
FAQS ABOUT LEGAL AID & TANF

AKA Temporary Assistance for Needy
Families

THE JUSTICE
IN GOVERNMENT
PROJECT

GETTING RESULTS WITH LEGAL AID
National Legal Aid & Defender Association



TOOLKIT

For more information about state-administered federal funds that can be
used for legal aid, see NLADA's Legal Aid Resources page:

<https://legalaidresources.org/>

Table of Contents

- 1. Q:** What is the Temporary Assistance for Needy Families (TANF) program?
- 2. Q:** What does TANF have to do with legal aid?
- 3. Q:** How does TANF funding work?
- 4. Q:** Who decides each state’s TANF program design and administrator?
- 5. Q:** Are states required to develop a state plan regarding their use of TANF funds?
- 6. Q:** When are the next plans due and when is the period for public comment?
- 7. Q:** In addition to cash assistance for needy families, what other activities can states spend TANF and state MOE funds on to further the four TANF purpose areas?
- 8. Q:** If a state opts to transfer up to 10% of its TANF funds to the Social Services Block Grant can those funds be used to support the legal needs of low-income people?
- 9. Q:** Can state (or county) administering agencies spend TANF or MOE funds on legal services that further any of the TANF purpose areas?
- 10. Q:** Are there examples of states or counties that provide legal services to needy families through TANF?
- 11. Q:** What next steps can legal aid programs take to partner with their state’s TANF administrator?

Acknowledgments

The Justice in Government Project would like to thank Elizabeth Lower-Basch (Center for Law and Social Policy), Vicky Selkove (Legal Action of Wisconsin), Kate Marr (Legal Aid Society of Orange County), Chris Groninger (Arizona Bar Foundation for Legal Services & Education), Michael Figgins (Legal Aid Services of Oklahoma), Steve Gottlieb (Atlanta Legal Aid), and Lorin Kline (Legal Aid Association of California) for their valuable feedback on this document.

1. Q: What is the Temporary Assistance for Needy Families (TANF) Program?

A: TANF is the federal government’s primary cash assistance program for needy families. The federal government gives states block grants to design and operate programs that accomplish one of the purposes of the TANF program. The four purposes of the TANF program are to:

- Provide assistance to needy families so that children can be cared for in their own homes;
- Reduce the dependency of needy parents by promoting job preparation, work and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies; and
- Encourage the formation and maintenance of two-parent families.¹

States have enormous flexibility over how to design their program and can support a broad range of activities related to promoting the four TANF purposes, so long as they comply with the rules established by the U.S. Department of Health and Human Services Office of Family Assistance. As a result, states take very different approaches to TANF administration, who qualifies for aid and how much they receive, whether funding gets redirected for other purposes as authorized by federal law, and what services they fund that support the state’s safety net or expand work opportunities for low-income families.

2. Q: What does TANF have to do with legal aid?

A: A lot. Legal aid can further the TANF program’s goals of helping needy families achieve self-sufficiency and provide support for job preparation and employment alongside other social services. States partnering with legal aid increase the odds of improving outcomes for their neediest residents by providing help accessing housing, healthcare, education, employment, and enhancing public safety and family stability.

3. Q: How does TANF funding work?

A: Each state receives a fixed annual amount of federal TANF funding, technically known as the State Family Assistance Grant but generally referred to as the TANF block grant.² The annual amount of the TANF block grant Congress makes available to divide among all states is \$16.5 billion.³

As a condition of receiving these federal funds, states are also required to spend a significant amount of their own funds under TANF, referred to as the “maintenance of effort” requirement, or MOE.⁴ MOE expenditure includes state and local government spending or other “third-party” nongovernmental spending that benefits members of needy families and meets one of TANF’s four purposes.⁵

Because states can carry over unspent TANF funds to use in the next fiscal year, the amount a state spends each year may vary. A state can also transfer up to 30 percent of its block grant funds per year to the Child Care and Development Block Grant (CCDBG) and up to 10 percent to the Social Services Block Grant (SSBG), as long as the total amount transferred doesn’t exceed 30 percent.⁶

