

Report To The Mississippi Legislature



A Review of Mississippi's 1997 Welfare Reform Legislation

June 10, 1997

In response to federal welfare reform legislation, the Mississippi Legislature enacted two bills during its 1997 session (House Bill 766 and Senate Bill 2164) which make fundamental changes in the state's administration of assistance programs and child support enforcement. House Bill 766 creates the Temporary Assistance to Needy Families (TANF) program for state recipients and establishes requirements that recipients work to receive their cash assistance. Senate Bill 2164 establishes new requirements for employers and other persons having information about possible location and assets of persons who owe child support to parents receiving public assistance from the state.

The report outlines several areas of program administration which should be of concern to legislators regarding administration of the new TANF and revised child support enforcement programs and recommends that the Department of Human Services devise measurable outcomes and output measures with which to evaluate these programs. The report also suggests that the Joint Legislative Department of Human Services Oversight Committee require the department to report such information as its success in meeting work participation rates and the significance of transportation and child care in program participants' finding and holding work.

The PEER Committee

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

**A Review of Mississippi's 1997
Welfare Reform Legislation**

June 10, 1997

**The PEER Committee
Mississippi Legislature**

The Mississippi Legislature

Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee

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June 10, 1997

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At its meeting of June 10, 1997, the PEER Committee authorized release of the report entitled **A Review of Mississippi's 1997 Welfare Reform Legislation.**

A handwritten signature in cursive script, reading "Billy Bowles", written over a horizontal line.

Representative Billy Bowles, Chairman

**This report does not recommend increased
funding or additional staff.**

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A Review of Mississippi's 1997 Welfare Reform Legislation

June 10, 1997

Executive Summary

Introduction

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as the Federal Welfare Reform Act, mandated significant substantive changes in the operation of public assistance programs administered with federal funds throughout the states. From the states' standpoint, the most significant changes were:

- termination of the permanent entitlement program (Aid to Families with Dependent Children [AFDC]) and initiation of a temporary assistance block grant program for working participants (Temporary Assistance to Needy Families [TANF]); and,
- mandated strengthening of state laws dealing with collection of child support.

The Mississippi Governor's Office, in conjunction with the state Department of Human Services, submitted its first TANF state plan for 1996-1997 to the U. S. Department of Health and Human Services on September 30, 1996. This necessitated legislative action during the 1997 session to conform state law with federal TANF legislation so that the state could receive maximum benefit from the block grant program.

The PEER Committee authorized the staff to analyze the state's plan for welfare reform, to assist the chairpersons of the Senate and House committees charged with handling subsequent welfare reform legislation, and to prepare a post-session report on welfare reform.

Overview

The Temporary Assistance to Needy Families (TANF) bill (House Bill 766, 1997 Regular Session) and the child support bill (Senate Bill 2164, 1997 Regular Session) provide the basics of 1997 welfare reform in Mississippi. These laws give the state Department of Human Services broad authority to administer TANF and to implement programs for

locating absent parents and collecting and disbursing child support funds.

With some exceptions, Mississippi's TANF program imposes a sixty-month lifetime cap on cash assistance and requires persons to begin participating in an approved work activity no later than twenty-four months after first receiving assistance. Assistance is limited to children living or in gestation at the time the parent applies, with other children added only after the parent has left the assistance rolls for one year. Minor parents and school-age children whose families receive TANF must maintain satisfactory attendance in a school or GED program. MDHS provides support services such as child care and transportation and may sanction participants who fail to meet work activity or other requirements of the program.

The child support bill requires that MDHS establish a central unit to receive and disburse child support. The act also establishes a Directory of New Hires, a computer data base to collect information on recently hired workers which is then used to help locate parents who are in arrears on child support payments. The act also includes other provisions to help facilitate child support collections.

Welfare reform issues which may require legislative attention in the near future include monitoring and measurement of TANF program results, determining eligibility for vocational training and support services and appropriate work activities, possible technical corrections, and provisions in the child support bill which allow MDHS to contract out the Central Receipting and Disbursement Unit and Directory of New Hires.

Recommendations

TANF Program Administration

1. In its first annual report to the Legislature on the state's TANF program, due December 15, 1997, the Department of Human Services should present a complete compendium of what the department intends to achieve with its

TANF authority and how it intends to measure its achievements. Specifically, the department should prepare measurable outcomes and outputs, set indicators for determining achievement of outcomes and production of outputs, and identify resources committed to achieving the outputs and outcomes for these programs. Additionally, the department should report any other information or measures which it believes are relevant to measuring the accomplishments of the programs administered.

The department should provide this information to the Joint Legislative Department of Human Services Oversight Committee prior to the release of the annual report to other legislators. The Joint Committee Chairman should advise the MDHS Executive Director of the required date for this information to be released to the committee members.

2. Prior to the 1998 regular session, the Joint Legislative Department of Human Services Oversight Committee should require MDHS to present written information to address the issues discussed in this report. MDHS's information should answer specific questions on monitoring and measurement of program re-

sults, determining eligibility for vocational training and support services, and determining appropriate work activities. (See page 23 of the report for a list of the specific questions the department should address.)

