Maryland Department of Human Services (DHS)

Fiscal Year 2025 Budget Overview
Response to Department of Legislative Services Analysis

Senate Budget and Taxation Committee
Health and Human Services
Senator Cory McCray
January 25, 2024

House Appropriations Committee
Health and Social Services
Delegate Emily Shetty
January 24, 2024

Honorable Chair and members of the Subcommittee, my name is Rafael López, and I serve as the Secretary of the Maryland Department of Human Services (DHS). On behalf of our department, I thank Governor Moore, Lieutenant Governor Miller, the Department of Budget and Management (DBM), and the Budget Committees for their support. We are also grateful to the Department of Legislative Services Analyst Samuel Quist for his assistance leading up to today's hearing. Joining me at the table is Principal Deputy Secretary Carnitra White and Acting Chief Financial Officer Kirill Reznik. We have senior members of our leadership team, including directors of our local departments of social services, present in the audience as well.

We are honored to serve the people of Maryland. We serve to empower Marylanders to reach their full potential by helping with preventive and supportive services, economic assistance, and meaningful connections to workforce development and career opportunities. We serve to unlock opportunities for the over one million Marylanders who want to thrive. To do this work well, we must hold ourselves accountable to a new standard of world class excellence and customer service. We must lift up the talent of our nearly 6,000 team members across our department and within each of the 24 local departments of social services. Together, in partnership with the community, we must leverage our $4.1 billion dollar budget in new ways, acknowledging that over 73% of our budget is federally funded with the majority of activities taking place directly in local communities.

For too long, there was a failure to make critical and necessary investments in DHS to truly make Maryland a place where we leave no one behind. We discovered a department deeply siloed, fractured between what is commonly referred to as "centrals" and "locals," paralyzed by 20th century paper-based practices, and lack of coordination among all 24 jurisdictions.

DHS squandered many opportunities to modernize how we invest in our people, policies, and practices. For example, our regulatory framework to create a continuum of care that better serves Maryland's children and families is decades old. Even as the nation witnessed a change in how federal prevention dollars could be used, DHS did not draw down tens of millions of dollars in available federal funding to expand services for families in crisis. Similarly, the previous administration ignored pleas to help people whose benefits were stolen by thieves. DHS earned a sullied reputation for terrible customer service to Marylanders who simply turned to us for help to put food on their tables. That day is done.

Today, our administration is holding ourselves and our partners accountable to a new standard of excellence; Marylanders deserve nothing less. While we have made some important progress over the last year, we have significantly more work to do to leave Maryland better off than we found it. Our budget is helping lay the foundation for years to come, proactively leveraging every single federal and philanthropic dollar. This budget reflects an investment in key areas that will enable Maryland to pull in additional federal Title IV-E funding to support innovative foster care preventive services for children and families. This will allow us to help families earlier and often to avoid the need to come into care in the first place. We will begin to end what has been an unproductive stalemate between DHS and its provider network for nearly two decades. Targeted state investments for residential child care provider rate reform will position Maryland to draw down $18 million in additional federal funding to support the provision of evidence based, residential child care services.

Since March 2023, we replaced over $18.7 million in stolen benefits to over 30,000 Maryland households. Maryland was the first in the nation to reimburse stolen benefits and combat nationwide, organized theft. By strategically realigning state administrative funding, we are poised to receive $69 million in newly available federal funds for a permanent, statewide Summer EBT program that ensures 500,000 students have enough food to eat when schools are closed in the summer months.

Every day, we are moving with urgency to rebuild the state government in a responsive and sustainable way. On January 1, 2023, DHS had a vacancy rate of 15.2%. By December 31st, that rate was down to 9.69%, a decrease of 5.5%. And with the addition of a new statewide customer call center in 2024, we are determined to create a workplace culture where world class customer service is the new normal and Marylanders are treated with the respect and dignity they deserve.

This budget proposal was assembled in partnership with many of you and others who advocate tirelessly for the Marylanders we serve. We stand ready to work with you to deliver bold investments in a fiscally responsible way to make this Maryland’s decade.

DHS Responses to the DLS Overview Analysis

DHS should comment on the reason for the decrease in funding through the [Montgomery County] block grant to levels generally below the most recent experience despite salary increases for State employees in fiscal 2024 and 2025. (pg. 9)

DHS Response: In 2022, during the planning process for the FY2024 budget, the DHS Office of Budget and Finance made an error and provided Montgomery County an additional $4.0 million in FY2023 and $9.4 million in FY2024. This was not meant to be an increase. During the budget formulation process, the general funds were increased, and the federal funds should have been decreased by the same proportion. For more information, please see the attached memo (sent by the former DHS Chief Financial Officer to the Montgomery County Social Services Officer on June 9, 2023).

