

The Failure of TANF Work Requirements in Wisconsin: A Note for Speaker Ryan

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Many conservatives view the 1996 welfare reform law (particularly the creation of the Temporary Assistance for Needy Families or TANF block grant) as an unprecedented success and a model for reforming other safety net programs. For example, speaking to the Heritage Foundation in September 2012, you said:

[The 1996 welfare reform law] is the crown jewel and the centerpiece of some of the most successful social policy legislation we've passed. It lowered child poverty rates, it moved people from welfare to work – because of these work requirements.²

In your December 3, 2015, speech at the Library of Congress, you laid out your vision for 2016 and reiterated this message:

In 1996, we created a work requirement for welfare. But that was just one program. We have to fix all the others now.

. . . I'd combine a lot of them [welfare programs] and send that money back to the states for better poverty-fighting solutions. Require everyone who can to work. Let states and communities try different ideas. And then test the results.³

The idea that TANF created a “work requirement” and “fixed” a welfare program is, by any objective analysis, wrong. While the law sent a symbolic message about the importance of work requirements and time limits, in practice, neither of these elements has been implemented in the way Congress intended. In fact, TANF is not “welfare reform” at all, but a flexible funding stream that has failed to provide an adequate safety net or an effective welfare-to-work program. In many states, it has become a slush fund used to supplant state spending and fill budget holes.

Background

The Family Support Act of 1988 imposed the first real work requirements on states, requiring them to have 20 percent of their nonexempt caseloads in a work, education, or training activity for an average of 20 hours per week by fiscal year (FY) 1995. The 1996 law nominally increased the overall work participation rate target for a state by requiring that at least 50 percent of TANF families with an adult engage in one or more of 12 specified work activities for a minimum average of 30 hours per week (or 20 hours per week for a single parent with a child under six years of age) in a month. (The required rate for two-parent families was raised from 75 percent to 90 percent.) These work rate targets can be reduced by a caseload reduction credit that reduces a state's target rate(s) based on the percentage point decline in a state's caseload(s) from a base year.⁴ Failure to meet these requirements can result in a financial penalty.

On paper, TANF's work requirements seem stricter, but the 1996 law created a number of loopholes that have allowed many states to circumvent the intent of the law. Indeed, today the block grant structure has created a situation in which many states don't have the resources to run meaningful welfare-to-work programs, as the amount is not adjusted for inflation or demographic changes, and many states are left with no choice but to game the requirements to avoid a federal penalty.⁵

TANF Work Requirements Have Failed in Wisconsin

In FY 2014, Wisconsin achieved an overall work participation rate of 36.0 percent and a two-parent work rate of 31.7 percent, both short of the required work rate targets of 50 percent and 90 percent, respectively.⁶ Wisconsin has now failed to meet TANF's work requirements for three consecutive years (FY 2012 – FY 2014) and faces potentially large financial penalties.

Meanwhile, Wisconsin's neighboring states *seem* to be doing just fine; in FY 2014:

- Illinois achieved an overall work participation rate of 68.7 percent.⁷
- Michigan achieved an overall work participation rate of 62.1 percent (and, due to the caseload reduction credit, faced a target of just 12.2 percent).⁸
- Minnesota achieved an overall work participation rate of 46.2 percent (and, due to the caseload reduction credit, faced a target of just 39.9 percent).⁹

In reality, Wisconsin is the only one of the four states that has implemented TANF's work requirements *without* gaming them. The fact that it can't meet TANF's work rate targets is a reflection of the fact that the requirements are not reasonable or realistic.

Gaming the Work Requirements

Many states today are only able to meet TANF's work requirements by taking advantage of the loopholes Congress created in drafting the 1996 law. Each of these loopholes is a direct or indirect result of TANF's block grant structure or conceptual errors in the drafting of the work requirements.

