



COMPARING SB 1096 TO SB 1861: TWO DIFFERENT WELFARE-TO-WORK APPROACHES FOR TEXAS

SB 1096 will be heard in the Senate Health and Human Services Committee on Tuesday, April 10, at 11:00 a.m. or upon adjournment of the Senate

Texas is facing greater challenges in meeting federal requirements in the Temporary Assistance for Needy Families (TANF) program as a result of new 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. * SB 1096, by Senator Kyle Janek, is an attempt to help Texas meet these requirements, but it does so at the expense of the most vulnerable families. In contrast, SB 1861, by Senator Zaffirini, would increase work participation rates, protect vulnerable families, and improve the outcomes for families on and leaving welfare. This *Policy Page* analyzes the impact SB 1096 would have on TANF recipients and explains why SB 1861 is the better alternative to help Texas meet the federal requirements.

ANALYSIS OF SB 1096

- *SB 1096 would prohibit the Health and Human Services Commission (HHSC) from exempting adults from TANF work requirements except when mandated by federal law.* (Sections 4 and 6)

Federal law currently exempts from work participation adult recipients with children under age 1 and those caring for a disabled family member provided that the family member lives in the home and does not attend school full-time.

In addition to these federal exemptions, HHSC's rules currently provide temporary exemptions to families with serious barriers to employment. Most of these exemptions go to disabled parents or those caring for children

with disabilities. For example, there are many poor parents on TANF with disabilities or chronic health needs who have extraordinary difficulty working 30 hours per week (the number of hours required to meet the TANF work requirement) or doing work that is physically demanding. These are parents who do not qualify for SSI or SSDI (if they did, they wouldn't need TANF), but who nonetheless face serious barriers to employment. These exemptions also help parents with disabled children who are not exempt under federal law because their children are in school full time, but who still face serious challenges in meeting the work requirement due to the special needs of their children. (For more background on the TANF program's work rules, see <http://www.cppp.org/research.php?aid=651>.)

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

The state exemptions were established for two reasons. First, they save the state money. Texas emphasizes a “work-first” approach in its TANF program. Though this approach has succeeded in getting the most employable TANF adults into low-wage jobs, it has not helped families with greater barriers to employment with the kind of specialized services they need to become employable. Rather than provide these services, which would be more costly, Texas has exempted families with barriers to employment from the work requirement. Second, policymakers recognized that families dealing with significant disabilities or chronic health care needs would face challenges in working enough hours to meet the TANF work requirement, necessitating an exemption.

By only requiring states to engage 50% of their TANF populations in work, federal law clearly contemplates that states will establish their own exemptions from TANF work requirements.

- *SB 1096 gives the Texas Workforce Commission (TWC) the authority to define “good cause” for failure to meet the work requirement and charges TWC case managers with granting temporary “good cause” exemptions when a recipient fails to comply with the work requirement. (Section 2)*

Under current law, HHSC defines good cause for non-compliance with all program rules, including the work requirement. SB 1096 replaces the current up-front screening process for disability and other barriers to employment with case-by-case exceptions for “good cause” for adults when they fail to comply with the work requirement.

- *SB 1096 would require certain parents who do not receive TANF, but who live with a child who receives assistance, to*

meet TANF work requirements or have their child cut off. (Sections 1, 4, and 5)

Under current law, Texas only requires adults who are receiving TANF to work. Current law cuts off all assistance to the family when the adult does not meet the work requirement. This is known as a “full-family sanction.” The majority of TANF cases, however, are “child-only” cases in which only the children receive benefits. For example, Texas law limits adult TANF recipients to between 12 and 36 months of assistance, but allows the children in these families to continue receiving assistance after the adult has reached this limit. SB 1096 would subject certain *non-recipient* parents to work requirements and full-family sanctions.

This policy change is a response to recent changes in federal TANF rules, which added these parents to the list of TANF recipients who are considered “work-eligible.” This means that states are now required to include these parents when calculating their “work participation rates,” even though they do not receive assistance and are not required to work under state law. The Legislative Budget Board (LBB) estimates that 6,000 non-recipient parents fall under this new rule.

Federal law does exclude certain non-recipient parents from a state’s work participation rate calculation, including parents on SSI, undocumented immigrant parents, and parents caring for a disabled child not in school full-time. SB 1096 would exempt these non-recipient parents from the TANF work requirement.

