JOHN R. KASICH
GOVERNOR
STATE OF OHIO

Executive Order 2011-19K

Approving the Ohio Work Participation Corrective Compliance Plan and Optimizing Qualified Maintenance of Effort Expenditures

WHEREAS, the U.S. Department of Health and Human Services has notified the State of Ohio that the State has failed to meet the federal work participation rate requirements in Federal Fiscal Years (FFY) 2007, 2008, and 2009.

WHEREAS, unless corrective action is taken, the State of Ohio will be subject to penalties in the amounts of $32,758,572 for FFY 2007; $45,050,074 for FFY 2008; and $58,517,487 for FFY 2009.

WHEREAS, the State of Ohio has the opportunity to avoid being penalized by taking the following corrective actions: 1) submitting a Work Participation Corrective Compliance Plan by September 30, 2011; 2) optimizing qualified Temporary Assistance for Needy Families (TANF) Maintenance of Effort expenditures; and 3) meeting the required work participation rates in FFY 2012.

WHEREAS, Section 5101.80 of the Ohio Revised Code requires new TANF programs to be established either by the General Assembly or by executive order.

WHEREAS, the TANF program is a state program of family assistance, which is provided with state and federal funds authorized under Title IV-A of the Social Security Act.

WHEREAS, the purposes of the TANF program are 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
4. Encourage the formation and maintenance of two parent families.

WHEREAS, the State of Ohio recognizes the need to improve the well-being of children and families, and emphasizes that need by strengthening support to low income working families to help them become self-sufficient.

WHEREAS, the State of Ohio is committed to the TANF program tenets of work and self-sufficiency.

WHEREAS, low income working families generally receive less in food assistance benefits than they spend on food, tend not to receive TANF cash assistance, and experience increased costs as a result of being employed.

NOW, THEREFORE, I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and laws of this State, and in accordance with Section 5101.80 of the Ohio Revised Code, do authorize and direct that:

1. The Ohio Department of Job and Family Services shall establish, through the adoption of rules, the Ohio Works Now supplemental food assistance program ("Ohio Works Now"), which shall be a separate state TANF program using state Maintenance of Effort dollars.

2. Ohio Works Now will provide additional food assistance to low-income working families and help to improve the nutritional status of working families.

3. Ohio Works Now benefits will be issued to families that are employed a sufficient amount of hours to meet the TANF all family and two parent work participation requirements.

4. The Director of the Ohio Department of Job and Family Services shall submit the attached Work Participation Corrective Compliance Plan, along with this Executive Order, to the U.S. Department of Health and Human Services by September 30, 2011.

I signed this Executive Order on September 26, 2011 in Columbus, Ohio and it will not expire unless it is rescinded.

John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State

Ohio Department of Job and Family Services
Work Participation Corrective Compliance Plan – Federal Fiscal Year 2012

On August 28, 2009, Ohio received a letter from the U.S. Department of Health and Human Services, Administration for Children and Families (ACF), notifying the state of its failure to meet both the two-parent and all-family work participation rates for federal fiscal year (FFY) 2007 and of a potential $32,758,572 penalty to the State Family Assistance Grant (i.e. TANF) as a result. In accordance with 45 CFR 262.5, on October 26, 2009, Ohio requested to file an appeal of this penalty by providing reasonable cause for failure to meet the rate. On July 29, 2011, ACF responded that the information submitted for FFY 2007 did not demonstrate Ohio's claim of reasonable cause. As a result, the state is entering into a corrective compliance plan. The following includes (1) a summary of the information submitted to show reasonable cause and (2) the details of the corrective compliance plan.

I. Analysis of reasons the required rate was not met in FFY 2007

A primary factor in Ohio's failure to meet its overall TANF work participation requirement for FFY 2007 was the Deficit Reduction Act (DRA) of 2005. The DRA reauthorized TANF with the intent of calculating work participation rates consistently for all states. The DRA changed substantially how the caseload reduction credit was calculated. It also changed the definitions for work activities so that states' hours and activities would be comparable.

