



CSHB 3759: IMPROVING OUTCOMES FOR WELFARE RECIPIENTS

CSHB 3759 will be heard in the House Human Services Committee on Thursday, April 19, at 10:30 a.m. or upon adjournment of the House

Texas is facing greater challenges meeting federal requirements in the Temporary Assistance for Needy Families (TANF) program as a result of rules enacted by Congress in the Deficit Reduction Act of 2006 (DRA). The TANF program provides cash assistance, employment services, and child care to very poor parents and their families. Under the new federal rules, states are required to engage more TANF recipients in approved work activities or face financial penalties to their TANF block grants.* The committee substitute for House Bill (CSHB) 3759 by Representative Elliott Naishtat would help Texas meet federal requirements while improving the outcomes for families on and leaving welfare. CSHB 3759 would increase work participation rates, improve Texas' ability to help parents overcome barriers to employment, and improve the integrity and effectiveness of sanction practices. This *Policy Page* analyzes CSHB 3759 and the Senate companion bill, CSSB 1861, by Senator Judith Zaffirini.

What is the “Work Participation Rate?”

Federal law requires states to engage 50% of all TANF families and 90% of two-parent families in work activities or face financial penalties to their block grants. This is known as the “work participation rate.” The work participation rate refers to the share of TANF recipients who are participating in approved work activities for a set number of hours each week. In single-parent families the adult recipient must be engaged in approved work activities for an average of 30 hours per week to meet the work requirement. In two-parent families the adults must work a combined 35 or 55 hours per week, depending on whether their children receive child care.

The work participation rate is calculated with a simple fraction: at the bottom, in the “denominator,” are the *families who are included in the work rate calculation under federal law*; at the top, in the “numerator,” are

the *families who are meeting the work requirement*. Federal law requires states to include most families in the work participation rate calculations, with limited exceptions. States have complete flexibility to establish exemptions from the individual work requirement, but they are not permitted to remove these families from the denominator.

States also receive a “caseload reduction credit,” which they can use to lower their work participation rate targets. For every percentage point that a state reduces its caseload, it can reduce its work participation rate by one percent.

How Would CSHB 3759/CSSB 1861 Help Texas Meet Federal Requirements?

CSHB 3759/CSSB 1861 incorporate two strategies to increase work participation rates

* For CPPP's analysis of the recent changes in federal TANF rules, see <http://www.cppp.org/subcategory.php?cid=3&scid=12>.

while improving the outcomes for families on and leaving welfare:

- **Increasing the number of families who comply with the work requirement.**

CSHB 3759/CSSB 1861 would assist able-bodied adults with relatively low barriers to employment to meet the work requirements through better case management, a compliance-oriented approach to sanctions, and by rewarding families who leave welfare for work by supporting their efforts to stay and advance in the workforce. These policies would help Texas meet its work participation rates by increasing the number of families who are in compliance with the work requirements. Fourteen states have adopted or are considering similar policies as a means to increase the proportion of TANF recipients who are working and improve the outcomes for families leaving welfare.

- **Removing families who are unlikely to meet the federal work requirement from the work rate calculation.**

CSHB 3759/CSSB 1861 would establish a solely state-funded program to assist families who face barriers to employment or who need specialized services in order to work. Serving these families with “pure” [non-Maintenance-of-Effort (MOE)] state dollars would allow Texas to continue to assist these vulnerable families without having to include them in the work participation rate. It would also enable the Texas Workforce Commission (TWC) to offer these families employment services that are not federally approved work activities. Sixteen states have adopted or are exploring this option as a means to meet federal requirements without hurting vulnerable families.

(See <http://www.cppp.org/research.php?aid=656> for charts on the actions taking place in other states to improve their work participation rates.)

Analysis of CSHB 3759/CSSB 1861

SECTION 1 – Makes conforming changes

SECTIONS 2, 3, 4 – Develop a compliance-oriented approach to improve the integrity and effectiveness of full-family sanctions and increase work participation rates

Background: All Texas adult TANF recipients must sign a “Personal Responsibility Agreement” (PRA) and agree to comply with certain rules in order to receive assistance. The PRA includes the “Choices” work requirement, conduct rules (i.e., agree not to abuse drugs or alcohol), parenting rules (i.e., keep children immunized, current on check-ups, and in school), and a requirement to cooperate with child support enforcement. Adults who fail to comply with these requirements are subject to losing all of their families’ assistance. This is known as a “full-family sanction.” In addition, adult recipients lose their Medicaid when they don't meet the work requirement.