MAJOR CONCERNS

- *Vulnerable parents and caretakers will lose critical cash assistance for their families as well as medical care for themselves, undermining their efforts to care for their children.*

Eliminating the current exemptions from the work requirement will subject many adults with severe barriers to employment to an unfair requirement they cannot reasonably be expected to meet. As a result of our zero-tolerance full-family sanction policy, many of these families will lose their cash assistance if the adult is unable to meet the work requirement. In addition, the adult would also lose her Medicaid, further impeding her ability to care for her children.

- *Eliminating the up-front screening process for disability in the TANF program destroys the bridge to SSI or SSDI, 100% federally funded benefits that better protect vulnerable Texans, offering larger benefits, over a longer time.*

In the current TANF application process, HHSC caseworkers screen families for disabilities in order to identify those applicants who should qualify for SSI or SSDI instead of TANF. SSI and SSDI are much larger programs with higher eligibility thresholds and greater benefits. They are also 100% federally funded entitlement programs, unlike TANF, which is a fixed block grant. If the disability screening process with TANF applicants is eliminated, many adults with disabilities who should be getting SSI or SSDI will miss out on this more valuable benefit.

It is also possible that by inappropriately certifying *disabled* adults as *able* to work, Texas could be making it harder for these adults to qualify for SSI or SSDI, an already arduous process that can take months to complete.

Texas should be doing everything possible to help families qualify for SSI or SSDI, not making it harder by eliminating one of the important bridges to these benefits.

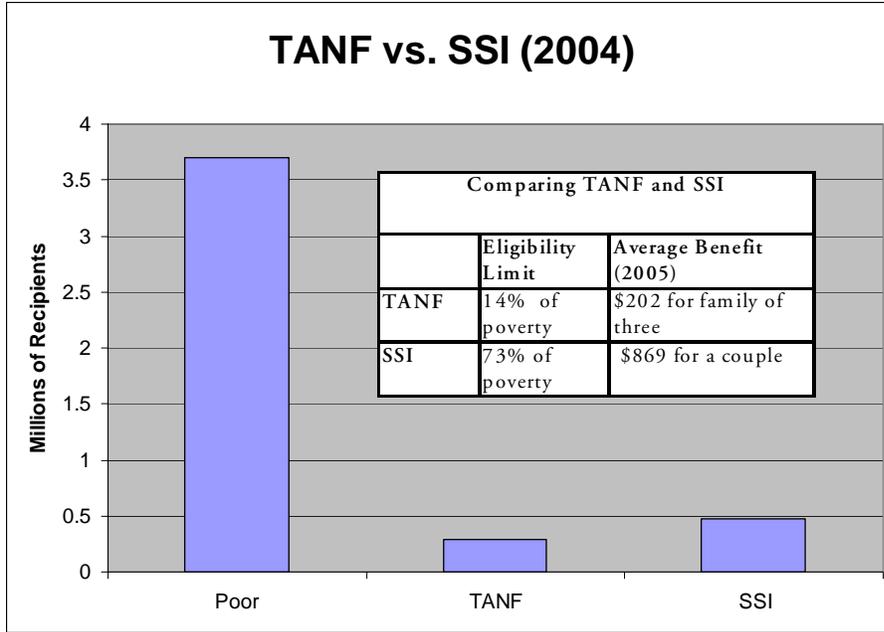
- *Requiring adults with disabilities to work could subject the state to liability under the Americans with Disabilities Act (ADA).*

The 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.¹ 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 risk of violating the Americans with Disabilities Act. The relevant provision of the ADA states that “*no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits, services, programs, or activities of a public entity or be subject to discrimination by any such entity.*”²

¹ 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>

² 42 U.S.C. § 12132.



It is important to note that the DRA itself does not violate the ADA in that it does not force states to require participants with disabilities to engage in federally countable work activities. Even though the DRA does not explicitly exempt persons with disabilities, states can still choose to exempt this population or require adults with disabilities to engage in work activities that are not federally approved. The federal regulators justify not specifically exempting disabled recipients by setting the work participation rate at 50%, thereby creating leeway for states to exempt persons with disabilities from the work requirement or to provide services that fall outside of the federally approved work activities.