Child Support Bill

3. Due to legislative concern over the need to give MDHS contracting authority for the Central Receiving and Disbursement Unit and the Directory of New Hires, the Legislature should:
 - review the report of MDHS's cost-benefit analysis of privatizing the Central Receiving and Disbursement Unit prior to appropriating FY 1999 funds for operation of the unit (Section 1 of Senate Bill 2164 requires this cost-benefit study); and,
 - review the privatization process for the Directory of New Hires, if MDHS exercises its authority to contract this new child support function to the private sector. The department should provide the Legislature with a complete description of its cost-benefit analysis and contracting processes with all supporting documentation.

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Introduction

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as the Federal Welfare Reform Act, mandated significant substantive changes in the operation of public assistance programs administered with federal funds throughout the states. From the states' standpoint, the most significant changes were:

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The Mississippi Governor's Office, in conjunction with the state Department of Human Services, submitted its first TANF state plan for 1996-1997 to the U. S. Department of Health and Human Services on September 30, 1996. This necessitated legislative action during the 1997 session to conform state law with federal TANF legislation so that the state could receive maximum benefit from the block grant program.

Authority

At its meeting of October 1996, the PEER Committee authorized the staff to analyze the state's plan for welfare reform, to assist the chairpersons of the Senate and House committees charged with handling subsequent welfare reform legislation, and to prepare a post-session report on welfare reform. The staff provided assistance to the standing committees during the 1997 regular session. The Committee acted in accordance with MISS. CODE ANN. Section 5-3-57.

Scope and Purpose

In order to provide legislators and citizens with an overview of the Legislature's response to the federal welfare reform initiative of 1996, this report provides an overview of two state welfare reform laws passed during the 1997 session in response to the Federal Welfare Reform Act:

- the Temporary Assistance to Needy Families (TANF) bill (House Bill 766, effective March 12, 1997), which implements Title I of the Federal Welfare Reform Act; and,
- the child support bill (Senate Bill 2164, Sections 1, 2, and 3, effective January 1, 1998 [all other sections effective July 1, 1997], which implements Title III of the Federal Welfare Reform Act.

Because of legislative concerns which arose during debates on the future allocation of the Department of Human Services' funds to support services such as child care and transportation, and the use of private contractors for child support activities, the report also discusses issues PEER believes will be of importance in future legislative sessions regarding the scope and substance of welfare reform.

Method

In preparing this report, PEER reviewed and analyzed:

- the Federal Welfare Reform Act;
- the state TANF and child support bills; and,
- recent information from the National Conference of State Legislatures regarding potential changes to the Federal Welfare Reform Act.

PEER also incorporated knowledge obtained through observation of committee and floor debate prior to adoption of the aforementioned state legislation.

Overview

The Temporary Assistance to Needy Families (TANF) bill (House Bill 766, 1997 Regular Session) and the child support bill (Senate Bill 2164, 1997 Regular Session) provide the basics of 1997 welfare reform in Mississippi. These laws give the state Department of Human Services significant authority to administer TANF and to implement programs for locating absent parents and collecting and disbursing child support funds.

With some exceptions, Mississippi's TANF program imposes a sixty-month lifetime cap on cash assistance and requires persons to begin participating in an allowable work activity no later than twenty-four months after first receiving assistance or when work-ready. Assistance is limited to children living or in gestation at the time the parent applies, with other children added only after the parent has left the assistance rolls for one year. Minor parents and school-age children whose families receive

TANF must maintain satisfactory attendance in a school or GED program. MDHS provides support services such as child care and transportation and may sanction participants who fail to meet work activity or other requirements of the program.

The child support bill requires that MDHS establish a central unit to receive and disburse child support. The act also establishes a database, the Directory of New Hires, within the MDHS Division of Child Support Enforcement, to collect information on recently hired workers which is then used to help locate parents who are in arrears on child support payments. The act also includes other provisions to help facilitate child support collections.

Welfare reform issues which may require legislative attention in the near future include monitoring and measurement of TANF program results, determining eligibility for vocational training and support services and appropriate work activities, possible technical corrections, and provisions in the child support bill which allow MDHS to contract out the Central Receipting and Disbursement Unit and Directory of New Hires.

Summary of Mississippi's 1997 Welfare Reform Legislation

Background

For many years, Mississippi and other states had a program known as AFDC (Aid to Families with Dependent Children), which entitled eligible parents with children to receive monthly cash assistance. The AFDC program was an entitlement program which provided monthly cash benefits to persons who had dependent children and met the standards of need provided for under federally approved state program plans. Under AFDC, no limits existed on the number of months a family could receive the cash assistance.

The Federal Welfare Reform Act of 1996 reflected shifts in the nation's public assistance philosophy, with major changes in implementation at the state level. The new program of public assistance block grants to the states is known as TANF (Temporary Assistance to Needy Families). The TANF program eliminates the entitlement to assistance and sets durational limits for receiving assistance. Of critical importance is the federal requirement that persons receiving assistance be engaged in an allowable work activity as defined in law within twenty-four months of initially receiving TANF assistance.

