



December 1, 2023

To: Office of Family Assistance (OFA)
Administration for Children and Families (ACF)
Department of Human and Health Services (HHS)
330 C Street SW, 3rd Floor
Washington, D.C. 20201

Re: Proposed Rule: Strengthening Temporary Assistance for Needy Families (TANF) as a Safety Net and Work Program (RIN) 0970-AC99

Dear Director Flagg and the Office of Family Assistance:

Thank you for providing the Southern Poverty Law Center with the opportunity to submit feedback on HHS ACF's proposed rulemaking to amend the Temporary Assistance for Needy Families (TANF) program regulations to encourage states to spend TANF funds to better support families with lower incomes.

For more than 50 years, the Southern Poverty Law Center has been a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. We focus on five states: Alabama, Georgia, Mississippi, Louisiana, and Florida. Our core impact issues include eradicating poverty; decriminalizing and decarcerating Black and Brown people; protecting voting rights and civic engagement; and dismantling white nationalism and extremism. We aim to eradicate poverty specifically by expanding access to opportunities and eliminating racial and economic inequality in all facets of life -- including access to food and water, healthy housing, high-quality health care, free education, safe working conditions, fair wages, and government support to meet their basic needs. TANF reform is among one of our top legal and policy priorities for our organization.

As a result of systemic inequity, our Deep South states have some of the highest rates of poverty, as well as a high need for housing, health care, and nutrition support. TANF is an important program for families working hard to afford basic needs, with families using TANF cash assistance to provide clothing, hygiene items, food, and shelter for their children. Without this financial lifeline, these families often will face severe hardships, including increased housing instability, mental health issues, and long-term health problems. In particular, the TANF cash assistance benefit is critical to supporting families by empowering families to make decisions about their needs. TANF can promote long-term stability, lead to positive health and education outcomes, and prevent negative consequences associated with experiencing poverty during childhood.¹

¹ Testimony of LaDonna Pavetti, Legislative Hearing on Opportunities for Improving TANF in Mississippi, CENTER ON BUDGET AND POLICY PRIORITIES, Dec. 15, 2022, <https://www.cbpp.org/research/income-security/legislative-hearing-on-opportunities-for-improving-tanf-in-mississippi>.



However, the failure to reform the TANF program has led to very few funds reaching families in need and opportunities for states to misspend TANF funds. The recent flagrant misappropriation of TANF funds in Mississippi, while beyond simple fund mismanagement as many actors have been criminally charged, provides important insight into some problems with the TANF program.² In 2021, a state audit found that more than \$77 million of Mississippi TANF funding was fraudulently spent toward athletic stadiums, celebrities, and third-party subgrantees with very little transparency or accountability on spending.³ Despite Mississippi having the highest poverty rate in the country (18.1%), very few financially eligible families receive TANF cash assistance or directly benefit from the federal TANF dollars.⁴

This experience informs our feedback for the proposed NPRM. We support the proposal to define “needy” family at or below 200 percent of the poverty line as it would better direct states to spend TANF funds toward families with the lowest incomes. Similarly, implementing a “reasonable person” standard for what expenditures are “reasonably calculated to accomplish a TANF purpose” would ensure TANF spending is aligned with its original program goals and aid families facing financial hardship. We agree that prohibiting states from counting cash donations from third-party non-governmental or private in-kind contributions toward its TANF maintenance of effort (MOE) spending requirements would compel states to invest more money into the TANF program. We believe clarifying the means for qualifying for “significant progress” when a state has failed its work participation rate corrective compliance plan could reduce a state’s decision to deny two-parent families because a state is risk-averse to potentially facing a financial penalty for failing to meet its overall and two-parent rate. Additionally, we support the technical changes around excused holidays, alternative Income and Eligibility Verification Systems, and allowable costs for disseminating the program. These changes will improve the TANF program and will be a positive step toward providing families with low incomes with more assistance and services that align with the original intent of the program.

The proposal to set the definition of a “needy” family at or below 200 percent is a critical change to ensure states focus their TANF-funded services and programs on those who need it most. Many of the TANF funds are spent toward programs that may not support families facing financial hardship. Oftentimes, states use TANF dollars to balance state budgets, which are not tailored to a specific income level. For example, some states use TANF funds for college scholarships for people with higher incomes by arguing that providing college scholarships will

² Bill Chappell, Mississippi’s Ex-Welfare Director, 5 Others Arrested Over ‘Massive Fraud’ Feb. 6, 2021, NPR.org, <https://www.npr.org/2020/02/06/803399172/mississippi-ex-welfare-director-5-others-arrested-in-massive-fraud>.

