KEY ISSUES

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American Indian Families and Tribes: Key Issues in Welfare Reform Reauthorization

The statutory authorization for the Temporary Assistance for Needy Families (TANF) block grant, the centerpiece of the welfare reforms passed by Congress in 1996, expires on September 30, 2002. TANF replaced Aid to Families with Dependent Children (AFDC), a program that provided cash assistance to poor families with children, including poor American Indian families. States have used their federal TANF funds to provide cash assistance as well as childcare, transportation, job-training, and other services to help families move into the work force.

TANF, unlike AFDC, gives tribes the option to design and administer their own family assistance programs following approval of their plan by the U.S. Department of Health and Human Services (DHHS). As of October 2001, 34 tribal entities in 15 states had federal approval to operate a TANF program.[1] The 16,900 families served by tribal TANF programs each month represent roughly 40 percent of all American Indian families enrolled in TANF.[2] Tribal TANF programs received $50.2 million in federal grant funds in FY 2001 out of the $16.5 billion available to states, tribes, and territories that year.[3]

Two reports prepared for the Kaiser Family Foundation provide insight on the opportunities presented by the tribal TANF option as well as challenges to its effective implementation. The report prepared by Kauffman and Associates, Inc, describes the experiences of 8 tribes in Oregon, Wisconsin, and Arizona that have used the options available to them under welfare reform in varying ways.[4] The other, prepared by Kathleen Maloy, provides an overview of the goals of welfare reform and identifies issues facing tribal communities and states in the reauthorization of TANF.[5]

Since authorization for the entire TANF program expires this year, Congress has an opportunity to examine the choices and resources available to tribes that wish to administer their own TANF programs as well as those that do not. This brief summarizes some of the major issues facing American Indian families and tribes in this reauthorization.

Trends in Welfare Reform and American Indians

Data on welfare reform and American Indian tribes and families are limited, but three observations can be made. First, the number of tribal TANF programs and families served by these programs has grown steadily, with about 5-7 new tribal programs becoming operational each year since 1996. However, the majority of American Indian families receiving cash assistance (approximately 40,000) continue to be served by *state* rather than *tribal* TANF programs.[6]

Second, the total number of American Indian families receiving cash assistance, whether from state or tribal TANF programs, has declined nationwide since FY1996. This decline, however, has not been as dramatic as that which occurred with needy families in general and varies across states.[7]

Finally, as overall TANF caseloads have declined nationwide, American Indians have become an increasing and disproportionate share of families served by some states. For example, data from FY1999 indicate that the percentage of TANF adults who are American Indians was about 76 percent in South Dakota, 58 percent in North Dakota, and 50 percent in Montana.[8] This increase is largely because many Indian families are among the "hard-to-serve" clients who face multiple barriers to gainful employment and also reside in geographic areas with limited employment opportunities.

Key Issues in TANF Reauthorization

What total federal funding should be provided for TANF block grants during FY 2003 and beyond?

Current law entitles states to a total of $16.5 billion per year in federal funds through fiscal year 2002 to operate their TANF programs. In order to qualify for these funds, states must meet a "maintenance-of-effort" (MOE) requirement by spending about $10.5 billion in state funds each year. As of FY 2000, less than half (43%) of all federal TANF and state MOE funds were spent on cash assistance; a significant portion was spent on work-related programs, including 19% on child care and about 11% on job preparation, wage subsidies, and transportation.[9]

As Neuberger and her colleagues have observed, federal funding for the TANF block grant has been fixed over time and thus, the buying power of the resources committed to welfare reform has been eroded by inflation. If federal TANF funding for FY 2003 and beyond is not adjusted for inflation, they estimate that by FY 2007 the value of the block grant will be 22 percent lower than in FY 1997.[10] While lower case loads put less spending pressure on the block grant, supportive services to enhance training and work opportunities remain essential expenditures if welfare reform is to be effective in job placement. A reduction in purchasing power will constrain the ability of states to provide the cash assistance, child care, and work support services needed by low-income families, including American Indian families, served by state and/or tribal TANF programs.

Within the total federal TANF block grant funding, how should funding be allocated among states with significant on-reservation American Indian populations?

Under current law, TANF block grant funds are allocated among states based upon historical spending in the AFDC program. Because this spending varied greatly among states due to large differences in cash assistance levels, the TANF block grant allocations vary largely as well.