The U. S. Department of Health and Human Services requires states wishing to participate in TANF to submit state welfare reform plans by July 1, 1997. These plans must include federally mandated components discussed on page 5.

The change from AFDC to TANF required timely legislative action at the state level. TANF became effective at the federal level in October 1996 and Mississippi's Department of Human Services (MDHS) had no laws in place to administer the TANF program, only obsolete AFDC laws. Also, to receive additional funds under the TANF block grant as of October 1, 1996, the Department of Human Services acted to implement the program as soon as possible: October 1, 1996. By so acting, the state was able to receive a block grant of \$86.7 million, approximately \$31 million more than the state could have reasonably expected had it continued to administer the AFDC program for the remainder of the year.

During the 1997 session, the Legislature responded to changes at the federal level with passage of the TANF bill (House Bill 766) and the child support bill (Senate Bill 2164) which incorporated federally mandated components as well as certain options allowable to the states.

Federally Mandated Welfare Reform Components

Changes wrought by the Federal Welfare Reform Act of 1996 required the Legislature to address the following:

- amend AFDC laws and change from a permanent entitlement program to a temporary assistance program;
- enact new eligibility requirements which establish stringent criteria for excluding persons from assistance programs and set durational caps on the amount of time a person may stay in the new TANF program;
- establish work requirements, education requirements for minors who receive TANF assistance, and sanctions for program recipients who do not comply with requirements of the TANF program; and,
- modify present child support enforcement laws by requiring improvements in procedures used for parent location and collection of support payments.

The Change from an Entitlement to a Temporary Assistance Program

In Section 102 of the Federal Welfare Reform Act, the United States establishes new purposes for federal aid to needy families. This section amends Section 401 of the federal Social Security Act to provide specifically that the purposes for its new family assistance program are:

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

Further, the act specifically provides that this part of the law *shall not be interpreted to entitle* [PEER emphasis] any individual or family to assistance under any state program funded under this part.

Thus, the United States has declared that the new program's thrust will be to provide temporary assistance to families in preparation for work, and that these families and individuals within them shall not be entitled to funds provided for under the federal act--a major break with the traditional assistance philosophy of entitlements. Consequently, families and individuals must comply with the requirements of work and limits on the duration of benefits established under federal law as conditions for assistance.

Mississippi accepted the mandatory terms and conditions of the federal act in Section 1 of House Bill 766 and thereby established TANF in Mississippi as a replacement for the Aid to Families With Dependent Children program. To carry forward these federal mandates, the Legislature had to amend state law to provide that the state would administer the TANF program in accordance with federal requirements on eligibility and exclusions from program participation, work requirements, and sanctions for persons who do not meet work requirements.

Exclusions from TANF Eligibility and Program Caps

Eligibility Requirements

Mississippi adopted required eligibility exclusions of the Federal Welfare Reform Act in Section 3, subsection 3 of House Bill 766. The federal act identified these exclusions to give full effect to the reform policy of requiring work and education for recipients and to help reduce fraud in administration of the program. Several of these exclusions will prohibit persons who formerly would have been eligible for AFDC from receiving TANF assistance. Exhibit 1, page 7, lists those persons specifically excluded from receiving TANF benefits.

Eligibility Caps and the TANF Program

Consistent with the congressional decision to eliminate any entitlement to future TANF benefits are the two eligibility caps found in law. The Federal Welfare Reform Act requires that the state adopt the following caps:

- a lifetime limit of no more than sixty months of cash assistance to any person on TANF; and,
- a requirement that a person must be involved in some form of allowable work activity after receiving assistance for a total of twenty-four months.

The Federal Welfare Reform Act authorizes states to adopt caps of less than sixty months if they find such to be a worthwhile public policy.

Exhibit 1

Persons Ineligible for TANF Assistance

Federal law prohibits certain persons from receiving TANF benefits:

Families:

- without a child or pregnant person
- containing an adult who has received TANF benefits for sixty months
- not assigning child support benefits to the state

Persons under age eighteen:

- who have not completed high school or its equivalent, have a child twelve weeks old or older under their care, and do not participate in educational activities directed toward completing high school or its equivalent
- who do not reside with an adult

Parents or caretakers:

- who fail to notify DHS after five days that a child will be absent from the home for thirty days or more
- who have not engaged in work activities and have received TANF assistance for twenty-four months (consecutive or not)

Individuals:

- fleeing prosecution or custody
- convicted of making fraudulent statements in two or more states in order to receive TANF, SSI, food stamps, Title XVI, or Title XX benefits
- who receive SSI payments
- classified as aliens under federal law who have not been given asylum, are not refugees, or have not been permanently admitted to the United States

Mississippi exercised options allowed by federal law to exclude:

- families who fail to cooperate in establishing paternity or obtaining child support*
- persons who fail to sign an employability plan developed to help them become involved in work activities**
- children who have been absent from the home for more than thirty days***

* Federal law requires each state to assess at least a penalty for failure to assist in paternity establishment. Mississippi selected the maximum penalty of benefits exclusion.

