

CLASP

CENTER FOR LAW AND SOCIAL POLICY

Key State TANF Policies Affecting Microenterprise: New York

by **Nisha Patel and Mark Greenberg**
October 2002

The Charles Stewart Mott Foundation microenterprise grantee, Workers Ownership Resource Center (WORC), currently operates in five counties: Monroe, Ontario, Seneca, Tompkins, and Yates.

New York's restructured welfare program, Family Assistance (FA), was implemented as a Temporary Assistance for Needy Families (TANF) block grant program in December 1996. The state gives counties substantial discretion to both make and implement policies, particularly in designing and operating work programs. In 1994 the state sent an Informational Letter to county social service districts encouraging them to assist clients in the development of small businesses or microenterprises as one way of promoting work effort under the Jobs FIRST philosophy.¹ The letter describes state policies on treatment of income and resources and provision of support services designed to support these clients, and as of April 2001, was being revised for consistency with policy changes since the implementation of TANF.

As of April 2001, New York counties are required to implement FA, and have the option of implementing the Child Assistance Program (CAP). CAP is designed to make work pay and provide tailored support to working families, primarily with child support orders in place. Families that qualify for and enroll in CAP are subject to different policies than the TANF cash assistance program policies. CAP is currently available in 14 of the state's 58 counties; CAP is not available in the Monroe County, the primary county in which WORC serves TANF recipients.

New York's TANF caseload averaged about 226,921 families in federal fiscal year 2001. The caseload dropped 50.3 percent between fiscal years 1995 and 2001, compared to a 56 percent national decline.

¹ New York Department of Family Assistance, Division of Economic Security, 94 INF-40.

New York TANF Funding and Spending (in millions)	
Annual TANF block grant, FY 98-02	\$2,442.9
Welfare-to-Work formula grant, FY 99	\$96.9
80% MOE obligation, FY 00 ²	\$1,833.2
75% MOE obligation, FY 00	\$1,718.6
State MOE spending (% of obligation), FY 99	\$1,976.8 (86.3%)
Unobligated TANF funds (FY 97 – FY 00 combined)	\$761.0

Source: U.S. Department of Health and Human Services, Administration for Children and Families

The maximum benefit level for a single-parent family with two children is \$577.³ New York has the seventh highest TANF cash grant of the 50 states and DC; the national average for a family of three is \$414. In 2001 New York had the 11th highest poverty rate among the 50 states and DC at 14.1 percent, compared to 11.6 percent for the U.S. as a whole. The state had the 27th highest median income in 2001 at \$42,157; the national median was \$42,873.⁴

TANF Spending to Support Microenterprise

The state has not identified any TANF block grant or state MOE funds to be used for microenterprise training or to support microenterprise initiatives.

Initial Participation Requirements

New York, like most states, elected to opt out of the federal two-month community service requirement.⁵ State law mandates that parents and caretakers must be “engaged in work” within 24 months,⁶ including participating in unsubsidized employment, subsidized private or public sector employment, work experience in the public or non-profit sector, on the job training, job search or

² In order to receive its full federal TANF grant, a state must meet a maintenance of effort (MOE) obligation. A broad range of spending for needy families, in and outside of the TANF cash assistance program, can count toward MOE. The MOE obligation is based on state expenditures for AFDC and a set of related programs in FY 1994. It is set at 80 percent of those expenditures, and is reduced to 75 percent if the state meets federal work participation rates.

³ Benefit level for New York City. Source: Burke, Vee. (2002). *TANF Benefits and Earnings Limits, January 2002*. Washington, DC: Congressional Research Service.

⁴ Poverty rates and median income are three-year averages for 1999-2001. Source: U.S. Census Bureau, *Current Population Survey, 2000, 2001, and 2002 Annual Demographic Supplements*. This represents the most recent data available.

⁵ A federal TANF provision requires adults to participate in community service employment after receiving assistance for two months unless the state opts out of the requirement.

⁶ The federal TANF statute requires all adults receiving assistance to be “engaged in work” after they have received assistance for 24 months. States have broad discretion to define what counts as being “engaged in work” for purposes of the 24-month requirement.

job readiness activities, community service, vocational educational training, or job skills training. The five counties in which WORC operates allow all work activities listed in state policy in their definitions of “engaged in work.”

