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TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

State Maintenance of Effort Requirements and Trends

Statement of Kay E. Brown, Director
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Highlights of [GAO-12-713T](#), a testimony before the Subcommittee on Human Resources, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

The \$16.5 billion TANF block grant, created in 1996, is one of the key federal funding streams targeted to assist low-income families. While the block grant provides states with a fixed amount of federal dollars annually, it also includes state MOE requirements, which require states to maintain a significant portion of their own historic financial commitment to welfare-related programs. Over the last 15 years, this federal-state partnership has seen multiple program and fiscal changes, including a dramatic drop in the number of families receiving monthly cash assistance, as well as two economic recessions. To provide information for its potential extension or reauthorization, this testimony draws primarily on previous GAO work to focus on (1) the key features of the state MOE requirements and (2) how the role of state MOE spending has changed over time. To address these issues, GAO relied on its prior work on TANF block grant and state MOE spending issued between 2001 and 2010, including the May 2010 report examining how state MOE spending affects state TANF programs' work participation rates. To develop the spending-related findings in this body of work, GAO reviewed relevant federal laws, regulations, and guidance, state TANF data reported to the U.S. Department of Health and Human Services (HHS), and related financial data from selected states. GAO also interviewed relevant officials from HHS and selected states.

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What GAO Found

The Temporary Assistance for Needy Families (TANF) block grant's maintenance of effort (MOE) provisions include specified state spending levels and general requirements on the use of funds. For example, these provisions generally require that each state spend at least 80 percent (75 percent if the state meets certain performance standards) of the amount it spent on welfare and related programs in fiscal year 1994, before TANF was created. If a state does not meet its MOE requirements in any fiscal year, the federal government will reduce dollar-for-dollar the state's federal TANF grant in the following year. In order to count state spending as MOE, funds must be spent on benefits and services to families with children that have incomes and resources below certain state-defined limits. Such benefits and services must generally further one of TANF's purposes, which broadly focus on providing financial assistance to needy families; promoting job preparation, work, and marriage; reducing out-of-wedlock births; and encouraging the formation of two-parent families. Within these broad goals, states have significant flexibility to design programs and spend their funds to meet families' needs.

Total MOE spending reported by states remained relatively stable around the required minimum spending level of \$11 billion through fiscal year 2005, and then increased to about \$4 billion higher than this minimum in fiscal years 2009 and 2010. Several reasons likely accounted for these increases, including states' reliance on MOE spending to help them meet TANF work participation rates. Work participation rates identify the proportion of families receiving monthly cash assistance that participate in allowable work activities for a specified number of hours each week. Federal law generally requires that at least 50 percent of families meet the work requirements; however, most states have engaged less than 50 percent of families in required activities in each year since TANF was created, according to HHS data. Various policy and funding options in federal law and regulations, including credit for state MOE expenditures that exceed required spending levels, have allowed most states to meet the rate requirements even with smaller percentages of families participating. States generally began relying on MOE spending to get credit toward meeting TANF work participation rates in fiscal year 2007 because of statutory changes to the rate requirements enacted in 2006. For example, for fiscal year 2009, the most recent data available, 16 of the 45 states that met the TANF work participation rate would not have done so without the credit they received for excess state MOE spending.

The expanded role of MOE in state TANF programs highlights the importance of having reasonable assurance that MOE spending reflects the intended commitment to low-income families and efficient use of federal funds. GAO's previous work makes clear that MOE provisions are often difficult to administer and oversee, but can be important tools for helping ensure that federal spending achieves its intended effect. This work also points out that with appropriate attention to design, implementation, and monitoring issues, such provisions are one way to help strike a balance between the potentially conflicting objectives of increasing state and local flexibility while attaining certain national objectives.

Chairman Davis, Ranking Member Doggett, and Members of the Subcommittee:

I am pleased to have the opportunity to participate in today's discussion of state spending related to the Temporary Assistance for Needy Families (TANF) block grant, which is one of the key federal funding streams targeted to assist low-income families. State spending represents about 40 percent of the \$406 billion in total TANF and related state spending for the past 15 years since TANF was created in 1996. As you know, the federal government significantly changed federal welfare policy in 1996 when it created TANF, a \$16.5 billion annual block grant provided to states to operate their own welfare programs within federal guidelines. While the block grant provides states with a fixed amount of federal dollars annually, it also includes state maintenance-of-effort (MOE) requirements, which require states to maintain a significant portion of their historic financial commitment to welfare-related programs. At the same time, TANF gives states the authority and flexibility to make key decisions about how to design programs and allocate federal and state funds to assist low-income families. Over the last 15 years, this funding partnership has undergone multiple program and fiscal changes, including a dramatic drop in the number of families receiving monthly cash assistance benefits, as well as two economic recessions.