³ Anna Wolfe, Data Dive: Mississippi not the only state turning away most welfare applicants, MISSISSIPPI TODAY, Oct. 5, 2022, <https://mississippitoday.org/2022/10/05/mississippi-reject-most-welfare-applicants/>; Anna Wolfe, Data Dive: Mississippi’s TANF Work Program expenditures 2015-2022, Oct. 17, 2022, <https://mississippitoday.org/2022/10/17/mississippi-tanf-reports/>; see also SPLC Action, Mississippi Advocacy Groups Urge Public Engagement in TANF Hearing, Oct. 17, 2023, <https://www.splcactionfund.org/press-center/mississippi-advocacy-groups-urge-public-engagement-tanf-hearing%C2%A0>.

⁴ Friends Committee on National Legislation, 10 Poorest States in the United States, Nov. 6, 2023, <https://www.fcni.org/updates/2023-11/top-10-poorest-states-us>; see Aditi Shrivastava and Gina Azito Thompson, Policy Brief: Cash Assistance Should Reach Millions More Families to Lessen Hardship, CENTER ON BUDGET AND POLICY PRIORITIES, Feb 18, 2022, <https://www.cbpp.org/research/family-income-support/policy-brief-cash-assistance-should-reach-millions-more-families>



lead to fewer out-of-wedlock births.⁵ Louisiana expanded on this idea and passed legislation so people would not have to provide their income to get the scholarships while also doubling the state's TANF grant for this program.⁶ While more pathways to higher education are important for economic mobility and stability, many states do not require that these limited funds go toward families with the greatest needs. Additionally, a state's decision to not utilize existing education-specific funding and resources but instead siphon funding from the TANF program is often motivated by racist and paternalistic values around who is deserving and preventing families from receiving cash assistance when experiencing financial crises.⁷ And without income eligibility requirements, families who need it the most are unable to get the support and assistance they need.

We support the proposal to clarify when a TANF expenditure is reasonably calculated to accomplish a TANF purpose would help to ensure the funds are spent on areas that meet TANF's goals. While states have flexibility about how TANF funds are spent, we hope this change would lead to more funds going directly to families through cash assistance. Nationally, only 23% of TANF funds go toward cash assistance, 10% are used for work, education, and training activities, 16% are used for child care, 10% are used for pre-k, 9% used for child welfare, 9% used for tax credits, 11% used on administration, and approximately 14% on other services.⁸ But in our Deep South states, the percentage spent on cash assistance is significantly lower than average, with most of our states in the single digits.⁹ For example, in 2021, Alabama spent about \$196 million in federal and state funds under the TANF program, but only 7% on cash assistance.¹⁰ Louisiana spent about \$207 million in federal and state funds under the TANF program, but only 6% on cash assistance.¹¹ Mississippi spends \$57 million in federal and state funds under the TANF program, but only 6% on cash assistance.¹²

Frustratingly, one reason for the low percentage of cash assistance to families is the decision by states to use TANF funds toward other activities besides cash assistance. Since the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which converted TANF funding to a block grant, states have nearly unlimited flexibility about how to

⁵ Carrie Welton, Proposed Temporary Assistance for Needy Families (TANF) Rules Would Affect State Higher Education, TICAS, Nov. 2, 2023, <https://ticas.org/anti-poverty/proposed-temporary-assistance-for-needy-families-tanf-rules-would-affect-state-higher-education>.

⁶ JC Canicosa, TOPS recipients could soon keep family income private, LA Illuminator, May 2, 2022, <https://lailluminator.com/2022/05/02/tops-recipients-could-soon-keep-family-income-private>.

⁷ See e.g., Alex Camardell, Cash Matters: Reimagining Anti-Racist TANF Policies in Georgia, Georgia Budget & Policy Institute, Oct. 1, 2020, <https://gbpi.org/cash-matters-reimagining-anti-racist-tanf-policies-georgia/>

⁸ TANF and MOE Spending and Transfers by Activity, FY 2021, The Administration for Children and Families, <https://www.acf.hhs.gov/ofa/data/tanf-and-moe-spending-and-transfers-activity-fy-2021>; Alabama TANF Spending, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_al.pdf.

⁹ See Georgia TANF Spending, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_ga.pdf.

¹⁰ Alabama TANF Spending, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_al.pdf.

¹¹ Louisiana TANF Spending, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_la.pdf.