The current budget allocation for Montgomery County reflects funding in line with prior years.

Please note that DHS provided an incorrect response to an initial DLS question on this subject on January 18, 2024. We conducted additional analysis, as explained above, and researched this issue further. Initially, we had believed the reason to be the expiration of federal ARPA funds. This is not the case, and we apologize for our error.

DLS notes that one solution to reduce risk would be to shift more of the TANF spending currently programmed to the TCA program, which is budgeted in fiscal 2025 with $49.1 million in general funds, and then shift the freed up general funds to Child Welfare Services and/or Foster Care Maintenance Payments program. A recommendation that would allow for this flexibility will appear in the analysis for N00I – Family Investment Administration. (pg. 27)

DHS Response: As stated in the Analysis, DHS strongly disagrees with any rule change that would limit our ability to provide critically needed help to Marylanders. At this time, the risk of this rule being implemented by the federal government in the near term is relatively low. Any rule that is perceived to reduce state flexibility or limit benefits promulgated in an election year will have political consequences rulemakers will likely try and avoid. In addition, any unpopular rule will likely be subject to Congressional review.

Creating income security for families is an effective primary prevention strategy in avoiding child abuse and neglect, as poverty is a documented risk factor for abuse and neglect. As a result, stabilizing household income saves costs in the long run. Utilizing resources for primary prevention strategies rather than treating an avoidable problem is the best course of action.

Because of these reasons, we believe that the risk to Maryland is limited, and shifting State resources away from needed programs and spending in a year with decreased revenue to cover for a potential shift in federal spending that may not materialize is not prudent.

DHS should discuss the status of the NPRM including the anticipated timeframe for any resulting regulations to be implemented. In addition, DHS should identify the general fund and other impacts of (1) replacing spending in TANF on uses that would no longer be allowed and (2) changes in ability to claim MOE due to serving families over 200% of FPL and not meeting the reasonableness test. (pg. 27)

DHS Response: The federal government has not provided a specific timeframe for implementing the notice of proposed rulemaking (NPRM), and as mentioned in the previous comment, we do not anticipate implementation in the short term. DHS commented on the proposed regulation on December 1, 2023 in which we identify that federal statutory language does not authorize administratively reducing state flexibility (attached, *see*, p.3). We are hopeful the key provisions in the proposed rule that DHS disagrees with will be amended before the final rule is promulgated. Under Maryland's State plan, we provide TANF services to households with income levels up to 300% of the federal poverty level (FPL) due to the high cost of living in our state. Limiting TANF eligibility to 200% of FPL would not impact cash assistance, but it would limit access to other services, especially child welfare spending, transitional benefits, and diversion programs. The potential federal limitation would require a significant allocation of General Funds, which we are working to calculate, or a change to state law lowering the mandated eligibility.

Considering that ACF has not yet promulgated a final rule nor established an effective date, DHS has not yet assessed the rule's impact on the state's ability to meet the required maintenance of effort (MOE). The department will make that assessment once a final federal rule is published.

DATE: June 9, 2023

TO: Oscar Mensah, Social Services Officer
Montgomery County Department of Health and Human Services

FROM: Dr. Maria Matiella, Chief Financial Officer Dr. Maria Matiella
Office of Budget and Finance

RE: 3rd Quarter Adjustment Clarification

This is a clarification memo in response to your email dated 06/7/2023.

The additional $4.0 Million for FY 2023 and the $9.4 Million for FY 2024 were not an increase for the MCDHHS budget. During the FY 2024 Budget formulation, the general funds were increased, and the federal funds should have been decreased by the same proportion. However, the excess federal funds were not decreased in error which caused a total budget increase.

The federal funds remained in the budget by error, thus, are not attainable; they will be cancelled in the FY 2023 closeout and a reversal deficiency will be prepared to remove the excess federal funds in FY 2024.

As such the allocation is being reduced to reflect the appropriate funding in FY 2023 and in FY 2024.

If you or your staff have any questions, please call Gloria Fagbemi 410-767-7917 regarding specific issues related to the FY 2023 3rd quarter adjustment clarification.

cc: Rafael López
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Submitted Electronically

December 1, 2023

Kathleen McHugh
Director, Policy Division
U.S. Department of Health and Human Services
Administration for Children and Families (ACF)
Mary E. Switzer Building 330 C Street, S.W.
Washington, D.C. 20201

Re: (TANF) Program NPRM to strengthen the safety net and reduce administrative burden
RIN: 0970-AC97
Document Number: ACF-2023-0010-0001
Document Citation: 88 FR 67697-67720

The Maryland Department of Human Services (DHS) appreciates the opportunity to provide comments on the rule proposed by the Administration for Children and Families (ACF) related to the Temporary Assistance for Needy Families (TANF) safety net and reduction of administrative burdens. (88 FR 67697; RIN 0970-AC97). DHS operates Maryland's TANF program made up of Temporary Cash Assistance (TCA) and Work Opportunities Program. These programs provide cash assistance to families with dependent children when available resources do not fully address the family's needs as well as prepare program participants for independence through work.