My remarks today are based primarily on our past work on state MOE spending, including our May 2010 report examining how state MOE spending affects state TANF programs' work participation rates.¹ I will focus on (1) the key features of the state MOE requirements and (2) how the role of state MOE spending has changed over time. To develop our MOE-related findings for our May 2010 report on work participation, we conducted our work from August 2009 to May 2010.² In addition, in July 2011, we obtained more recent data on MOE and work participation from the US Department of Health and Human Services (HHS), and we reported on those data in our September 2011 testimony before this subcommittee.³ For today's statement we also drew on our prior reports

¹GAO, *Temporary Assistance for Needy Families: Implications of Recent Legislative and Economic Changes for State Programs and Work Participation Rates*, [GAO-10-525](#) (Washington, D.C.: May 28, 2010).

²For more information on our methodology, see appendix I of [GAO-10-525](#).

³GAO, *Temporary Assistance for Needy Families: Update on Families Served and Work Participation*, [GAO-11-880T](#) (Washington, D.C.: Sept. 8, 2011).

on TANF block grant spending issued between 2001 and 2006 as well as earlier reports on grant design and accountability generally. To develop findings for all of these reports, we used a variety of approaches, including interviewing officials from the HHS and selected states and reviewing state TANF data reported to HHS; related financial data from selected states; relevant federal laws, regulations, and guidance; and literature reviews. For more details on our methodologies, see the related reports cited throughout. We determined that these data were sufficiently reliable for the purposes of this testimony. We conducted our work in accordance with generally accepted government auditing standards. Those standards required that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The TANF block grant was created by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)⁴ and was designed to give states the flexibility to provide both traditional welfare cash assistance benefits as well as a variety of other benefits and services to meet the needs of low-income families and children. TANF has four broad goals: (1) provide assistance to needy families so that children may be cared for in their own homes or homes of relatives; (2) end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce out-of-wedlock pregnancies; and (4) encourage two-parent families. Within these goals, states have responsibility for designing, implementing, and administering their welfare programs to comply with federal guidelines, as defined by federal law and HHS.

In creating TANF, the federal government significantly changed its role in financing welfare programs in states. PRWORA ended low-income families' entitlement to cash assistance by replacing the Aid to Families with Dependent Children (AFDC) program—for which the federal grant amount was based on the amount of state spending—with the TANF block grant, a \$16.5 billion per year fixed federal funding stream to states. PRWORA coupled the block grant with an MOE provision, which requires

⁴Pub. L. No. 104-193, § 103(a), 110 Stat. 2105, 2112.

states to maintain a significant portion of their own historic financial commitment to their welfare programs as a condition of receiving their full federal TANF allotments. Importantly, with the fixed federal funding stream, states assume greater fiscal risks in the event of a recession or increased program costs. However, in acknowledgment of these risks, PRWORA also created a TANF Contingency Fund that states could access in times of economic distress.⁵ Similarly, during the recent economic recession, the federal government created a \$5 billion Emergency Contingency Fund for state TANF programs through the American Recovery and Reinvestment Act of 2009, available in fiscal years 2009 and 2010.⁶

The most recent data available, for fiscal year 2010, show that the federal government and states spent almost \$36 billion⁷ on benefits and services meeting one or more of the TANF goals. In that year, states provided, on average, about 1.9 million families per month with ongoing cash assistance,⁸ including about 800,000 families in which the children alone received benefits.⁹ This represents a significant drop from the more than 3 million families receiving cash assistance when states implemented TANF in fiscal year 1997. In addition, states provide a broad range of services to other families in need not included in the welfare caseload data. The total number of families assisted is not known, as we have

⁵Pub. L. No. 104-193, § 103(a)(1), 110 Stat. 2105, 2122.

⁶Pub. L. No. 111-5, § 2101(a)(1), 123 Stat. 115, 446.

⁷Total federal and state TANF expenditures in fiscal year 2010 equaled \$35.8 billion, of which about 58 percent was federal funds and 42 percent was state MOE funds. Federal funds spent in fiscal year 2010 included those provided through the TANF block grant, supplemental grants, the Contingency Fund, and the Emergency Contingency Fund. Supplemental grants refer to a capped amount of federal funds that have been available to several states each year if they meet certain criteria related to increased need in the state.

⁸The most recent data from HHS for fiscal year 2011 shows an average monthly caseload of 1.92 million families, which fell slightly to 1.89 million families in the first quarter of fiscal year 2012.

⁹These cases are referred to as child-only cases, in which a parent or non-parent caregiver is not receiving TANF cash assistance for a variety of reasons. For more information, see GAO, *TANF and Child Welfare Programs: Increased Data Sharing Could Improve Access to Benefits and Services*, [GAO-12-2](#) (Washington, D.C.: Oct. 7, 2011).

noted in our previous work.¹⁰ These allowable services under TANF can generally include any spending reasonably deemed to meet one or more of the four broad goals of TANF, and can include one-time cash payments, work and training activities, work supports such as child care and transportation, efforts to promote two-parent families or marriage, and child welfare services, among others. When TANF began, cash assistance represented the largest spending category (73 percent in fiscal year 1997). In contrast, cash assistance spending in fiscal year 2010 accounted for 30 percent of total TANF spending.