** Federal law allows the option of using or not using employability plans as a precondition for receipt of assistance. Mississippi opted to use these plans.

*** Federal law requires that the state bar payments for children who have been absent from the home, but sets a range of thirty to 180 days. Mississippi selected the lowest threshold of thirty days.

SOURCE: House Bill 766, 1997 Regular Session;

Section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 amending Section 408 of the Social Security Act; and

Section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Federal law also authorizes, but does not require, a “family cap” for assistance payments which would allow the state to bar paying assistance to children born after a mother begins to receive TANF benefits.

Mississippi chose to adopt the sixty-month lifetime cap on cash assistance and adopted the requirement that persons be in an allowable work activity no later than twenty-four months after going on assistance. Mississippi also opted to continue its family cap, which went into force several years ago for AFDC. Under the Mississippi family cap, TANF assistance is limited to children living or in gestation at the time the parent applies to assistance. Additional children may be added to the assistance rolls but only after the parent has left the rolls for one year.

Work, Education, and Sanctions

The Federal Welfare Reform Act makes work and preparation for work a mandatory element of the new TANF program. Consistent with the idea that assistance is no longer an entitlement is the requirement that needy families engage in acceptable work activities in order to be eligible for assistance under the TANF program.

Work Requirements

House Bill 766, Section 3, subsection 6, establishes the requirement that TANF recipients engage in work activities. The requirement is that persons be engaged in work after no more than twenty-four months on TANF assistance or when deemed work-ready by the department. To be engaged in work, a person must complete at least twenty hours per week in any one of the activities listed in Exhibit 2, page 9.

The bill also lists a series of work activities which are permissible for hours in excess of the twenty-hour requirement. These activities include job skills development, education directly related to employment, high school attendance or GED preparation (presumably for those who are not required to attend because of age), and job skills development. For eligible two-adult families, the work requirement is thirty-five hours per week in the above-described activities.

The work activities in Mississippi law were taken directly from the Federal Welfare Reform Act and represent the entire set of federally allowable work activities. Under both the federal law and the Mississippi act, the state may exempt up to twenty percent of the eligible population from work activities. The state must develop and publish administrative criteria for such exemptions. House Bill 766 provides for the administrative criteria to be used in exempting persons from work requirements (see Exhibit 3, page 10).

To assist TANF recipients in their work efforts, the state law authorizes MDHS to provide both child care and transportation assistance to individuals who require these support services to obtain and hold employment.

Exhibit 2

Allowable Work Activities under TANF

- unsubsidized employment;
- subsidized private employment;
- subsidized public employment;
- work experience (when private employment is not available);
- on-the-job training;
- job search and job readiness assistance, limited to six weeks per recipient;
- community service programs;
- vocational education, not to exceed twelve months for any recipient;
- providing child care to a person in a community service program;
- satisfactory attendance at a high school for persons under age twenty who have not completed high school or received a GED certificate; and,
- education directly related to employment for heads of household over age twenty who have not completed high school or received a GED certificate.

SOURCE: House Bill 766, 1997 Regular Session.

Education Requirements

While TANF legislation at the federal and state levels intends that adults be engaged in work rather than in adult education or training, the same is not true of minors receiving assistance. House Bill 766, Section 3, Subsection 4 requires that minor parents who have not received a high

Exhibit 3

Criteria for Exemption from Limits on TANF Cash Benefits and Work Activities

	<i>TANF Eligible Recipient Categories</i>	<i>60-Month Lifetime Limit for Cash Benefits</i>	<i>24-Month Limit for Entry into Work Activity</i>
	child under age 18	exempt	exempt
	adult over age 60	exempt	exempt
	an incapacitated person*	exempt	exempt
	full-time caretaker of ill or incapacitated person	exempt	exempt
	victim of domestic violence**	limited exemption	not specified in state law
<p>* An individual with a physical or mental impairment, established by receiving Social Security disability, 100% Veterans Administration disability, or review by the MDHS Medical Review Unit.</p>			
<p>** This individual is exempt from this time requirement for a maximum of twelve months during his or her lifetime. MDHS must be able to verify that this individual has been battered or subjected to extreme cruelty through law enforcement, medical, or psychological records.</p>			
<p>SOURCE: MDHS exemptions in state plan or policy manual for TANF program and House Bill 766, Section 3.</p>			

school diploma or GED certificate and school-age children whose families receive TANF be in satisfactory attendance in school or a GED program as a precondition to receiving TANF assistance. These requirements are not new to Mississippi law, as earlier welfare restructuring efforts adopted in the 1994 state welfare reform legislation required minor recipients of AFDC to attend school if they had not received their diploma or GED certificate.

Sanctions

The Federal Welfare Reform Law requires that the states sanction families who fail to meet the work participation requirements of the TANF program. House Bill 766 includes sanctions requiring penalties for families whose parent or caretaker relative does not meet allowable work activity requirements. Exhibit 4, page 12, lists sanctions for failure to meet work requirements under Mississippi's TANF program. The Department of Human Services may only impose sanctions listed in Exhibit 4 upon notice and with an opportunity for the family members to be heard. Minor children would continue to receive Medicaid regardless of whether the parent or caretaker continues to receive TANF program funds.