Artificially reducing the denominator. TANF replaced a federal-state matching program, with a block grant and state maintenance-of-effort (MOE) requirement; the latter requires states to spend 75 or 80 percent of what they spent in FY 1994 on cash, emergency assistance, job training, and welfare-related child care expenditures. Inflation has reduced the state requirement so that it is just 50 percent of what it was before TANF. In addition, under TANF states can count virtually any state expenditure that meets a TANF purpose,¹⁰ so it is now easy for most states to meet their basic MOE requirement. This frees up state general revenue funding that can be used to create "solely state funded programs" to remove families unlikely to meet the work requirements from the work rate calculation, providing assistance for them with non-MOE funds where they are not subject to TANF's work requirements.

Wisconsin does not use this strategy, but Illinois, Michigan, and Minnesota do, giving them a distinct advantage in meeting their work participation rates. Notably, all three states use this

approach (as do about half of all states nationwide) to completely remove two-parent families so that none faces TANF's unrealistic 90 percent requirement. In FY 2014:

- Illinois had solely state funded programs for “Two-Parent Families Paid with State Only Funds,” “First Time Pregnant Women Paid with State Only Funds,” “Refugee Cases Paid with State Only Funds,” “Child Under One cases Paid with State Only Funds,” and a final program aptly called “Single Parent Cases Not in A Countable Activity Paid with State Only Funds.” The average monthly number of such cases outnumbered the actual number of TANF cases (24,349 vs. 20,050.)¹¹
- Michigan had solely state funded programs for two-parent families and families in which the adult is incapacitated for over 90 days. The average monthly number of such cases (7,580) accounted for about one-fifth of the state's total caseload.¹²
- Minnesota placed about 10,000 families in solely state funded programs (about one-third of the state's total caseload) – primarily two-parent families and families with barriers to employment. For the latter group, this gives “counties more flexibility to develop appropriate plans. ... Because these families are not subject to the work participation rate (WPR), counties, tribes, and ES providers have the flexibility to engage participants in a broader range of activities and/or fewer hours, and create the most appropriate plan without the pressure associated with the WPR.”¹³

Artificially inflating the numerator. One increasingly common loophole states take advantage of to meet TANF's work rates is paying a token benefit to families with children that have enough hours of employment to count in the work rate. (This also increases the denominator, but these cases have a 100 percent or near-100 percent work participation rate, raising the overall work rate average.) Wisconsin did not do this, but both Michigan and Minnesota have relied on this strategy.

- Michigan did not rely on this gimmick in FY 2014, but it did in FY 2012 – when Wisconsin first failed the work participation requirement. It took families that would otherwise leave welfare for work and continued them on the rolls for an additional six months as “extended FIP” or EFIP cases. The state's policy guidance explained this as follows:

The DHS will provide a payment of \$10 per month for six months to individuals whose FIP case would have otherwise closed due to earnings, if those individuals continue to meet federal work participation requirements...¹⁴

The added \$10 payment was just a low-cost way for the state to boost its work rate by counting people who would otherwise have been off cash assistance and working anyway, literally buying work participation credit.

- Minnesota's Work Benefit Program funded a \$25 benefit for families leaving TANF and working sufficient hours to count in the work rate. In FY 2014, an average monthly 2,432 families received this benefit. The impact of this program was significant. The

state's work participation rate of 46.2 percent can be divided into two parts – the regular TANF program (33.5 percent) and the Work Benefit Program funded in a separate state program with MOE funds (95.4 percent). Notably, without this gimmick, the state would have fallen short of its 39.9 percent target rate.

Using “excess MOE” to inflate the caseload reduction credit. The caseload reduction credit reduces a state's work rate target by percentage decline in a state's caseload from a base year, which was initially set at FY 1995 (changed to FY 2005 starting in FY 2007) compared to a “comparison year” caseload – the year prior to the year for which work rates are measured. In addition, a regulatory provision allows state to reduce its comparison year caseload by spending in excess of its basic MOE requirement. The more it spends, the more it can reduce its target rate. (Note: While this is a regulatory provision, it is only possible because Congress replaced the federal-state match with a block grant and a separate MOE requirement. The concept of “excess MOE” would not exist in a federal-state matching program.) This led many states to simply find more third-party spending to count as MOE to artificially inflate the caseload reduction credit. Michigan and Minnesota used this approach in FY 2014 to lower their work rate targets. It appears that Wisconsin considered this approach, as it spent about 50 percent more than its basic MOE requirement, but it also experienced a substantial increase in its caseload and apparently this “excess MOE” spending was not large enough to offset the caseload increase – its work rate targets were not reduced.

