



TEXAS' ELIGIBILITY SYSTEM CONTINUES TO FAIL NEEDY TEXANS

Texas' short-staffed eligibility system for safety net programs continues to struggle to provide accurate and timely service to needy Texans seeking assistance in feeding and caring for their families. The 81st Legislature took some baby steps to address this crisis, including mandating a staffing analysis, but failed to provide adequate staff or resources to improve the system's performance. Serious and widespread delays in processing Food Stamp applications resulted in the filing of a federal lawsuit in July against the Texas Health and Human Services Commission (HHSC) for failure to meet the application processing timeframes required by federal law. The lack of adequate numbers of trained staff also has caused Food Stamp/SNAP error rates to soar, which could cost Texas millions in federal sanctions. This Policy Page discusses these developments and the actions needed to fix the crisis in our eligibility system.

- **Texas' short-staffed eligibility system continues to struggle to provide accurate and timely service to needy Texans seeking assistance with food and medical care.**
- **A federal lawsuit was filed to challenge the serious and widespread delays in processing Food Stamp applications.**
- **High error rates in Food Stamp determinations could cost Texas millions in financial penalties.**
- **Additional staff and measures to provide workload relief are critical to improve the performance of the eligibility system.**

Note: The 2007 Farm Bill renamed the Food Stamp Program the "Supplemental Nutrition Assistance Program" (SNAP). To avoid confusion, we continue to refer to the program as Food Stamps in this paper.

Why This Matters

Even before the current economic crisis, almost one-in-four Texas children lived in poor families, and one in every seven families (14.8 percent) was at risk for hunger, the third-highest rate of food insecurity in the nation. In 2008, Texas had the highest percentage of residents who lack health insurance—25 percent in Texas compared to the national average of 15 percent. Texas also took last place for coverage of children in 2008, with about 20 percent or 1.4 million children lacking insurance in 2008. Due to the steep rise in the state unemployment rate in 2009, Texas' uninsured population is most likely even larger today.

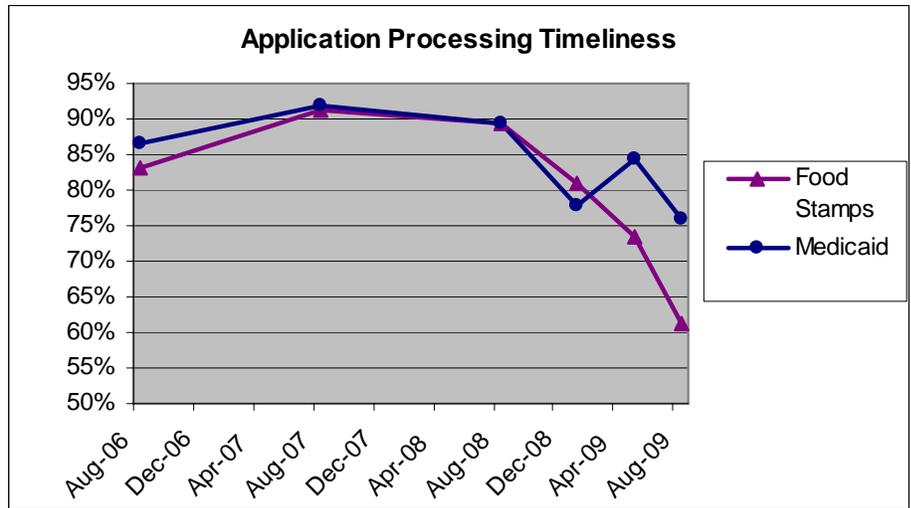
Access to health care and nutrition assistance is vital to low-income Texas families who don't earn enough to make ends meet, particularly during an economic downturn. As unemployment rises, more Texans are turning to Food Stamps and Medicaid for help. National health reform will further increase the demand for these services, with roughly one million uninsured Texans expected to gain Medicaid coverage under proposals before Congress.

Texas' broken eligibility and enrollment system cannot handle current demand, much less growing caseloads with rising unemployment and health care reform. The delay or inappropriate denial or termination of benefits not only causes great hardship to needy Texans.

The broken system also causes the state to forego critical federal Food Stamps and Medicaid funds that boost our state and local economies. Texas can fix these problems by providing additional staff and technology resources, streamlining its eligibility rules and processes, and creating a culture in which enrolling every eligible Texan in these services is the top priority.