State penalties for failure to meet TANF work participation requirements are not identical to those imposed on families under the Food Stamp Program (see the Federal Welfare Reform Act, Title VIII, Section 815). The food stamp penalty for families with an adult who refuses to work would not bar family members from receiving assistance for a period longer than 180 days per violation. The adult who refuses to work could be barred from receiving food stamps permanently.

House Bill 766 also denies Medicaid to two-parent Medicaid families when one member of the family does not comply with TANF work requirements. Children may remain eligible for Medicaid regardless of the parent's conduct.

House Bill 766 also establishes sanctions for families to be applied when a TANF recipient fails to attend school and lacks good cause for not attending. The bill would also require that TANF families with school-age children in the household send their children to school. Families may be sanctioned if the children fail to attend school.

Exhibit 4

Sanctions for Failure to Meet Work Requirements under TANF

- first violation: elimination of TANF assistance to the entire family for either a period of two months or until the person complies with work requirements, whichever is the longer period
- second violation: elimination of TANF assistance to the entire family for either a period of six months or until the person complies with work requirements, whichever is the longer period
- third violation: elimination of TANF assistance to the entire family for either a period of twelve months, or until the person complies with work requirements, whichever is the longer period
- fourth violation: disqualification from participation

SOURCE: House Bill 766, 1997 Regular Session.

TANF Program Funding

As mentioned earlier in this report, in order to receive additional funding the Department of Human Services implemented TANF on October 1, 1996. The state received a TANF block grant of \$86.7 million, approximately \$31 million more than what it could have reasonably expected had it continued to administer the AFDC program for the remainder of the fiscal year.

While provisions of the federal act require states to implement a TANF program by July 1, 1997, each state also had the option of immediate implementation of the program. The potential advantage to a state of implementing a program immediately was that the amounts available to it under the TANF block grant would, for some states, exceed the amounts a state might receive under AFDC grants. This is because the formula for determining a state's block grant is based on the highest of the following amounts:

- FY 1992-94 average expenditures;
- FY 1994 expenditures; or,
- FY 1995 expenditures.

States such as Mississippi which have had declining assistance rolls could find that immediately acting and implementing TANF could give the state more money than it would have received using the AFDC grant based on projected caseload. Projections from the Department of Human Services show that by implementing the program effective October 1, 1996, the TANF grant received may be as much as \$31 million more than what the state might have received under AFDC. This projected difference in TANF and AFDC is based on the difference between the TANF grant of \$86.7 million and the most recent actual AFDC expenditures available for a completed fiscal year (\$55.8 million for FY 1996).

For the upcoming fiscal year, the state general fund FY 1998 appropriation for TANF is approximately \$27.5 million. Federal grants available from October 1, 1996, to September 30, 1997, for Mississippi's TANF program total approximately \$86.7 million. For the federal fiscal years beginning October 1, 1997, and following years, at least the same amount will be available to the state for the TANF block grant. Also, states such as Mississippi may be able to receive an increase of 2.5% in TANF funding because of a supplemental federal grant for states with low per capita grant amounts.

Changes in State Child Support Enforcement Procedures

Federal Mandates

The Federal Welfare Reform Act, Title III, establishes new federal requirements for states participating in the TANF program with respect to effective and efficient collection of child support. States must comply with these mandates in order to receive their complete TANF grant.

For several years, federal law has required states to attempt to collect child support in arrears which is owed to mothers who participated in the AFDC program. The program for child support collection is called the Title IV-D program. Under the 1996 Federal Welfare Reform Act, amended Section 409 (a) (8) specifically provides that a state must operate its IV-D program in substantial compliance with federal requirements. Failure to do so may result in a sanction of not less than one percent or more than two percent of the grant payable to a state in quarters of a fiscal year before the program is found to be in substantial compliance with federal requirements. Penalties may go from two percent to three percent and three percent to five percent if successive reviews reveal a substantial lack of compliance. Substantial compliance would be found only if the Secretary of the United States Department of Health and Human Services concludes that the state's noncompliance is of a technical nature which does not adversely affect the performance of the Title IV-D program.

Collection of Child Support

In response to the Title III provisions of the Federal Welfare Reform Act, Senate Bill 2164 addresses the following major issues with respect to the collection of support and the determination of paternity.

This state law requires that MDHS establish a Central Receipting and Disbursement Unit to receive and disburse child support. Under its provisions but not required by the federal law, MDHS is authorized to contract out this service to a financial institution insured by the Federal Deposit Insurance Corporation.

The state is also required under federal law to establish a Directory of New Hires which will receive employment information on recently hired workers from employers. The purpose of this directory is to collect information which will better assist the state in locating parents who are in arrears on their support payments. As with the central disbursement unit, Senate Bill 2164 includes a provision whereby MDHS may contract out this service. Federal law neither requires nor precludes such contracting out of the service.