In FY 2001, federal TANF allocations averaged $1,200 per poor child; states received as little as $400 per child (Alabama) and as much as $2,750 (Alaska).[11] Nine states with significant American Indian populations living on or near reservations received less than the average $1,200 per poor child: Idaho ($425); Arizona ($763); North Dakota ($766); New Mexico ($775); Montana ($845); South Dakota ($877); Oklahoma ($943); Oregon ($983); and Utah ($1,093).

Low per-child allocations of federal TANF dollars impede the ability of states to pay for services to assist low-income families to enter and remain in the workforce. When cash assistance caseloads rise due to economic downturns, these constraints are more severe. For example, Montana recently shifted $9 million in federal TANF funds from work support programs to cash assistance due to a 20 percent increase in caseload.[12] Without additional federal resources, low per-child allocation states like Montana in which American Indian families represent significant portions of the TANF caseload are unlikely to be able to achieve the objective of moving these families from welfare to work. Low per-child allocations are particularly problematic when American Indian families live on or near reservations with high unemployment rates, creating a need for additional resources to fund the necessary work supports and employment opportunities.

What funding should be made available to tribes that elect to administer their own TANF program?

The TANF statute allows tribes to receive funding directly from the Secretary of DHHS to administer their own TANF programs. The amount of funds received by a tribe directly is deducted from the allocation of federal TANF dollars to the state in which the tribe's service area is located. A tribal entity administering its own TANF program is entitled each year to federal TANF dollars equal to the amount of federal funds spent under the AFDC program in FY 1994 for American Indian families residing in the tribe's service area. Tribes can administer their programs individually or as part of an intertribal consortium.[13] By October 2001, 34 tribal entities (i.e., individual tribes as well as tribal consortia) serving a total of 170 tribes were administering their own TANF programs.[14]

Tribal governments have expressed concerns with the level of TANF funding available to them. As in the case of the total TANF block grant amount, the tribal-specific TANF amounts are not adjusted for inflation, resulting in a loss of purchasing power over time. Also, several tribes in the study by Kauffman and Associates express concern that tribal TANF grants are based on FY 1994 data on Indian families served that are of questionable accuracy and do not include the start-up costs they face. Finally, tribes have raised concern that they do not necessarily have access to a state's "maintenance-of-effort" dollars. Two of the tribes in the study by Kauffman and Associates are in a state that does not match federal TANF dollars.[15]

Should the 5-year limit on receipt of cash assistance apply to American Indian families residing on reservations with high unemployment?

Support through the TANF block grant provides temporary assistance; it is not an entitlement. No federal TANF funds may be used to provide assistance to an adult who has received assistance under TANF for a total of 60 months, whether or not consecutive.[16] (States have the option of using their own funds to continue assistance to children and families beyond the 60-month period).

The TANF statute creates an exception to this 5-year limitation in the case of American Indians or Alaska Natives living on reservations or in Alaska Native villages with a population of at least 1,000 and where at least 50 percent of the adults are not employed. Under this exception, each month of residence on such a reservation or in such a village is not counted toward the 5-year limitation.[17] This exception is an attempt to recognize the difficulty of finding and retaining work on rural reservations with high unemployment and little economic activity.

The 50 percent test, however, excludes many reservations with very high unemployment rates, substantially above national rates, but not at the 50 percent mark. For example, of the 8 tribes in the study by Kauffman and Associates, 5 had an unemployment rate of 14% or more in 1999 (more than 3 times the national average of 4.2 percent that year[18]), but only 2 had an unemployment rate high enough to qualify their residents for an exception to the 5-year limitation.[19]

Should the 1-year transitional medical assistance (TMA) coverage for American Indian and other families leaving TANF be extended beyond FY 2002?

Historically, receipt of cash assistance under the AFDC program automatically entitled a poor family to Medicaid coverage. The repeal of the AFDC program in 1996 and its replacement with the TANF block grant severed this link; receipt of cash assistance under TANF does not automatically entitle the children or adults in a poor family to Medicaid. However, families who are receiving Medicaid and who would lose their eligibility for Medicaid due to earnings from employment (or additional earnings from increased hours of work) are entitled to up to a year of additional Medicaid coverage so long as they continue to report earnings that do not exceed 185 percent of the federal poverty level ($27,065 per year for a family of 3).[20]

The transitional medical assistance (TMA) provision helps to reduce the disincentive to work that could result from the loss of Medicaid coverage upon taking a job without health benefits. Many of the low-wage jobs that individuals leaving welfare can obtain do not offer health benefits.

