

## **Restoring the Entrails of Welfare Reform**

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## **Abstract**

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 famously “ended welfare as we [knew] it” by replacing the state-operated Aid to Families with Dependent Children (AFDC) program with a revised funding scheme called Temporary Assistance for Needy Families (TANF). In the summer of 2012, controversy erupted over a memorandum issued by the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), concerning state options for TANF performance reporting. Opponents of the Obama administration claimed the policy initiative specified in the memorandum signaled a fundamental change in direction of the national welfare policy established by PRWORA—that it “gutted” welfare reform. The memorandum has not (as of 2016) been rescinded, and the issues raised in the ensuing controversy remain unresolved. We review the controversy. We argue that while there is some justification in criticism of the Obama administration’s strategy, the initiative addressed an important problem: The inadequacy of the program’s performance measure given the variation in resources available to states in meeting the program’s goals. The ACF memo was in our judgment a responsible step toward finding methods for improving TANF performance and, as conducted, the guts debate retarded this search.

*Key Words:* TANF, waivers, TANF participation rate, Temporary Assistance for Needy Families

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 famously “ended welfare as we [knew] it” by replacing the state-operated Aid to Families with Dependent Children (AFDC) program with a revised funding scheme called Temporary Assistance for Needy Families (TANF). In the summer of 2012, controversy erupted over a memorandum issued by the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), concerning state options for TANF performance reporting. Opponents of the Obama administration claimed the policy initiative specified in the memorandum signaled a fundamental change in direction of the national welfare policy established by PRWORA—that it “gutted” welfare reform. Some said, moreover, that the stated action was contrary to law. The memorandum has not (as of 2016) been rescinded, and the issues raised in the ensuing controversy remain unresolved.

While much of the controversy can be dismissed as political theater, the gutting debate touches on important issues of policy, policy research, federalism, and, we will argue, professional responsibility. It is quite possible that the discussion has inhibited state efforts at finding ways to improve TANF operation. Whether or not this is true, state innovations—and the rigorous evaluation of those innovations—contributed to passage of PRWORA; and experimentation of that kind is promoted by better-government enthusiasts of many political stripes. Some means for building consensus around the need for research strategies that hold objective promise of improving public policy needs to be found.

Our intent in reviewing the gutting episode is to contribute to the search for such a consensus. We begin with the memorandum and the response. We then review the record of the TANF program and the national apparatus for reaping the benefits of experimentation in the state “laboratories of federalism.” We argue that while there is some justification in criticism of the Obama administration’s strategy, the real issues involve finding methods of doing welfare well—and that, as conducted, the guts debate retarded this search. We find it unfortunate that some authorities nominally committed to “evidence-based policy” failed during this episode to point out the importance of experimentation and the institutional issues involved in doing that well.

In describing and interpreting the episode, we rely primarily on published materials and write from the perspective of academic outsiders. From a historical perspective, there is often much to be learned from the insider struggle-stories that can be collected from those in the trenches, but these are matters best left to those with better journalism talents than our own or to reminiscence by players securely in retirement or a subsequent job. We do, however, pay close attention to the way the debate in the media, and issues of political strategy, affected the outcome in ways that were, on the whole, detrimental to the cause of promoting the public good.

### **The Memorandum**

Labeled “Guidance concerning waiver and expenditure authority under Section 1115” TANF-ACF Information Memorandum 2012-03 (henceforth *Guidance*) was posted July 12, 2012, with covering notes from the ACF Acting Assistant Secretary and the Director of the ACF Office of Family Assistance, the TANF administering authority. (A copy of the complete memorandum and accompanying materials is reproduced as [Appendix A](#).) The purpose, *Guidance* stated, was employment-oriented:

HHS is encouraging states to consider new, more effective ways to meet the goals of TANF, particularly helping parents successfully prepare for, find, and retain employment. Therefore, HHS is issuing this information memorandum to notify states of the Secretary's willingness to exercise her waiver authority under section 1115 of the Social Security Act to allow states to test alternative and innovative strategies, policies, and procedures that are designed to improve employment outcomes for needy families. (p. 1)<sup>1</sup>

In an attached note, the ACF Acting Assistant Secretary stated that the memorandum was issued both: (1) in response to the President's directive that federal agencies work with states to find ways to help states find methods for more efficient use of tax dollars and (2) as a result of consultation with "states, tribes, and territories" on ways to improve TANF effectiveness. In these meetings, he reported, representatives of a number of states had mentioned interest in waivers. Thus, the memorandum "reflects the Department's commitment to provide states, tribes, and territories with more flexibility to innovate in the TANF program with the goal of helping more families find jobs and move toward self-sufficiency" (*Guidance*, p. 3).

*Guidance* has three parts. The first is an assertion of authority, the second a statement of HHS priorities, and the third a summary of requirements for states.

#### *Authority*

Section 1115 of the Social Security Act famously enables the Secretary of HHS to exempt states from certain provisions of the law for experimental purposes:

Sec. 1115. [42 U.S.C. 1315] (a) In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of title I, X, XIV, XVI, or XIX, or part A or D of title IV, in a State or States—(1) the Secretary may waive compliance with any of the requirements of section 2, 402, 454, 1002, 1402, 1602, or 1902, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project."

The passage moves on to discuss the financing of such projects. Part A of Title IV establishes TANF (the other titles cover additional grants programs, including Medicaid and federal grants for old-age assistance and aid to the blind that were eventually replaced by Supplemental Security Income; Part D of Title IV concerns child support). The Act organized the federal-state exchange created by such programs around state plans for their operation. Acceptance of the plan by the administering federal agency was the basis for federal financial participation. The various sections cited refer to federal requirements for plan contents. Section 402 covers the contents of state TANF plans. Among other things, state plans must "[e]nsure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407"

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<sup>1</sup>Page references to *Guidance* refer to document page numbers in the memorandum reproduction in Appendix A.

[402(a)(1)(A)(iii)]. Section 407 establishes required rates of prevalence of work-related activities among a state's TANF recipients.

The work requirements are a centerpiece of the TANF program. They do not apply to individuals specifically, but rather refer to the proportion of a state's recipient families that include recipient adults (or minor heads-of-household) that meet standards for participation in various approved work-related activities. The standards involve both weekly hours of participation and prevalence for different recipient population subgroups (for detail applicable at the time of the controversy, see Hahn, Kassabian, and Zedlewski 2012 or Schott and Pavetti 2013). The standards are offset by "credits" created by caseload reduction as well as state assistance expenditure beyond the basic "maintenance of effort" (MOE) standards established based on expenditures prior to PRWORA.