Senate Bill 2164 also includes the following provisions with the intent of helping facilitate child support collections and meeting new federal mandates:

- establishes a federally required central locator registry;
- requires withholding orders in all support cases;
- gives Department of Human Services central registry personnel access to financial information and locator information obtained from financial institutions, utilities, and public bodies;
- requires that Social Security numbers be collected on applications and maintained by professional licensure agencies and other governmental bodies which issue licenses to local applicants;
- adopts the Uniform Interstate Family Support Act and revises procedures used in Mississippi to enforce foreign support decrees;
- allows for enforcement of support decrees as a judgment lien; and,
- allows for transfer of cases without hearing or order between counties wherein judicial venue was proper at the time of filing.

Paternity Determination

The Federal Welfare Reform Act also requires that the states establish expedited procedures for the establishment of paternity. Senate Bill 2164 includes provisions which:

- eliminate jury trial in paternity cases;
- allow the plaintiff to take default judgments in paternity cases;
- require the department to pay for genetic testing; and,
- establish procedures for selection of genetic test laboratories for use in paternity cases.

Senate Bill 2164 also includes a matter not mandated by Congress regarding private rights of action for paternity establishment. The law allows persons between the ages of eighteen and twenty-one to bring private actions to establish paternity. These actions are not brought at the expense of the state of Mississippi.

Welfare Reform Issues Requiring Future Legislative Attention

The federal and state legislation creating TANF programs have ushered in a new period of history in welfare administration. Because of the federally mandated move away from an entitlement program to a temporary assistance program aimed at placing assistance recipients in allowable work activities, several program administration issues may arise which could require legislative attention:

- How does MDHS monitor its program results to comply with federal law and to assist the Legislature in the appropriations process?
- How does MDHS determine eligibility for transportation, child care, and vocational education?
- What methods does MDHS use to determine the appropriate allowable work activity for a TANF recipient?
- Will technical corrections to the TANF law be needed in the 1998 legislative session?

Also, during the 1997 legislative session, concerns arose over provisions in the child support bill which allow MDHS to use private contractors to perform responsibilities of new federally mandated administrative operations.

PEER offers recommendations to the Legislature regarding each of these issues, beginning on page 23.

TANF Program Administration

Monitoring and Measurement of Program Results

Both federal and state law require that MDHS implement systems to measure program activities administered under TANF. Federal requirements are directly linked to both the availability of performance bonuses and at the other extreme, sanctions for failure to perform. The state TANF law requires measures as a means of assisting budgeting authorities in allocating resources to the TANF program.

Federal Requirements

One purpose of the federal law is to reduce the number of parents receiving assistance from its welfare rolls. In amended Section 407 of the Social Security Act, states participating in the TANF program must achieve specified work participation rates during the six-year block grant period for which the section provides requirements. This section requires specified percentages of the state's TANF caseload to engage in specified numbers of hours of approved work activities each week. These participation requirements increase each fiscal year from FY 1997 to FY 2002. (See Exhibit 5, page 18, for the requirements for one-caretaker and two-parent TANF families.)

A state's failure to meet these requirements could result in federal sanctions. In addition to customary sanctions for states which might expend federal funds for unauthorized goods or services, amended Section 409 of the Social Security Act includes provisions for sanctions of at least five percent of the total state TANF grant of states which fail to meet the participation rates. The penalty could be as high as twenty-one percent of the state's grant for states which are repeat violators of the participation requirement. Even at the lowest penalty of five percent, a penalty applied to the present TANF grant of \$86.7 million could result in a loss of \$4.3 million to Mississippi.

Because failure to meet targets could result in reduced resources available for the state's TANF program, the Legislature, particularly the House and Senate Public Health and Welfare committees and the Appropriations committees, should help ensure that the state Department of Human Services makes all reasonable efforts at monitoring compliance with participation requirements.

Exhibit 5

Required Participation Rates and Minimum Weekly Work Hours for TANF Assistance Recipients, FY 1997-FY 2002*

Requirements for TANF Families with One Parent or Caretaker

Federal Fiscal Year	State Participation Rate *	Minimum Work Hours Per Week
1997	25%	20
1998	30%	20
1999	35%	25
2000	40%	30
2001	45%	30
2002	50%	30
* Federal law will allow states to reduce the participation rate by any reductions in caseload which have occurred since 1995. Further, up to 20% of those in GED or high school programs may be counted as working for purposes of the work participation rates, as well as persons engaged in job search for up to six weeks. Women with children under one year of age may also be excluded from the denominator used to calculate the population who must be involved in work activities. For example, the nominal rate for FFY 1998 could be reduced to a real rate of approximately 17% to 20% due to these participation rate adjustments.		

Requirements for TANF Families with Two Parents

Federal Fiscal Year	State Participation Rate	Minimum Work Hours Per Week **
1997	75%	35
1998	75%	35
1999	90%	35
2000	90%	35
2001	90%	35
2002	90%	35
** The spouse must also make progress in work activities of a minimum average of 20 hours per week if the family is receiving federally-funded child care assistance and an adult in the family is not disabled or caring for a severely disabled child.		

SOURCE: Federal Welfare Reform Act, Section 407.