Maryland supports the proposed rule's efforts to ensure states' TANF programs are designed and funds are used in accordance with the TANF statute, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, Maryland DHS does not believe the proposed rule goes far enough to meet, and in some cases, frustrates, the express purposes of the TANF statute. In other words, we believe the proposed rule fails to implement the unambiguous statutory imperative to "increase the flexibility of States" to address the systemic and generational challenges that have persistently held families in poverty for decades. Our comments and recommendations on the proposed TANF rule coalesce around the following statutory purposes–

(a) IN GENERAL.—The purpose of this part is to increase the flexibility of States in operating a program designed to—
(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
(4) encourage the formation and maintenance of two-parent families. (42 U.S.C. 601(a))

Related to the issue of the bedrock flexibility the TANF statute authorizes to states, we object to the proposed new 45 CFR 263.11 (c)and urge that it be struck. States, including Maryland, have exercised its flexibility under the TANF statute to determine whether a particular expenditure would accomplish a TANF purpose. The twenty-four local departments across the state of Maryland use allocated TANF funds to meet the needs unique to their jurisdiction. For example, Prince George's County may use TANF funds to address food insecurity while another uses it to address emergency housing or prevent utility shut-off. While there may be benefits of setting limitations on the type of activities that TANF funds cover, there are more benefits in letting states make that determination as needs may vary from one state to another. Maryland believes that this provision risks forcing states into a cookie-cutter/one-size-fits-all approach. States are better equipped to determine what their needs are and we advocate for keeping current flexibilities.

According to the Maryland Center for Economic Policy (MDCEP), the federal TANF program does not currently or sufficiently lift families out of poverty and may even perpetuate persistent intergenerational poverty and negative stereotypes about people receiving assistance. MDCEP argues more funds should be put into TANF cash assistance so that families can meet their day-to-day expenses, especially as rising housing costs and expenses continue to be a challenge for households in poverty. The MDCEP Report, *More Basic Assistance is Needed to Propel Economic Mobility and Security Among Maryland Families Receiving TANF* states–

The reality is that money is indispensable to live and increases in prices for gas, groceries, or diapers do not bear in mind people going through a rough patch. We can do more for families by ensuring that cash assistance makes up the majority of combined TANF spending in the state.

In fiscal year 2021, Maryland spent $616 million for cash assistance in our TCA program, including both state and federal funding. In that year, the federal government funded Maryland's TANF program at $228 million. The $16.5 billion in TANF block grant funding for all states, the District of Columbia, and tribes has remained unchanged since 1996 and, therefore, has lost its value by more than 40 percent to date.

In 2021, 1 in 4 children in Maryland had parents who lacked secure employment, defined as regular, full-time, year-round employment. In addition, almost one-third of children in Maryland live in households with high housing burdens, defined as housing costs that take 30 percent or more of the household's income. In 2022, there were close to 28,000 families in active TANF cases in Maryland, not counting those families in poverty not eligible for TANF. Of the 28,000 families, 96 percent included children, and 53 percent had children who were five years old or younger. Such data underscores the importance of cash assistance for needy families.

We also note here that research reveals an association between material hardships such as the inability to provide for family needs (food, medical care, housing, clothing) and increased risk for involvement in the child welfare system. 'Neglect' in child welfare settings often refers to situations when a parent or parents are struggling to provide for their children and their needs due to financial hardships including the lack of adequate and sustainable employment. The first statutory TANF purpose is to "provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives." We believe ACF should consider how to encourage or incentivize increased TANF support to families through basic cash assistance in order to prevent neglectful situations that prompt child welfare services to get involved in the first place as well as to support families so that children may be cared for in their own homes or in the homes of relatives.

The following is organized around Maryland DHS's recommendations for modifications to the proposed rule, comments on the NPRM with rationales for proposed modifications, and recommended regulatory text modifications.

Specific Maryland Recommendations, Rationales, and Recommended Text Modifications

A. Recommendations

Block grants to states for TANF programs are limited by four broad purposes within the explicit statutory framework of "***increas[ing] the flexibility of States*** in operating" such TANF programs. Aligned with such statutory framework, we recommend the following four modifications to the proposed rule–

1. Strike the unauthorized proposed one-size-fits-all-states definition of 'needy' capped at 200% of the federal poverty guidelines;
2. Strengthen TANF as the safety net for families and children in poverty, as TANF was intended to be;
3. Modify the TANF rule to allow states to count a broader range of activities toward the work participation rate that help recipients prepare for and enter the labor market; and
4. Modify the TANF rule to encourage states to provide assistance to two-parent families and noncustodial parents who may need assistance to support and contribute to the well-being of their children.