*Guidance* states that, because the plan requirements in Section 402 include reference to Section 407, the 1115 waiver authority allows HHS to "authorize a state to test approaches and methods other than those set forth in section 407, including definitions of work activities and engagement, specified limitations, verification procedures, and the calculation of participation rates" (p. 2). "However," the memorandum continues, "HHS will only consider approving waivers relating to the work participation requirements that make changes intended to lead to more effective means of meeting the work goals of TANF" (pp. 2/3).

### *Priorities*

According to the enabling legislation (PRWORA), TANF has four purposes: "[T]o increase the flexibility of States in operating a program designed to—

- (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- (3) 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) encourage the formation and maintenance of two-parent families" (42 U.S.C. 601).

While the other goals are acknowledged, *Guidance* is principally about gaining information on strategies for promoting job preparation and work—a "TANF purpose," in the agency's judgment. HHS, the memorandum states, "is encouraging states to consider new, more effective ways to meet the goals of TANF, particularly helping parents successfully prepare for, find, and retain employment" (p. 2). In the original five pages, there are 24 references to work, job(s), and employment. The memorandum's language reflects the influence of efforts elsewhere within and without government to promote "evidence-based policy" and growth in the evidence base: "HHS is especially interested in testing approaches that build on existing evidence on successful strategies for improving employment outcomes" (p. 4).

### *Requirements*

*Guidance* places both broad and specific requirements on waiver requests submitted in response to the memorandum's call for proposals.

The broad requirement is an evaluation plan that specifies both what the innovation is intended to accomplish and interim process measures that signal the degree to which the innovation to be tested is actually delivered. The evaluation plan and its funding "must reflect an adequate level of effort and sound methods to produce credible findings" (p. 4).

More specific requirements confine waiver requests to provisions related to Section 402 and limit project durations ("absent special circumstance") to no more than five years (p. 4).

*Guidance* states that state and third-party funds used to conduct the evaluation will be counted toward the state's TANF MOE requirement.

### **The Response**

The response to the memorandum was immediate, vociferous, and negative. Personnel at the Heritage Foundation, a right-of-center advocacy organization, were first in commenting, followed by other groups, journalists, members of Congress, and Mitt Romney's presidential campaign. A timeline of responses and a bibliography is included as [Appendix B](#).

The attack was led by Heritage Foundation Senior Fellow Robert Rector. In a blog posted the same day as *Guidance*, Rector and Kiki Bradley provided the title for our paper by writing:

Today, the Obama Department of Health and Human Services (HHS) released an official policy directive rewriting the welfare reform law of 1996. The new policy guts the federal work requirements that were the foundation of the reform law. The Obama directive bludgeons the letter and intent of the actual reform legislation. (Rector and Bradley 2012a)

There followed a series of blogs and other papers by Rector and colleagues. Members of Congress became engaged, and commentary was solicited from all three of the Congressional supporting agencies: The Congressional Budget Office (CBO), the General Accounting Office (GAO), and the Congressional Research Service (CRS). The House of Representatives tried three times to terminate the waivers offer by statute, culminating with House passage of H.R. 890, "Preserving the Welfare Work Requirement and TANF Extension Act of 2013."<sup>2</sup> H.R. 890 prohibited the HHS Secretary from taking steps to:

Finalize, implement, enforce, or otherwise take any action to give effect to the Information Memorandum dated July 12, 2012 (Transmittal No. TANF-ACF-IM-2012-03), or to any administrative action relating to the same subject matter set forth

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<sup>2</sup>Citation and URL are provided in the timeline, [Appendix B](#).

in the Information Memorandum or that reflects the same or similar policies as those set forth in the Information Memorandum.

In addition, the Secretary was denied authority to “authorize, approve, renew, modify, or extend any experimental, pilot, or demonstration project under section 1115 of the Social Security Act” that waived or authorized funding for activities that compromised the work requirements. Any waivers granted prior to passage of the law would be rescinded.

H.R. 890 was passed March 13, 2013, eight months after the original *Guidance* posting. The bill was never voted upon in the Senate, although Senator Orrin Hatch and others had been actively involved in questioning HHS Secretary Kathleen Sebelius on *Guidance* details. During those eight months, much commentary occurred, most dramatically in political advertisements fielded in certain states by the Romney campaign. At one point investigators were dispatched from the Committee on Ways and Means to HHS offices in a quest for information on intra-agency discussion of waiver authority and issues. Aside from a spring 2015 contribution from the CRS (to be discussed later), the issue lay dormant until resurfacing in a draft TANF reauthorization bill circulated by the House of Representatives Ways and Means Committee in July 2015.<sup>3</sup>

## The Issues

The timeline is available for persons interested in a blow-by-blow account. Here we review the major issues. In our reading, there are six: (1) Did Congress intend to allow waivers of TANF provisions? (2) Is use of waivers in the way *Guidance* describes consistent with law? (3) Does the proposed use of waivers contravene TANF work requirements? (4) Are the participation standards the core of welfare reform? (5) Can states be trusted? (6) Can the Secretary be trusted?

### *Congressional Intent*

Use of legislative intent rather than actual statutory content is problematic as basis for challenging application of law. However, observers of all political stripes were surprised by the administration’s resurrection of the Section 1115 option for experimental modification of TANF work requirements, for at least three reasons.

First, waiver-related discussions during negotiations over PRWORA concerned what to do with waivers in place. We have found no references to any thought during the crafting process about the role of waivers after PRWORA. Generally, it was believed that the great flexibility granted states by Congress in the new law obviated the need for additional latitude.

Second, available descriptions of the law seemed to rule out changing the work regulations by waiver. In their summary review of the new law, staff of the Committee on Ways and Means stated:

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<sup>3</sup>This is the “Improving Opportunity in America Welfare Reauthorization Act of 2015.” URL: [http://waysandmeans.house.gov/wp-content/uploads/2015/07/JDG\\_705\\_xml.pdf](http://waysandmeans.house.gov/wp-content/uploads/2015/07/JDG_705_xml.pdf), accessed August 1, 2015.

Waivers granted after the date of enactment [of PRWORA] may not override provisions of the TANF law that concern mandatory work requirements. (Committee on Ways and Means 1996, 23)

The clear sense of this statement is that there could be waivers, but not of the work requirements.

Third, generally recognized experts sensed that the era of welfare waivers had passed. In a 2001 conference discussion of carry-over waivers from before PRWORA, Gene Falk, the CRS expert on AFDC and TANF policy, included in a PowerPoint presentation focused on carry-over waivers granted before PRWORA the following statement: “Technically, there is waiver authority for TANF state plan requirements; however, major TANF requirements are not in state plans. Effectively, there are no ‘TANF waivers’.”<sup>4</sup> More recently Gueron and Rolston, certainly leading authorities on the history and practice of welfare research, state that the “waiver process” that contributed so much to the development of the welfare strategy evidence base leading up to PRWORA ended with that legislation (2013, 21).