¹² Mississippi TANF Spending, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_ms.pdf.



spend these funds. As a result, states have diverted TANF funds toward programs that are allowable, but outside the intent of the program, such as child protective services investigations aimed at separating families or other vague programming around fatherhood initiatives that are not targeted toward low-income families.¹³

We support the proposal that would prohibit states from counting donations from third-party non-governmental entities toward its TANF MOE spending requirements because it would encourage states to spend more of their money toward the TANF program. While this modification does not require this increased spending to go toward cash assistance, we hope it would lead to more spending toward direct assistance. In our core states, it is very difficult to access TANF cash assistance. Many people who should be eligible are denied access or have onerous requirements that make them unlikely to apply. According to findings from the Center on Budget and Policy Priorities, in 2020, for every 100 families living in poverty in Mississippi and Louisiana, only 4 received TANF cash assistance, and in Georgia and Alabama that ratio is just 5 in 100.¹⁴ These numbers are low even compared to the national average of 21 out of every 100 TANF-eligible families receiving cash assistance, the lowest TANF to Poverty ratio in history.¹⁵ Residents of our priority states must also face numerous administrative hurdles to fully access TANF benefits. In 2017, for example, Mississippi approved just five out of 824 applications for cash assistance.¹⁶

While the proposed modifications and improvements to the rule are important to increasing available funds, given the statutory flexibilities of the TANF grant, the agency should consider creative solutions to address other underlying issues with the program. In April 2023, SPLC hosted one virtual and two in-person community town hall meetings across Mississippi. When discussing their experiences regarding TANF, almost all attendees reported that they did not know anyone who received cash assistance. Despite many families having financial need, attendees and community advocates reported that most people could not access the TANF cash benefits program because they were unable to complete the application, or they could not meet the work requirements. A lack of transportation to a qualified work activity was also repeatedly cited as a barrier to participation in the program. Lastly, more accountability and transparency of program spending is needed to ensure the spending promotes its intended purpose.

Inequitable access to safety net programs like TANF is rooted in false racist stereotypes about people's unwillingness to work and instead rely on governmental assistance, especially in states with significant populations of Black children.³ This is evidenced by the racial demographics of recipients. It is no coincidence that the states with the lowest percentage of cash

¹³ State Fact Sheets: How States Spend Funds Under the TANF Block Grant, CENTER ON BUDGET AND POLICY PRIORITIES, <https://www.cbpp.org/research/family-income-support/state-fact-sheets-how-states-have-spent-funds-under-the-tanf-block>, and Florida TANF Spending, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_fl.pdf.

¹⁴ TANF Cash Assistance Should Reach Many More Families in Louisiana to Lessen Hardship, CENTER ON BUDGET AND POLICY PRIORITIES, https://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_la.pdf.

¹⁵ Aditi Shrivastava and Gina Azito Thompson, Policy Brief: Cash Assistance Should Reach Millions More Families to Lessen Hardship, Feb 18, 2022, CENTER ON BUDGET AND POLICY PRIORITIES, <https://www.cbpp.org/research/family-income-support/policy-brief-cash-assistance-should-reach-millions-more-families>.

¹⁶ *Id.*



assistance are also states with an overwhelming majority of recipients who are Black. Nationally, 28.6% of TANF recipients are Black, whereas that number is 70% in Alabama, 66.3% in Georgia, 66.7% in Louisiana, 76.1% in Mississippi.¹⁷ Work requirements are not helping the success of these programs and are implemented in a way that disproportionately harms Black families by continuing an ugly legacy of policies dating back to slavery that is designed to coerce the labor of Black people under exploitative conditions.¹⁸ The proliferation of discriminatory and harmful policies including work requirements, mandatory drug testing, and assistance time limits are rooted in narratives around who is deserving of government assistance when experiencing financial instability, particularly concerning Black parents with children.

We commend ACF for your work to strengthen the safety net and reduce administrative burdens through these proposed changes to the TANF program. We urge you to finalize and implement this rule quickly. Please feel free to reach out to Theresa Lau, Senior Policy Counsel, Eradicating Poverty at (Theresa.lau@splcenter.org) or (571) 609-1890 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Lau', written in a cursive style.

Theresa Lau

¹⁷ Administration for Children & Families, Characteristics and Financial Circumstances of TANF Recipients, Fiscal Year (FY 2020), https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2020_characteristics_data_final.pdf.

¹⁸ See e.g. Ife Floyd et al, TANF Policies Reflect Racist Legacy of Cash Assistance, CENTER ON BUDGET AND POLICY PRIORITIES Aug. 4, 2021, <https://www.cbpp.org/research/income-security/tanf-policies-reflect-racist-legacy-of-cash-assistance>