State Requirements

While federal legislation establishes strict performance targets and sanctions for failure to meet these requirements, state law provides that MDHS develop measures for determining program outcomes and the department's success in achieving these outcomes. These measures require more than simply reducing the number of persons on the rolls or increasing the number of persons in an allowable work activity. Specifically, House Bill 766, Section 1, subsection 5 requires MDHS to:

. . .develop outcome and output indicators for each program established under the authority of this section. These measures shall provide legislators and administrators with information which measures the success or failure of the department in implementing the programs implemented under the authority of this section. The department shall annually report to the Legislature the outputs and outcomes of these programs with the first report due by December 15, 1997. Such reports shall include recommendations for making programs more effective or efficient which can be effected in accordance with federal law.

Related to these outcome measures is a provision found in Section 20 which requires the TANF Implementation Council, an advisory body composed of thirteen members, to assist the department in developing these measures.

Determining Eligibility for Vocational Training and Support Services and Appropriate Work Activities

By enacting House Bill 766, the Legislature gave MDHS significant authority to administer the TANF program. While MDHS has no authority to create eligibility criteria or work activities not specifically authorized in law, it has broad discretion in:

- *determining which TANF recipients should attend the twelve months of federally-authorized vocational education--*Since the Federal Welfare Reform Act established a work program, it provided limited vocational educational opportunities for TANF recipients (up to twelve months in vocational training as an allowable TANF work activity).
- *allocating transportation and child care support services among TANF recipients--*Since the mandatory work requirements in this bill will require adults to leave the home and work, the ability of a TANF recipient to find or hold a job may hinge on the availability of child care and transportation services. Under House Bill 766, Section 3, Subsections 7 and 8, MDHS may provide these services to TANF recipients.

- *establishing criteria for determining the emphasized forms of allowable work activity*--As noted previously, House Bill 766 provides a complete set of federally allowable work activities. However, the law does not declare a preference for any particular activity, thus leaving MDHS with administrative discretion to determine the allowable work activity area(s) for each TANF recipient. Since some legislators were already raising questions about this TANF program administrative area during the legislative session, it will most likely continue to be a matter of legislative interest.

Possible Technical Corrections to Welfare Reform Laws

The United States Congress is currently considering legislation which would amend the Federal Welfare Reform Act. For example, some changes could be made to increase the eligibility of legal aliens to receive TANF and other forms of assistance such as food stamps and Supplemental Security Income. Should these changes be made, the Legislature would need to consider making changes to its 1997 TANF legislation to be in compliance with federal law.

The Legislature might have to revise other portions of the state TANF laws in 1998. Issues which could arise include:

- *Transitional Medicaid*--For several years, Mississippi has allowed welfare recipients who become employed and then ineligible for welfare assistance due to increased earnings to remain on Medicaid for an additional twelve months. House Bill 766 would allow this period to be extended to twenty-four months, assuming that changes in federal law would allow the additional twelve months.
- *General TANF administrative matters*--Several administrative issues may need to be reviewed in light of any new federal regulations published to guide state administration of the TANF program. These items include, but are not limited to:
 - *clarification of whether the allowable work activity exception for persons who are the victims of abuse extends to the twenty-four-month deadline for persons to be engaged in an allowable work activity.* The exception clearly provides such persons with a twelve-month exception to the sixty-month lifetime TANF participation cap, but it is silent on the twenty-four-month deadline for involvement in work activities.

- *clarification that the exemptions for work readiness only apply to twenty percent of the TANF-eligible population.* Federal law allows states to devise criteria for exempting up to twenty percent of the population from being determined job-ready. While House Bill 766, Section 3, provides criteria for determining who may be excluded from being declared job-ready, it does not limit exclusions to twenty percent of the eligible population, as provided for in the Federal Welfare Reform Act.
- *standards for oversight of TANF funds appropriated to other agencies.* FY 1998 appropriations totaled approximately two million dollars to the State Department of Education for training TANF recipients through the state's industrial training program. In similar appropriations in the future, state general law should provide that MDHS have a role in planning the expenditure of such funds.

Child Support Bill

Most provisions of the child support bill place affirmative duties on courts to adjudicate child custody or paternity matters in accordance with modified substantive rules or require a licensure board to maintain records with Social Security numbers to assist in location and identification of parents. Some provisions require MDHS to implement new programs with respect to the location of parents and the collection and disbursement of child support funds.

During the 1997 legislative session, many members became concerned over provisions in Senate Bill 2164, Sections 1 and 4, which allow MDHS to use private contractors to perform the responsibilities of two new federally-required administrative operations:

- *a Central Receipting and Disbursement Unit for Title IV-D clients' child support*--Senate Bill 2164, Section 1, requires that MDHS conduct a cost and benefit study as a precondition to contracting with an FDIC-insured financial institution to operate its Central Receipting and Disbursement Unit. The section authorizing this unit comes into force and effect July 1, 1998, and the centralized child support program must be implemented October 1, 1998.
- *a Directory of New Hires*--This directory is to be responsible for collecting information on new hires from all of the state's employers to help locate parents who may be in arrears on child support. The directory is to be operational by October 1, 1997.