Meeting Work Requirements by Shredding the TANF Cash Assistance Safety Net

The aforementioned gimmicks and loopholes undermine the integrity of work requirements, but the most serious and disappointing approach many states today meet the work requirements is by slashing their caseloads to divert TANF funds to fill state budget holes. It has become welfare for states, not needy families. (This list includes Ways and Means Chairman Kevin Brady's state of Texas and Budget Committee Chairman Tom Price's state of Georgia.)

For the purposes of this note, I focus on Wisconsin's neighbor – Michigan. Between 1995/96 and 2013/14, the number of poor families with children in Michigan grew from 208,200 to 213,000, as did the number of families with children in deep poverty – from 89,100 to 93,900. Meanwhile, the number of families receiving AFDC/TANF fell by nearly 80 percent, from 183,800 to 39,000. As a result, for every 100 poor families with children in 2014, only 18 received cash assistance, down from 88 before TANF was enacted.¹⁵ In FY 2014, the state spent just 12 percent of its TANF/MOE funds on basic assistance, whereas before TANF it was 80 percent.¹⁶

Unbelievably, some view this record as evidence of success. For example, Terry Jones, writing for *Investors.com*, states:

Those looking for success in welfare reform might want to look at Michigan. According to the news site Michigan Capitol Confidential, the Great Lake State saw a 70% decline in its welfare population in just four years. That's right: 70%.

...As the economy has improved, the state has begun doing what many states refuse to do: enforcing a 48-month lifetime limit for cash welfare assistance and a 60-month federal limit. As a result, the total number on welfare plummeted...¹⁷

The time limit policy went into effect on October 2011, immediately cutting the caseload by over 10,000 families – a number that would continue to grow. According to a spokesman for the Michigan Department of Health and Human Services, “As the governor said at the time of the decision to enforce time limits, this was returning cash assistance to its original intent – a transitional program to help families as they work toward self-sufficiency while preserving the safety net for families most in need.”¹⁸ What he doesn’t mention is that the enforcement of these time limits was immediate and retroactive – giving some families virtually no time to prepare for the cut-off in assistance. There was very little help moving families to self-sufficiency – the motivation was money, as aptly described in a recent headline, “Welfare time limits save Michigan millions, but cost 32,090 families.”¹⁹

The state’s imposition of stricter time limits also led to a sharp decline in its caseload. That too makes it easier for the state to meet work rates, both because it has a smaller caseload subject to such work requirements and presumably because cases that have been on the rolls long enough to meet a time limit are harder to serve and may need more intensive services than those who use TANF on a more temporary basis. Frances Carley, a fiscal analyst for the nonpartisan Senate Fiscal Agency, explains how meeting the work requirements may have been one of the motivations for the strict time limits:

The State did not achieve its actual target work participation rate in three years: 2007, 2008, and 2010. For example, Michigan’s revised target rate in 2007 was 44.3% (and the State actually achieved a rate of just 28.0% that year). As a result, the DHS has already received notification that the State could possibly face both a \$24.0 million and a \$22.0 million fine for noncompliance in 2007 and 2008. The 2010 penalty could be as high as \$25.0 million. By eliminating the hardship work exemption under TANF, the DHS expects to achieve greater success in meeting the target work participation rate in upcoming years.²⁰

Time limits may serve a useful purpose in emphasizing the transitional nature of assistance, but they should be accompanied with meaningful welfare-to-work services and there should be a rigorous evaluation to test the impact of these and other policies. Michigan did neither.

Unlike Michigan, Wisconsin actually increased its caseload during the economic downturn, one of the more responsive states to the rise in poverty. Between 2006 and 2014, the state’s caseload actually grew 37 percent, from 17,900 to 24,400.²¹

The Failure of TANF Work Requirements

TANF’s work requirements are flawed in many ways. I note three factors here.