Symptoms of a System in Crisis

In several regions of the state, Food Stamp applicants must wait one to three months after submitting an application for an interview, which is required to make a decision on their application. This is known as the “lead time,” a point-in-time count that measures the number of days from as application being filed until an available appointment time. In general, a lead time of less than 20 days is required to process a Food Stamp application within 30 days of the filing date, as required by federal law.



In August 2009, fewer than two-thirds (61.3 percent) of Food Stamp applications and only 75.8 percent of Medicaid applications were processed on time. Federal timeliness standards require that 95 percent of all applications be processed within a certain number of days: 30 for Food stamps, and 45 for Medicaid. HHSC has not met the federal standard for Food Stamps for almost four years, though the delays have grown more severe over the last 12 months due to rising unemployment and increased need.

In addition to these delays, children renewing coverage or moving between Medicaid and CHIP continue to routinely get dropped from coverage for months, even though they qualify and state laws say they are supposed to move directly between programs without any gap.

The rate of improper denials in the Food Stamp program (known as the “negative error rate”) also has soared over the last five years, increasing from 2.8 percent in fiscal 2004 to 21.4 percent in fiscal 2008. The “payment error rate”—the percentage of total benefits issued in error (both under- and overpayments)—was 7.1 percent, high enough to subject Texas to potential financial penalties in fiscal 2009. Texas has the highest error rates in the nation.

A high volume of anecdotal evidence suggests that errors and delays are now so common that they are overwhelming HHSC’s ability to systematically resolve client problems or complaints. Food Stamp and Medicaid clients routinely report that their calls to local offices, call centers, and the

Average "Lead Time" (in Days) and Application Processing Timeliness in August 2009

Region	Lead Time (8/14/09)	Percent of Food Stamp Applications Processed Timely (Aug. 09)
1 - High Plains	47	53.4%
2/9 - Northwest/West Texas	33	50.2%
3 - Dallas Ft. Worth	82	43.2%
4 - Upper East Texas	13	76.0%
5 - Southeast Texas	17	73.6%
6 - Gulf Coast	61	43.5%
7 - Central Texas	12	87.8%
8 - Upper South Texas	27	68.1%
10 - Upper Rio Grande	20	68.1%
11 - Lower South Texas	15	69.1%

NOTE: The lead time is a point-in-time count that shows the number of days from as application being filed until an available appointment time.

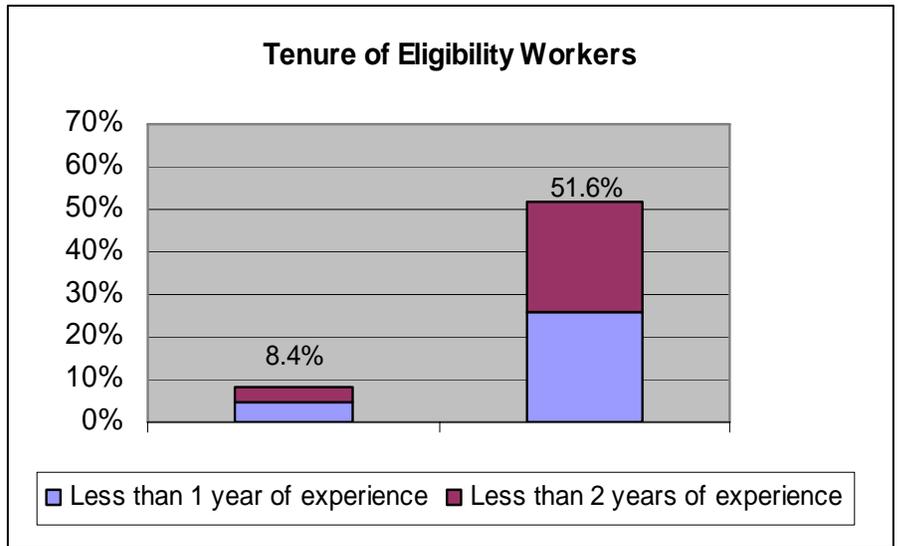
ombudsman either go unanswered or are not returned, and that their problems are not resolved, often for months at a time. In some cases, staff shortages are causing calls to go unanswered, however many local offices also lack enough phone lines to handle demand. While state HHSC officials respond diligently to client complaints referred by advocates and elected officials, these cases represent the tip of the iceberg. Systematic improvements to avoid errors and delays in the first place are the real solution.