- *Building the capacity of local boards to provide employment services for adults with disabilities as well as specialized child care for children with disabilities will be very costly.*

Texas' local workforce development boards do not routinely provide employment and other supportive services to exempt adults. Where these services are available, in most cases they

would not meet the definition of an approved work activity under federal rules.

- *Requiring adults to work who face barriers to employment will not help Texas meet its work participation rate.*

In the present system, many adults with disabilities already fall through the cracks in HHSC's screening

process and are referred to the local boards, which are then mandated to serve them. Because these adults face challenges to meeting the work requirement, they fail to engage successfully in work activities and therefore do not help the local boards meet their work participation rates.

- *Subjecting non-recipient parents to TANF work requirements and penalties puts more children at risk of losing assistance.*

SB 1096 subjects parents who do not even receive TANF to the same rules as adults who do receive assistance. This puts the vulnerable children in these families at risk of losing their assistance should their parents be unable to meet the work requirement.

RECOMMENDED CHANGES TO SB 1096

- *Require TWC to develop an up-front screening process to identify applicants with barriers to employment and assist persons who qualify with the SSI/SSDI application process.* The law should prescribe the parameters for a disability screening process and specify that it occur

before the adult signs the Personal Responsibility Agreement and is subjected to the work requirement. Case managers should be required not only to identify those TANF *applicants* who should apply for SSI or SSDI instead, but also to assist those TANF *recipients* who may be eligible with the disability application process. This would not only result in families receiving the greatest level of assistance available to them, it would also reduce TANF cash assistance costs to the state.

- *Establish statutory exemptions from the work requirement.* At a minimum, exemptions should be available for 1) recipients whose disability prevents them from working the required number of hours; 2) recipients with disabilities for whom appropriate employment services are not available; and 3) recipients with a disabled child whose needs prevent the caretaker from working the required number of hours.
- *Establish standards related to establishing good cause for non-compliance.* TWC case managers should be required to follow this process and document their efforts to inform clients of the good cause reasons for non-compliance. TWC case managers should be prohibited from imposing a sanction until these steps have been taken and are documented. TWC should also be required to collect data on the number and percentage of families that request and are granted good cause for non-compliance.
- *Adopt a “compliance-oriented” approach to the work requirement to increase participation and improve the integrity of the sanction process.* The best way to help Texas meet federal work requirements and achieve TANF’s goal of eliminating poverty through work is to increase the number of TANF recipients who are

working. SB 1096 should be amended to require TWC case managers to work with sanctioned families to ensure they understand why they have been sanctioned and what steps they need to take to come into compliance.

- *Mirror the language in SB 589 related to non-recipient parents.* SB 589, by Senator Jane Nelson, would provide employment services to these families, supporting TWC’s efforts to engage these parents in work, but would *not* subject them to work requirements or the threat of sanctions. SB 589 passed the Senate on March 28 and is by far the better approach.

AN ALTERNATIVE APPROACH – SB 1861

The federal work participation rate requirements is not the only measure of success in our TANF program. In fact, the work participation rate is not a meaningful performance measure in that it tells us very little about actual outcomes for welfare recipients – such as, are they leaving welfare for jobs that offer self-supporting wages? Just because we engage a certain percentage of our caseload in these very narrowly defined work activities does not mean we are actually increasing self-sufficiency for these families, which is the primary goal of TANF.

That said, until states convince Congress to revisit the way it measures success in states’ TANF programs, Texas has to find ways to meet these rates or face financial penalties on its block grant.

SB 1861, by Senator Zaffirini, proposes an alternative to eliminating the exemptions that would help Texas increase its work participation rates without penalizing vulnerable children and families.

SB 1861 incorporates two strategies to increase work participation rates: increasing the number of families who are in compliance with the work requirement and removing from the work rate calculation families unlikely to meet the work requirement.

Under the first approach, SB 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.

Combined, these approaches would help Texas meet its work participation rates by increasing the number of families who are in compliance with the work requirements.

Many 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.

Under the second approach, SB 1861 would use non-Maintenance-of-Effort (MOE) General Revenue to fund assistance to families who face barriers to employment or who need specialized services in order to work. Serving these families with “pure” state dollars would allow the state to continue to assist these vulnerable families without having to include them in the work participation rate. It would also enable TWC to offer these families employment services that are not federally approved work activities. Again, several states are exploring this option as a means to meet federal requirements without hurting vulnerable families.

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.