The TMA provision expires on September 30, 2002. Extending TMA as part of the overall reauthorization of TANF is viewed by many as an important component of work incentives for low-wage employees. Allowing TMA to lapse would increase the barriers to moving low-income families, including American Indian families, from welfare to work by eliminating an important work support. It also could result in some providers losing the advantage of the 100 percent federal matching rate associated with the medical costs of American Indian Medicaid beneficiaries. Under federal Medicaid law, coverage for services received from Indian Health Service (I.H.S.) facilities or tribal health programs is paid for entirely by the federal government; there is no state financial participation in these Medicaid costs.[21] Thus, all American Indian families receiving TMA benefits bring Medicaid revenues to Indian Health Service and tribal providers without imposing any fiscal burden for those services on the states.

Conclusion

The principle of self-sufficiency is one very familiar to Indian families and tribes; however, the obstacles to achieving more self-sufficient Indian families are numerous and complex. The experience of tribes in administering TANF grants is important to assess so we can learn from best practices as well as the challenges. The issues identified in this brief will require the attention of federal and state policymakers if welfare reforms, whether managed by tribal or state plans, are to be effective in addressing the barriers that make it difficult for the most impoverished Native American families to move from welfare to work.

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[1] States with tribal TANF plans: AK, AZ, CA, ID, MN, MT, NB, NM, OK, OR, SD, UT, WA, WI, and WY.

[2] Brown E., Cornell S., et al. 2001. *Welfare, Work, and American Indians: The Impact of Welfare Reform, A Report to the National Congress of American Indians*, Kathryn M. Buder Center for American Indian Studies and Udall Center for Studies in Public Policy, p. 7.

[3] Apodaca, R. DHHS Division of Tribal Services. Personal communication, February 27, 2002.

[4] Kauffman and Associates. 2002. *Welfare Reform and American Indian Tribes: Critical Decisions for the Future of Indian Families.* Kaiser Family Foundation.

[5] Maloy K, 2002. *Welfare Reform Reauthorization in 2002: What Are the Issues for Tribal Communities and Indian Families?* Kaiser Family Foundation.

[6] The finding is based on available data; however it is a difficult estimate to make because transitions are regularly occurring. Also, there is a lag in the reporting of data and states vary in their thoroughness in identifying Native American families.

[7] For example, while caseloads had fallen 59% in Arizona as a whole, American Indian caseloads had dropped only 40%. In South Dakota, caseloads overall dropped 69% but only 9% among American Indians. See Brown and Cornell, op cit, pg 13.

[8] DHHS 2000. *Report to the Congress.* pg 156

[9] Center for Law and Social Policy. *Analysis of FY2000 TANF and MOE Spending by States.* www.clasp.org/pubs/TANF/FY00/Introduction.htm

[10] Neuberger, Z., Parrott, S., and Primus, W., 2002. *Funding Issues in TANF Reauthorization*. Center on Budget and Policy Priorities, www.cbpp.org., p. 3.

[11] Ibid., Table 2, p. 16. This data include the FY 2001 supplemental grant to 17 states.

[12] Ibid., p. 3.

[13] Section 412 of the Social Security Act, 42 U.S.C. section 612.

[14] See www.acf.dhhs.gov/programs/dts/dtsact.htm

[15] Kauffman, op cit, Table 1. The two tribes are Mohican and Potawatomi.

[16] Section 408(a)(7) of the Social Security Act, 42 U.S.C. section 408(a)(7).

[17] Section 408(a)(7)(D) of the Social Security Act, 42 U.S.C. section 408(a)(7)(D).

[18] House Committee on Ways and Means, *2000 Green Book,* Table F-2.

[19] Kauffman, op. cit., Table 1. The unemployment rates among the study tribes in 1999 were: 1% (Mohican), 14% (Oneida), 35% (Klamath), 35% (Warm Springs), 42% (Pascua Yaqui), 47% (Siletz), 56% (Potawatomi), and 62% (White Mountain Apache).

[20] Section 1931(c)(2) of the Social Security Act, 42 U.S.C. 1396u-1(c)(2).

[21] This 100 percent federal matching does not apply to the cost of covered services received by Medicaid beneficiaries from urban Indian health programs. See Forquera, R., *Urban Indian Health* (November 2001), Kaiser Family Foundation.

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