TANF Just Received the Golden Fleece Award!
Well-Deserved, but Who Should Get Credit: HHS or Congress?

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Congressman French Hill of Arkansas just named the U.S. Department of Health and Human Services (HHS) as the latest recipient of the Golden Fleece Award "for a lack of transparency and for improper payments to states for enrollees that do not meet Congressionally-mandated Temporary Assistance for Needy Families (TANF) requirements."[2] The Golden Fleece Award was originally introduced by Senator William Proxmire (D-WI) in 1975, as "a monthly bulletin on the most frivolous and wasteful uses of hardworking taxpayers' dollars."[3] Rep. Hill has revived the idea, so that "the Golden Fleece Award will again have the opportunity to serve as an important reminder to taxpayers about the need for necessary, commonsense reforms to our federal spending."[4]

TANF does indeed deserve this "award," but not for the reasons outlined by Rep. Hill. Most conservatives believe TANF and its work requirements have been an unprecedented success (until recently, at least) and a model for reforming other safety net programs. While the 1996 law sent a symbolic message about work requirements and time limits, neither of these elements have 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. The real obstacle to achieving meaningful reform is the intransigence of most conservatives in recognizing the source of TANF's failures and in developing reforms that address the problems rather than just treat the symptoms.

While Rep. Hill has identified some of TANF's failures, his overall scope is too narrow and his analysis about who is to blame misses the mark completely. This response addresses the points made by Rep. Hill in his letter to HHS Secretary Azar giving HHS the Golden Fleece Award for TANF. Each statement is followed by a "PC Response" – where "PC" is short for "Peter the Citizen."

Rep. Hill: "According to data from HHS and analysis by the Congressional Research Service (CRS), only a small number of non-employed TANF recipients are engaged in work-related or training activities within a given month. This is despite clearly outlined work requirements in the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193)."

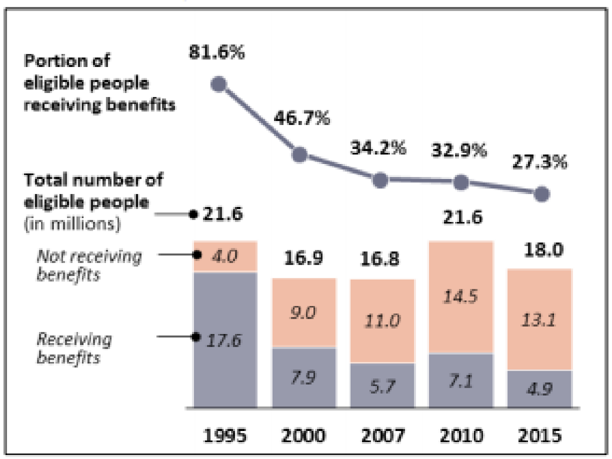
PC Response: Rep. Hill's concern, while valid, reflects a selective reading of the TANF legislation and of CRS analyses assessing TANF's effectiveness. The title of his press release, "Rep. Hill Awards Golden Fleece to HHS for Failing to Protect TANF Benefits for American Families," emphasizes "protecting TANF benefits for American families." This is consistent with TANF's first goal – to "(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives…" Yet, Rep. Hill expresses no concern for the collapse of the cash assistance safety net.

TANF's caseload has declined nearly 80 percent since 1996, and most of this decline is due to a drop in the take-up rate of benefits among eligible families, not because needy families escaped poverty and no longer needed benefits. Gene Falk of the CRS explains:

> The cash assistance caseload decline has been seen as one of the prime indicators that TANF made progress in achieving the goal of ending the dependence of needy families on government benefits. However, most of the caseload decline has resulted from a decline in the rate at which people eligible for assistance actually receive benefits, rather than a decline in the population in need. In 2015, 18.0 million people were eligible for TANF assistance, but 4.9 million (27%) received it.[5]

This is depicted in CRS Figure 1 below.

Figure 1. Number of People Eligible for and Receiving Cash Assistance, Selected Years



Source: Congressional Research Service (CRS) analysis based on estimates from the TRIM3 micro-simulation model.
Notes: Includes people in state-funded public assistance programs who are eligible for TANF, but excludes families receiving relatively small TANF-funded earnings supplements outside of regular TANF programs.