Legislators and departmental personnel could encounter questions about the process used to determine whether a contractor should be engaged for one or both of these functions, and if the services are contracted out, how the contractor would be chosen.

Recommendations

TANF Program Administration

1. In its first annual report to the Legislature on the state's TANF program, due December 15, 1997, the Department of Human Services should present a complete compendium of what the department intends to achieve with its TANF authority and how it intends to measure its achievements. Specifically, the department should prepare measurable outcomes and outputs, set indicators for determining achievement of outcomes and production of outputs, and identify resources committed to achieving the outputs and outcomes for these programs. Additionally, the department should report any other information or measures which it believes are relevant to measuring the accomplishments of the programs administered.

The department should provide this information to the Joint Legislative Department of Human Services Oversight Committee prior to the release of the annual report to other legislators. The Joint Committee Chairman should advise the MDHS Executive Director of the required date for this information to be released to the committee members.

2. Prior to the 1998 regular session, the Joint Legislative Department of Human Services Oversight Committee should require MDHS to present written information to address the issues discussed in this report. MDHS' information should answer the following specific questions:

Monitoring and Measurement of Program Results

- How does the department measure work participation rates?
- Have there been problems in meeting participation rates statewide?
- Are there areas of the state where recipients have been less or more successful in obtaining work than the department projected?
- How significant are support services such as transportation and child care in participants' finding and holding work?
- What systems upgrades are necessary to capture information necessary to maintain a data collection program which meets federal reporting requirements and state administrative needs?

- What policy actions and recommendations could MDHS make to the Legislature regarding the monitoring and measuring of the impact of the change from AFDC to TANF on children living in poverty in the state?
- What are the profiles of the types of persons who are finding and those not finding work?
- How does the department plan to identify and track that portion of the eligible population which cannot find or retain jobs and thus may exhaust the sixty-month TANF eligibility? What recommendations for the Legislature does the department have on how to assist these individuals?
- What plan has the department developed to address the long-range goals of eliminating an individual's dependence on government assistance programs through long-term employment and to prevent the dependency of future generations on these same programs?
- What policies has the department developed or will it develop to recommend to the Legislature to encourage maintenance and preservation of two-parent families ?

Determining Eligibility for Vocational Training and Support Services and Appropriate Work Activities

- What plan has the department developed for the use of community service as an allowable work activity for TANF recipients? Does the state plan identify the point during the first twenty-four months of benefits at which the TANF recipient will engage in community service if he has not entered into another allowable work activity or is not deemed work-ready? If this state requirement does not meet the federal requirement of two months of welfare benefit assistance, has the department through the Governor requested a waiver from the U. S. Department of Health and Human Services from this federal requirement?
- How does the department plan to administer this component of the TANF program in terms of eligible recipients, training strategies, and planned expenditures for vocational education?
- What are the administrative rules and procedures for determining a person's eligibility for child care and transportation services?

- What standards does the Department of Human Services use to determine how much a person shall receive for these support services?
- What is the basis for establishing the above-mentioned standards?
- What recommendations does the department make on funds necessary to meet any need the department believes exists but cannot be met due to a lack of sufficient funding?
- Describe in detail the department's job readiness analysis process.
- What is the department's policy concerning priority work activities which should be pursued first and which should be used as last resorts for TANF recipients?
- What are the roles of local MDHS personnel and any private sector contractors to place TANF recipients in unsubsidized employment or other forms of federally allowable work activity?
- Describe the department's efforts to locate and obtain funds for entrepreneurial skills training programs required in House Bill 766, Section 25.
- What are the effects that the TANF program has had on county unemployment levels (based on statistics from MDHS or Mississippi Employment Security Commission)?
- What waivers of TANF policy have other states requested from the U. S. Department of Health and Human Services which the department could recommend that the state pursue to enhance the new TANF program?

Child Support Bill

3. Due to legislative concern over the need to give MDHS contracting authority for the Central Receipting and Disbursement Unit and the Directory of New Hires, the Legislature should consider the following actions:
 - Since Senate Bill 2164, Section 1, requires that MDHS conduct a cost and benefit study as a precondition to contracting with an FDIC-insured financial institution to operate its Central Receipting and Disbursement Unit, the Legislature should request and review this study prior to appropriating funds for operation of such a system under a private sector contract.

This centralized child support program does not have to be implemented until October 1, 1998, and the section authorizing this unit does not come into force and effect until July 1, 1998. Consequently, the Legislature would have time to study this issue prior to the beginning of the FY 1999 appropriations cycle.

- Since MDHS must have a Directory of New Hires in operation by October 1, 1997, the Department of Human Services should provide to the Legislature a copy of any cost-benefit analysis used to determine whether to make this new directory an internal agency operation or a contract operation.

If the function is privatized, MDHS should also provide a complete description of the contracting process with all supporting documentation for the selection of the successful contractor. Careful study of this information should be made to insure that MDHS made rational choices that show that the services rendered by the contractor are more efficient (at least a ten percent cost savings over a state operation) and at least as effective as an internal agency operation staffed with state employees.

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