### *Issues of Law*

As Falk noted in 2001, PRWORA left Section 1115 intact. Section 1115 specifically includes Section 402, which sets out state plan requirements. The plan requirements include ensuring “that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.” The Secretary’s argument, expressed in a letter to Senator Orrin Hatch dated July 18, 2012, is that “the plain text of section 402 incorporates the requirements of section 407 by reference.” She went on to say (in a letter addendum):

If Congress had intended to restrict the Secretary’s waiver authority when it replaced the AFDC program with the TANF program in 1996, it would have deleted section 1115’s reference to section 402 or otherwise indicated its intent to depart from past practice. Congress did not do so and the Department is adhering to its longstanding interpretation that section 1115 waiver authority extends to requirements incorporated by reference into the state plan sections of programs, including Medicaid, child support, and TANF (Sibelius 2012, attachment).

The Secretary’s claim was subsequently supported in a memorandum from CRS attorney Kathleen S. Swendiman (Swendiman 2012). Her memorandum includes both a review of precedents and speculation concerning the likely outcome of court challenges to any waiver that might be granted in accord with *Guidance*. Much turns on the nature of the TANF plan. PRWORA significantly reduced requirements for state plans, possibly to the point of simply being descriptions of what states intend to do. If under the new law the plan is simply a matter of

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<sup>4</sup>This PowerPoint was cited by Robert Rector in his original “Guts” report as a “document” from “the non-partisan Congressional Research Service” that “clarified that the limited authority to waive state reporting requirement in section 402 does not grant authority to override work and other major requirements in the other sections of the TANF law (sections that were deliberately not listed under the section 1115 waiver authority).” It was not Falk’s intention to issue a definitive judgment on the waivers issue; at the time there had been no requests for post-PRWORA TANF waivers. We thank Mr. Falk for providing a copy of the original presentation. We return to Falk’s analyses later in the paper.

summary description without binding intent, then inclusion of Section 402 among candidates for waivers might imply that states could experimentally be allowed not to file reports. But the specification includes the word “ensure,” which appears obligatory, and HHS will not certify a state’s plan as “complete” (the agency no longer “approves” them) without certification of commitment to the requirements of Section 407, among other things. Hence incorporation of Section 407 by reference.

Opponents viewed this justification as tortured and inconsistent with Congressional intent as manifest in the structure of the law. In this interpretation, state plans refer to choices states make within constraints purposefully established elsewhere in the statutes. The point of the plan is to outline choices made where discretion exists. But waiving the outline cannot be a means, in opponents’ judgment, of sidestepping the work requirements. In the words of another Heritage Foundation analyst, Andrew M. Grossman:

[B]ecause states have some discretion as to how they intend to implement the individual work requirements for welfare recipients, they are required to outline how they intend to exercise that discretion. There is no basis in Section 402 to conclude, however, that their failure to do so— for example, if the outlining requirement is waived—somehow absolves them from carrying out the individual work requirements altogether. (Grossman 2012, 6)

In a subsequent blog, Grossman dismissed Swendiman’s arguments as “shoddy” and notes that she “refuses to say that the Administration’s plan is lawful” (Grossman 2012b). Pronouncing legality is not, of course, something the CRS can do. In any event, the stage had been set for a legal challenge to any waiver HHS might grant—should a state apply.

### *Contravening of Work*

Andrew Grossman’s reference to absolving “them [the states] from carrying out the individual work requirements altogether” reflects a third theme of the debate: that somehow *Guidance* was an offer to absolve states of responsibility for promoting work by TANF recipients. On the day *Guidance* was released, journalist Mickey Kaus pronounced: “If today’s action [i.e., *Guidance*] stands—surviving legal as well as political challenge—it will allow HHS to let those states that *don’t* really want to require welfare recipients to work to *not* require them to work” (Kaus 2012). University of Maryland Public Policy Professor Douglas Besharov told a journalist that “[t]he intent of the administration is to change the way welfare reform is operated. The domestic policy staff doesn’t believe in ‘work first’; they want education, job training, and support” (quoted in Hymowitz 2012).

Robert Rector, writing in the *Washington Post*, was equally forthright:

[T]he Obama administration has jettisoned the law’s work requirements, asserting that, in the future, no state will be required to follow them. In place of the legislated work requirements, the administration has stated, it will unilaterally design its own “work” systems without congressional involvement or consent. Any state will be free to follow the new Obama requirements “in lieu of” the written statute. (Rector 2012b).

Even in the highly partisan context of current Washington politics, it is impossible—as pointed out by various fact-checkers (see Appendix B)—to justify such assertions considering the actual *Guidance* content.

The claim that the waiver program contemplated by *Guidance* would eliminate TANF work requirements received witting support from the CBO. In addition to reservations about the legality of the waivers initiative, opponents of the legislation argued that the announcement in *Guidance* violated provisions of the Congressional Review Act (CRA). Passed in 1996, the CRA states that, before executive agency “rules” can take effect, they must be submitted for review to both houses of Congress and the Comptroller General (head of the GAO). The definition of “rule” is famously broad, and in a letter dated September 4, the GAO pronounced *Guidance* a rule. CRA provides for suspension of rules by joint resolution. A resolution to this effect was then introduced, and an assessment of budgetary impact was requested from the CBO. The CBO estimated that rescinding *Guidance* would reduce direct federal spending by \$59 million over the 2013–2022 period. Turned around, this meant that *Guidance* would cost \$59 million if implemented. Again we quote Robert Rector: “[members of the House of Representatives who voted against the resolution] willingly voted to increase the national debt to keep the work requirements in the morgue” (Rector 2012c).

The reason for the cost estimate was the CBO’s presumption, in its calculation of the revenue effects of rescinding *Guidance* relative to the CBO baseline, that states would to some extent use waivers to avoid penalties. CBO projected that “states on the verge of being penalized for failing to meet the work requirements would apply for a waiver to remove those requirements and that about half of those waivers would be approved” (Elmendorf 2013, 2). This projection was made even though, as noted by the CBO report, HHS had not issued any penalties for states failing to meet TANF participation rules. The agency instead uses a status of “corrective compliance” to allow states to correct the shortfall. The CBO projection contradicted, without justification, both this history and statements in *Guidance* about the circumstances in which state waiver applications would be considered. Plausible alternative projections might include the chance for gains in federal revenues (or reduction in other transfer costs) should states find ways to accelerate movement to employment or earnings gains by experimental recasting of the participation requirement. To be sure, the amounts involved are trivial. The CBO’s projection covered 10 years; and over that period the estimated cost amounts to less than *four one-hundredths of a percent* of the total amount of the federal TANF block grant. But in context, the CBO’s impact guess does not seem the “objective, impartial analysis” promised by the agency’s credo (CBO 2014).