B. Rationale for Recommended Modifications to the NPRM

1. Strike the unauthorized proposed one-size-fits-all-states definition of 'needy' capped at 200% of the federal poverty guidelines

Maryland agrees there must be a definite standard against which definitions of 'needy' are applied by TANF programs in states. However, consistent with the plain and express language of the TANF statute, we believe the authority for establishing such threshold TANF eligibility standards are expressly allocated and reserved to the states operating TANF programs. We do not believe the statute supports any alternative interpretation. In fact, the TANF statute authorizes "*increas[ing]* the flexibility of States in operating" TANF programs, not decreasing such flexibility.

As a threshold matter, we note the significant flaws in the basis upon which ACF proposes to establish a single uniform limitation on states definition of "Needy" at no more than 200 percent of the federal poverty rate. The federal poverty rate measures poverty by a narrow income standard that does not account for key aspects of economic status nor the actual and ongoing material hardships for families; e.g., impacts of inflation on the costs of food, clothing, housing, medicine, and transportation; nor debt service. In addition, the federal poverty rate is a specific dollar amount that varies by family size but is otherwise standardized without regard to the unique and variable economic facts and circumstances within and across states. The current federal poverty calculation is based on 1960s research reflecting that families spend about one-third of their incomes on food. Since then, the poverty calculation has been updated annually for inflation but otherwise has remained substantially unchanged. Currently, the costs of housing, child care, health care, and transportation have grown significantly in addition to the costs of food. The poverty rate calculation plainly fails to account for the true costs of minimally supporting families across the different states and fails to account for the substantial *variation* in the costs of living in different states, between urban and rural areas within states, and in reservation and near reservation areas.

We believe reliance on the flawed federal poverty rate significantly hurts children and families in poverty. The widely researched flaws in the federal poverty rate leads inexorably to the conclusion that reliance on such a rate is likely to lead to arbitrary and capricious results across all jurisdictions receiving TANF block grants as well as within those jurisdictions that have disparate urban and rural populations. This is because families in deep poverty may nonetheless not be deemed 'needy' because the poverty rate substantially discounts the real costs of living.
The NPRM proposes to reverse established state prerogatives and statutory flexibility to establish what is 'needy' in a state and its localities without any statutory foundation or authority. On these bases we strongly object to the language in the proposed rule related to the 200 percent cap on eligibility.

Under Maryland's State TANF plan, we provide TANF assistance to households with income levels up to 300% of the federal poverty rate because that is where the anti-poverty work is. The proposed one-size-fits-all states would significantly limit access to the TANF program in Maryland. Specifically, child welfare spending, transitional benefits, diversion programs, and pre-kindergarten are all programs that would be significantly cut if this new proposed rule became effective.

We note here the wide variation in TANF benefit amounts across the states. For example, in July 2020, the maximum monthly benefit for a single-parent family with one child ranged from a high of $862 in New Hampshire to a low of $146 in Mississippi. While we believe it is the role of states and tribes to establish benefits for families deemed needy in relation to poverty taking into account the costs of living, we also believe that the intent and structure of TANF makes clear that TANF is designed to meaningfully and actually move families out of poverty. Therefore we believe ACF must ensure that the value of TANF benefit amounts is calculated on the basis of the calculated costs of living in states in order to advance one or more of the statutory purposes of the TANF program. We believe this was the intent underlying the time limitation for receipt of TANF support.

While the share of eligible families receiving TANF assistance is often used as the measure of how well any given state reaches families, scrutiny reveals it is not a valid or reliable measure at all. Restrictive eligibility policies, such as threshold eligibility caps as well as low earnings thresholds, act to shrink the pool of families eligible for TANF even though these same families may be persistently poor. As a result, while restrictive eligibility policies may seem to indicate families are being served, it is only potentially a narrow group of families *made* eligible while persistently or deeply poor families and children are not reached at all. We believe it is precisely such persistently or deeply poor families that TANF must reach and was designed to reach.

The TANF statute makes expressly clear the exclusive authority of states to expend federal TANF block grant and state Maintenance of Effort (MOE) funds for the benefit of state residents pursuant to the four statutory purposes of TANF. In light of the statutory authorization solely for increasing the flexibility of states, not decreasing such flexibility, we urge ACF to strike the unauthorized proposed 200 percent TANF eligibility cap.

