, <http://www.acf.hhs.gov/programs/ofa/policy/im-ofa/2012/im201203/im201203.html> (accessed August 31, 2012).
 4. Ibid.
 5. Jacqueline Kauff and Michelle K. Derr, “Achieving Higher TANF Work Participation Rates: Case Studies from Maryland and Utah,” Mathematica Policy Research, December 2008, <http://aspe.hhs.gov/hsp/08/TANFWPR/4/index.shtml#Implementing> (accessed August 31, 2012).
 6. Summary of Welfare Reforms Made by Public Law 104-193 the Personal Responsibility and Work Opportunity Reconciliation Act and Associated Legislation, Committee on Ways and Means, U.S. House of Representatives, November 15, 1996, <http://www.gpo.gov/fdsys/pkg/CPRT-104WPRT27305/content-detail.html> (accessed August 31, 2012).
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