A. Caseload reduction credit changes

Like many states, after passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Ohio took steps to reduce its TANF caseloads. By FFY 2007 Ohio's caseload was only 12 percent of what it had been in 1995. However, the DRA also changed the caseload reduction credit so that the base year went from 1995 to 2005. From 2005 to FFY 2007, Ohio experienced no significant caseload decline. As a result, it lost its caseload reduction credit, and its target all-family rate rose from 19.1 percent in FFY 2006 to 46.2 percent in FFY 2007; the two-parent rate rose from 48.5 percent in FFY 2006 to 86.2 percent in FFY 2007.

Theoretically, Ohio still could have obtained a caseload reduction credit through the expenditure of excess state MOE funds. The DRA allows states that spend above their minimum MOE requirement to apply the excess to increase the caseload reduction credit. However, Ohio's precarious state budget situation at the time (which worsened in subsequent years) put it at a severe disadvantage. It did not have additional general revenue funds to claim as MOE to increase the caseload reduction credit, as the majority of states that met the 2007 rates did.

Many states opted to devote additional funds that were not claimed as MOE to create "solely state-funded" cash assistance programs for those with significant employment

barriers. With this group removed from the TANF program entirely, it was much easier for these states to meet their work participation requirements. Unfortunately, Ohio has had no additional state funds available for anything other than the requisite amount of MOE.

B. Changes in work activities and work participation hours

The DRA more narrowly defined work activities, and requires more validation and paperwork. Consequently, administrative demands on providers and county departments of job and family services have increased. In many cases, county agencies have had to create new work activities that meet the specific federal definitions.

Because Ohio has a state-supervised, county-administered program, county departments of job and family services operate their work programs independently. As soon as DRA became effective, they had to make immediate adjustments. Change could not happen quickly enough to impact the FFY 2007 work participation rate.

C. Receipt of benefits at application

TANF applicants who meet the eligibility requirements begin receiving their TANF benefits at application. Ohio encourages immediate engagement in a work activity, but it does not withhold the benefit if no activity is immediately available. While this greatly helps families in the program, it also negatively impacts the state's work participation rate.

D. Multiple barriers

A significant number of TANF recipients have barriers to employment, including the lack of a high school diploma, mental and/or physical impairments, language barriers, domestic violence, and a lack of skills necessary to gain or retain employment. Because of the time limits on benefits, intensive case management must be provided to these families to ensure that they are self-sufficient at the end of 60 months. At the same time, because of these barriers, many heads of household cannot be placed in federally allowable work activities for the required number of hours. Instead, they are generally placed in non-allowable activities designed to help the family reduce or eliminate barriers. It is extremely difficult to place heads of household without high school diplomas in allowable work activities while they work to complete their high school equivalency. Consider the following:

- In FFY 2007, 25 to 30 percent of the TANF work-required assistance groups had a family member 18 or older who did not have a high school education. Attending classes to secure a high school equivalency diploma generally requires a full-time schedule. However, only 10 hours of attendance under a non-core activity can be applied toward the work participation rate. For many of these participants, this still leaves a 20-hour requirement for a core activity.

- In FFY 2007, 15 percent of the TANF work-required assistance groups contained a member identified as disabled. Although single parents may be identified as disabled, they have no exemption from participation, regardless of the severity of the disability. Many of these individuals are assigned to alternative activities, which are not countable toward the federal work participation rates.
- In FFY 2007, 18 percent of the TANF work-required assistance groups were not assigned to federally allowable work requirements because of assessed barriers that prevented them from participation in educational or employment activities. These individuals were assigned to alternative activities that are not countable toward the federal work participation rates.
- Ohio has a significant population of refugees and qualified aliens, and many have language barriers. More than 1,600 qualified aliens are receiving TANF. In the metropolitan counties, as much as 18 percent of the population is made up of non-citizens. Ohio has the second largest Somali population in the United States. English-as-a-second-language courses remain a non-core activity, and it is difficult to find work sites for non-English-speaking individuals.

E. Loss of placement sites

Because Ohio had not fully recovered from the recession of 2001, it was especially hard hit by the recession that began in December 2007. There is a direct correlation between the loss of employers in Ohio during FFY 2007 and the loss of placement sites. Many businesses that county agencies had relied on as Work Experience Program (WEP), Community Services and Subsidized Employment Program placement sites no longer existed. Because of this, from FFY 2006 to FFY 2007, the number of monthly WEP placements went from nearly 10,600 to just over 8,000, a reduction of 23 percent. Franklin County reported the loss of 74 WEP sites; Hamilton County reported the loss of 53. Placing recipients in work activities also became more challenging at this time because of federal and state laws that prohibit them from replacing employees who were removed or discharged.