Growing Need, High Turnover and the Potential for National Health Care Reform Will Further Strain System

With the growing number of requests for assistance, HHSC eligibility staff are handling more cases than they can process on a timely basis, despite modest recovery in staff levels over the last few years and the routine use of overtime. High staff turnover is also undermining HHSC's efforts to meet the increase in demand. It takes an eligibility worker approximately two years to become fully proficient in the complex eligibility policies of the Food Stamps, Medicaid and TANF. Though HHSC has increased eligibility staff by 15 percent over the last two years, caseloads have increased significantly and the tenure of its workforce has declined. In June 2009, 51.6 percent of eligibility workers had less than two years of experience, and 25.9 percent had less than one year of experience. In comparison, in September 2004, 8.4 percent of eligibility workers had less than two years of experience and 4.7 percent had less than one year on the job.

Adding to the concern about Texas' failure to deliver timely services is the major expansion in the number of adults covered by Medicaid that could occur under the national health reform proposals. Today, Texas chooses to deny Medicaid to all but a handful of

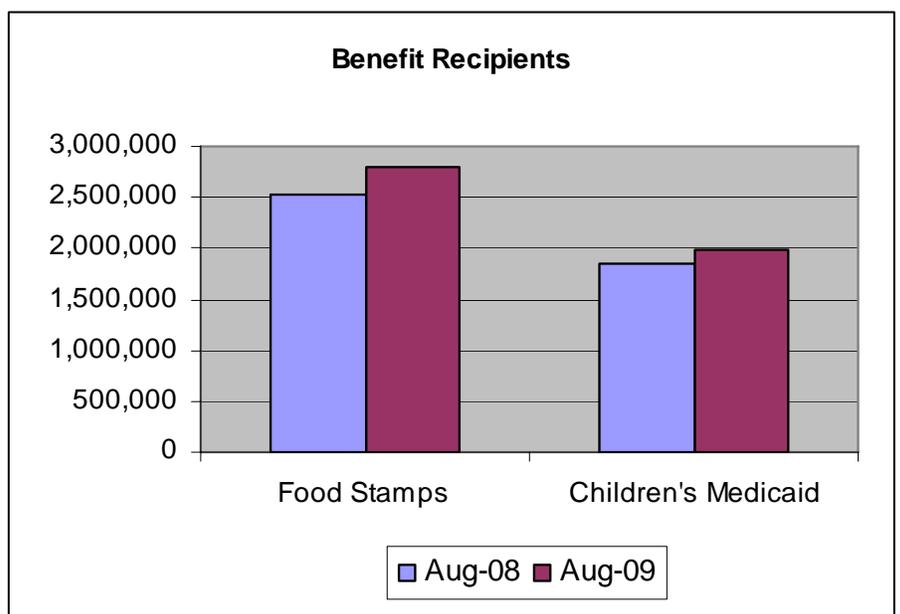
extremely poor parents, but the health reform bills would cover all adults with income up to 133 percent of the



federal poverty level (an annual income of \$14,404 for an individual). This change could result in one million more adults becoming eligible for Texas Medicaid. Clearly, without improvements in our eligibility system, the promise of health care for the poorest Texans, along with services to current Medicaid and Food Stamp clients, could be seriously undermined by bottlenecks, errors, and delays in enrolling eligible persons.

Actions by the 81st Legislature

At the beginning of the 81st legislative session, HHSC requested funding for 822 additional staff above the fiscal