### *The Participation Standards and Welfare Reform*

The original TANF legislation required states to achieve minimum rates of participation in certain approved work activities by families with an adult recipient (since 2005 termed “families with a work-eligible individual”). Participation was measured in average weekly hours per month. The requirements were applied on average to the included population, with 50 percent the 2002 target for all cases. Two-parent households were subject to a much higher required rate. The law included a “caseload reduction credit” that allowed reduction of the standard for states with caseload decline not attributable to changes in eligibility standards from a base year, so the adjusted requirement was for all states lower than the statutory maximum. Modification of the

law in 2005 rebased the caseload reduction credit, but states have proved adept at finding means for avoiding the participation maxima, in some instances by eliminating assistance for two-parent families altogether and in others by incorporating working SNAP recipients into the TANF caseload by making each a token TANF payment. Nevertheless, the participation rates have great symbolic importance, signaling the centrality of work in federal welfare strategy.<sup>5</sup>

From a public management perspective, the TANF participation standards are problematic at best. We point here to two issues: rationale and resources.

*Rationale.* We have found no rationale for the choice of participation standard at any place in the Congressional debate over TANF or subsequent reauthorization. If one is choosing a rate within the 0–100 percent domain, and one has no basis for determining what the optimum rate is given the purposes of the legislation (see above), the best guess is 50 percent. The fact that 50 percent is the target Congress chose is telling. Suppose, given what we know about the circumstances of families so poor that they seek TANF relief, one were to choose an optimal participation target given TANF objectives. What would that be?

*Resources.* Whatever the rationale, it would seem appropriate to calibrate requirements to resources. The TANF federal block grant and state maintenance-of-effort requirements are anchored in amounts received and spent during the three years leading up to passage of the 1996 welfare reform law. Aside from slight modification for population growth and a temporary injection of funds as part of the counter-cyclical American Recovery and Reinvestment Act of 2009, funding has not changed. The result is enormous inequity across states in resources available for attaining TANF’s objectives.

This inequity is illustrated by Figure 1, taken from Meni and Wiseman (2017).<sup>6</sup> In this chart states are ranked by the sum of their TANF block grant and MOE requirement divided by an estimate of the number of poor children in the state derived from the Annual Social and Economic (ASEC) Supplement to the Current Population Survey. The state resources measure is adjusted for general price variation across states using the Regional Price Parities developed by the Commerce Department’s Bureau of Economic Analysis. The children-in-poverty counts are based on the official poverty standard adjusted for interstate variation in housing costs and an income measure that includes imputed income from the Earned Income Credit and benefits from the Supplemental Nutrition Assistance Program (SNAP). The result is the set of bars in the figure—which are divided into red and blue to indicate the share of states’ resources derived from the TANF MOE requirement. The numbers are averaged over three years to achieve adequate sample size.

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<sup>5</sup>For an overview of TANF history, see Anderson, Kairys, and Wiseman (2014). For a delightful and informative review of the state of TANF as of late 2015 by “Peter the Citizen,” see Germanis (2015). The Germanis paper includes detail on state use of token payments to raise work participation rates.

<sup>6</sup>Detail on the construction of Figure 1 is available in the source.

[Figure TANFRESOURCE here](#)

### Figure 1: TANF Resources per Poor Child, 2011–2013

Given the definitions employed in the Meni-Wiseman paper, the average resources per poor child nationwide was slightly less than \$2,000 (in 2012 dollars), with state resources ranging from a high of \$4,237 in Vermont down to \$488 in Nevada—a factor of almost 9 to 1.

“Resources” here is a bit ambiguous, since in principle states could spend much more than MOE by raising taxes or lowering expenditures in other domains.<sup>7</sup> However, the block-grant-plus-MOE total is what the law attempts to ring-fence for TANF purposes, and it is this total that is commonly discussed in the TANF literature.<sup>8</sup> Meni and Wiseman (2017) show that resources per poor child defined in this way are inversely related to state income per capita (and gross state product per capita), so the cost of leveling up using state’s own resources would fall most heavily on the poorest states.

In *Guidance*, the administration basically offered states the opportunity to show that, within their resource constraints, it was possible to do better in terms of job placement and/or other measures of achievement than could be accomplished under procedures used to meet the TANF participation requirements. To us at least, the application of the same participation standards in the presence of an almost 9-to-1 variation in resources is difficult to justify to begin with and, given this deficiency, some experimentation with alternatives would seem appropriate as a matter of public stewardship.

#### *Matters of Trust*

The last two issues are matters of trust. Whether states can be “trusted” and the Secretary can be “trusted” can only be assessed by stating clearly what states and the Secretary are supposed to do, given the objectives and content of law, and then following up to assess compliance. The evaluation of trustworthiness begins with data: What have they actually done? In our interviews with Ways and Means Committee staff, some members’ response to *Guidance* was that while in abstract the proposal was possibly acceptable, the administration could not be trusted to deliver what the waiver proposal ostensibly promises. Here, as for states, the Reagan mantra “trust, but verify” would appear appropriate, but we have found no evidence that this strategy was proposed by anyone.

#### **Review**

The record of the policy community in response to the “gutting” was mixed. Lacking a census of community commentary, we provide examples.

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<sup>7</sup> On the other hand, Germanis (2015) argues that what is counted as MOE outlays is increasingly the product of redesignation of outlays not originally considered part of assistance expenditures. This “supplantation” leads to exaggeration of net resources available.

<sup>8</sup> See, for example, Falk (2015a). A similar graph based on standard poverty counts and unadjusted for regional price variation appears in Anderson, Kairys, and Wiseman (2014).