Countable Activities⁷

A principal way in which participation in microenterprise training could count toward the federal participation rates is as vocational educational training.⁸ New York defines vocational educational training as including but not limited to “organized educational programs offering a sequence of courses which are directly related to the preparation of individuals for current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs may include competency based learning which contributes to an individual’s academic knowledge, higher order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupation-specific skills necessary for economic dependence.” The state does not impose a cap on the number or proportion of participants in vocational educational training or limit the duration of participation. State policy does not address whether microenterprise training counts as vocational educational training. Counties can provide any program or activity that meets the goals of the state work program as long as it is not inconsistent with federal law. Community service is an allowable activity, and counties have discretion to define it; some counties have included participation in microenterprise training in their definitions of community service.

County	Policy allowing microenterprise training
Monroe	“Activities seeking appropriate alternate sources of income” are allowed.

Counties have discretion to define unsubsidized employment.⁹ State policy does not address whether operating a microenterprise counts as unsubsidized employment.

⁷ Under the federal TANF statute, a state may be penalized if it fails to meet overall and two-parent TANF participation rates. The law specifies the number of weekly hours required to be a countable participant and the permissible activities that can count toward participation. States can authorize and fund activities that are not countable toward the federal participation rate.

⁸ Under the federal TANF statute, only certain activities are countable toward TANF participation rates. Vocational educational training provides the principal category in which participation in education or training can count toward TANF participation rates. States can set their own reasonable definitions of what counts as vocational educational training, but countable participation is limited to 12 months per individual. No more than 30 percent of those counted toward the work participation rate can be in vocational educational training. Effective in FY 2000, the 30 percent limit applied to the combination of individuals in vocational educational training and parents under age 20 engaged in school completion. A state is free to allow individuals to participate in vocational educational training for more than 12 months, but only 12 months will be countable toward participation rates.

⁹ For federal purposes, hours participating in unsubsidized employment are countable toward TANF participation rates. The federal law does not define unsubsidized employment or require a minimum amount of earnings, and states are permitted to develop their own reasonable definitions.

County	Can operating a microenterprise count as “unsubsidized employment”?
Monroe	Yes. “The Department will consider business plans, current net income, potential for increased net income and other factors identified in the individual’s assessment when determining if self-employment will be deemed to meet the definition of unsubsidized employment.”

The following table shows TANF work participation data that the state reported for FY 98 through FY 00. The caseload reduction credit reduced the required overall participation rate from 30 to 15 percent in FY 98, from 35 to 8.3 percent in FY 99, and from 40 to 5.2 percent in FY 00. The last row shows that the state could have fully satisfied its required overall participation rate in all three years simply because a sufficient number of families were participating in unsubsidized employment. Therefore, in all three years the state could have allowed more families to participate in microenterprise training outside of the rates.

Reported TANF Work Participation in New York			
	FY 98	FY 99	FY 00
Families in overall participation rate ¹⁰	224,723	191,296	164,983
Families counting toward work participation rate	83,781	69,689	54,684
Overall participation rate achieved ¹¹	37.5%	36.3%	33.2%
Overall participation rate required (30% for FY 98, 35% for FY 99, and 40% for FY 00; adjusted downward for caseload reduction credit)	15.0%	8.3%	5.2%
Vocational educational training (as a % of participating families needed to meet the overall rate) ¹²	10,306 (31%)	8,917 (56.2%)	3,531 (41.2%)
Community service (as a % of participating families needed to meet the overall rate) ¹²	10,151 (30%)	12,600 (79.4%)	9,924 (115.7%)
Unsubsidized employment (as a % of participating families needed to meet the overall rate) ¹²	39,020 (116%)	34,184 (215.3%)	32,814 (382.5%)
Number of participating families needed to meet overall participation rate required (adjusted downward for caseload reduction credit)	33,708	15,878	8,579

Source: U.S. Department of Health and Human Services, Administration for Children and Families

¹⁰ This figure is smaller than the total number of families receiving assistance because some families are not included in this participation rate denominator.

¹¹ The overall participation rates provided in the third row represent the average of monthly participation rates for the year.

¹² These figures are calculated by multiplying the required overall participation rate by the number of families in the rate, and then dividing the number of families reported as engaged in each activity by the product.