We recommend text modifications to the proposed definition of ‘needy’ in 45 CFR § 260.30 and “assistance” in 45 CFR § 260.31 to require states to link ‘needy’ with state established standards of ‘poverty’ taking into account the costs of living in the locality including the costs of housing, food, child care, health care, transportation, taxes, and household good as well as all sources of earned and unearned income. We urge consideration of the facts that local costs of living vary significantly from one state to another, from one county to another, from urban to rural areas within states, and within reservation and near reservation areas. It is also important to consider that low-income families spend a substantial share of their incomes on core needs such as housing, food, and health care and cell phone and internet service. We note that with respect to cell phone and internet service that neither is a luxury in the 21st century. Mobile or smart phones are critical for access to the internet, as well as a means for interacting with schools, health providers, caseworkers, accessing supports and services for children, and facilitating job search, among many other necessary functions. Internet service is necessary for children’s educational activities and access to supports and services where transportation is a barrier.

2. Strengthen TANF as the safety net for families and children in poverty, as TANF was intended to be

TANF can be summarized as designed to serve two explicit functions: (1) to help move adult recipients into the paid labor market so they can support and sustain their families in states where they reside and (2) to provide a safety net for families when they cannot work. These functions can further be described as the ‘leave poverty’ and ‘save families’ functions and they are interconnected.

The TANF caseload has seen a significant decline since the program’s inception in 1996. By 2022, the national TANF caseload had declined by approximately 60%. This decline is not due to a decrease in need, but rather due to factors such as fixed block grant funding, state rules determining eligibility requirements, strict work requirements, and time limits.

Between 1996 and 2010, the national TANF caseload declined by 58 percent from 4.7 million to 2.0 million. TANF caseloads declined by at least 27 percent in every state and by more than 50 percent in 36 states. Meanwhile, the number of families with children in poverty increased by 17 percent over this period, from 6.2 million to 7.3 million, and the number of poor children climbed by 12 percent, or by 1.7 million children.

Since the TANF program was first established, there has been a substantial decline in the TANF-to-poverty ratio (TPR) defined as the number of families receiving TANF benefits for every 100 families in poverty. As stated above, in the context of the proposed TANF rule, TANF has been significantly weakened as a safety net for children and families in poverty. In 2022, for every 100 families in poverty, only 21 received assistance from TANF, down from 68 families when TANF was enacted in 1996. This represents the fewest number of families receiving assistance in TANF history. This decline in the TPR indicates that TANF caseloads have fallen much more than the number of families experiencing poverty. In 2019-2020, for every 100 families living in poverty across Maryland, only 29 received TANF cash assistance. The national TPR has fallen 68 points since TANF was established.

The number of families that receive TANF assistance reflects two main measures: (1) whether families are eligible based on state policies; and (2) whether eligible families in such states participate. The TPR captures both measures, along with shifts in the size of the population in poverty, increasing for some time. The TPR is a particularly good measure of the reach of TANF in addressing the four specified statutory purposes and the underlying statutory intent.

TANF's declining role as a safety net for children and families in poverty has far reaching and catastrophic consequences for families, particularly for children. Evidence suggests that poverty among young children not only has serious deleterious effects on school performance, but it also shrinks their earnings as adults perpetuating cycles of persistent intergenerational poverty. Poverty researchers Greg J. Duncan and Katherine Magnuson found that among families with incomes below $25,000, children whose families received a $3,000 annual income boost when the children were under age 6 earned 17 percent more as adults, and worked 135 more hours per year after age 25, than otherwise-similar children whose families did not receive the income boost.

Over time, since 1996, TANF has substantially failed as a safety net for children and families in poverty. In this context, we believe to cap TANF eligibility with a single national standard based on a flawed baseline fails to account for the unique conditions across individual states and fails to recognize, much less address, the drivers of poverty in states. We believe, therefore, the proposed 200 percent eligibility cap is arbitrary and capricious for all that it fails to incorporate about the costs of living for families and children, and we urge ACF to consider other ways to strengthen TANF as the safety net it was intended to be.

At 88 FR 67699 in the Preamble, ACF notes–

More than 27 years after the establishment of TANF, state programs have shifted away from a focus on direct cash and employment assistance. Although states are permitted under the statute to determine how much funding to expend on cash assistance, we remind states that there is a large body of research that shows that cash assistance is a critically important tool for reducing family and child poverty.

Increased access to TANF cash assistance, at a time of decreasing TANF caseloads but increasing family and child poverty, is essential to help such families afford their basic needs and to maintain family stability, family integrity, and child safety. We urge ACF to modify the proposed rule to strengthen the safety net for families and children in poverty by incentivizing increased focus on cash assistance as well as employment assistance. In addition, we urge ACF to consider ways in which it can to provide expanded access to federal financial participation (FFP) to enable states and tribes to–

(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
(3) prevent and reduce the incidence of out-of-wedlock pregnancies [;]
(4) encourage the formation and maintenance of two-parent families.