First, the 50 percent and 90 percent work rate targets are unrealistic. Conservatives like to claim that TANF’s work requirements are based on research about “work-first” programs. However,

as Gordon Berlin, president of MDRC – the research organization that evaluated dozens of welfare-to-work programs over the last three decades – explains:

None of the welfare-to-work programs evaluated by MDRC to date – even the most effective ones – would have met the standards currently in place (that is, had states received no credit for caseload reductions), primarily because too few people participated in them for at least the minimum number of hours per week.²²

Second, the amount of TANF funding is not adjusted for inflation or demographic changes. Federal funding per poor child per year in Wisconsin has declined from \$2,449 in FY 1995 to \$1,346 in FY 2013 (in 2013 dollars). Furthermore, TANF’s excessive flexibility has allowed states to divert funding from basic assistance and work activities, to fund a wide array of benefits and services.

Third, TANF’s rules on counting education and training activities are overly restrictive, focused too much on a narrow range of “work first” activities. As Gordon Berlin of MDRC explains:

The evidence indicates that both job-search-first and education-first strategies are effective but that neither is as effective as a strategy that combines the two, particularly a strategy that maintains a strong employment orientation while emphasizing job search first for some and education first for others, as individual needs dictate. There is little evidence to support the idea that states should be pushed to one or the other extreme.²³

Wisconsin’s Secretary of the Department of Children and Families Eloise Anderson has argued that TANF greatly restricts “the autonomy necessary for operating TANF programming to fit the individual needs of states.”²⁴ Based on her experience, she recommended a number of changes to the work requirements, including recognizing the need for more flexibility in counting educational and training activities.

Conclusion

Wisconsin, more than many states, has implemented TANF as Congress intended, with a focus on basic assistance, work, and child care (though TANF does not work well in any state). Wisconsin is not gaming the work requirements. The same cannot be said of Wisconsin’s neighbors and indeed most states nationally. Yet, Wisconsin may face large penalties. Is this really an “unprecedented success”?

TANF’s work requirements are unreasonable, unrealistic, and are not about work. In fact, they are now more about gimmickry than connecting needy families with jobs. TANF is broken! It’s time to reform “welfare reform.”

¹ The views in this document reflect my own as a citizen and do not reflect the views of any organization I am now or have ever been affiliated with. By way of background, I consider myself a conservative and have worked on welfare issues for the Heritage Foundation, the American Enterprise Institute, and the White House under both President Reagan and President George H.W. Bush. This paper assumes the reader has a basic understanding of the TANF program, but for those readers who want more context and background, see Peter Germanis, *TANF is Broken! It's Time to Reform "Welfare Reform" (And Fix the Problems, Not Treat their Symptoms)*, July 25, 2015 draft, available at: <http://mlwiseman.com/wp-content/uploads/2013/09/TANF-is-Broken.072515.pdf>.

² Cited in Rob Bluey, "Paul Ryan: HHS Welfare Work Waiver Will Undermine 1996 Reforms," *The Daily Signal*, September 13, 2012, available at: <http://dailysignal.com/2012/09/13/paul-ryan-hhs-welfare-work-waiver-will-undermine-1996-reforms/>.

³ Speaker Paul Ryan, "#ConfidentAmerica: Full Text of Speaker Ryan's Remarks at the Library of Congress," December 3, 2015, available at: <http://www.speaker.gov/press-release/full-text-speaker-ryans-remarks-library-congress>.

⁴ See Douglas J. Besharov and Peter Germanis, "Toughening TANF," American Enterprise Institute, April 21, 2004, available at: <https://www.aei.org/publication/toughening-tanf> and Douglas J. Besharov and Peter Germanis, "Toughening TANF: How Much? And How Attainable?," March 23, 2004, available at: http://www.welfareacademy.org/pubs/welfare/toughening_tanf.pdf.

⁵ A full discussion of TANF's failed work requirements is beyond the scope of this paper; for a more detailed discussion, see Peter Germanis, *TANF is Broken! It's Time to Reform "Welfare Reform" (And Fix the Problems, Not Treat their Symptoms)*, July 25, 2015 draft, available at: <http://mlwiseman.com/wp-content/uploads/2013/09/TANF-is-Broken.072515.pdf>.

