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TANF-ACF-PA-2009-01 (The Emergency Fund for TANF Programs)

April 3, 2009

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To:

State, Territory, and Tribal agencies administering the Temporary Assistance for Needy Families (TANF) Program

Subject:

The Emergency Fund for TANF Programs

Reference:

Section 403(c) of the Social Security Act.

Purpose:

To provide initial guidance regarding the newly established Emergency Fund.

Background:

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act), which establishes the Emergency Contingency Fund for State TANF Programs (Emergency Fund) as section 403(c) of the Social Security Act (the Act). This legislation provides up to \$5 billion to help States, Territories, and Tribes in fiscal year (FY) 2009 and FY 2010 that have an increase in assistance caseloads or in certain types of expenditures. The Recovery Act made additional changes to TANF – extending supplemental grants through FY 2010, expanding flexibility in the use of TANF funds carried over from one fiscal year to the next, and adding a hold-harmless provision to the caseload reduction credit for States and Territories serving more TANF families. This policy announcement only addresses the Emergency Fund.

The Emergency Fund is intended to build upon and renew the principles of work and responsibility that underlie successful welfare reform initiatives. Like other provisions of the Recovery Act, the Emergency Fund provides resources to States, Territories, and Tribes to support work and families during this difficult economic period.

The same financial and programmatic rules pertaining to the appropriate use of the

Directly Related Resources

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jurisdiction's Federal TANF block grant funds also apply when using the emergency funds. This also means that all TANF requirements, including work participation requirements and time limits, apply to families receiving assistance with emergency funds exactly as they do to families receiving other Federal TANF-funded assistance.

The Emergency Fund should not be confused with the TANF Contingency Fund in section 403(b) of the Act that currently provides money to qualifying States (but not Territories or Tribes) during an economic downturn.

The Recovery Act calls on the Secretary of Health and Human Services (HHS) to implement the Emergency Fund "as quickly as possible pursuant to appropriate guidance." In that spirit, we are issuing this policy announcement to provide preliminary guidance to help agencies administering TANF programs understand the maximum emergency funding they can receive and the information we anticipate requiring of them to determine the amounts for which they qualify. Agencies may apply for these funds immediately by submitting the information described in the statute while we work to develop specific reporting forms and instructions.

SUMMARY OF EMERGENCY FUND STATUTE:

Emergency Fund grants are available to States, Territories, and Tribes (referred to collectively in this guidance as "jurisdictions") if they meet any of the following three conditions for a quarter during FY 2009 or FY 2010:

1. The jurisdiction's average monthly assistance caseload in the quarter is higher than its average monthly assistance caseload for the corresponding quarter of the Emergency Fund base year, and its expenditures for basic assistance in the quarter are higher than its expenditures for such assistance in the corresponding quarter of the Emergency Fund base year.
2. The jurisdiction's expenditures for non-recurrent short-term benefits in the quarter are higher than its expenditures for such benefits in the corresponding quarter of the Emergency Fund base year.
3. The jurisdiction's expenditures for subsidized employment in the quarter are higher than such expenditures in the corresponding quarter of the Emergency Fund base year.

For each category above, a jurisdiction that qualifies may request 80 percent of the amount by which Federal TANF expenditures and qualified State expenditures (i.e., maintenance-of-effort (MOE)) in the quarter for which it is requesting emergency funds exceed such expenditures in the corresponding base-year quarter. Under the law, the Emergency Fund base year is the lesser of FY 2007 or FY 2008 for a category. In other words, for the first category it is the year with the lower average monthly assistance caseload; for the second, it is the year with the lower non-recurrent short-term benefit expenditures; for the third, it is the year with the lower subsidized employment expenditures. A jurisdiction may request emergency funds under any or all of the three categories.

The law imposes a cumulative cap on the amount of emergency funding that a jurisdiction can receive for the two-year period. Cumulative combined grants from the existing Contingency Fund (section 403(b)) and the Emergency Fund (section 403(c)) cannot exceed 50 percent of the jurisdiction's annual Federal TANF family assistance grant. For example, if a State's Federal TANF family assistance grant is \$100 million, the State could receive no more than \$50 million in funding from both the TANF Contingency Fund and the Emergency Fund combined during the two-year period. We have included a table (Attachment A) listing the maximum funding that each jurisdiction could receive from the Emergency Fund. Any State that receives contingency funds in FY 2009 or FY 2010 should subtract those contingency funds from the maximum listed in the table.

The statute also specifies that this new Emergency Fund is disregarded from the limitation on total payments to Territories in sections 1108(a) and (c) of the Act. This means that Puerto Rico, Guam, and the Virgin Islands may apply for and receive emergency funds if eligible, even if the Territory has reached its payment ceiling for that fiscal year.