Even though the above are the specified purposes of the TANF statute, it is not the case that such broad purposes are the exclusive province of TANF block grants to states. For example, support to families so that children may be cared for in their own homes or in the homes of relatives is also within the scope of ACF's authority under titles IV-E/IV-B of the Social Security Act.

Families need a continuum of assistance, services, and support so they have the means to pay for rent, utilities, diapers, child care, food, medicine, transportation, and other necessities. Yet too few families struggling to make ends meet can access the TANF program and other ACF programs designed and intended for needy families and children.

3. Modify the TANF rule to allow states to count a broader range of activities toward the work participation rate that help recipients prepare for and enter the labor market.

Under the TANF statute, states' sole accountability measure is the work participation rate. Such work participation rate, with its penalties for non-compliance, discourages states from assisting families that are in the greatest need and who have the greatest barriers to sustainable employment. States are more likely to meet the rate, and avoid penalties, if they assist families that already have some education, skills, and work experience. Those are the families who have the best chance of either securing employment or participating in a narrowly defined set of work activities. As a result, the families that *most* need a safety net are the *least* likely to have access to it.

Over 25 years ago, TANF was built around a "work-first" philosophy, requiring states to ensure that a certain percentage of individuals participate in specific work activities. ACF, in subsequent regulations, limited the amount of training and education that qualifies towards these work requirements. Equally important to note is that the work-first philosophy is not only imbalanced, it is wholly unsuited for families with multiple barriers to employment who make up substantial numbers of those in persistent and deep poverty.

To a significant degree, the TANF statute encourages states to focus on reducing the number of individuals receiving cash assistance, but ACF implementing regulations have failed to create incentives for states to focus on longer-term and sustainable outcomes. ACF has defined each of 12 countable work activities and the type of documentation needed to verify reported hours of work following the Deficit Reduction Act of 2005. (P.L. 109-171) Subsequently, ACF issued regulations defining TANF work activities to ensure a consistent measurement of work activity across states.

Highlights of the ACF regulations, published in June 2006, include requiring all activities to be supervised (many on a daily basis); disallowing four-year or advanced college degrees to count as vocational educational training; and explicitly allowing treatment for the removal of certain barriers to employment, such as substance abuse and mental or physical disability to count toward the participation standards although only for a limited time period each year as a "job readiness" activity. It also allows "supported employment" for individuals with disabilities to count.

On the occasion of the current TANF NPRM, Maryland DHS recommends the final rule include the expressly broadening the definition of work activities that count toward the work participation rate in the following ways:

A. **Broaden Work Activities to Include More Types Education**: Individuals in families that are persistently poor over multiple generations need to both gain the needed skills to qualify for better-paying and sustainable jobs and exposure to educational environments they have not previously had opportunities to be exposed to. ACF could incentivize partnerships with community colleges, for example, that offer work-study placements offering needy individuals opportunities to focus on building basic job skills as well as skills leading to promotion and increases in wages while allowing such individuals to settle into a regular schedule of school and work.

B. **Count Caregiving as Work**: Many individuals in poverty are caring for young children or elderly family members. Recognizing this caregiving and associated skills such as budgeting, as a form of work could allow more people to meet the work participation requirements when they have caregiving responsibilities they cannot afford to shift to others.

C. **Expand Community Service areas of work**: Counting community service and volunteering toward work activities can provide valuable work experience and connections in the community. In addition, nonprofits and community service organizations benefit from those with lived experience but often cannot afford to hire such individuals. We recommend the final Rule authorize placements of needy individuals in non-profit and community service organizations in exchange for cash assistance and enhanced SNAP benefits as a supplement to paid work.

D. **Include Participation in Mental and Physical Health Care as Work**: The clinically appropriate time individuals spend working towards improving their mental and physical health should explicitly count toward work activities because such care addresses some of the most persistent barriers to consistent and sustainable work.

We encourage ACF to expand its work participation and related regulations from a singular "work-first" approach to a "work-ready, ready to work" approach to reach more families, particularly those with multiple or persistent barriers to sustainable employment.

We have recommended modification to 45 CFR § 261.2 related to definitions of allowable work activities.

4. Modify the TANF rule to encourage states to provide assistance to two-parent families and noncustodial parents who may need assistance to support and contribute to the well-being of their children.

Many two-parent families and non-custodial parents in poverty across the U.S. are currently ineligible for TANF assistance due to stringent requirements. Expanding eligibility to include more two-parent families and non-custodial parents can provide much-needed support to such parents and their children in poverty. Expanding eligibility is necessary but not sufficient to lift families out of poverty. The benefit levels for two-parent families and non-custodial parents are insufficient to meet their needs. Increasing these levels can provide more substantial support which, when coupled with job readiness and job skills supports can pull families out of poverty.