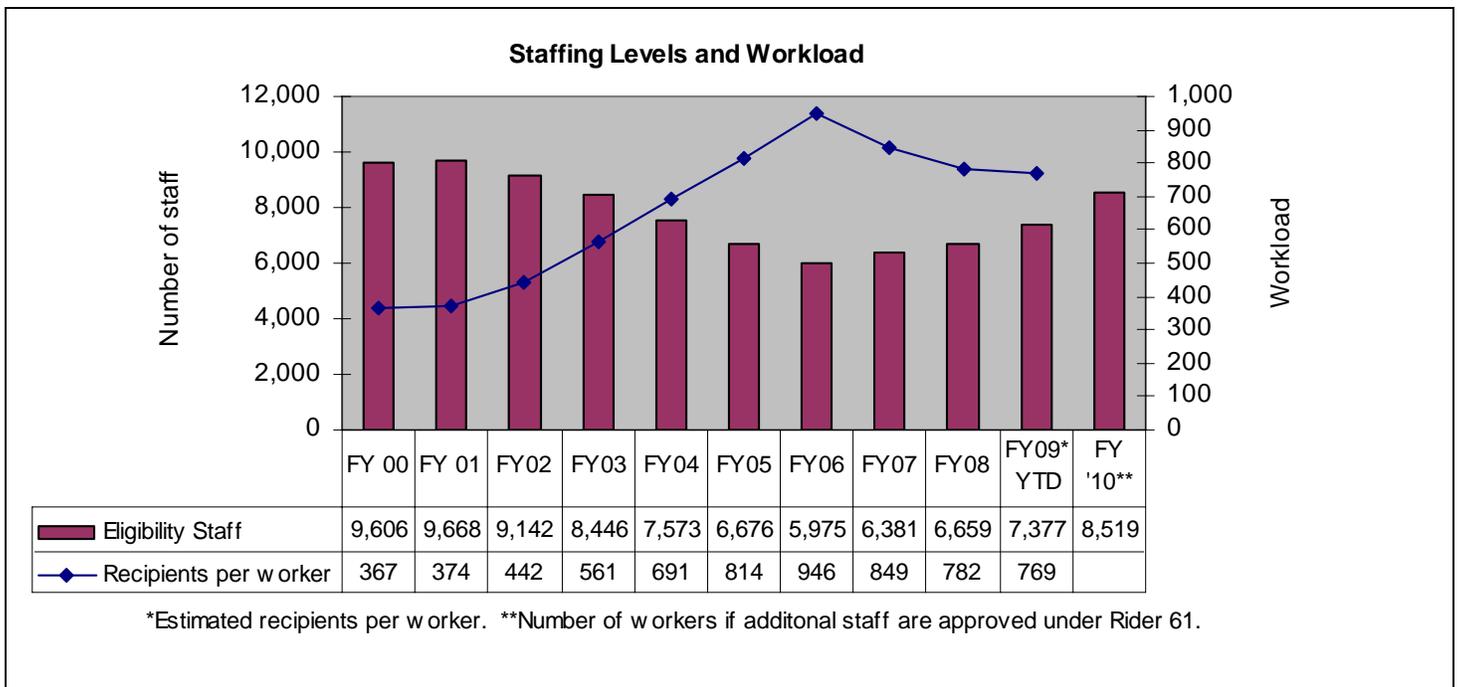
2009 authorized level of 9,039 staff (at the time, only about 8,000 of these positions were filled). After much wrangling, the final state budget (S.B. 1) only funded a total of 9,039 staff in fiscal year 2010, but a special provision (Rider 61) gave HHSC the authority to request additional staff, up to 9,695 in fiscal 2010 and 9,861 in fiscal 2011, to address workload and caseload growth. These staff would be funded through a transfer of General Revenue from HHSC's Medicaid budget. Of these 9,695 staff, approximately 8,519 would be directly involved in eligibility determination. Even at these levels, Texas will employ approximately 1,000 fewer eligibility workers now than it did a decade ago, when caseloads were significantly lower. As a result, staff workload (measured in the graph below as the number of recipients per worker) will be significantly higher in 2010-11 than it was 10 years ago.

In addition to authorizing additional staff, the Legislature passed HB 3859, by Representative Abel Herrero, which requires HHSC to conduct a staffing analysis. The new law requires HHSC to determine the number of staff—both state employees and contractor staff—needed to expand the Texas Integrated Eligibility Redesign System (TIERS);¹ provide timely and accurate services to clients in compliance with state and federal requirements; ensure seamless transition between Medicaid and CHIP; and meet

HHSC's other performance standards, benchmarks, and maximum caseload specifications. Rep. Herrero is a member of the House Human Services Committee and chaired the special subcommittee appointed to investigate the circumstances surrounding the termination of the HHSC-Accenture Integrated Eligibility contract in 2007.