4. Q: Who decides each state’s TANF program design and administrator?

A: The governor of each state and territory and the mayor of the District of Columbia certify the administering and supervising agency for TANF. Among the choices a state makes about their TANF program is whether to delegate administration of at least some program elements to localities or counties, similar to how the federal government transfers administrative responsibility to the states.⁷ About half of all families receiving cash assistance from TANF receive assistance through a county-

administered TANF program.⁸ You can find state TANF administering agencies here: <https://www.acf.hhs.gov/ofa/help>

5. Q: Are states required to develop a state plan regarding their use of TANF funds?

A: Yes. Every 27 months, states are required to submit a state TANF plan.⁹ According to the statute that provides for TANF funding, states must include the following details in their plan:

- Outline how it intends to assist needy families;
- Provide objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment;
- Certify that it will operate child support enforcement, foster care, and adoption assistance programs; and
- Certify that it has appropriately consulted with local governments and private sector organizations and provided at least 45 days for submittal of comments.”¹⁰

States vary on how much outreach and engagement they seek when preparing their state TANF plan. Regardless, asking a TANF policymaker about that process and offering to provide input about the ways civil legal aid furthers the TANF purposes areas may at a minimum start a conversation and at best provide input that embeds legal aid into the state plan. Similarly, you should review your state’s plan to be more conversant about how legal aid can partner to achieve state goals.

6. Q: When are the next plans due and when is the period for public comment?

A: State plans are generally available for comment between August to October before they are released. In other words, for a state plan running from FY2018-2020, the period for public comment would be in August-October 2017.¹¹ State plans can run on odd or even years. For example, [Alaska’s](#) state plan runs from FY2017-2019 while [New Mexico’s](#) runs from FY2018-2020.

7. Q: In addition to cash assistance for needy families, what other activities can states spend TANF and state MOE funds on to further the four TANF purpose areas?

A: States can use their federal TANF and state MOE funds to support a broad range of activities related to promoting the TANF purpose areas. TANF rules give states and their partners nearly total discretion about program design, as long as the activities benefit “needy” families, with some exceptions. States can define “need” and can use different eligibility limits for different types of benefits or services. For example, it can limit TANF cash assistance to very poor families while providing TANF-funded child care or transportation assistance to families with somewhat higher incomes.¹² All states’ most recent financial data is available on the HHS website, including the breakdown of cash assistance to other services and importantly, whether the state has a history of carryover and unobligated funds.¹³

8. Q: If a state opts to transfer up to 10% of its TANF funds to the Social Services Block Grant can those funds be used to support the legal needs of low-income people?

A: Yes. Transferred funds are subject to the rules of the program to which they are transferred. Funds transferred to SSBG must be spent on programs and services for children or families with incomes below 200 percent of the poverty line. HHS has also clarified that SSBG funds can be used for legal services.¹⁴

9. Q: Can state (or county) administering agencies spend TANF or MOE funds on legal services that further any of the TANF purpose areas?

A: Yes. HHS has clarified that states may use TANF funds to help resolve legal problems that are a threat to family stability or undermine the employment of needy parents and youth. Specifically, HHS indicated in its TANF Program Policy Questions and Answers that states can use TANF funds to support legal help for needy families pursuing SSI benefits¹⁵ and to resolve personal or family legal problems, “e.g., where legal problems are a threat to family stability or undermine the employment of needy parents.”¹⁶

Another Q&A does not specifically mention legal help but clarifies that TANF and MOE funds can help needy families resolve bad debt and credit problems, issues that often need legal help to resolve.¹⁷ Similarly, several TANF “spending categories” could potentially include legal services.¹⁸ For example, “Supportive Services” could include legal help to remove obstacles to employment such as securing expungement of an old record or reinstating a drivers’ license, or securing a restraining order when a parent and child are victims of domestic violence. Similarly, “Child Welfare Services” could include legal representation for a child in adoption proceedings or a grandparent caring for a grandchild to secure legal guardianship.¹⁹ Some states have included these issues among the legal services provided to their eligible needy families.

Depending on the TANF purpose area that legal service activities are supporting, and whether TANF or MOE funds, the funding may be limited to families with children and may be limited to people meeting an income test.²⁰ Legal services providers receiving TANF or MOE funds should clarify these restrictions and documentation required of income or family status.