F. Engagement

At many county departments of job and family services, in addition to their TANF caseloads, case workers are also responsible for administering Medicaid, Food Assistance and the state's Disability Financial Assistance programs. With the onset of the recession, the demand for services from non-TANF programs began to rise dramatically. As a result, caseworker workloads also increased, compromising their ability to quickly and adequately engage work supports for the work-eligible population.

II. Description of corrective measures to ensure compliance

The following corrective measures will bring Ohio into compliance with both the overall work participation rate (50 percent) and the two-parent work participation rate (90 percent) in FFY 2012 (October 1, 2011 – September 30, 2012).

A. Separate State Program

In an effort to improve low-income working families' access to nutritious food, and to increase the number of services available to them, in January 2012 Ohio will launch a new temporary state-sponsored program called Ohio Works Now. Ohio Works Now will provide a small supplemental TANF benefit to employed TANF-eligible needy families with children in addition to the food assistance benefits the families already receive. The families must have a work-eligible individual with a minor child, and be employed sufficient hours to meet the work participation rate for that family.

Ohio Works Now benefits will be food assistance benefits, not cash assistance benefits. They will be loaded onto families' Ohio Direction Cards and must be spent only as permitted in Ohio's Food Assistance Program. However, the families participating in the program will be included for potential reporting for the state's work participation rate under the category of a separate state program funded with state maintenance-of-effort funds.

B. First Month Pay-for-Performance Program

Ohio law currently permits county departments of job and family services to assign applicants for TANF assistance to job search activities before their TANF assistance benefits are approved. Failure to comply with the job search assignment results in the imposition of one-, three- or six-month tiered sanctions. County agencies have not fully utilized this option. However, in August the state provided counties with step-by-step instructions on how to use the first month pay-for-performance option, and will continue to provide technical assistance in how to use this tool. In addition, the state will seek changes to the Ohio Revised Code to align the self-sufficiency contract with the eligibility determination.

C. Additional Program Policy Changes

The state is reevaluating procedures for restoring TANF assistance after a family serves a sanction. A recipient's first failure or refusal to meet work participation requirements without good cause results in TANF ineligibility for the entire assistance group for one payment month or until the failure or refusal ceases, whichever is longer. The assistance group may also receive a reduction in food assistance benefits. The second failure or refusal causes TANF ineligibility for the entire assistance group for three payment months or until the failure or refusal ceases, whichever is longer. The assistance group may also receive a reduction in food assistance benefits. The third or subsequent failure or refusal results in TANF ineligibility for the entire assistance group for six payment

months or until the failure or refusal ceases, whichever is longer. The assistance group may also receive a reduction in food assistance benefits. In addition, for a third or subsequent work activity failure, the adult work-eligible individual who failed or refused to comply without good cause may also lose Medicaid coverage until he/she complies with the work-activity requirement.

Currently, state law provides that – after an assistance group serves a one-, three- or six-month sanction – the failure or refusal ceases with the receipt of a compliance form signed by the assistance group. The state is exploring options to mandate and standardize a work participation demonstration as a willingness to comply prior to reinstatement.

D. County Corrective Compliance Plans

Counties that failed to meet the work participation rates for SFY 2011 will be required to develop corrective compliance plans to explain how they will meet the rates for FFY 2012. Ohio monitors county work participation rates but does not currently impose corrective compliance plans for failure to meet the work participation rates.

Required components of improvement plans will include:

- Top Management Commitment – The directors and other managers will be advised to make their commitment known to all staff, so that work participation compliance is established as an agency-wide priority.
- Accountability – Work activity managers and staff will be required to establish monthly accountability reviews to reduce the numbers of unassigned individuals and individuals assigned to alternative activities, to increase exploration of good cause for individuals failing to meet requirements, and to immediately sanction those failing to meet requirements.
- Utilization of reporting tools – Reporting tools will be used to track individuals and action items necessary to improve county performance.
- Standardize approaches/practices – This will make work activity assignment an enhancement to the application process, not an impediment to the process, and allow assignments to be made more expeditiously.