Falk concludes:

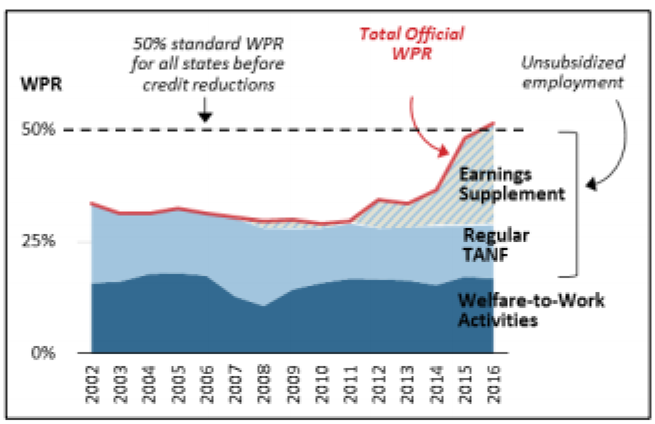
> The drop in the share of TANF-eligible individuals who receive benefits raises the question of whether a goal of TANF should be caseload reduction per se, regardless of whether or not the size of the population in need is growing. TANF was to be "temporary and provisional," however the data indicate that TANF is increasingly forgone or otherwise not received by those eligible for it, even among the poorest of families.[6]

The sharp decline in TANF's take-up rate is a reflection of "bureaucratic disentitlement" (my characterization) not of "protecting" needy families, yet Rep. Hill ignores this problem altogether.

Note to Rep. Hill: In 2017, for every 100 families in poverty in Arkansas, only 5 received cash assistance from TANF — down from 33 families when TANF was first enacted.[7] In 2017, Arkansas spent $161 million in federal and state TANF funds, but only 18 percent of these funds were directed at core welfare reform activities (i.e., basic assistance, work activities and supports, and child care). The state ranked 48th among all states with respect to the percent of TANF funds spent on core activities.[8]

Instead, Rep. Hill focuses on TANF's failure to engage families in work activities, noting that "only a small number of non-employed TANF recipients are engaged in work-related or training activities within a given month." Whereas the decline in caseloads and the take-up rate has been on-going, this is not a new problem – TANF has largely been a failure in terms of engaging families in work activities since its inception, as illustrated in the CRS Figure 2 below.[9] Throughout its history, only about 10 to 15 percent of those subject to work requirements have been engaged in a work activity other than "unsubsidized employment" for enough hours to count in the rate.

Figure 2. TANF Work Participation Rate, FY2002-FY2016



Source: Congressional Research Service (CRS) tabulations of the TANF National Data Files, 2002-2016.

Another indicator of TANF's failure to engage families in meaningful work activities is the percent of those subject to work requirements that have *zero hours* of reported participation.[10] As Table 1 indicates, the percentage of adults/work-eligible individuals with zero hours of reported participation fluctuated between 55 and 60 percent between FY 2000 (the first year such data was reported) and FY 2014. (For FY 2015 to FY 2018, not shown here, the percentage fell to about 40 percent because of the explosion in "earnings supplement" cases.)

Table 1: TANF Adults (pre-FY 2007)/Work Eligible Individuals (FY 2007 on) with Zero Hours of Countable Participation (FY 2000-FY 2014)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
% w/0 hrs.	60.3	56.8	58.3	58.8	57.5	56.6	55.3	62.1	60.5	58.2	59.0	58.0	55.1	56.7	54.7

The low level of participation in activities other than "unsubsidized employment" and the fact that the majority of those subject to work requirements have zero reported hours since TANF's inception is the result of flawed legislation, not lax oversight.

Rep. Hill: "In addition to misuse within the caseload reduction credit system, I am particularly concerned with the practice of counting the unsubsidized employment in 'earnings supplement programs' toward a given state's work participation rate (WPR). Specific examples of these programs include paying out benefits to parents who are (1) no longer eligible for TANF; and (2) not connected to TANF but are still counted toward the WPR.

I find it disturbing that these "earnings supplement programs" are often operated separately from a state's accepted TANF services but are being used to augment a state's WPR, thereby enabling states to avoid a penalty that would reduce their block grant allotments. According to CRS, nearly all WPR increases since FY2012 have been a result of unsubsidized employment in earnings supplement programs and have not come from actually putting people to work."