Reducing dependence on government benefits through job preparation and employment is a key goal of TANF, and PRWORA identified the work participation rate as one of the federal measures of state TANF programs' performance. This rate is generally calculated as the proportion of work-eligible TANF cash assistance recipients engaged in allowable work activities.¹¹ As a result, HHS is responsible for holding states accountable for ensuring that generally at least 50 percent of all families receiving TANF cash assistance benefits participate in one or more of the allowable work activities for a specified number of hours each week.¹² TANF provisions include other features to help emphasize the importance of work and the temporary nature of assistance, such as 60-month time limits on the receipt of aid for many families.

¹⁰GAO, *Welfare Reform: States Provide TANF-Funded Services to Many Low-Income Families Who Do Not Receive Cash Assistance*, [GAO-02-564](#) (Washington, D.C.: Apr. 5, 2002).

¹¹42 U.S.C. § 607. The 12 work activities are: unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience (if sufficient private sector employment is not available), on-the-job training, job search and job readiness assistance, community service programs, vocational educational training, job skills training directly related to employment, education directly related to employment (for recipients who have not received a high school diploma or certificate of high school equivalency), satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency (for recipients who have not completed secondary school or received such a certificate), and the provision of child care services to an individual who is participating in a community service program. 42 U.S.C. § 607(d).

¹²Some families receiving cash assistance benefits are excluded from work requirements, with the most significant group being certain child-only cases.

MOE Provisions Include Specified State Spending Levels with Some Flexibility

The preamble to the final rule issued by HHS in 1999 noted that the MOE cost-sharing arrangement reflected Congress' recognition that state financial participation is essential for the success of welfare reform.¹³ The preamble to this final rule also noted that Congress wanted states to be active partners in the welfare reform process.¹⁴ These requirements are an important element of TANF—if a state fails to meet its MOE requirement for any fiscal year, HHS is required by law to reduce dollar-for-dollar the amount of a state's basic TANF grant for the following fiscal year.¹⁵

Maintenance of effort requirements are sometimes found in federal grant programs to prevent states from substituting federal for state dollars. Such provisions can help ensure that federal block grant dollars are used for the broad program area intended by the Congress, in this case the four broad TANF purposes. Without such provisions, federal funds ostensibly provided for these broad areas could, in effect, be transformed into general fiscal relief for the states, as states could use some or all of their federal block grants to replace their own money invested in the program area. To the extent that this occurs, the ultimate impact of these federal dollars would be to increase state spending in other programs, reduce taxes, or some combination of both. A maintenance of effort requirement brings its own challenges—it can be complex to monitor and may lock states into meeting minimum spending levels that may no longer be warranted given changing conditions.¹⁶

Under TANF, while states have significant flexibility in how to spend their own money, several requirements guide the use of these state funds, including how much, for whom, and for what.

How Much?

Each state's amount of MOE is generally based on fiscal year 1994 state spending for a specific set of programs.¹⁷ The 1996 welfare reform law

¹³64 Fed. Reg. 17,720, 17,821.

¹⁴Id. at 17,816.

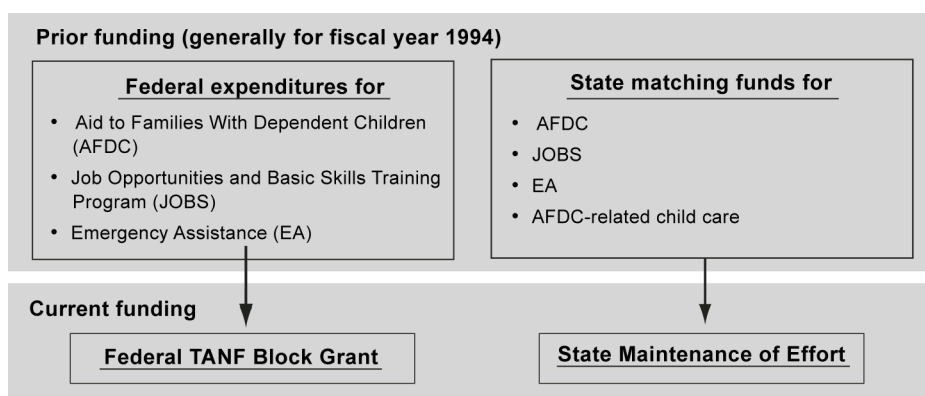
¹⁵See 42 U.S.C. § 609(a)(7).