Under current policy, caseworkers are required to contact a TANF recipient prior to imposing a sanction to determine whether the client had good cause for not meeting the requirement.¹ Caseworkers at the Health and Human Services Commission (HHSC) determine eligibility for TANF, grant exemptions from the work requirement, and establish good cause for non-work program violations. TWC case managers administer the Choices work program and establish good cause for work violations.

¹ See <http://www.cppp.org/files/3/BACKGROUND%20N%20CURRENT%20TANF%20RULES%20IN%20TEXAS.pdf> for background on TANF work rules, good cause, and exemption policies.

CSHB 3759/CSSB 1861:

- *Require HHSC to develop and implement a pre-sanction review process to determine whether a recipient had good cause for failing to meet the PRA before imposing a sanction, and ensure that recipients understand why they are being sanctioned and what they need to do to remove the sanction (Section 2);*
- *Require HHSC and TWC case workers to document that they followed the pre-sanction review process prior to sanctioning a person for not complying with the PRA (Section 3); and*
- *Give recipients more time to request a fair hearing to show good cause and lift a sanction. Under current law, a recipient has thirteen days after a notice is sent to request a sanction. This was a change made in 2003 as part of HB 2292. CSHB 3759/CSSB 1861 changes the law so that a recipient has thirteen days after receiving a sanction notice to request a hearing to show good cause. This was the law until 2003 (Section 4).*

Research with sanctioned families, local workforce boards, and legal aid attorneys suggests that, in practice, the current good cause policies are not uniformly applied or enforced. Clients are often not contacted prior to a sanction being imposed and therefore do not have the opportunity to request or demonstrate good cause. Some legal aid attorneys go so far as to say that the good cause process is “non-existent.”

Given Texas’ zero-tolerance approach to sanctions, the state has an obligation to have a reliable process in place to ensure that it does not impose sanctions unfairly.

Further, as HHSC moves to a more automated system for enrolling families in public benefits, the state must ensure that

clients are not unfairly punished due to technology problems or problems with U.S. Mail. Over the past year, many health and human services clients have lost their benefits simply because they never received the notice telling them what they needed to do to get those services, or because the notice arrived too late for them to comply with application requirements.

CSHB 3759/CSSB 1861 would improve the current good cause policies to ensure that recipients are not sanctioned unfairly.

- *Require HHSC to implement a post-sanction review process to help people who are sanctioned take the necessary actions to remove the sanction and comply with work rules (Section 3).*

Research with sanctioned families shows that many are unaware or confused as to why they have been sanctioned and don’t know what they need to do to remove that sanction. In the meantime, the family has lost its cash assistance, and the parent has lost her Medicaid, making it even harder to comply with the rules.

A post-sanction review process would help families come into compliance and have their benefits reinstated faster. This would increase the number of families complying with the work requirement, thereby increasing the state’s work participation rate.

Many states have adopted or are moving toward a more compliance-oriented approach to sanctions as a means to improve their work participation rates. New York and Tennessee offer two examples of model programs. New York provides intensive case management to sanctioned families. Caseworkers conduct home visits with sanctioned families to investigate any potential barriers to self-sufficiency, identify the reason for the sanctions and evaluate the impact of the

sanction on the family, and develop a plan to bring the family back into compliance.

Tennessee has a Family Services Counseling program that is designed to help TANF recipients avoid sanctions altogether. Caseworkers work with families on the front-end to identify and overcome barriers to employment, such as mental or physical health problems or domestic abuse situations.

- *Increase compliance with work rules and improves the effectiveness of the full-family sanction by eliminating the sanction on an adult's Medicaid for failure to meet the work requirement (Section 2).*

An average of 3,800 adults per month lose Medicaid for non-compliance with the TANF work requirement. This policy is counterproductive to the goals of the TANF program.

National research, as well as Texas' own research with TANF recipients, has consistently identified TANF clients with health problems as among those who have the most difficulty complying with program requirements. These studies have also found that sanctioned clients are more likely than other recipients to face barriers to employment such as physical and mental health problems.

Cutting off health care to sick adults who have difficulty meeting work rules exacerbates their health problems, making it even harder for them to comply with program requirements.

Parents with unattended health problems also have a harder time caring for their children and meeting the parenting requirements set forth in the TANF program.