Sanctions for Failing to Comply with Work Requirements

The first sanction for failing to comply with work requirements is removal of the adult's share of the grant until compliance. For the second instance of failure to comply, the sanction lasts for a minimum of three months. For subsequent instances, the sanction lasts for a minimum of six months. New York does not impose full-family sanctions.

Time Limit

New York has a 60-month lifetime time limit. After 60 cumulative months of FA receipt, families can no longer receive FA, but they can qualify for Safety Net Assistance, which provides vendor payments for basic needs and a small cash supplement. Months of assistance began counting toward the time limit in December 1996. Exemptions, the circumstances under which a month of assistance will not count toward the time limit, include disability and domestic violence. As of April 2001, the state had not developed its policy on circumstances under which assistance can be extended for families that reach the time limit. The time limit clock runs while clients are participating in microenterprise training or operating a microenterprise.

Treatment of Income

For determining ongoing FA eligibility and benefit amount, the following disregards are applied to monthly earned income: a \$90 work expense disregard and 49 percent of the remainder. Applicants who have not received FA within the past four months get the benefit of only the \$90 work expense disregard when their financial eligibility is determined. A single-parent family with two children is eligible for FA in New York as long as the parent's monthly earnings are less than \$1,219.

For CAP families, 90 percent of earnings up to the 1989 poverty level and 33 percent of earnings above 1989 poverty are disregarded in determining eligibility and benefit amount.

Earnings from self-employment are calculated by subtracting expenses necessary for producing goods and services from net income. Business loans are not counted as income or resources.

Treatment of Resources

The resource limit for FA eligibility is \$2,000 (\$3,000 if the family has a member over age 60). The fair market value of a car up to \$4,650 is excluded when counting a family's resources, and the automobile exemption must be increased to \$9,300 or a higher amount as determined by the county on a case by case basis if the vehicle is needed to seek or retain employment. Personal property necessary for business purposes, including vehicles in the name of the business, is exempt from the resource test. There is no resource test for families enrolled in CAP.

New York has an Individual Development Account (IDA) program that allows TANF families to open savings accounts that are not counted toward the TANF resource limit. IDA funds can be used for business capitalization as well as education and home purchase.

Supportive Services

Child Care

New York provides child care assistance to FA recipients with children under age 13 who are participating in work activities or need child care in order to accept or keep a job. Transitional child care assistance is guaranteed for up to 12 months for families leaving TANF for employment, until their income exceeds 200 percent of poverty. State policy gives counties discretion to determine the income eligibility limit for subsidized child care for working families, with a state cap of 200 percent of the federal poverty line. Families not receiving FA must make co-payments for subsidized child care on an income-based sliding scale.

If a client is approved to participate in microenterprise training, child care assistance will be available. An individual operating a microenterprise is eligible for subsidized child care if he or she meets income eligibility guidelines, even if self-employment occurs in the home. Child care can be authorized as long as it is “reasonably related to the hours of employment.”

Medicaid

New York provides a joint application for FA and Medicaid, and under the state’s Section 1931 Medicaid eligibility rules, all FA families are eligible for Medicaid.¹³ Families who cease to be eligible for Section 1931 Medicaid due to earnings from employment are guaranteed transitional Medicaid for up to 12 months. The state extends Medicaid eligibility to all children in families with incomes up to 133 percent of poverty.¹⁴ The state’s Child Health Plus program provides fully subsidized health insurance to all children in families with incomes up to 160 percent of poverty and partially subsidized insurance to children in families with incomes up to 250 percent of poverty.

Other Services

Counties can designate any supportive services that they wish to provide to TANF families participating in work activities, and for up to 90 days after a family leaves assistance for employment.

¹³ The 1996 welfare law “delinked” Medicaid from family cash assistance, meaning that TANF recipients are not automatically eligible for Medicaid. The law created new eligibility criteria known as Section 1931, mandating Medicaid eligibility for families that meet a state’s AFDC income, resource, and family composition standards in effect on July 16, 1996. States have limited ability to modify these requirements, although a state can broaden Medicaid eligibility by changing its methodology for calculating income or resources for purposes of determining eligibility. Because TANF and Medicaid eligibility rules may no longer be identical, it is possible that some family members could qualify for TANF but not Medicaid, and in many instances family members will qualify for Medicaid but not for TANF.

¹⁴ States are required to provide Medicaid coverage to children under age six with incomes below 133 percent of poverty and children born after September 30, 1993, with incomes below 100 percent of poverty.