¹⁶For more information, see GAO, *Block Grants: Issues in Designing Accountability Provisions*, [GAO/AIMD-95-226](#) (Washington, D.C.: September 1, 1995).

¹⁷42 U.S.C. § 609(a)(7).

consolidated and replaced programs under which the amount of federal spending was often based on state spending levels, and considerable state dollars contributed to these pre-TANF programs. Figure 1 shows the federal programs with related state spending that were included in establishing the fixed annual amount of the TANF block grant and state maintenance-of-effort level for each state.

Figure 1: Federal TANF Block Grant and State MOE Funding Levels Are Determined by Prior Year Expenditures for Several Terminated Programs



Source: GAO analysis of relevant federal laws.

Note: The previous AFDC program provided ongoing monthly cash assistance, JOBS provided states funds for welfare-to-work activities for AFDC recipients; and EA provided states funds to help eligible families with emergency needs. Prior federal funding was also available for AFDC-related child care; federal funding targeted to child care for low-income families is now funded through the Child Care and Development Fund.

The required percentages of these previous state spending levels vary under different conditions:

- 80 percent—To receive its federal TANF funds, a state must generally spend state funds in an amount equal to at least 80 percent of the amount it spent on welfare and related programs in fiscal year 1994.¹⁸
- 75 percent—If a state meets its minimum work participation rate requirements, then it generally need expend only 75 percent of the amount it spent in fiscal year 1994.¹⁹

¹⁸42 U.S.C. § 609(a)(7).

¹⁹Id.

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- 100 percent—To receive contingency funds, a state must expend 100 percent of that fiscal year 1994 amount.²⁰

In addition to its own spending, a state may count toward its MOE certain in-kind or cash expenditures by third parties, such as nonprofit organizations, as long as the expenditures meet other MOE requirements, including those related to eligible families and allowable activities, discussed below.²¹ In addition, an agreement must exist between the state and the third party allowing the state to count the expenditures toward its MOE.

For Whom?

Generally, to count toward a state's MOE, expenditures must be for "eligible families," that is, families who:²²

- include a child living with his or her custodial parent or other adult caretaker relative (or a pregnant woman); and
- meet the financial criteria, such as income and resources limits, established by a state for the particular service or assistance as described in its TANF plan. Each state is required to prepare and provide a biennial TANF plan describing its programs to HHS.

For What?

Generally, expenditures for eligible families in these areas may count toward MOE:²³

- cash assistance;
- child care assistance;
- educational activities to increase self-sufficiency, job training and work (except for activities or services that a state makes generally available to its residents without cost and without regard to their income);

²⁰See 45 C.F.R. § 264.72.

²¹45 C.F.R. § 263.2(e).

²²Changes made by the Deficit Reduction Act of 2005 allowed states to count as MOE total expenditures related to TANF purposes three and four—the prevention and reduction of out-of wedlock pregnancies and the formation and maintenance of two-parent families. These expenditures did not need to be directed solely at "eligible families." See 71 Fed. Reg. 37,454, 37,470.

²³45 C.F.R. §§ 263.2, 263.4.

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- certain administrative costs; and
 - other activities considered in keeping with a TANF purpose.

These expenditures may be made on behalf of families in a state's cash welfare program or for other eligible families through other state programs or initiatives.²⁴ However, state-funded benefits, services, and activities that were not a part of the pre-reform programs generally may count as MOE only to the extent that they exceed the fiscal year 1995 level of expenditures in the programs.²⁵ This is referred to as the "new spending" test. For example, if a state has currently spent its own funds on eligible families on an allowable activity, such as a refundable earned income tax credit, it may count toward its MOE only the current amount that exceeds that program's expenditures in fiscal year 1995.

MOE Spending Has Increased Significantly, But the Extent to Which It Represents Increased Service Levels Is Unclear