*Ron Haskins*

Ron Haskins is a Senior Fellow at the Brookings Institution who was, as a staff member for the Ways and Means Committee, a principal architect and chronicler of PRWORA (Haskins 2006). In an August 2012 interview with a reporter from *The Washington Post*, Haskins emphasized the importance of waivers, noted that “a slew” of Republican governors had expressed interest in them, and concluded that

“What this really boils down to is an issue of trust. Do you trust that the secretary of HHS is only going to grant waivers that really are promising? . . . Maybe I’m naïve, but I just don’t come to the conclusion that the Democrats would really use the waiver to undermine welfare reform.”<sup>9</sup>

Similar remarks were made by Haskins in other interviews.<sup>10</sup>

*The Coalition for Evidence-Based Policy*

The Coalition for Evidence-Based Policy (CEBP)—self-described and assiduously promoted as a “nonprofit, nonpartisan organization, whose mission is to increase government effectiveness through the use of rigorous evidence about ‘what works’,”<sup>11</sup>—made no immediate response at all. In January 2013, the organization issued a broadside titled “Federal ‘Waivers’ from Law and Regulation Should Be Used to Build Credible Evidence about What Works to Reduce Entitlement Spending” (CEBP 2013). The proposal called for “A Presidential Executive Order (or similar directive), charging OMB and the federal agencies to make maximum use of federal ‘waivers’ from law and regulation, to:

1. Stimulate a robust array of state/local program innovations, aimed at (a) producing budget savings while improving program effectiveness, or (b) improving participant outcomes without added cost; and
2. Require rigorous evaluations to determine which of these innovations really work.”

The broadside goes on to cite the role of waivers in the identification of successful welfare-to-work programs. It called for OMB and executive agencies to “[s]ystematically inventory the agency’s waiver authority to determine how it can be used to incentivize broad-based state/local innovation in agency programs.” It continued:

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<sup>9</sup>See Dylan Matthews, “Welfare reform’s architect: You call that a gutting?” *Washington Post Wonkblog*, August 7, 2012. URL: <https://www.washingtonpost.com/news/wonk/wp/2012/08/07/welfare-reforms-architect-you-call-that-a-gutting/>.

<sup>10</sup>See, for example, his remarks on National Public Radio on August 8, 2012: <http://www.npr.org/2012/08/08/158405559/romneys-welfare-ad-slams-obama>.

<sup>11</sup>See [www.coalition4evidence.org](http://www.coalition4evidence.org). In 2015 the CEBP became a wholly owned subsidiary of the Arnold Foundation and has been designated the Foundation’s “Evidence-Based Policy and Innovation Division.”

“Waiver authority (or similar flexibility authority) exists in a number of major entitlement programs, such as Medicaid, Medicare, Supplemental Security Income, Food Stamps, and Foster Care, as well as many large discretionary programs such as Head Start and Job Corps.”

Note that TANF is missing from the CEBP list.

*Center on Budget and Policy Priorities*

LaDonna Pavetti, Vice President for Family Income Support Policy at the Center on Budget and Policy Priorities, noted that rather than “gutting” welfare reform, the waivers could enable states to do just the opposite (Pavetti 2012). In July 2012, she wrote:

“Despite mounting complaints from conservatives, the Obama Administration’s announcement yesterday that it will give states waivers to run demonstration projects in their TANF programs will not kill or undermine welfare reform. Indeed, it will strengthen welfare reform by giving states greater flexibility to test more effective strategies for helping recipients prepare for, find, and retain jobs—and measure their accomplishments in more meaningful ways than the current system allows.”

The following February, Pavetti and colleague Elizabeth Schott followed up with a memorandum on possible changes in TANF work requirements that “could make them more effective in promoting employment” (Schott and Pavetti 2013). The list is rich, but Schott and Pavetti chose not to broach the issue of adjustment in requirements given variation in resources at the state level (again, see Figure 1).

*Congressional Budget Office*

The waiver issue continues to draw the attention of the CBO. Early in 2015 the agency issued a report on TANF spending and policy options (CBO). Option 6 was to “[p]rohibit States from Using Different Work Standards” by explicitly denying HHS the authority asserted in *Guidance*. This suggestion is a bit awkward because, as the CBO notes, as of December 2014 no state had applied for a waiver.<sup>12</sup> The agency’s conclusion is ambiguous:

This option would prevent HHS from waiving the current work standard for a state. It would thus prevent states from experimenting with work standards that might be able to outperform the current one by better promoting self-sufficiency or serving a larger percentage of poor families, and it would prevent states from diminishing work standards in ways that might increase dependency (p. 27).

In other words, it could be good or bad.

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<sup>12</sup> In fall 2015 Ohio applied for a waiver in response to the Guidance. At this writing (a year later), the request has not been approved. See Candisky (2015).

*TANF Reauthorization, Committee on Ways and Means*

In July 2015 the Committee on Ways and Means issued a draft reauthorization bill to fund TANF through 2020 that accepted the CBO prohibition option. Section 4 of the draft quashes the HHS effort, which was in any case decidedly dormant:

## SEC. 4. NO WAIVERS OF WORK REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services may not do the following:

- (1) Finalize, implement, enforce, or otherwise take any action to give effect to the Information Memorandum dated July 12, 2012 (Transmittal No. TANF-ACF-IM-2012-03), or to any administrative action relating to the same subject matter set forth in the Information Memorandum or that reflects the same or similar policies as those set forth in the Information Memorandum.
- (2) Authorize, approve, renew, modify, or extend any experimental, pilot, or demonstration project under section 1115 of the Social Security Act (42 U.S.C. 1315) that waives compliance with a requirement of section 407 of such Act (42 U.S.C. 607) through a waiver of section 402 of such Act (42 U.S.C. 602) or that provides authority for an expenditure which would not otherwise be an allowable use of funds under a State program funded under part A of title IV of such Act (42 U.S.C. 601 et seq.) with respect to compliance with the work requirements in section 407 of such Act to be regarded as an allowable use of funds under that program for any period.

Thus, the civil threat posed by *Guidance* would be killed with the legislative equivalent of a silver stake through the heart.

**Conclusions and Extispicy**

According to Wikipedia, “extispicy (from Latin extispicium) is the practice of using anomalies in animal entrails to predict or divine future events.” The Gutting of Welfare Reform brouhaha spilled entrails upon the sod of social policy. What we conclude from this inspection, and what we divine for the future, is less than encouraging for evidence-based policy improvement.

*Guidance* addressed real issues. There is no rationale for the TANF participation requirement as currently structured. It is difficult to draw a connection between the participation rate and the expressed goals of TANF. *Guidance* amounted to a very small step in the direction of considering alternatives, and such consideration is a big part of what policy analysis is about.

The deployment of *Guidance* was, to be sure, politically inept. But, judged from the perspective of civil discourse and integrity, some of the response to the proposal was, in our opinion, shameful, as was the policy community’s general quiescence.