E. System/Automation Strategies

- Time and Attendance Verification System – A new Web-based time and attendance verification system will be developed to verify when work-eligible individuals complete work hours. The system will have security checks in place to require access at specific job site locations and to require supervisory sign-off when work hours are completed. This information will then be transmitted into a state-supported portal and recorded into the Client Registry Information System – Enhanced (CRIS-E). This automation will eliminate the need to manually track down attendance verification and laboriously enter data. It will allow caseworkers more time to attend to proper screening, assessment and placement activities for those seeking services.

- Real-Time Reporting – The Ohio Department of Job and Family Services has developed multiple case management reports for county management and caseworker staff to use (the GWP518 and GWP103), to provide a point-in-time snapshot of the status of work-eligible individuals in each county and throughout the state. To further enhance the usefulness of these reports, the state will increase the frequency of data provided for them and explore daily, weekly or even real-time loading of data.
- Participation Status Code Enhancements – To ensure appropriate reporting for work-eligible individuals caring for children under the age of 6, system edits are being incorporated into CRIS-E to force more accurate completion of the household composition data fields. This also will ensure Ohio's compliance with federal regulations.

F. Reporting Changes

Ohio will amend its sampling plan and submit a smaller sample in order to reduce the number of errors that are returned for correction. Errors usually result from a difference in the eligibility system reports compared to the requirements for the TANF data report. The state submits corrections, but the large sample size (3,000 a month) makes this an arduous process. Additionally, Ohio will pull the sample for each month shortly after the month ends, and will review the data prior to submission to ensure that county agencies have submitted all possible verified hours.

G. State Hearings Improvements

In order to provide more timely hearings for individuals seeking to appeal sanctions that were imposed for failure to meet required assignments without good cause, the Ohio Department of Job and Family Services has increased its hearing officer capacity by 20 percent, and has limited granting requests for rescheduled hearings to the minimum required by federal law.

H. Enhanced Training and Technical Assistance

- Job Search/Job Readiness Online Model – Ohio will implement a statewide online job search/job readiness tool that will capture and record individuals' work participation activities. Several Ohio counties already use free job search/job readiness software.
- Monthly Reporting for County Directors – To assist county agency directors with their improvement plans, the state will issue monthly summary reports detailing county performance and targeting categories for improvement.
- Improved Communication – Because of Ohio's state-supervised, county-administered human services system, county agencies operate under the direction of county boards of commissioners. To improve communication with the boards, the state will be presenting information at their annual conference regarding the impending penalty and its potential local consequences. In addition, the Ohio Department of Job and Family Services will provide monthly updates to the

boards regarding their county agency's performance in meeting work participation requirements.

III. Time Period During Which Corrective Measure Will Occur

This corrective compliance plan will be implemented between October 1, 2011, and September 30, 2012.

IV. Strategy Implementation Schedule

The following strategies will be implemented by the following dates:

Strategy	Target Completion Date
Improve Use of First Month Pay for Performance	October 2011
Implement County Process and Accountability Strategies	October 2011
Make Changes to the TANF Data Report Sampling Plan	October 2011
Implement Training and Technical Assistance Strategies	October 2011
Implement State Hearings Improvements	October 2011
Automate Time and Attendance System	January 2012
Implement Separate State Program – Ohio Works Now	January 2012
Implement Increased Reporting for Case Management Reports	February 2012
Implement Additional Policy Changes for Self-Sufficiency and Compliance	February 2012 (dependent upon state legislature)

As a result of this corrective compliance plan and the above schedule, Ohio expects to meet the all-family and two-parent work participation rates for FFY 2012.

V. Conclusion

Ohio is committed to helping the state's families who receive TANF benefits regain their self-sufficiency and improve their quality of life. This includes providing the proper work supports and training to help those with significant barriers to employment overcome those barriers and acquire the skills and tools they need to rejoin the workforce and support their families. The state recognizes the importance of meeting all work participation requirements and is committed to reaching federal compliance during FFY 2012.

VI. Governor Certification

I, John R. Kasich, Governor of Ohio, certify that the state of Ohio is committed to correcting its noncompliance with 45 CFR 261.21 and 261.23.

John R. Kasich
Governor of Ohio