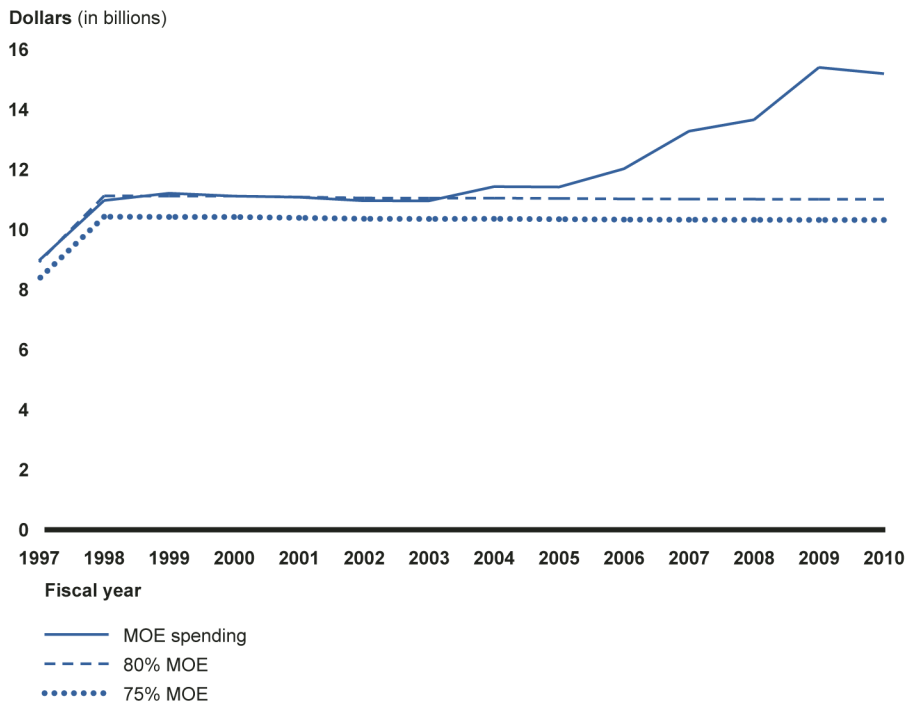
MOE Levels Have Increased in Recent Years

State MOE levels remained stable for many years and then increased more recently for several reasons. As shown in figure 2, until fiscal year 2006, MOE levels remained relatively stable, hovering around the 80 percent required minimum or the reduced rate of 75 percent for states that met their work participation rates. From fiscal years 2006 through 2009, they increased each year.

²⁴45 C.F.R. § 263.2.

²⁵45 C.F.R. § 263.5.

Figure 2: State MOE Expenditures, Fiscal Years 1997 through 2010



Source: GAO analysis of HHS data.

In a 2001 report, we examined issues related to the new federal-state fiscal partnership under TANF, noting several issues related to TANF and MOE spending rules.²⁶ We found at that time that the MOE requirement, in many cases, limited the extent to which states used their federal funds to replace state funds—an intended role for MOE.²⁷ It also led to a situation in which many state officials said they were spending more than

²⁶GAO, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, D.C.: Aug. 10, 2001). In this report, we conducted an in-depth analysis of 10 states.

²⁷TANF does not include a provision that prohibits states from using federal TANF funds to replace state funds. However, if states used TANF funds to replace state funds, they may have had to increase their own spending on other low-income programs to satisfy the MOE requirement. For example, a state could withdraw its own funds from a state refundable earned income tax credit for low-income families, and use federal TANF dollars instead. However, it would need to have enough other state spending to count toward its MOE. If it had enough state spending to cover its MOE and had still freed up state dollars, those dollars could be use for unrelated programs or for tax relief.

might be expected in the face of the large caseload drop in the earliest years of TANF.²⁸

However, states have additional flexibility in making spending decisions. While states must meet MOE requirements, federal TANF funds may be “saved for a rainy day,” providing states additional flexibility in their budget decisions.²⁹ In fact, many states had some TANF reserves that they drew down to meet increasing needs in the recent economic downturn.³⁰ Moreover, states have flexibility to provide a wide variety of services—as long as they are in keeping with the four broad purposes of TANF—to those on the cash welfare rolls and to other eligible families.

Nationwide, the amount of MOE spending started to increase in fiscal year 2006 and reached its peak in fiscal year 2009. Several reasons account for this increase:

- Many states (20) accessed TANF Contingency Funds between fiscal years 2007 and 2010—when the fund was depleted—which required them to meet a 100 percent MOE requirement. Further, almost all states accessed the Emergency Contingency Fund in fiscal years 2009 and 2010, which required them to have had increases in one of two specific types of expenditures—short-term, nonrecurrent benefits or subsidized employment—or in the number of families receiving cash assistance.
- Following the Deficit Reduction Act of 2005, an interim rule temporarily broadened the types of activities on which states could spend state funds and be countable for MOE purposes. Between fiscal years 2006 and 2008, total state MOE expenditures increased

²⁸In calendar year 1994, which generally served as the base year for establishing the TANF block grant and MOE amounts, AFDC caseloads had reached their highest levels ever, totaling 5 million families in an average month. This number had dropped to 2.3 million families in calendar year 2000, a period covered by the prior studies on which this testimony is based.

²⁹42 U.S.C. § 604(e). Each year, a state may in effect reserve some of its federal TANF funds to help it meet increased needs and costs in later years. A state’s unspent funds can “accumulate” as a type of “rainy day fund” for its future use. Since TANF was created in 1996, states have been permitted to spend prior year TANF block grant funds on assistance—a category that includes cash benefits and supportive services for families receiving these benefits. However, the Recovery Act increased states’ flexibility to spend prior year TANF block grant funds on all TANF-allowable benefits and services.

³⁰For more information on this issue, see [GAO-10-525](#).

by almost \$2 billion, and much of the increase in expenditures was in areas that had temporarily been broadened.³¹

- Many states claimed additional MOE to help them meet the work participation rates, as discussed in the next section.