Critical evaluation of TANF seems to be smothered by a militant presumption that somehow TANF “worked.” This is not our view. As we read the literature, TANF’s only clear

accomplishment has been to reduce access to the kind of personal assistance TANF can provide. The general problem of income maintenance has been largely federalized through SNAP and EITC expansion. But we find general agreement that there are people in need of assistance beyond what comes with an EBT card or from a visit to the neighborhood H&R Block office.<sup>13</sup> That gap is the place where TANF is supposed to be. In light of the fact that SNAP and EITC benefits are virtually the same nationwide, how can Figure 1 possibly make sense?

The answer is that Figure 1 only makes sense if the point of PRWORA was indeed to end substantive casework. The feared “race to the bottom” that was expected to be the consequence of the TANF block grant proved to be more of saunter, but the direction is undeniably in that direction. Reforms like the 2015 Ways and Means proposal, even when touted as “the biggest redesign of TANF in its history,” would be at best marginal in impact.

Our pondering of entrails leads us to believe that the most salutary strategy for TANF policy development would be to begin with development of a vision of what the help that fills the gap between SNAP and EITC might look like. We would like to see discussion of what a minimum standard for content might be, how federal support should be calibrated, and what might be gained from varying state policy latitude around this common core. Once such a vision was articulated, experimentation could be conducted around elements of the new program and possible pathways worked out for the multi-year journey from what we have to what we want. Surely work would be central to any such common core, but so would be assured access by those in need, as well as rigorous monitoring of state performance in providing that door to help.

The guts, however, augur little hope.

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<sup>13</sup>See, for example, the 20-year perspective on welfare reform accomplishments in Burkhauser (2016).

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**Appendix A: The Guidance Memo (Reproduction)****TANF-ACF-IM-2012-03  
(Guidance concerning waiver and expenditure authority under Section 1115)**

Published: July 12, 2012

**TO:**

States administering the Temporary Assistance for Needy Families (TANF) Program and other interested parties

**SUBJECT:**

Guidance concerning waiver and expenditure authority under Section 1115

**REFERENCE:**

Section 1115 of the Social Security Act. [42 U.S.C. 1315]; Section 402 of the Social Security Act. [42 U.S.C. 602]

**BACKGROUND:**

Section 1115 of the Social Security Act provides authority for the Secretary of the Department of Health and Human Services (HHS) to consider and approve experimental, pilot, or demonstration projects which, in the Secretary's judgment, are likely to assist in promoting the objectives of Title IV-A. Section 1115 allows for waiver of compliance with section 402 of the Social Security Act to the extent and for the period necessary to enable a state to carry out an approved project. The statute also provides authority for costs of such projects which would not otherwise be an allowable use of funds under Part A of Title IV to be regarded as an allowable use of funds, to the extent and for the period approved.

As specified in statute, the purpose of Part A is to increase the flexibility of states in operating a program designed to: (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) 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) encourage the formation and maintenance of two-parent families.

**PURPOSE:**

HHS is encouraging states to consider new, more effective ways to meet the goals of TANF, particularly helping parents successfully prepare for, find, and retain employment. Therefore, HHS is issuing this information memorandum to notify states of the Secretary's willingness to exercise her waiver authority under section 1115 of the Social Security Act to allow states to test alternative and innovative strategies, policies, and procedures that are designed to improve employment outcomes for needy families.

States led the way on welfare reform in the 1990s — testing new approaches and learning what worked and what did not. The Secretary is interested in using her authority to approve waiver demonstrations to challenge states to engage in a new round of innovation that seeks to find more effective mechanisms for helping families succeed in employment. In providing for these demonstrations, HHS will hold states accountable by requiring both a federally-approved evaluation and interim performance targets that ensure an immediate focus on measurable outcomes. States must develop evaluation plans that are sufficient to evaluate the effect of the

proposed approach in furthering a TANF purpose as well as interim targets the state commits to achieve. States that fail to meet interim outcome targets will be required to develop an improvement plan and can face termination of the waiver project.

The demonstration authority provided by section 1115 and sound evaluation of approved projects will provide valuable knowledge that will help lead to improvements in achieving the purposes of the TANF program.

**INFORMATION:**

*Scope of Authority*

Section 1115 authorizes waivers concerning section 402. Accordingly, other provisions of the TANF statute are not waivable. For example, the purposes of TANF are not waivable, because they are contained in section 401. The prohibitions on assistance are not waivable, because they are contained in section 408.

While the TANF work participation requirements are contained in section 407, section 402(a)(1)(A)(iii) requires that the state plan “[e]nsure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.” Thus, HHS has authority to waive compliance with this 402 requirement and authorize a state to test approaches and methods other than those set forth in section 407, including definitions of work activities and engagement, specified limitations, verification procedures, and the calculation of participation rates. As described below, however, HHS will only consider approving waivers relating to the work participation requirements that make changes intended to lead to more effective means of meeting the work goals of TANF.

Moreover, HHS is committed to ensuring that any demonstration projects approved under this authority will be focused on improving employment outcomes and contributing to the evidence base for effective programs; therefore, terms and conditions will require a federally-approved evaluation plan designed to build our knowledge base. TANF funds may be used to fund an approved evaluation and state funds spent on an approved evaluation may be considered state maintenance-of-effort (MOE) expenditures. In addition, terms and conditions will require either interim targets for each performance measure or a strategy for establishing baseline performance on a set of performance measures and a framework for how interim goals will be set after the baseline measures are established. The terms and conditions will establish consequences for failing to meet interim performance targets including, but not limited to, the implementation of an improvement plan and, if the failure to meet performance targets continues, termination of the waivers and demonstration project.

*HHS Priorities*

In exercising her broad discretion for waivers, the Secretary is interested in approaches that seek to improve employment outcomes. Accordingly:

- Waivers will be granted only for provisions related to section 402.
- The purposes of TANF, the prohibitions contained in section 408 (including the time limits on assistance contained in that section), or any other provision of TANF other than those specified in section 402 will not be waived.
- The Secretary will not approve a waiver for an initiative that appears substantially likely to reduce access to assistance or employment for needy families.

