IMPLEMENTATION OF THE DEFICIT REDUCTION ACT of 2005:
CONCERNS ABOUT THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)
WORK VERIFICATION PLAN REQUIREMENTS

A Consensus Statement by the Members of the Midwest Welfare Peer Assistance Network

Steps taken to implement reforms to the Temporary Assistance for Needy Families (TANF) block grant embodied in the Deficit Reduction Act (DRA) of 2005 have significantly hampered the ability of states to administer efficient and effective programs designed to promote and sustain self-sufficiency. Concerns center on the Interim Final Rule issued by the U.S. Department of Health and Human Services on June 29, 2006, that determines who is a work-eligible individual and whether activities may be counted as work activities as well as establishes uniform methods for reporting hours of work and the type of documentation needed to verify reported work hours. In particular, the efforts of the Administration for Children and Families (ACF) to ensure state conformity with the rule through the development and submission of Work Verification Plans have eroded the foundation upon which the success of welfare reform has been built: state flexibility leading to collaborative efforts focused on results.

Requirements Reducing State Flexibility Are Not Supported by Law or Rule

As articulated in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the TANF block grant was established “to increase the flexibility of States” in operating a program designed to meet welfare reform’s four broad purposes. Reauthorization modified this flexibility; the Interim Final Rule imposed further limits. Further still, in developing written guidance for and feedback about state Work Verification Plans, ACF has imposed even more requirements that are not supported by either the DRA or the Interim Final Rule, leading to reductions in state flexibility beyond even those intended by Congress.

Requirements regarding excused absences and holidays serve to illustrate this point. The DRA is silent on the topic, while the Interim Final Rule gives states the flexibility to define and count reasonable short-term, excused absences for hours missed during holidays and other excusable absences. In addition, for excused absences other than holidays, the rule specifies a maximum of 10 additional days in any 12-month period, with no more than two per month. Although the rule adds no other limitations, ACF has added additional restrictions by declaring states can designate no more than 10 holidays, even if more are generally observed. In addition, states cannot convert excused absence days to an hourly standard, meaning that 10 days cannot be converted to 80 hours, even though this is the manner in which absences are typically treated by employers.

Requirements Emphasizing Process Undermine Collaboration and Performance

The flexibility of the TANF block grant allowed states to redefine the purposes of their TANF-funded programs from issuing assistance benefits to promoting the economic well-being of and other desired social ends for low-income families. This created the need for cross-program thinking with an emphasis on accountability for
outcomes rather than process. Work Verification Plan requirements, however, undermine these efforts and create significant obstacles for continuing them in the future.

First, the requirements shift the emphasis of programs from outcomes to process, particularly given their singular focus on the need for written, signed documents to support hours of participation regardless of the setting. Further, rather than allowing a state to define how such documentation be obtained, the requirements specify the verification procedures to be followed. In relation to paid employment, for example, only wage stubs and other employer-produced documents qualify as verifiable documentation; telephone calls or other collateral information will not constitute documentation. Second, the requirements force compliance by all other systems with which TANF interacts—public as well as private—if they provide any services to someone receiving cash assistance. This means, for example, that a teenage parent’s satisfactory secondary school attendance can only be verified through the reporting of actual attendance hours on a weekly basis by a middle or high school teacher. Finally, the requirements confuse monitoring with supervision. Requiring verification of hours spent on job search activities, for example, does not equate to ensuring the provision of adequate guidance.

Poor Implementation Has Impaired the Plan Development Process

Given the significant implications of the Work Verification Plan requirements on state policy and practice, it is reasonable to expect that clear, consistent, and timely guidance would be provided to states. This, however, has not been the case, making it difficult for states to understand the requirements and develop plans acceptable to ACF. The fact that the Final Rule has not been issued further exacerbates the situation.

First, guidance has been provided piecemeal and has often been inconsistent. Since issuance of the Interim Final Rule, HHS has provided guidance in three different written formats: 1) A Final Work Verification Plan Guide (issued August 2006); 2) Further Guidance on Work Verification Plans (issued December 2006); and 3) General Comments on Work Verification Plans (issued April 2007). Concurrent with the General Comments (April 2007), each state was also provided state-specific comments. As a result, the guidance has been evolving over time, resulting in significant inconsistencies. For example, one WELPAN state was informed in its state-specific comments that “Generally, GED and high school should not count under education directly related to employment” despite the fact that the Further Guidance on Work Verification Plans, issued four months earlier, stated that the preferred work activity for counting ABE, GED, and ESL and similar educational programs for adult clients is “education directly related to employment.”

Second, ACF has not been responsive to questions asked about specific state circumstances. For example, one WELPAN state initially submitted a plan to increase its caseload reduction credit through excess maintenance of effort expenditures on December 1, 2006. A follow-up inquiry was submitted March 26, 2007. No response had been received as of May 9, 2007. A second WELPAN state submitted two questions requesting clarification about requirements related to job search/job readiness and vocational education certificate/degree programs on January 5, 2007; it is similarly waiting for a response.

Significant Policy Concerns Remain Outstanding

The effort expended on understanding and complying with the overreaching Work Verification Plan requirements imposed by ACF has undermined states’ ability to address some of the significant policy concerns that remain in relation to the underlying Interim Final Rule. These are numerous and include, for example, the limitations placed on job search activities when they are combined with other core activities that constitute work; the prohibition against bridge training specifically designed to prepare an individual for a customized skills training program as a stand alone activity; and the recent interpretation of what activities can count as work activities for single parents caring for a child under 6 years of age. Unfortunately, given the continued emphasis on control over state activities reflected in ACF’s April 2007 comments and the need for states to address the comments by June 30, 2007, it is unlikely that these or any other policy issues will be proactively addressed by HHS in the immediate, or even the long-term, future without some external intervention.