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The Recovery Act gives HHS authority to make appropriate adjustments to caseload and expenditure data on a jurisdiction-by-jurisdiction basis to ensure that the data are comparable “with respect to the groups of families served and the types of aid provided.” It also allows us to develop a mechanism for collecting expenditure data that includes reasonable estimates and permits us to set deadlines for revising data. We discuss our expected policies concerning adjustments below.

Emergency Fund grants are Federal TANF funds, and, under the Recovery Act, a jurisdiction must use these funds in accordance with section 404 of the Act. Please note that this does not include authority to transfer emergency funds to either the Social Services Block Grant or the Child Care and Development Block Grant because that transfer authority is limited to grants made under section 403(a) of the Act. Emergency funds are available until expended. Per section 404(e) of the Act, a jurisdiction may carry over emergency funds for use in a succeeding fiscal year.

HHS IMPLEMENTATION EXPECTATIONS

PURPOSE OF EMERGENCY FUNDS

As we explained above, the Emergency Fund provides grants equal to 80 percent of a jurisdiction’s increased TANF and MOE expenditures on basic assistance, non-recurrent short-term benefits, and subsidized employment – all forms of aid that can help families unable to find jobs or with low earnings weather this difficult economic time. We would like to stress the flexibility inherent in these funds and urge you to consider carefully the best way to make use of this opportunity to help needy families. For example, a jurisdiction could: find ways to make its basic assistance programs more accessible; expand short-term emergency help to needy families facing eviction, utility shut-offs, or the need to pay a security deposit to secure housing; and expand subsidized employment programs that can provide wage-paying jobs when too few exist in the private labor market.

DEFINITIONS

Because the statute uses terminology already defined in current regulations and data collection instruments, we anticipate using these existing definitions. For your convenience, we have included these definitions as Attachment B.

EXPENDITURE DATA

We expect to ask jurisdictions to report expenditure data directly on an application form to request emergency funds. The intent is to reflect expenditures made for a quarter (as opposed to those reported in a quarter, for example on Form ACF-196). Expenditures during a quarter, whether during the base year or for a quarter for which a jurisdiction is requesting emergency funds, should reflect the amount actually expended (or estimated to be expended) for that particular quarter, irrespective of when the expenditures were claimed on the applicable financial report. For example, the expenditures for basic assistance should equal the amount that the jurisdiction paid to provide basic assistance benefits to families for the quarter. While expenditures you submit to apply for emergency funds should be consistent with those you report on your respective TANF financial reports (e.g., the ACF-196 for States), they may not be the same as the amounts reported on any given quarter’s financial report. This is because those TANF financial reports often reflect adjustments to prior data and because the timing of claims on those reports does not necessarily have to correspond to the period of expenditure.

Under the current State TANF Financial Report (ACF-196) and respective reports for Territories and Tribes, a jurisdiction may have reported similar expenditures in several different categories. For example, a jurisdiction could report “emergency cash assistance” under a category called “Other” or under “Non-recurrent short-term benefits.” When applying for emergency funds, it is important for a jurisdiction to submit expenditure data that is comparable for each quarter of the base year and for each quarter for which it is requesting emergency funds, regardless of the categories it used for those expenditures on its TANF Financial Report. We anticipate that a jurisdiction would only report this way on the form we are

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developing to implement the Emergency Fund; it would not have to modify past TANF Financial Data reports, as those reports are not used in awarding emergency funds.

ESTIMATES

To facilitate the awarding of funds as quickly as possible, we anticipate that we will accept reasonable estimates for caseload and expenditure data. We intend to review these estimates and compare them to prior reported data. If a jurisdiction estimates a substantial increase in expenditures, we would expect it to explain the nature of the change it has made to its program. We expect to allow a jurisdiction to submit such estimated data up to one month before the beginning of a quarter. A jurisdiction would then revise these estimates on subsequent quarterly submissions until it has submitted final caseload and expenditure figures. The form and instructions we are developing will specify timeframes for submitting final data. As jurisdictions revise these data, we would revise the award amounts accordingly.

ADJUSTMENTS

The statute gives HHS the authority to adjust caseload and expenditure data to ensure that comparisons between the request year and the base year are valid – that is, that the comparison is “apples to apples.” This adjustment language is intended to ensure that a jurisdiction that has made changes to the structure of its program or funding sources has neither a disadvantage nor an advantage because of those changes. Without the adjustment provision, a jurisdiction could fail to qualify for emergency funding if, for example, it began a solely State-funded assistance program after October 1, 2006. Similarly, a jurisdiction could be awarded more emergency funds than it should reasonably receive if it were to end a solely State-funded assistance program that had been in place in the base year and did not make the appropriate adjustments.