- The Secretary will not use her authority to allow use of TANF funds to provide assistance to individuals or families subject to the TANF prohibitions on assistance.
- The Secretary will not waive section 402(a)(5) relating to requirements to provide equitable access to Indians.
- Waiver demonstration projects may be conducted in limited geographic areas or statewide. The Administration for Children and Families (ACF) is interested in more efficient or effective means to promote employment entry, retention, advancement, or access to jobs that offer opportunities for earnings and advancement that will allow participants to avoid dependence on government benefits. The following are examples of projects that states may want to consider – these are illustrative only:
  - Projects that improve coordination with other components of the workforce investment system, including programs operated under the Workforce Investment Act, or to test an innovative approach to use performance-based contracts and management in order to improve employment outcomes.
  - Projects that demonstrate attainment of superior employment outcomes if a state is held accountable for negotiated employment outcomes in lieu of participation rate requirements.
  - Projects under which a state would count individuals in TANF-subsidized jobs but no longer receiving TANF assistance toward participation rates for a specified period of time in conjunction with an evaluation of the effectiveness of a subsidized jobs strategy.
  - Projects that improve collaboration with the workforce and/or post-secondary education systems to test multi-year career pathways models for TANF recipients that combine learning and work.
  - Projects that demonstrate strategies for more effectively serving individuals with disabilities, along with an alternative approach to measuring participation and outcomes for individuals with disabilities.
  - Projects that test the impact of a comprehensive universal engagement system in lieu of certain participation rate requirements.
  - Projects that test systematically extending the period in which vocational educational training or job search/readiness programs count toward participation rates, either generally or for particular subgroups, such as an extended training period for those pursuing a credential. The purpose of such a waiver would be to determine through evaluation whether a program that allows for longer periods in certain activities improves employment outcomes.

Note that this is not a comprehensive list, and HHS will consider other projects consistent with the statute and the guidance provided in this IM. HHS is especially interested in testing approaches that build on existing evidence on successful strategies for improving employment outcomes.

- Waiver requests must include an evaluation plan. In order to provide the strongest evidence about the effectiveness of the demonstration, the preferred evaluation approach is a random assignment methodology, unless the Secretary determines that an alternative approach is more appropriate in light of the demonstration proposed. All evaluation plans and funds to support them must reflect an adequate level of effort and sound methods to produce credible findings. ACF anticipates actively engaging with states to ensure that evaluation plans are appropriate in light of the nature of the demonstration and that the evaluation findings can reasonably be expected to provide information that will enhance

understanding of whether the initiative was successful in furthering HHS priorities. ACF staff members are available to work collaboratively with states to develop further or refine the evaluation plan.

- Waiver requests must include a set of performance measures that states will track to monitor ongoing performance and outcomes throughout the length of the demonstration project, along with the evaluation. Waiver applications must specify interim targets for each performance measure, including a framework for how often the measures will be reported, or a strategy for establishing baseline performance on a set of performance measures and a framework for how interim goals will be set after the baseline measures are established. Performance measures must be designed to track improvement across the entire set of families targeted as well as appropriate subgroups. In developing the final terms and conditions for an approved waiver, ACF will work with the state to further refine the appropriate performance measures and interim targets as needed. All approved waivers will include a provision that requires timely reporting to HHS on the agreed upon performance measures and progress toward meeting established interim targets. States that fail to meet interim targets will be required to develop improvement plans. Repeated failure to meet performance benchmarks may lead to the termination of the waiver demonstration pilot.
- The request must specify the proposed length of time for the demonstration project. The final terms and conditions will specify the approved length of the project. Absent special circumstances, the length of an approved project will not exceed five years.
- A state will need to develop and submit a budget that includes the costs of program evaluation. TANF and state MOE funds can be used for the costs of evaluation, including third party contributions counting toward meeting a state's MOE requirement.
- HHS recognizes the importance of public input into the process of developing and implementing a waiver demonstration project. Therefore, the state must provide the public with a meaningful opportunity to provide input into the decision-making process prior to the time a proposal is approved by HHS. Further guidance concerning this requirement will be forthcoming.
- Waivers are subject to HHS and Office of Management and Budget (OMB) approval and terms and conditions may include additional requirements, such as site visits, before implementation.

Terms and conditions will require periodic reporting on how the implementation and operation of the demonstration is progressing, including reporting on the performance measures, in addition to evaluation reports. To support learning and knowledge development, ACF staff may conduct on-site visits to observe demonstration operations and meet with relevant managers and staff.

**INQUIRIES:**

Inquiries and applications for projects involving waiver requests should be directed to the appropriate Regional TANF Program Manager.

/s/

Earl S. Johnson  
Director  
Office of Family Assistance

July 12, 2012

Dear State Human Service Official:

Today, the Administration for Children and Families' Office of Family Assistance issued an Information Memorandum that informs states that the Department of Health and Human Services will use its statutory authority to consider waiver requests that strengthen the Temporary Assistance for Needy Families (TANF) program. This Information Memorandum reflects the Department's commitment to provide states, tribes, and territories with more flexibility to innovate in the TANF program with the goal of helping more families find jobs and move toward self-sufficiency.

On February 28, 2011, President Obama issued a Presidential Memorandum that directed federal agencies "to work closely with state, local, and tribal governments to identify administrative, regulatory, and legislative barriers in Federally funded programs that currently prevent states, localities, and tribes, from efficiently using tax dollars to achieve the best results for their constituents."

The Administration for Children and Families took this charge seriously and held a series of consultation meetings with states, tribes, and territories on a variety of topics including TANF. During those consultations, many jurisdictions expressed a strong interest in greater flexibility in TANF and indicated that greater flexibility could be used by states to improve program effectiveness. We also heard concerns that some TANF rules stifle innovation and focus attention on paperwork rather than helping parents find jobs. States offered a range of suggestions for ways in which expanded flexibility could lead to more effective employment outcomes for families. Two states – Utah and Nevada – submitted written comments that specifically identified waivers as one mechanism for testing new approaches to promoting employment and self-sufficiency, and a number of others states – including California, Connecticut, and Minnesota - have asked about the potential for waivers.

As described in more detail in the Information Memorandum, the Social Security Act provides the Secretary of the Department of Health and Human Services with the authority to grant states waivers of certain TANF provisions for the purpose of testing new approaches to meeting the goals of the TANF statute. The Secretary is interested in using her authority to allow states to test alternative and innovative strategies, policies, and procedures that are designed to improve employment outcomes for needy families. The statute does not permit tribes to receive waivers under Section 1115, however we are committed to using the underlying flexibility in federal law to help tribes innovate in their programs.

TANF Waiver demonstration projects under Section 1115 must be accompanied by a high quality evaluation plan, which is critical to ensuring that the pilots result in rigorous evidence about what works and what doesn't in order to inform future decisions made by policymakers at the federal, state, tribal, territorial, and local levels. In addition, states that apply for a waiver must identify interim performance targets that will be used to hold states accountable for improving outcomes for families. We will work with states interested in developing waiver demonstration projects to design these performance measures and targets.

The Information Memorandum outlines the types of waivers that will and will not be considered. The Secretary is only interested in approving waivers if the state can explain in a compelling

fashion why the proposed approach may be a more efficient or effective means to promote employment entry, retention, advancement, or access to jobs that offer opportunities for earnings and advancement that will allow participants to avoid dependence on government benefits.