MOE Spending Helped Some States Meet Work Rates

In recent years, some states have used their MOE spending to help them meet TANF work participation rates. Generally, states are held accountable for ensuring that at least 50 percent of all families receiving TANF cash assistance and considered work-eligible participate in one or more of the federally defined work activities for a specified number of hours each week.³² However, most states have not engaged that many recipients in work activities on an annual basis. For example, in fiscal year 2009, the most recent year for which data are available, less than 50 percent of TANF cash assistance families participated in work activities for the specified number of hours each week in 44 states, according to HHS. However, various policy and funding options in federal law and regulations allowed most of these states to meet their work participation rates. Factors that influenced states' abilities to meet the work participation rates included not only the number of families receiving TANF cash assistance who participated in work activities, but also decreases in the number of families receiving TANF cash assistance, and state MOE spending beyond what is required, for example.

³¹Between the interim rule issued in 2006 and the final rule issued in 2008, HHS allowed states to claim total expenditures related to TANF purposes three and four—the prevention and reduction of out-of wedlock pregnancies and the formation and maintenance of two-parent families. These expenditures did not need to be directed solely at “eligible families,” and states had significant flexibility to determine allowable expenditures in those areas. The final rule issued in 2008 limited the types of expenditures that states may count in these areas for individuals that do not meet the “eligible families” definition to those “healthy marriage” and “responsible fatherhood” activities specified in federal law.

³²To be counted as engaging in work for a month, TANF families are required to participate in work activities for an average of 30 hours per week in that month. 42 U.S.C. § 607(c). However, federal law sets different weekly work hour requirements for teen parents attending school, single parents of children under age 6, and two-parent families. Further, certain families are not included in the calculation of state work participation rates, such as child-only families and, at state option, single parents of children under age 1. See 42 U.S.C. § 607(b)(5) and 45 C.F.R. § 261.2(n). In fiscal year 2009, about 130,000 families were excluded from the calculation of the all families work participation rate.

Since TANF was created, the factor that states have commonly relied on to help them meet their required work participation rates is the caseload reduction credit. Specifically, decreases in the numbers of families receiving TANF cash assistance over a specified period are accounted for in each state's caseload reduction credit, which essentially lowers the states' required work participation rate from 50 percent.³³ For example, if a state's caseload decreases by 20 percent during the relevant time period, the state receives a caseload reduction credit equal to 20 percentage points, which results in the state work participation rate requirement being adjusted from 50 to 30 percent. In each year since TANF was created, many states have used caseload declines to help them lower the required work participation rates. For example, in fiscal year 2009, 38 of the 45 states that met their required work participation rates for all TANF families did so in part because of their caseload decreases (see fig. 3).³⁴

However, in recent years, the Congress updated the base year for assessing the caseload reduction credit,³⁵ and as a result, some states also began to rely on state MOE expenditures to increase their caseload reduction credit, which lowers their required work participation rates. Under federal regulations, if states spend in excess of their required MOE amount, they are allowed to correspondingly increase their caseload

³³42 U.S.C. § 607(b)(3). However, under federal TANF statutes, the credit calculation excludes caseload reductions resulting from changes in states' eligibility criteria.

³⁴The caseload reduction credit is generally calculated by determining the change in the state's caseload—or the average number of families receiving TANF cash assistance in each state—between a federally-defined base year and the year preceding the current one. However, the Recovery Act modified the credit calculation for fiscal years 2009-2011 by generally allowing states the option of comparing the base year to the state's caseload in fiscal year 2007, 2008, or the year preceding the current one. This option gives states that experienced caseload increases in more recent years potentially greater caseload reduction credits.

³⁵In fiscal year 2006, the Deficit Reduction Act of 2005 reauthorized the TANF block grant and made several modifications that were generally expected to strengthen TANF work requirements and improve the reliability of work participation data and program integrity. For example, the act changed the caseload reduction credit by moving the base year for measuring caseload declines from 1995 to 2005. Because of this change, the dramatic declines in the numbers of families receiving cash assistance that immediately followed TANF implementation were no longer factored into state caseload reduction credits beginning with fiscal year 2007.