If a jurisdiction has not changed the structure of its programs in any of the three categories since the beginning of the base year, there may be no need to adjust its caseload or expenditure data. For a jurisdiction that has made structural changes in these programs, we may need to adjust data to ensure that the two periods are comparable. In general, we expect to adjust a jurisdiction’s base-year data so that it is comparable to the program it now operates. For example, if a jurisdiction established a solely State-funded assistance program since October 1, 2006, then it would need to provide estimates of what its caseload and assistance expenditures would have been if the solely State-funded program now in place had existed in the base year. Similarly, if a jurisdiction ended a solely State-funded assistance program and those families were now served in TANF, an adjustment to the base year also would be in order. Or, suppose a jurisdiction had a non-recurrent short-term program (e.g., a front-end or “pre-TANF” program) in place in the base year but terminated that program and now provides all newly approved applicants with standard TANF/MOE assistance. In this case, we would likely adjust the jurisdiction’s base-year caseload and expenditure data – both the basic assistance expenditures and the non-recurrent short-term benefits expenditures – to account for this program change and ensure that the data in the request quarter and the base-year quarter are comparable.

Similarly, we expect to adjust data so that a jurisdiction is neither rewarded nor penalized in the amount of emergency funds it receives due to the timing of its expenditures. For example, suppose a jurisdiction paid its subsidized employment contractor in a different quarter in the request year from the base year, making it appear as though the program grew when it did not. In such a case, we would likely make adjustments to smooth out the expenditures across quarters to represent more fairly and accurately the spending in that category in the two years. It is difficult for us to anticipate every possible scenario in which we might need to adjust data, but our guiding principle is that the Emergency Fund is intended to provide jurisdictions that increase expenditures in any of these areas with additional funding; the adjustment language will help us ensure that we carry out this mandate.

For a year in which a jurisdiction requests emergency funds in any quarter, we anticipate that it will need to provide expenditure data for all four quarters in each of the categories for which it

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is requesting funding, although not necessarily as part of its initial request. This will help us assure that the timing of expenditures is not a factor in the award.

It is important to understand that we are only proposing to adjust data related to shifts of expenditures affecting the three funding categories, including shifts into or out of a solely State-funded program. For example, a change to a time limit or sanction policy that restricts eligibility or a change to earnings disregards or family grants that expands eligibility would not require adjustment. The Emergency Fund is intended to provide extra help where a jurisdiction faces increased costs for basic assistance, non-recurrent short term benefits, or subsidized employment. If caseloads or expenditures fall or rise because of policy changes unrelated to a funding shift, we think those policy changes are accurately reflected in basic expenditure and caseload data and do not warrant any adjustment.

TIMING

HHS will work cooperatively with jurisdictions to implement the Emergency Fund provisions as quickly as possible. The Department understands that many jurisdictions need these funds to maintain and expand essential benefits and services. We will respond to questions about the provision in a timely fashion and review the data submitted for both the base year and request quarters promptly. As we indicate below, you should direct your questions to the ACF Office in your Region. Both the ACF Regional and Central Offices will be working closely together to ensure that you have the most accurate and up-to-date information possible.

We are making every effort to expedite the process of making emergency funding available. Although we expect that the application form will be approved quickly, a jurisdiction may apply for emergency funds before the form has been approved for use by submitting the information described in the statute. At this time, a jurisdiction may apply for the first three quarters of FY 2009. We expect to contact you within two weeks of receiving your request, either to inform you of the amount of your award or to request further information concerning your application.

We will issue further guidance on funding approval in the event that requests for emergency funds exceed the Emergency Fund's appropriation.

ACCOUNTABILITY AND OVERSIGHT

Information submitted in support of a request for emergency funds will be tested for reliability and accuracy. Accordingly, jurisdictions are expected, as required by the Federal regulations at 45 CFR 92.20 and 45 CFR 92.42, to maintain pertinent documentation related to caseload and expenditure data used to support the request for funds, be able to link the information to the relevant reporting and accounting system, and make such information available in a clear and understandable form that can be validated by an auditor.

Attachments:

- Attachment A: Maximum Grant Awards under the TANF Emergency Fund
- Attachment B: Definitions of Terms Cited in the TANF Emergency Fund Statute

Inquiries:

We anticipate maintaining close contact with you throughout the implementation of the Emergency Fund. Please direct any inquiries to the TANF Program Manager in your Region.

/s/

Ann H. Barbagallo
Acting Director
Office of Family Assistance

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