SECTION 5 – Improves the Legislature's ability to evaluate the effectiveness of sanction policies

- *Requires HHSC to include in its annual report to the legislature additional statistics related to sanctions, including the number of persons who request and are granted good cause, the number and percentage of persons who were able to comply with the requirements for which they were sanctioned at one month and six months following the sanction, and the average number of months that it takes for a person to comply with the requirements for which they were sanctioned.*

With the exception of the good cause statistics, all of these data are already collected, just not reported.

SECTION 6 – Establishes a Work Support Program to help former TANF recipients make the transition to self-sufficiency.

- *Provides post-employment assistance for six months to families who have left TANF, but are in compliance with the Choices work requirement.*
- *HHSC would determine the amount of assistance. (A contingency rider in the Senate budget includes enough funding to provide \$50 per month per family).*

A work support program would help reduce recidivism and the future costs of cash assistance by supporting families' efforts to remain independent from welfare.

It also would help Texas meet federal requirements. Because the families would be working enough hours to comply with the Choices work requirement and would still be receiving TANF-funded assistance, they would also remain in the work rate calculation

for six months, thereby increasing the state's work participation rate.

The estimated cost is \$6.8 million for the biennium, assuming a \$50 benefit for six months.

SECTION 7 – Expands separate state program to provide assistance and supportive services to families with serious barriers to employment.

Background: In 2001, the Legislature established a separate state program to provide cash assistance and related support services to two-parent families and families residing in minimum service counties using state Maintenance of Effort funds.² The purpose of the state program was to serve these families more effectively without subjecting the state to penalties for failure to meet federal work participation rate requirements.

Recent changes in federal TANF rules have limited states' ability to provide meaningful employment and other supportive services to adults with disabilities and other barriers to employment. For example, there are limits on the types of activities that count toward federal participation, such as rehabilitation and mental health treatment, as well as restrictions on the number of hours per week and weeks per year a person can participate in these activities. These restrictions place vulnerable families at risk of losing assistance if required to participate in inappropriate work programs. Moreover, states that choose to narrowly define work activities for persons with disabilities without any exceptions, in order to ensure these activities count toward federal participation requirements, run the

² Prior to the passage of the Deficit Reduction Act in 2006, families who received MOE-funded assistance were not included in states' work participation rate calculations. Certain counties where employment services are limited are called minimum service counties.

risk of violating the Americans with Disabilities Act.³

CSHB 3759/CSSB 1861:

- *Expand the separate state program to include families who face barriers to employment or need employment services that fall outside of the work activities allowed under federal law.*
- *Require that the program be funded with non-MOE state funds.*
- *Exclude families who are **not** counted in the work participation rate under federal law from participating in the state program.*

Like the original separate state program, this program would be identical to the federally funded TANF program, with the exception that assistance would be paid purely with state dollars (non-MOE funds). Families would receive the same level of assistance and similar employment and other supportive services. HHSC would continue to decide which of these families should be required to work as a condition of receiving assistance, and which families to grant temporary exemptions from work requirements.

A solely state-funded program would be of great benefit both to the vulnerable families served by TANF as well as to the state. With a solely state-funded program, HHSC and TWC would be able to provide cash assistance and services designed to help families overcome barriers to employment without affecting the state's work participation rate.

³ For more information on how ADA requirements intersect with states' TANF programs, see "New Provisions of the Temporary Assistance for Needy Families Program: Implications for Clients with Disabilities and Advocacy Opportunities," by Cary LaCheen, 40 *Clearinghouse Rev.* 490 (Jan. - Feb. 2007)
<http://www.nclej.org/?q=node/9&PHPSESSID=de7221a232850d956406556c50c2db04>

Expanding the separate state program would not increase the number of families receiving assistance, it would just change the method of finance. Moreover, Texas would be able to count the families who are moved into the separate state program towards its caseload reduction credit, which would reduce our federal work participation targets.

This program would not increase overall state assistance costs. It would, however, involve a method-of-finance shift in which a portion of the General Revenue (GR) currently used to fund pre-K would be replaced with the federal TANF funds previously used to pay for cash assistance for these families. This GR would then be used to pay for the solely state-funded program.

The Center for Public Policy Priorities is a nonpartisan, nonprofit policy research organization committed to improving conditions for low- and moderate-income Texans. Learn more at www.cppp.org.