The Legislature missed other opportunities to fix the eligibility system, in addition to failing to provide adequate staff. Children's health advocates and a handful of lawmakers pushed hard for 12-month continuous eligibility for children on Medicaid, which is the current policy for children on CHIP. In addition to greatly reducing the number of uninsured children in Texas, providing 12-month continuous coverage of children on Medicaid would have cut the number of annual renewals in half. This would have dramatically reduced workload and backlogs in application processing and allowed the system to operate competently with fewer staff. HHSC estimated that more than 376,000 additional children would have been enrolled, covering over 25 percent of Texas' uninsured children.

Lawmakers also failed to pass a package of Food Stamp bills authored by Representative Elliott Naishtat, vice-chair of the House Human Services Committee, which would



have provided workload relief for eligibility staff by simplifying the enrollment process.

Federal Lawsuit Increases Pressure to Fix the System

On July 31, 2009, the Texas Legal Services Center (TLSC) and the National Center for Law and Economic Justice (NCLEJ) filed a class action complaint in U.S. District Court against the Texas Health and Human Services Commission (HHSC) for failure to process Food Stamp applications within the timeframes required by federal law. The case is styled *Howard and Thornberg, on behalf of themselves and all others similar situated, versus Albert Hawkins, in his official capacity as Executive Commissioner of the Texas Health and Human Services Commission*, United States District Court, Western District of Texas, Austin Division, Civil Action No. AO9CA577 SS.

Legal action now has the potential to bring about the fixes to the system that the Legislature has failed to approve, including reform of eligibility policies rules, adequate staffing, and the technology systems to ensure timely enrollment in these critical public services. While the lawsuit is about Food Stamps, these solutions would also address the parallel delays in Medicaid and TANF application processing.

Texans whose Food Stamps applications or renewals have been delayed should contact Bruce Bower at Texas Legal Services Center at (800) 622-2520.

HHSC Requests Additional Staff, Takes Other Steps to Improve Performance

In June 2009, HHSC employed a total of 8,769.5 “full-time equivalents” (FTE) statewide, compared to its budgeted staffing level of 9,039 FTEs. Of these staff, 7,708 are “front-line” eligibility workers in either local or regional offices or centralized units (i.e., call centers), just below the budgeted staffing cap for front-line staff of 7,889 for fiscal 2009.

In August 2009, HHSC exercised its authority under Rider 61 to request additional staff, and sent a letter to the Governor asking for approval to hire 649 additional staff at

a cost of \$24 million. Of these staff, 630 would directly support the eligibility determination process. HHSC supported its request by citing increased caseloads, heavy workload, application processing delays, and the need to reduce overtime pay, which totaled \$16.1 million in 2008 and is expected to reach \$22.2 million in 2009. The letter states: “Adding staff now will support rebuilding and retaining eligibility staff at the level necessary to maintain a reasonable workload designed to meet federal timeliness standards and reduce error rates.” HHSC estimates that the additional staff will enable them to reduce the caseload per worker by 15 percent in the three largest metropolitan areas of Texas, which are home to 50 percent of all benefit recipients and also have timeliness that is well below the state average. In July 2009, average Food Stamps timeliness in these three areas was 54 percent, compared to 62.8 percent statewide (both well below the federal standard of 95 percent).

In addition to its request for additional staff, HHSC reports taking the following actions to improve eligibility system performance:

- Assigning 450 staff who are typically responsible for training and other supervisory functions to process emergency Food Stamp cases, which must be acted upon in 24 hours under state law.
- Continuing overtime for staff to process backlogged cases.
- Streamlining the training process for Food Stamps to enable HHSC to deploy new staff more rapidly.
- In the areas facing the highest caseload volumes, grouping cases according to difficulty and having them worked by teams of experienced and less-experienced staff, accordingly, to enable more cases to be processed with the same amount of resources.
- Requesting permission from the federal government to extend certification periods for existing Food Stamp clients by three months. If approved, this would provide a three-month period during which no

renewals would need to be processed, and backlogs could be aggressively reduced.

In addition to these steps, HHSC joined an Outreach and Technical Assistance Workgroup formed by advocates and other stakeholders to identify systemic problems in the eligibility system and to partner with HHSC to find and implement solutions. This workgroup meets quarterly in Austin (with a toll-free number for people outside of Austin to participate) and has identified the following top five barriers Texans face when trying to access services:

- Lack of complete, detailed, timely, and understandable information on how to apply and renew successfully for both clients and community-based organizations (CBOs).
- Lack of adequate staffing and resources for HHSC offices, 2-1-1, call centers and CBO network.
- Lack of consistent, reliable and accountable processes for retrieving client case information and resolving client problems.
- Inconsistent application of policy.
- Complexity of eligibility, application and enrollment rules and processes.