10. Q: Are there examples of states or counties that provide legal services to needy families through TANF?

A: Yes. Some states use TANF and/or state MOE funds for legal services. Examples include:

Arizona: Since 1998, the Arizona Bar Foundation has administered the statewide Arizona Domestic Violence Legal Assistance Project (DVLAP) funded (in part) by TANF. Formed to address the civil legal needs of Arizona’s families experiencing domestic violence, DVLAP establishes and supports a statewide network of trained lawyers, paralegals, lay legal advocates and volunteer lawyers and law school students who provide civil legal assistance to domestic violence survivors in areas of family law, landlord/tenant, consumer/financial law, guardianship, employment, public benefits, health, education, and victims’ and individual rights law. As the intermediary and coordinator of DVLAP, the Foundation handles grant administration, coordinates content for the legal information website AZLawHelp.org, and provides trainings for staff and volunteers of Arizona’s three LSC funded legal aid programs and 13 domestic violence shelter and service providers across the state.

Atlanta, Georgia: Since 2010, the State of Georgia has funded Atlanta Legal Aid for services it provides to people who are TANF eligible and credits that payment to their MOE requirement. Georgia supports legal assistance for families with children needing help with family law disputes, landlord/ tenant issues, access to government benefits, and consumer problems.

Los Angeles County, California: For more than 15 years TANF funds have supported legal assistance to domestic violence survivors in Los Angeles County. The Legal Aid Foundation of Los Angeles and Legal Aid Society of Orange County (known as Community Legal Services in Los Angeles County) receive more than \$1.5 million to provide holistic / trauma-informed and full-scope representation services to domestic violence survivors primarily handling family law and immigration cases, though they also help with housing, government benefits, and employment. Funding also includes trainings for Los Angeles County Department of Social Services employees regarding eligibility of immigrant survivors of domestic violence for benefits when certain conditions are met. See the Los Angeles Department of Public Health’s request for applications for legal services [here](#). (Note that in California, TANF is administered at the county level)

Oklahoma: Legal Aid Services of Oklahoma (LASO) contracts with the Oklahoma Department of Human Services (DHS) to accept referrals from DHS of TANF-eligible people to obtain social security disability benefits.

Tennessee: Tennessee Department of Human Services includes legal services providers among its “[2Gen Partners](#)” who work to provide services with an emphasis on improving education, providing economic supports, promoting health and well-being, and social capital consistent with the 2Gen Approach. With more than \$1.7 million in TANF funds, Tennessee Alliance for Legal Services (TALS) and the four legal aid firms in Tennessee will provide civil legal services to up to 450 low income families to help them improve their cycles of success. Cycles of Success is a coordinated legal and social services delivery model designed to address second generational poverty through a whole family approach. It is a project between the Tennessee Department of Human Services (TDHS), the Tennessee Alliance for Legal Services (TALS), the statewide civil legal assistance support organization, and the four LCS funded legal aid programs in the Tennessee; Legal Aid of East Tennessee (LAET), Legal Aid of Middle Tennessee & the Cumberlandands (LASMTC), Memphis Area Legal Services (MALS) and West Tennessee Legal Services (WTLs). The goal is to improve low income families’ over all well-being and economic security by helping them identify and address their civil legal barriers through coordinated legal and human services.²¹

“The Cycles of Success program has demonstrable proof of success and is a reason the Department continues to invest in the Two-Generation Approach. ... We can build a thriving Tennessee when we ensure certain legal issues don’t create an unnecessary burden for families.”
- Danielle Barnes, Commissioner of the Tennessee Department of Human Services

West Virginia: For more than 15 years, West Virginia’s TANF administrator has funded Legal Aid of West Virginia providing legal help concerning domestic violence, SSI eligibility, driver’s license restoration, resolution of outstanding fees and fines, and a range of family law matters including adoption, custody, guardianship, and divorce. More than \$1.5 million in TANF and state MOE

funds supports more than 20 full-time attorneys and paralegals to help West Virginia’s needy families.