⁶ U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, "Work Participation Rates – Fiscal Year 2014," July 26, 2016, available at: <http://www.acf.hhs.gov/ofa/resource/work-participation-rates-fiscal-year-2014>.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ State and local governmental expenditures on programs that existed in 1995 and were not part of the state's AFDC and related programs can be claimed only to the extent that they are higher than the spending in 1995. In other words, only new spending counts. Of course, since that level is not adjusted for inflation, over time states can count preexisting spending that rises simply because of inflation.

¹¹ Illinois Department of Human Services, "TANF Caseload Reduction Credit Report FY 2015," December 2, 2014, available at: <https://www.dhs.state.il.us/page.aspx?item=41152>.

¹² Michigan Department of Health and Human Services, "TANF Caseload Reduction Reports," for FY 2006-FY2015, available at: http://www.michigan.gov/mdhhs/0,5885,7-339-73970_61179_8366-22439--,00.html.

¹³ Charles E. Johnson, Minnesota Department of Human Services, "Implementing DWP/MFIP Family Stabilization Services (FSS)," November 16, 2007, available at:

http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_139712~2.pdf. Calculated from Minnesota Department of Human Services, "Public Participation," 2016.

¹⁴ Memo from Liza Estlund Olson, Director, Workforce Development Agency to Michigan Works! Agency (MWA) Directors, "BWT/Workforce Development Agency, State of Michigan (WDASOM) Policy Issuance (PI): 06-34, Change 10," June 30, 2011, available at:

https://www.michigan.gov/documents/dleg/delegjet06242010kbl03_325740_7.pdf.

¹⁵ All figures from, Center on Budget and Policy Priorities, "Michigan: TANF Caseload and TANF-to-Poverty Ratio Fact Sheet," October 27, 2015, available at: <http://www.cbpp.org/research/state-fact-sheets-trends-in-state-caseloads-and-tanf-to-poverty-ratios>.

¹⁶ Center on Budget and Policy Priorities, "How TANF and MOE Dollars Were Spent in Michigan over Time," 2015, available at: http://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_mi.pdf.

¹⁷ Terry Jones, "Michigan Shows Strong Economy Is Key to Welfare Reform," *Investors.com*, November 19, 2015, available at: <http://news.investors.com/blogs-capital-hill/111915-781653-welfare-reform-works-best-when-economy-is-growing.htm>.

¹⁸ *Ibid.*

¹⁹ Emily Lawler, “Welfare time limits save Michigan millions, but cost 32,090 families,” April 5, 2016, available at: http://www.mlive.com/news/index.ssf/2016/04/saving_dollars_not_people_chan.htmlhttp://www.mlive.com/news/index.ssf/2016/04/saving_dollars_not_people_chan.html.

²⁰ Frances Carley, “The Family Independence Program (FIP): 48 - Month and 60 - Month Time Limits.,” *State Notes*, Fall 2011, available at:

<http://www.senate.michigan.gov/sfa/publications%5Cnotes%5C2011notes%5Cnotesfall11fc.pdf>.

²¹ Center on Budget and Policy Priorities, “Wisconsin: TANF Caseload and TANF-to-Poverty Ratio,” available at: http://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_wi.pdf.

²² Gordon L. Berlin, “What Works in Welfare Reform: Evidence and Lessons to Guide TANF Reauthorization,” MDRC, June 2002, pp. 36-37, available at: http://www.mdrc.org/sites/default/files/TANFGuide_Full.pdf.

²³ Gordon L. Berlin, “What Works in Welfare Reform: Evidence and Lessons to Guide TANF Reauthorization,” MDRC, June 2002, pp. 36-37, available at: http://www.mdrc.org/sites/default/files/TANFGuide_Full.pdf.

²⁴ Eloise Anderson, Secretary Wisconsin Department of Children and Families and Chairperson of the Secretaries Innovation Group Before the Committee on Ways and Means Subcommittee on Human Resources U.S. House of Representatives April 30, 2015, available at: <http://waysandmeans.house.gov/wp-content/uploads/2015/06/Eloise-Anderson-Testimony-043015-HR3.pdf>.