To find out more about this workgroup, please contact CPPP intern Melissa Shannon at (512) 320-0222 x107.

Growth in TIERS Cases Continues to Strain the System

TIERS was originally intended to improve client access to services by replacing outdated computer systems with a single automated system to determine eligibility for all of HHSC's programs. Yet, since 2003, when the system was first piloted in five local offices in Central Texas, TIERS has been plagued by numerous problems, including a lack of processing power to support a statewide rollout, design flaws that create complexity and slow processing, the use of too many "workarounds" to get around glitches in the

system, and ultimately the failure to process applications within federal timeliness standards. Though the geographic rollout is on hold, HHSC is implementing a programmatic rollout of TIERS. This has caused the number of cases in TIERS to more than triple since 2007, largely due to the addition of Women's Health Program recipients and any associated family members receiving Food Stamps or Medicaid. (See CPPP's *Policy Page #335* at www.cppp.org/files/3/LOC%20hearing%20335.pdf)

Concerned over the serious delays in the processing of TIERS cases, USDA's Food and Nutrition Services capped the number of Food Stamp cases that could be converted to TIERS to 22 percent of the total caseload. However, FNS' cap only applies to cases converted in a geographic rollout, and does not include Food Stamp cases added under the programmatic conversions described above.

Several factors are causing delays in TIERS-processed applications:

It takes more time to process an application in TIERS than in SAVERR;

- It takes longer to train workers to become proficient in TIERS than in SAVERR; and
- The volume of TIERS cases is growing at a faster rate than HHSC can train workers to handle the caseload.

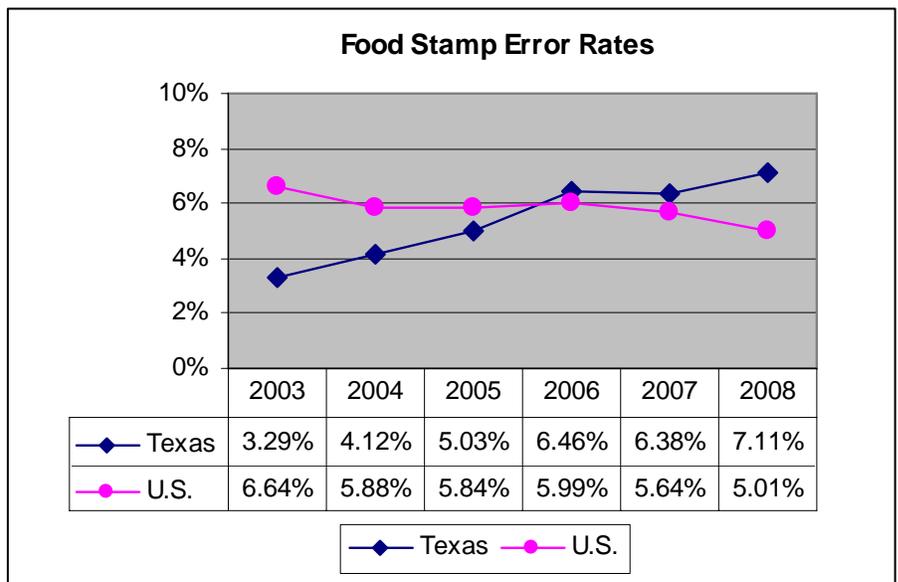
The only way to meet federal timeliness standards in TIERS is to focus on a solution that reduces the average time it takes for a worker to process an application in TIERS, and/or to significantly increase eligibility staff. Even with the additional staff requested last month, it will take time for HHSC to hire and train enough workers to restore timeliness in application processing. Adding significant numbers of new cases to TIERS before HHSC has stabilized the eligibility workforce is likely to cause continued and increased delays and errors in application processing.

High Error Rate in Food Stamp Decisions Could Cost Texas Millions in Federal Sanctions

To ensure that federal funds are spent appropriately, the federal Food Stamp Act authorizes a quality control (QC) system that measures the accuracy of states' eligibility decisions and benefit amounts. States are subject to fiscal penalties if their error rate is 105 percent above the national average for two consecutive years. On the flip side, states are eligible to receive performance bonuses for having low error rates as well as for improving program access and timely processing applications.