PC Response: Rep. Hill highlights two loopholes states use to meet TANF's work requirements in lieu of actually engaging families. In reality, states have been able to avoid TANF's work requirements since the program's inception by taking advantage of multiple loopholes. These loopholes are all the direct result of poorly crafted legislation.

During TANF's first decade, the caseload reduction credit and the ability to count "unsubsidized employment" as an activity rather than keeping full-time employment as an exemption (as under the prior AFDC/JOBS program) allowed most states to satisfy the work requirements without engaging anyone in a real work activity. However, for states that still needed help, there were loopholes: separate state programs, the ability to exclude child-only cases even when there was an able-bodied parent in the household, broad activity definitions (because Congress didn't actually define the work activities), and (in some states) the ability to continue earlier AFDC waiver policies. (These loopholes are described in detail elsewhere; see: "TANF Work Requirements: An Epic Fail" in *TANF is Broken* , July 2015, available at: https://mlwiseman.com/wp-content/uploads/2013/09/TANF-is-Broken.072515.pdf.)

Congress attempted to close these loopholes in the Deficit Reduction Act of 2005 by adding families in separate state programs to the work rate calculation, recalibrating the base year of the caseload reduction credit calculation (from 1995 to 2005), and directing the U.S. Department of Health and Human Services (HHS) to define work activities and determine who is a "work-eligible individual." Almost immediately, states discovered new loopholes: solely state funded programs, the "excess MOE" provision of the caseload reduction credit, and "earnings supplement programs." Such gimmickry does nothing to help the poor get connected to work opportunities and this result was entirely predictable.

As long as TANF is a block grant with excessive state flexibility, loopholes will remain. Writing for the American Enterprise Institute in 2004, Doug Besharov and I explained that "the structure of the TANF block grant would enable states to avoid *all* additional participation requirements…"[11] If Rep. Hill is serious about establishing a meaningful safety net and welfare-to-work program, the first step should be to end the block grant structure and the second would be to limit spending to basic assistance and work activities. And, if he is serious about actually helping needy families find employment and lifting them out of poverty, he should propose work requirements that are reasonable, reflect operational realities, and are based on credible research findings. Welfare reform should be about giving needy families a hand up, but instead, under TANF, it has abandoned them.

> ***Note to Rep. Hill*:** In FY 2017, Arkansas relied on both gimmicks. The state achieved an overall work rate of 40.4%, due in large part to its "earnings supplement" called "Arkansas Work Pays."[12] In an average month, 1,203 families were subject to a work requirement and 487 had enough hours to count. Of the 487 counted as participants, 416 were in "unsubsidized employment" mainly due to the "earnings supplement." Only about 80 families (less than 10 percent of those subject to the work requirement) were in an activity like job search, vocational educational training, or work experience.
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> In addition, Arkansas faced a zero percent target for its overall work rate due to its sharp caseload decline and the fact that it inflated its caseload reduction credit by reporting MOE far in excess of its basic requirement ($111,354,498 and $20,838,952, respectively, resulting in an excess of $90,515,546).[13] Nearly all of this spending was for the state's preK program, which has nothing to do with core welfare reform activities. Is this the kind of "misuse within the caseload reduction system" you were referring to?

Rep. Hill: "As you are aware, the intent of Congress when implementing TANF was to provide states flexibility in administering this program, but also to move eligible parents into work and stability. This intent was reinforced in 2006 with the Deficit Reduction Act (P.L. 109-171), which attempted to close some of the loopholes surrounding WPR. Instead, practices such as the ones outlined in this letter allow states to distract from the glaring fact that they are not abiding by Congressional intent in moving people from welfare to work, but merely blurring the lines to make it appear that they are acting within the mission of the program. In this deception, HHS has been complicit, facilitating states in 'hitting the target, but missing the point.'"

PC Response: These practices are indeed troubling, but the real problem is the overall work requirement framework – it is unreasonable for recipients, unrealistic for states, and not based on research about what works best. Unless Congress is willing to address the block grant structure and the work requirement framework, states will continue "hitting the target, but missing the point."