Wisconsin: Unusual among states, in 2015 the Wisconsin legislature – rather than the state TANF administrator, the Department of Children & Families – allocated \$1 million in TANF funds for legal services to TANF-eligible survivors of domestic violence and sexual assault. During the 2016-17 fiscal year, legal aid programs served more than 800 clients with these funds: 67% needed help with family law matters. Domestic violence survivors also received assistance with housing, consumer, health, disability, employment, and long-term care problems. Wisconsin’s Governor did not include a renewal of these funds in his 2017-19 budget proposal, but providers and advocates were successful in convincing the Wisconsin legislature to add the \$1 million in TANF funds to the budget.

11. Q: What next steps can legal aid programs take to partner with their state’s TANF administrator?

A: All states’ most recent financial data is available on the HHS website, including the breakdown of cash assistance to other services and whether the state has a history of carryover and unobligated funds. You can find the total TANF and MOE spending by state in fiscal year 2018 (the most recent data) [here](#). To find the leftover balance, you use the unobligated balance for each state, [which is found](#) at the bottom of your state’s chart in “States Tables,” Section D. HHS also has state-specific pie charts of the most common spending categories, linked [here](#).

The governor of each state and territory and the mayor of the District of Columbia certify the [administering and supervising agency for TANF](#). Among the choices a state makes about their TANF program is whether to delegate administration of at least some program elements to localities or counties, similar to how the federal government transfers administrative responsibility to the states. [About half of all families](#) receiving cash assistance from TANF receive assistance through a county-administered TANF program. You can find the state TANF administering agencies [here](#). Once identified, you can find the administrator on your state’s website.

[Karen Lash](#) at The Justice in Government Project, klash@american.edu, is happy to brainstorm about this. For more information about JGP at American University Justice Programs Office, click [here](#).

Legal aid helps to create a stable and loving family

“Timmy,” a four-year-old boy, had never known a parent other than his 53-year-old grandmother, “Sandra,” who cared for him on her own since he was one. On Timmy’s behalf, Sandra received Temporary Assistance for Needy Families (TANF) program funds from the Mason County, West Virginia, Department of Health and Human Resources Office. She contacted Legal Aid of West Virginia (LAWV) to request help formally adopting her grandson. Through LAWV’s WV WORKS Legal Support Project, which receives funds from the state’s TANF program, a staff attorney took on the adoption case and helped complete the adoption. Sandra and Timmy were overjoyed that Timmy’s permanent home would be with his loving “ma-ma.”

Legal Aid of West Virginia’s most recent year-end report included 29 TANF-funded adoptions.

Endnotes

¹ About TANF. (2017, June 28). *Office of Family Assistance*. <https://www.acf.hhs.gov/ofa/programs/tanf/about>

² The TANF program discussion is adapted from the Center for Budget and Policy Priorities issue briefs at <https://www.cbpp.org/research/family-income-support/how-states-use-federal-and-state-funds-under-the-tanf-block-grant> and the HHS Office for Family Assistance website: <https://www.acf.hhs.gov/ofa>

³ <https://www.cbpp.org/research/policy-basics-an-introduction-to-tanf>

⁴ MOE is generally 80% of the amount the state spent on welfare programs before TANF was created. If the State meets the minimum work participation rate requirements for all families and two-parent families, then it need expend only 75 percent of the historic amount. For a list of HHS TANF-related definitions see: https://www.acf.hhs.gov/sites/default/files/ofa/categories_and_definitions_for_tanf_and_moe_funds.pdf MOE expenditures can come from any area of the state budget and are not limited to spending by the TANF agency.

⁵ Temporary Assistance for Needy Families: Update on states counting third-party expenditures toward Maintenance of Effort requirements. (2016, February). *United States Government Accountability Office, Report* <https://www.gao.gov/assets/680/675110.pdf>

GAO reports that this is a somewhat controversial practice, “Some stakeholders support this option because it helps states meet MOE requirements, but others question whether this approach is consistent with program goals.”

⁶ To find the total TANF and MOE spending by state in fiscal year 2016, go to:

<https://www.acf.hhs.gov/ofa/resource/tanf-financial-data-fy-2016>. There, you can also download an excel spreadsheet that breaks out spending in all categories aggregated and by each state, including unobligated funds if any at the end of that year. Transferred funds are subject to the rules of the program to which they are transferred, not to TANF rules. Funds transferred to SSBG must be spent on programs and services for children or families with incomes below 200 percent of the poverty line.