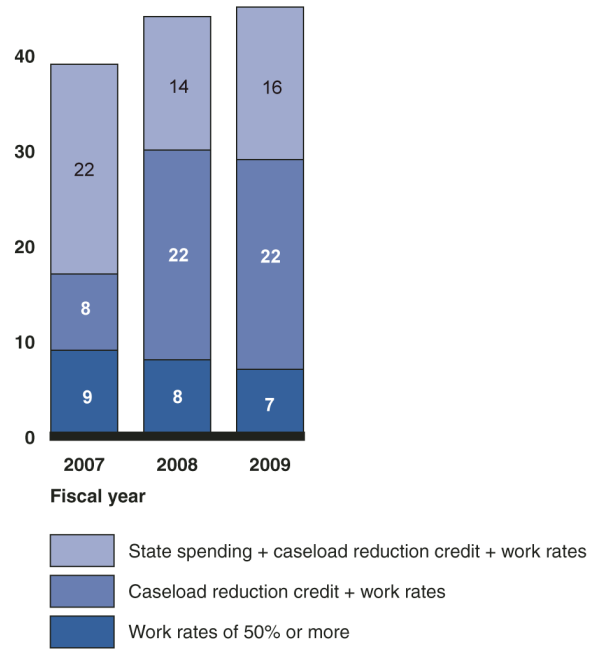
reduction credits.³⁶ By doing so, a state reduces its required work participation rate. In fiscal year 2009, 32 of the 45 states that met their required work participation rates for all TANF families claimed excess state MOE spending toward their caseload reduction credits.³⁷ Sixteen of these states would not have met their rates without claiming these expenditures (see fig. 3). Among the states that needed to rely on excess state MOE spending to meet their work participation rates, most relied on these expenditures to add between 1 and 20 percentage points to their caseload reduction credits (see fig. 4).

³⁶45 C.F.R. § 261.43. When calculating the caseload reduction credit, federal regulations allow a state that spent in excess of its required amount in the year preceding the current one to include only the pro rata share—in its overall caseload number—of the total number of families receiving state-funded cash assistance required to meet the state's basic requirement. This means that in the calculation of a state's caseload reduction credit, its total caseload number is reduced by a number equal to an estimate of the number of assistance cases the excess MOE spending would have supported.

³⁷We did not determine whether these increases reflect new state spending or spending that had been occurring before but was not reported as state MOE spending at that time.

Figure 3: Factors that Helped States That Met Their Work Participation Rates for All TANF Families in Fiscal Years 2007 through 2009

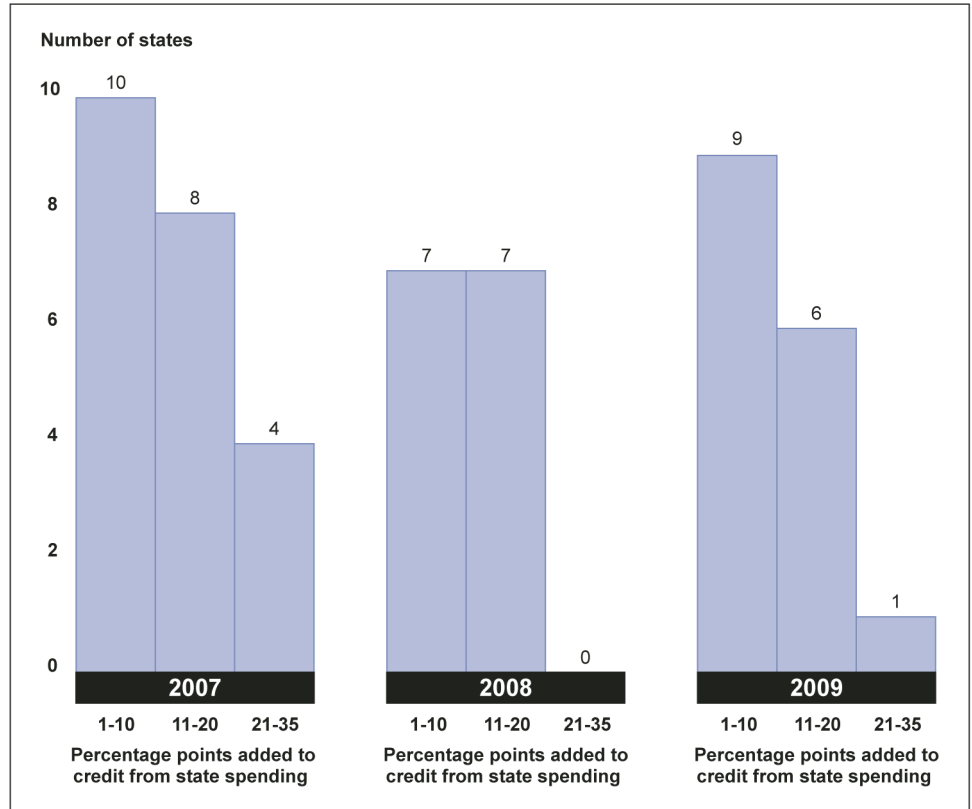
Number of states in each category, by year



Source: GAO analysis of HHS data.

Note: This figure reflects updated information obtained from HHS in 2012.

Figure 4: Extent to Which States' Caseload Reduction Credits Increased because of State Spending beyond What Is Required (for those States That Relied on Such Spending to Meet Their Work Participation Rates for All TANF Families)



Source: GAO analysis of HHS data.