The error rate looks at both overpayments as well as underpayments, and is calculated by estimating the dollar amount of error for active cases as a percentage of all benefits issued in the state. The combined "payment error rate" used to measure state performance is the sum of a state's underpayment error rate and overpayment error rate. For example, if a state that issued \$1 billion in total benefits found \$5 million in overpayments and \$5 million in underpayments, then that state would have a combined payment error rate of 10 percent. Each year, FNS reviews states' payment error rates to determine whether a state is eligible for performance bonuses or liable for fiscal penalties. A penalty is imposed by reducing the federal share of the cost of administering a state's Food Stamp program; these costs are typically shared equally by states and the federal government. The amount of the penalty is based on the extent to which a state's error rate exceeds 6 percent.

Notably, the payment error rate does not include "negative errors"—which occur when a caseworker denies a household that is eligible, or terminates an eligible household's benefits. This rate is calculated separately. Because the federal system places less importance on negative errors, the state has less incentive to make sure that eligible families get benefits.



Texas' payment error rate for fiscal 2008 was 7.1 percent, while the national average was 5 percent. Our negative error rate was 21.4 percent in 2008, compared to 10.9 percent nationally. This is the first year in the two-year liability system that HHSC's error rate has exceeded 105 percent of the national average; therefore Texas does not face any penalties *this year*. However, if our error rate remains this high relative to the national average in fiscal 2009, Texas could face financial sanctions. Texas' year-to-date error rate for fiscal 2009 (through May) is 9.8 percent. The amount of penalty Texas could potentially face next year will depend on how much our error rate exceeds 6 percent in fiscal 2009 and the amount of benefits issued, but HHSC estimates that a 10 percent error rate would lead to an estimated penalty of approximately \$12 million.

Texas' high error rate is directly related to the staffing shortages and other deficiencies in our eligibility system. From 1998 to 2005, when the caseload per worker was lower, Texas consistently received annual performance bonuses for its low error rates.

Additional Action is Needed to Provide Workload Relief and End Delays

We applaud the steps HHSC has taken to improve the performance of the eligibility system, but more action is needed to ensure struggling Texans are able to access these important public services. We urge the following actions:

- The Governor and the Legislative Budget Board should approve HHSC’s staffing request immediately so HHSC can move quickly to hire, train and get workers into local offices.
- HHSC should ensure adequate telephone lines and equipment for local offices, centralized units, and regional help lines.
- HHSC should improve the problem resolution process by conducting additional training with call center and regional help line staff, adopting performance standards that measure the outcome of client complaints and monitoring these complaints to ensure these standards are consistently met, and assigning an adequate number of call center and helpline staff to deal with the volume of client complaints.
- The Legislature should change state law to adopt 12-month continuous eligibility for Children on Medicaid.
- HHSC with the support of the Legislature should streamline eligibility policies and processes that have the potential to reduce staff workload, including:
 - Moving to a 12-month certification period for Food Stamp recipients.
 - Adopting income verification policies that are streamlined but accurate.
 - Eliminating finger imaging as a condition of Food Stamp eligibility. Finger imaging wastes money, duplicates less costly and equally effective fraud prevention measures, and undermines HHSC’s goal of reducing traffic at local offices and promoting remote application options.
 - Eliminating the Food Stamp and Medicaid liquid and vehicle asset test, as the vast majority of states have done.
- HHSC should conduct focus groups with front-line eligibility workers to identify additional policy and process changes that have the potential to reduce workload and improve program access.
- HHSC should create a culture in which certifying eligible Texans is the top priority of the eligibility system and develop and convey consistent messages to eligibility staff, stakeholders, and clients that communicate this culture.
- Procure an independent study to determine: 1) whether the capacity and design problems with TIERS are surmountable, and the cost and time required to make any needed changes; and 2) the number and skill level of eligibility staff that will be needed to deliver accurate and timely services once TIERS is rolled out statewide.

¹ TIERS is the computer system that has been under development for 10 years. It is intended to eventually replace the state’s original public benefits eligibility database, known as SAVERR.

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The Center for Public Policy Priorities is a nonpartisan, nonprofit policy institute committed to improving public policies to better the economic and social conditions of low- and moderate-income Texans.