Source: Schott, L., Pavetti, L. & Floyd, I. (2015, October 15). How states use federal and state funds under the TANF block grant. *Center on Budget and Policy Priorities*. Retrieved from <https://www.cbpp.org/research/family-income-support/how-states-use-federal-and-state-funds-under-the-tanf-block-grant>

⁷ Hahn, H., Kassabian, D., Breslav, L., & Lamb, Y. (2015, May). *A descriptive study of county- versus state-administered Temporary Assistance for Needy Families programs*. Washington DC: Urban Institute. Retrieved from <https://www.urban.org/research/publication/descriptive-study-county-versus-state-administered-temporary-assistance-needy-families-programs>

⁸ Ibid.

⁹ TANF-ACF-PA-1998-03 (State Plan Renewal). (1998, May 15). *Office of Family Assistance*. Retrieved from <https://www.acf.hhs.gov/ofa/resource/policy/pa-ofa/1998/pa98-3htm>

¹⁰ Q & A: State plans, TANF program policy questions and answers. (2010, April 30). *Office of Family Assistance*. Retrieved from <https://www.acf.hhs.gov/ofa/resource/q-a-state-plans>

¹¹ State of New Mexico, Human Services Department. (2018). Final state plan. Retrieved from http://www.hsd.state.nm.us/uploads/FileLinks/6331671b99b34cafba9bd8cb327bc208/HSR_Vol_40_No_31_FINAL_Signed_TANF_State_Plan_2018_2020.pdf

¹² Policy basics: An introduction to TANF. (2015, June 15). *Center on Budget and Policy Priorities*. Retrieved from <https://www.cbpp.org/research/policy-basics-an-introduction-to-tanf>

¹³ For 2018 FY state TANF financial data including carryover and unobligated funds, see <https://www.acf.hhs.gov/ofa/resource/tanf-financial-data-fy-2018>. For the most recent state-by-state pie charts showing spending categories, see https://www.acf.hhs.gov/sites/default/files/ofa/fy2018_tanf_and_moe_state_piecharts_b508.pdf.

¹⁴ “Legal services” are included in the SSBG Uniform Definition of Services that states use for reporting to HHS: “18 Legal Services Legal services are those services or activities provided by a lawyer or other person(s) under the supervision of a lawyer to assist individuals in seeking or obtaining legal help in civil matters such as housing, divorce, child support, guardianship, paternity, and legal separation. Component services or activities may include receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.”

Source: SSBG legislation uniform definition of services. (2009, January 1). *Office of Community Services*. Retrieved from <https://www.acf.hhs.gov/ocs/resource/uniform-definition-of-services>

¹⁵ Regarding SSI benefits, HHS noted in question 19 that “Receipt of SSI benefits can further purpose one of TANF by helping needy families care for children in their own home.” Importantly, they also clarified that “although OMB Circular A-87, which applies to Federal expenditures under the TANF program, prohibits the use of Federal funds for “prosecution of claims against the Federal government”, under the Circular’s definition of “claims,” this prohibition would not restrict the provision of legal support in connection with an SSI application (from pre-filing through the administrative appeals process).”

Source: Q & A: Use of funds, TANF program policy questions and answers. (2010, April 30). *Office of Family Assistance*. Retrieved from <https://www.acf.hhs.gov/ofa/resource/q-a-use-of-funds?page=all>

¹⁶ Ibid., question 20.

¹⁷ Ibid., question 21.

¹⁸ State TANF spending in FY 2015: Fact sheet. (2016, August 15). *Office of Family Assistance*. Retrieved from <https://www.acf.hhs.gov/ofa/resource/state-tanf-spending-2015-factsheet>

¹⁹ Summary by ACF-196R spending category. (2016, August 15). *Office of Family Assistance*. Retrieved from <https://www.acf.hhs.gov/ofa/resource/tanf-moe-spending-and-transfers-definitions>

²⁰ Lower-Basch, E. (2011, March 1). *Guide to use of TANF and MOE funds*. Washington DC: CLASP. Retrieved from <https://www.clasp.org/publications/report/brief/guide-use-tanf-and-moe-funds>

²¹ See Tennessee Department of Human Services’ video about Cycles of Success: <https://www.youtube.com/watch?v=H4LTfgDqRYg&t=6s>