States have shown their ability to innovate in ways that help parents find jobs. In 2009 and 2010, 42 states used the TANF Emergency Fund authorized under the American Recovery and Reinvestment Act to create 260,000 subsidized jobs for jobless parents and disadvantaged youth. Over a short period of time, states exhibited enormous creativity as they developed new subsidized employment initiatives that responded to an urgent need for jobs in communities across the country.

It is critical that we work together to develop effective employment strategies that prepare workers for the jobs of the 21st century. We stand ready to work with states interested in developing innovative demonstration projects that test new approaches to helping parents succeed in the labor market.

Sincerely,

/s/

George Sheldon  
Acting Assistant Secretary

## Appendix B: Gutting Welfare Reform in the 2012 Elections Timeline

This appendix provides a political/ administrative timeline for the “Guts” debate and a list of useful additional references. Materials referenced in the text are listed (and in some cases duplicated) in the references listed here. Timeline items are hyperlinked to a complete citation and, where available, a URL; links can be activated by clicking the date.

### Timeline

| 2011                     |  |
|--------------------------|--|
| <a href="#">18 Jan</a>   | President Obama releases an executive order outlining steps to improve regulation and regulatory review. .   |
| <a href="#">28 Feb</a>   | As a follow-up to the executive order, President Obama issues a memorandum calling on his administration to eliminate “unnecessary administrative, regulatory, and legislative burdens” and allow for flexibility for states to promote the same or better program outcomes at lower cost. Referenced in <i>Guidance</i> memo. |
| 2012                     |  |
| <a href="#">12 July</a>  | HHS Memo, “Guidance concerning waiver and expenditure authority under Section 1115”, is released.  |
| <a href="#">12 July</a>  | Rep. Dave Camp and Sen. Orrin Hatch write to Secretary Sebelius to request legal reasoning for HHS memo.   |
| <a href="#">12 July</a>  | Rector blogs, “Obama Guts Welfare Reform.”   |
| <a href="#">18 July</a>  | Rep. Dave Camp (R-MI) introduces H.R. 6140 – “Preserving Work Requirements for Welfare Programs Act of 2012”; bill stalls in committee.  |
| <a href="#">18 July</a>  | Sen. Orrin Hatch (R-UT) introduces S.3397 – “Preserving Work Requirements for Welfare Programs Act of 2012”; bill stalls in committee.   |
| <a href="#">18 July</a>  | HHS Secretary Kathleen Sebelius responds to letter from Rep. Camp and Sen. Hatch citing 28 governors’ interest in more flexibility in TANF program.  |
| <a href="#">31 July</a>  | Rep. Camp and Sen. Hatch sends a letter requesting that GAO determine whether the HHS guidance constituted a “rule” under the Congressional Review Act (CRA).  |
| <a href="#">7 August</a> | Romney releases first “Obama Guts Welfare Reform” ad.  |
| <a href="#">7 August</a> | Press Secretary Jay Carney calls Romney’s ad “categorically false” and “blatantly dishonest.”  |

|                          |   |
|--------------------------|---|
| <a href="#">8 August</a> | The Heritage Foundation deems the waiving of work requirements “a violation of the law, a violation of the Constitution’s vesting of legislative power in the Congress, and a violation of the President’s fundamental duty to faithfully carry out the laws.”  |
| <a href="#">4 Sept</a>   | GAO responds to the July 31 Hatch/Camp request with a letter stating that the HHS memorandum constituted a “rule” under the CRA, meaning it must be submitted to Congress and the Comptroller General before taking effect.                                     |
| <a href="#">4 Sept</a>   | Kathleen Swendiman, HHS Legislative Attorney, sends letter to Rep. Sander Levin explaining the Secretary’s legal authority to approve Section 1115 waivers.   |
| <a href="#">4 Sept</a>   | Bill Clinton calls claims of gutting welfare reform “a real doozy” in DNC speech.   |
| <a href="#">5 Sept</a>   | Rector publishes <i>Washington Post</i> Op-Ed criticizing Clinton’s defense.  |
| <a href="#">11 Sept</a>  | Representatives Dave Camp and John Kline introduce H.J. Res. 118, “Providing for Congressional disapproval of the Administration’s July 12, 2012 waiver of welfare work requirements,” following the structure set by the CRA to reject Executive branch rules. |
| 13 Sept                  | Both the Ways and Means and Education and Workforce Committees marked up and approved H.J.Res. 118.   |
| <a href="#">19 Sept</a>  | CBO estimates eliminating the option would save \$59 million over the period 2013-2022.   |
| 20 Sept                  | The House passed H.J.Res. 118 by a vote of 250-164; no action by Senate.  |
| <a href="#">21 Sept</a>  | Rep. Camp and Sen. Hatch send letter to Secretary Sebelius requesting answers to questions regarding the development of the July 12, 2012 Information Memorandum, and requesting a response by October 25, 2012; response delivered on February 4, 2013.        |
| <a href="#">19 Dec</a>   | Sen. Hatch sends letter to President Obama asking him to withdraw the waiver guidance and instead submit a comprehensive TANF reauthorization proposal to Congress  |
| <b>2013</b>              |   |
| 4 Feb                    | Secretary Sebelius responds to letter from Rep. Camp and Sen Hatch reiterating legal arguments made in July 18, 2012 letter.  |

|                          |   |
|--------------------------|---|
| 8 Feb                    | Ways and Means and Senate Finance Committee Republican staff visits HHS to review internal legal memos and emails regarding the development of the HHS waiver guidance, which revealed that HHS discussions on waiving work requirements and other provisions of TANF law began at least as early as November 2009. |
| <a href="#">27 Feb</a>   | CBO provides additional explanation of previous budget estimate in letter to Rep. Dave Camp.  |
| <a href="#">28 Feb</a>   | House holds hearing on Waiving Work Requirements in the TANF Program.   |
| <a href="#">13 March</a> | Rep. Dave Camp's H.R. 890, "Preserving the Welfare Work Requirement and TANF Extension Act of 2013", passes the House, though the Senate never takes it up for a vote.  |
| <a href="#">12 July</a>  | One year later, no states have applied for waivers.   |

### The Memo

MEMO: "TANF-ACF-IM-2012-03 (Guidance concerning waiver and expenditure authority under Section 1115)". U.S. Department of Health & Human Services. 12 July 2012. <http://www.acf.hhs.gov/programs/ofa/resource/policy/im-ofa/2012/im201203/im201203>

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Figure 1: TANF Resources per Poor Child, 2011-2013