One of the biggest fixed impediments to full and sustainable employment for two-parent families is the lack of available and reliable child care assistance. Offering longer term child care assistance will make it easier for both parents to work and to save earnings from work.

We urge modifications to TANF regulations that meaningfully help families escape poverty, rather than simply increasing work participation rates on paper. It is crucial to ensure that necessary support systems are in place, including but not limited to childcare, job readiness experiences, educational opportunities, and transportation supports, to–

1. Help parents care for children in their own homes as well as support familial, including kinship roles in such caregiving;
2. Promote job preparation and skills training to increase opportunities for sustainable work reducing dependence on temporary TANF support;
3. Encourage both the formation and on-going maintenance of two-parent families; and
4. Break the persistence of two- and three-generation poverty.

C. Recommended Text Modifications

Consistent with our four recommendations and rationales presented above, Maryland DHS recommends specific text modifications to the proposed rule to accurately reflect
Part 260 General Temporary Assistance for Needy Families Tanf Provisions
3. The authority citation for part 260 continues to read as follows:
Authority
42 U.S.C. 601, 601 note, 603, 604, 606, 607, 608, 609, 610, 611, 619, and 1308.
4. Amend § 260.30 by adding the definition “Needy” to read as follows:
§ 260.30
What definitions apply under the TANF regulations?
* * * * *
Needy means **[meeting the]** state established standards of **[poverty]** ~~financial need~~ **[taking into account the costs of living in the locality including but not limited to the following factors:**
(1) the costs of housing including rent, mortgage payments, and utilities;
(2) the unsubsidized costs of food;
(3) unreimbursed child care costs;
(4) health care costs including health insurance premiums, out-of-pocket expenses for health care including mental health care, and prescription medications;
(5) transportation costs including the costs of owning and maintaining a vehicle and the costs of public or hired transportation;
(6) federal, state, and local taxes; and
(7) costs of household goods including cell phone and internet service, clothing, and personal care items,
and reflecting all sources of available earned and unearned income.] ~~may not exceed a family income of 200 percent of the federal poverty guidelines.~~
* * * * *
[5. Amend § 260.31 as follows:
§ 260.31
What does the term “assistance” mean?
(a) (1) The term “assistance” includes cash, payments, vouchers, and other forms of **[**benefits **of value** designed to meet a family's ongoing basic needs **including, but not limited to** ~~(i.e., for~~ food, clothing, shelter, utilities **including cell phone and internet service**, **unsubsidized and unreimbursed health care expenses, transportation expenses, school supplies]** household goods, personal care items, and general incidental expenses~~)~~.
Part 261 Ensuring That Recipients Work

[6]. The authority citation for part 261 continues to read as follows:
Authority
42 U.S.C. 601, 602, 607, and 609; Pub. L. 109–171.
[7. In § 261.2, revise as follows:]
*****
(e) *Work experience (including work associated with the refurbishing of publicly assisted housing* [***or schools***]*) if sufficient private sector employment is not available* means a work activity, performed in return for welfare, that provides an individual with an opportunity to acquire the general skills, knowledge, and work habits necessary to obtain employment. The purpose of work experience is to improve the employability of those who cannot find unsubsidized full-time employment. This activity must be supervised by an employer, work site sponsor, or other responsible party on an ongoing basis no **~~less~~** **[more]**frequently than **~~once in each day in which the~~** **[any other]** individual **~~is scheduled to participate~~** **[participating in such work experience.]**
(f) *On-the-job training* means training in the public or private sector that is given to a paid employee while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job **[or for advancement in such job or field of work.]**.
(g) *Job search and job readiness assistance* means the act of seeking or obtaining employment, preparation to seek or obtain employment, including **[child care support],** life skills training, and substance abuse treatment, mental health treatment, or rehabilitation activities. Such treatment or therapy must be determined to be necessary and documented by a qualified medical, substance abuse, or mental health professional. Job search and job readiness assistance activities must be supervised by the TANF agency or other responsible party on an ongoing basis no less frequently than once each day in which the individual is scheduled to participate.
*****
(i) *Vocational educational training* ***~~(not to exceed 12 months with respect to any individual)~~*** means organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations. Vocational educational training must be supervised on an ongoing basis no **~~less~~** **[more]** frequently than **~~once each day in which the~~** **[any other]** individual ~~is scheduled to participate~~ **[participating is such training.]**
(j) *Job skills training directly related to employment* means training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace**[, including increase in wages or responsibilities]**. Job skills training directly related to employment must be supervised on an ongoing basis no **~~less~~** **[more] frequently than** **~~once each day in which the~~** **[any other] individual** **~~is scheduled to participate~~** **[participating in such training.]**
(k) *Education directly related to employment****~~, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency~~*** means education related to a specific occupation, job, **~~or~~** job offer**[, job advancement, or increase in wages]**. Education directly related to employment must be supervised on an ongoing basis no **~~less~~** **[more]** frequently than **~~once each day in which the work-eligible~~** **[any other]** individual **~~is scheduled to participate~~** **[enrolled.]**
*****
(m) *Providing child care services to an individual who is participating in a community service program* means providing child care to enable another TANF or SSP recipient to participate in a community service program. This **~~is an~~** **[may be a paid or]** unpaid activity and must be a structured program designed to improve the employability of individuals who participate in this