> ***Note to Rep. Hill*:** TANF's work requirements are unreasonable for recipients. To meet its minimum hourly requirements, a work-eligible individual must participate at least 130 hours per month. In Arkansas, the TANF grant for a family of three is $204 a month, so the expectation is that recipients value their time at $1.60 per hour (or at about one-fifth of the minimum wage). Is it a surprise that so many poor families decide to forego TANF?
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> TANF's work requirements are unrealistic for states. Virtually no state has achieved the 50 percent work rate target without relying on the caseload reduction credit or one of

> many loopholes. The concern expressed in the letter – that "only a small number of non-employed TANF recipients are engaged in work-related or training activities within a given month" – is evident in Arkansas. Since TANF's inception, only about 10 percent of families subject to work requirements have been engaged in an activity other than "unsubsidized employment."

Closing the loopholes related to "excess MOE" for the caseload reduction credit (assuming that's what's meant by "misuse within the caseload reduction credit system") and "earnings supplement programs" would have a minimal effect and would not eliminate gaming of the work requirements. First, due to a regulatory change that took effect in most states effective FY 2012, the "excess MOE" provision of the caseload reduction credit has only a small impact on the caseload reduction credit and thus state target work rates. The real problem with the caseload reduction credit is that it incentivizes states to push families off the rolls or keep them from coming on. Most of the 23 states with a 0 percent target in FY 2018 would continue to have a 0 percent target even if this provision were eliminated. Second, only a dozen states use "earnings supplement programs" to game the work rate and the majority are in five states: California, Maine, Massachusetts, Oregon, and Washington. While this strategy looks important on a national level (see CRS Figure 2 above), it is only because of the size of California's caseload.

Even if the caseload reduction credit were eliminated entirely and "earnings supplement programs" were barred, most states could avoid TANF's work requirements using a loophole known as the "solely state funded" program. This is an artifact of the block grant structure and is made possible by a strategy known as a "funding swap," whereby federal TANF funds used to provide assistance are diverted instead to supplant an existing (non-TANF) state expenditure (e.g., college scholarships or preK).[14] This frees up state general revenue funds that can be used for any purpose, including to provide assistance outside the TANF structure in a "solely state funded" program that is not subject to any of TANF's rules. This "swap" does not involve more spending, only rearranging funding streams within a state to avoid the work requirement.[15] Most states are familiar with this strategy – about half provide assistance to two-parent families this way to avoid TANF's much steeper two-parent work requirement.

Rep. Hill: When our nation is more than $22 trillion in debt, our federal agencies must be good stewards of taxpayers' dollars.

PC Response: This is absolutely true, but concerns about the deficit and debt didn't stop you from voting for the Tax Cuts and Jobs Act of 2017. Why wasn't enacting deficit-neutral tax reform, as President Reagan did in 1986, a bigger priority? Indeed, there are important lessons from that earlier tax bill, as David Wessel, Director of the Hutchins Center on Fiscal and Monetary Policy at the Brookings Institution explains:

> The 1986 bill was very different than this year's tax bill. One, it was preceded by a couple of years of ground work by tax experts at the Treasury. Two, it was bipartisan. And, three, it was intended to improve the tax code but to raise just as much money as the then-existing tax code did – no more and no less. And was designed to be "distributionally neutral" – that is, to avoid shifting the tax burden from rich to poor or from poor to rich.[16]

Why not convene a group of TANF experts to provide recommendations? This means excluding conservative ideologues who have only a loose understanding of how TANF has been implemented and have obstructed any meaningful discussion of the subject. Instead, seek the advice of real experts and develop a bipartisan reform plan that addresses TANF's real problems and doesn't just treat the symptoms.

Rep. Hill: "Should you require any additional authority from Congress to address these concerns, I urge you to notify us as soon as possible. I thank you for your consideration and look forward to working with you to address this important issue."

PC Response: The two loopholes described in the letter just scratch the surface with respect to TANF's problems. These stem from the block grant structure and the excessive flexibility that **Congress** gave states. In writing the law, **Congress** gave states "maximum flexibility" (section 401 of the Social Security Act) to provide for a wide range of benefits and services that are "reasonably calculated" to promote a TANF purpose. And, **Congress** limited federal oversight. Section 417 of the Social Security Act (added by TANF) constrains the ability of federal officials in regulating the conduct of states:

> No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

TANF has been a massive policy failure; it defies common sense. In determining whether TANF deserves the Golden Fleece Award and who should receive the award, consider the following nine questions:

1. Does it make sense to have work requirements that don't work?
2. Does it make sense to have a funding structure for a safety net program that is unresponsive to changes in economic and demographic circumstances?
3. Does it make sense to give states so much flexibility they can count virtually any expenditure as "reasonably calculated" to advance a TANF purpose?
4. Does it make sense to permit states to use TANF funds to supplant existing state expenditures and use it as a giant slush fund?
5. Does it make sense to replace a simple and effective federal-state matching approach with an ineffective, Rube Goldberg-like financing scheme?
6. Does it make sense to give states so much flexibility they can duplicate the benefits and services of dozens of other low-income programs with virtually no accountability?
7. Does it make sense to provide funding for safety net programs that have either no income limit or that permit states to set very high income limits?
8. Does it make sense to impose rules that are ineffective and/or needlessly complicated?
9. Does it make sense to ignore evidence-based research?

The answer to each question should be "NO," but it is important to understand that it is the legislation that is to blame and therefore the award should go to **Congress**, not HHS.

Conclusion

Ron Haskins, an architect of the 1996 law recently observed regarding TANF's record, "States did not uphold their end of the bargain. So, why do something like this again?"[17] He is right. If the goal is to "protect" and help needy families, it's time to repeal and replace TANF with something that works.

[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] Press release, Office of Rep. French Hill, "Rep. Hill Awards Golden Fleece to HHS for Failing to Protect TANF Benefits for American Families," July 30, 2019, available at: https://hill.house.gov/news/documentsingle.aspx?DocumentID=5882. The press release explains, "Originally introduced by Democratic U.S. Senator from Wisconsin William Proxmire in March 1975, the Golden Fleece Award was a monthly bulletin on the most frivolous and wasteful uses of hardworking taxpayers' dollars."

[3] *Ibid*.

[4] *Ibid*.

[5] Gene Falk, "Temporary Assistance for Needy Families: The Decline in the Cash Assistance Caseload," Congressional Research Service, May 17, 2018.

[6] Gene Falk, "Temporary Assistance for Needy Families: The Decline in the Cash Assistance Caseload," Congressional Research Service, May 17, 2018.

[7] Center on Budget and Policy Priorities, "TANF Financial Assistance to Poor Families Is Disappearing in Arkansas, November 28, 2018, available at: https://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_ar.pdf.

[8] Center on Budget and Policy Priorities, "Arkansas TANF Spending," February 19, 2019, available at: https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_ar.pdf.

[9] Gene Falk, "Temporary Assistance for Needy Families: Work Requirements," Congressional Research Service, March 27, 2018.

[10] Some individuals with zero hours may be in activities that don't count or have hours the state chose not to report. See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, *Claims Resolution Act - Engagement in Additional Work Activities and Expenditures for Other Benefits and Services, April-June 2011: Engagement in Additional Work Activities and Expenditures for Other Benefits and Services*, February 13, 2012, available at: http://www.acf.hhs.gov/ofa/resource/cra-june2011html.

[11] 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, p.3, available at: http://www.welfareacademy.org/pubs/welfare/toughening_tanf.pdf.

[12] U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, "Work Participation Rates – Fiscal Year 2017," June 26, 2018, available at: https://www.acf.hhs.gov/ofa/resource/work-participation-rates-fiscal-year-2017.

[13] U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, "TANF Financial Data – FY 2017," September 27, 2018, available at: https://www.acf.hhs.gov/sites/default/files/ofa/tanf_financial_data_fy_2017_12819_508_compliant.pdf.

[14] For an example of a funding swap, see California Legislative Analyst's Office, "The 2013-14 Budget: Analysis of the Health and Human Services Budget," February 27, 2013, p. 50, available at: http://www.lao.ca.gov/analysis/2013/ss/hhs/health-human-services-022713.pdf.

[15] Some states use the funding swap to simply reduce their own contribution to TANF, using the freed up funds for purposes unrelated to TANF or welfare reform, e.g., to pay for tax cuts.

[16] David Wessel, "What we learned from Reagan's tax cuts," the Brookings Institution, December 8, 2017, available at: https://www.brookings.edu/blog/up-front/2017/12/08/what-we-learned-from-reagans-tax-cuts/.

[17] Eduardo Porter, "The Republican Party's Strategy to Ignore Poverty," *The New York Times*, October 27, 2015, available at: http://www.nytimes.com/2015/10/28/business/economy/a-strategy-to-ignore-poverty.html.