Note: This figure reflects updated information obtained from HHS in 2012.

Increased MOE Role Highlights Importance of Monitoring and Oversight

MOE is now playing an expanded role in TANF programs, as many states' excess MOE spending has helped them meet work participation rates. While one state had used MOE expenditures toward its caseload reduction credit before fiscal year 2007, over half of the states (27) relied on these expenditures to increase their credits and help them meet their required work participation rates in one or more years between fiscal years 2007 and 2009.

States may be making programmatic and budgetary decisions to use excess MOE to help them avoid penalties for failure to meet participation rates and possibly losing funds. In our previous work, states have cited

concerns about difficulties in engaging a sufficient number of cash recipients in required activities for the required number of hours for several reasons, including limits on the types of activities that count, limited resources for developing and providing appropriate work activities, a lack of jobs particularly during tough economic times, and the characteristics of some cash assistance recipients that make it difficult for them to engage in countable work activities.

However, this greater emphasis on the use of MOE increases the importance of understanding whether effective accountability measures are in place to ensure MOE funds are in keeping with requirements. In our 2001 report, some states expressed concerns that this MOE provision could become difficult to enforce. In doing that work, we spoke to many auditors who were in the midst of developing audit plans to address compliance with the new spending test. Several told us that developing these plans was relatively straightforward: the auditor should simply be able to establish a baseline for all the MOE expenditures the state was using and then trace those programs back to 1995 and certify that spending used for MOE was indeed new spending. However, we also noted that these plans could become more complex if states frequently changed the expenditures they were counting from one year to the next (i.e., changed the programs for which they needed baselines). In one state at that time, we were told that all expenditure data were archived after 5 years, and that auditing the annual certification would be especially difficult and time consuming if the state changes the programs it uses to meet its MOE requirement from year to year. We expect that several factors, such as changes in what MOE expenditures states may count, growth in some particular spending areas, as well as the growth in MOE spending overall may have greatly increased the complexities involved in tracking MOE.

In its final rule published in 1999,³⁸ HHS provided information related to its plans for monitoring state MOE and noted that states recognize that they are ultimately accountable for their expenditure claims. HHS stated that states are audited annually or biennially and compliance with the

³⁸64 Fed. Reg. 17,720.

basic MOE provisions is part of the audit.³⁹ HHS added that it would use the results of the audits, together with its own analysis of state-provided data—required state quarterly expenditure reports and annual descriptive reports on MOE activities—to assess states’ compliance. It also said it might undertake additional state reviews based on complaints that arise or requests from the Congress.

We have not reviewed existing efforts to monitor MOE and cannot comment on their effectiveness. However, the extent to which states have relied on these expenditures to help them meet work participation rates as well as meeting MOE generally highlights the importance of having reasonable assurances that current oversight is working. If MOE claims do not actually reflect maintaining or increasing service levels, low-income families and children may not be getting the assistance they need in the current environment and federal funds may not be used in the most efficient manner.

Observations

MOE provisions are important but not without implementation and oversight challenges. Based on our previous work on federal grant design as well as more recent work on some MOE provisions under the Recovery Act, it is clear that such provisions are important mechanisms for helping ensure that federal spending achieves its intended effect. With TANF, what is at stake are billions of federal and state dollars that together represent a federal-state partnership to help needy families provide for their children and take steps toward economic independence. The work also points to administrative, fiscal, and accountability challenges in implementing MOE provisions, both from federal and state perspectives. While MOE provisions may be imperfect tools, with appropriate attention to design, implementation, and monitoring issues, such provisions are one way to help strike a balance between the potentially conflicting objectives of increasing state and local flexibility while attaining certain national objectives, including efficient use of federal resources in today’s fiscal environment.

³⁹Compliance with federal financial requirements is generally assessed annually through the state’s single audit. Rather than being a detailed review of individual grants or programs, a single audit is an organizationwide financial and compliance audit that focuses on accounting and administrative controls. A single audit is designed to advise federal oversight officials and program managers on whether an organization’s financial statements are fairly presented and to provide reasonable assurance that federal financial assistance programs are managed in accordance with applicable laws and regulations.

We provided drafts of the reports we drew on for this testimony to HHS for its review, and copies of the agency's written responses can be found in the appendixes of the relevant reports. We also provided HHS a draft of this testimony, and officials provided technical comments that we incorporated as appropriate.

Chairman Davis, Ranking Member Doggett, and Members of the Subcommittee, this concludes my statement. I would be pleased to respond to any questions you may have.

GAO Contact and Staff Acknowledgments

For questions about this statement, please contact Kay E. Brown at (202) 512-7215 or brownke@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this statement include James Bennett, Robert Campbell, Rachel Frisk, Alex Galuten, Gale Harris, Tom James, Jean McSween, Ronni Schwartz, and Michelle Loutoo Wilson.

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