activity. This activity must be supervised on an ongoing basis no ~~less~~ **[more]** frequently than ~~**once each day in which the**~~ **[any other]** individual ~~**is scheduled to**~~ participat~~**e**~~**[ing in the program].**
[8]. In § 261.53, revise paragraph (b) to read as follows:
§ 261.53
May a State correct the problem before incurring a penalty?
* * * * *
(b) To qualify for a penalty reduction under § 262.6(j)(1) of this chapter, based on significant progress towards correcting a violation, a State must either:
(1) Reduce the difference between the participation rate it achieved in the fiscal year for which it is subject to a penalty and the rate applicable for the fiscal year in which the corrective compliance plan ends (adjusted for any caseload reduction credit determined pursuant to subpart D of this part) by at least 50 percent; or
(2) Have met the overall work participation rate during the corrective compliance plan period but did not meet both the overall and two-parent work participation rates in the same fiscal year during the corrective compliance plan period, if the State failed both the overall and two-parent work participation rates in the fiscal year for which it is subject to a penalty.
[9.]. In § 261.60, amend paragraph (b) by revising the second, third, and fourth sentences to read as follows:
§ 261.60
What hours of participation may a State report for a work-eligible individual?
* * * * *
(b) * * * For participation in unpaid work activities, it may include excused absences for hours missed due to a maximum number of holidays equal to the number of federal holidays in a fiscal year, as established in 5 U.S.C. 6103, in the preceding 12-month period and up to 80 hours of additional excused absences in the preceding 12-month period, no more than 16 of which may occur in a month, for each work-eligible individual. Each State must designate the days that it wishes to count as holidays for those in unpaid activities in its Work Verification Plan. In order to count an excused absence as actual hours of participation, the individual must have been scheduled to participate in a countable work activity for the period of the absence that the State reports as participation. * * *
* * * * *
Part 263 Expenditures of State and Federal Tanf Funds
[10.]. The authority citation for part 263 continues to read as follows:
Authority
42 U.S.C. 604, 607, 609, and 862a; Pub. L. 109–171.
[11.] Amend § 263.0, by revising (b)(1)(i) and adding (b)(1)(iii) to read as follows:
§ 263.0
What definitions apply to this part?
* * * * *
(b) * * *
(1) * * *
(i) For example, it excludes costs of providing diversion benefits and services, screening and assessments, development of employability plans, work activities, post-employment services, work supports, and case management. It also excludes costs for contracts devoted entirely to such activities.
* * * * *
(iii) It excludes costs of disseminating program information, such as information about program services, information about TANF purposes, or other information that furthers a TANF purpose.

* * * * *
[12.]. Revise § 263.2(e) to read as follows:
§ 263.2
What kinds of State expenditures count toward meeting a State's basic MOE expenditure requirement?
* * * * *
(e) Expenditures for benefits or services listed under paragraph (a) of this section are limited to allowable costs borne by State or local governments only and may not include cash donations from non-governmental third parties (*e.g.,* a non-profit organization) and may not include the value of third-party in-kind contributions from non-governmental third parties.
* * * * *
[13.]. Amend § 263.11 by adding paragraph (c) to read as follows:
§ 263.11
What uses of Federal TANF funds are improper?
* * * * *
~~(c) If an expenditure is identified that does not appear to HHS to be reasonably calculated to accomplish a purpose of TANF (as specified at § 260.20 of this chapter), the State must show that it used these funds for a purpose or purposes that a reasonable person would consider to be within one or more of the four purposes of the TANF program (as specified at § 260.20 of this chapter).~~

Conclusion
To recap, we strongly recommend, for all the reasons stated above, that ACF broaden the scope of the final rule to strengthen TANF as the safety net for families and children it was intended and structured to be. Our comments recommended text revisions are aligned with Maryland's vision of TANF as a poverty-ending program. In particular, we note that Maryland Governor Wes Moore, DHS Secretary Rafael López, and leaders across Maryland are prepared to join with ACF and states and tribes across the country to end poverty as we have known it for too long. As Governor Moore asks us about our children in Maryland:

How can we expect them to fill their minds with ideas, if they can't fill their stomachs with food? How will they rise above their station, if their life is in a constant state of deprivation? We can, and we will, end child poverty in the state of Maryland.

In service,

Rafael López
Secretary