



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #PDX-20-064

TITLE: Support for NCAI Tribal TANF Task Force Legislative and Administrative Priorities

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, in 1996 Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, P.L. 104-193), also known as “Welfare Reform;” and

WHEREAS, a major part of this reform was the recognition and support of tribal nations’ authority to administer their own family support and work readiness programs to serve tribal children and families; and

WHEREAS, Congress, in this reform, also recognized the difficult economic circumstances on many reservations and gave tribal nations the necessary flexibility to create programs that could tackle their communities’ unique needs; and

WHEREAS, today, there are 74 Tribal Temporary Assistance for Needy Families (TANF) grantees serving 284 American Indian/Alaska Native (AI/AN) tribal nations, and the non-reservation AI/AN populations of over 121 counties, all of which rely on this funding to help their most needy families live at the most basic level; and

WHEREAS, Tribal TANF program provides cash assistance and supportive services for over 32,000 recipients; and

WHEREAS, combined, all tribes/tribal TANF programs received \$197 million dollars in federal funding in 2019; and

WHEREAS, there has been increased interest from tribal nations and tribal leaders to participate in the Tribal TANF program and are not already approved Tribal TANF grantees; and

WHEREAS, there is a need for increased culturally-based technical assistance from the Administration of Children and Families (ACF), Office of Family Assistance (OFA) to current and prospective Tribal TANF grantees;

WHEREAS, the NCAI Tribal TANF Taskforce has been approached by several Members of Congress who have expressed great interest in reauthorizing Tribal TANF Legislation in the upcoming 117th Congress; and

WHEREAS, NCAI passed resolution #SD-15-064 to endorse and advocate for legislative and administrative recommendations put forward by the Tribal TANF Task Force; and

NOW THEREFORE BE IT RESOLVED, that NCAI endorses and advocates for the legislative and administrative recommendations put forth by the Tribal TANF Task Force that are attached to this resolution; and

BE IT FURTHER RESOLVED, this resolution replace resolution #SD-15-064; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2020 Annual Session of the National Congress of American Indians, held Nov 8, 2020 - Nov 13, 2020, with a quorum present.



Fawn Sharp, President

ATTEST:



Juana Majel Dixon, Recording Secretary

Temporary Assistance for Needy Families (TANF) Proposed National Tribal Priorities

Tribal TANF Background

Temporary Assistance for Needy Families (TANF) is a federal block grant designed to help needy families achieve self-sufficiency. Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), federally recognized Indian tribes are allowed to administer their own TANF programs. Like states, tribal nations have the ability to set generally their own TANF eligibility requirements. However, tribal nations experience more barriers to creating and maintaining Tribal TANF programs as they lack tax bases to draw funding from, lack adequate facilities to operate their programs, and often exist in rural areas with fewer available jobs. As of May 13, 2019, there are 74 approved Tribal TANF programs. These programs serve 284 federally recognized Tribes and Alaska Native Villages.

Tribal Priorities

Funding- Related Priorities:

- 1. Enact at Least a 5-year Long-Term Reauthorization for TANF, Including Tribal TANF, to Ensure Tribal Nations Receive Funding to Continue Supporting Families and Helping Them to Achieve Self-Sufficiency.**

Background: Congress last reauthorized TANF in the Deficit Reduction Act of 2005 (P.L. 109-171), and has renewed the program through a series of short-term extensions since its expiration in 2010. The continued short-term extensions have failed to address several technical difficulties with the program, and also make it difficult for tribal nations and TANF program directors to make informed long-term planning decisions.

- 2. Allow Tribal Nations Access to the TANF Contingency Fund to Meet Demands in Economic Downturns Including a Tribal Set-Aside and Necessary Technical Changes to Enable Meaningful Access to the Fund.**

Background: The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193, as amended) created the \$2 billion TANF Contingency Fund (TCF) to assist states in meeting the need for welfare assistance during periods of economic downturns. The TCF was exhausted in the last recession, but Congress has appropriated \$608 million annually to the fund, spending it each year regardless of economic conditions. Unfortunately, tribal nations were not eligible under the statute for these critical funds, nor were the disproportionate levels of negative socioeconomic indicators in Indian Country considered in the creation of the TFC. Tribal nations should be able to access the TFC, and should be granted waivers from state criteria of economic need, including, but not limited to, increases in the state's unemployment rate formula, and increases in the state's SNAP caseload.

3. Maintain Current Funding Levels or Increase the TANF Block Grant Level to a Level Comparable to Inflation.

Background: TANF funding levels are fixed based on 1994 caseloads, which was widely considered to be the high-water mark for TANF and when it was believed its need would only decrease with time. While TANF caseloads have decreased, inflationary cost increases have outpaced this decrease, resulting in lower real TANF funding. Furthermore, many tribal TANF programs would like to expand service to include tribal descendants, but lack funding to do so.

4. Provide Incentives for States to Fund Tribal TANF Programs.

Background: Tribal TANF funding comes predominantly from the Federal Government, but states have the option of also contributing funding to support Tribal TANF programming. Some states have opted to provide significant additional funding for tribal TANF programs, and currently they are able to claim this contribution as a portion of their ‘Maintenance of Effort’ requirement, which requires states spend a certain amount of their own money on TANF in order to receive federal TANF funding.

Suggested Incentive: Provide a federal match to States for State Maintenance-of-Effort dollars that go to Tribal TANF programs.

5. Offer Tribal Governments the Authority to Enter into Renegotiations with States to Increase Funding Levels and to Account for Data Inaccuracies that Led to an Undercount of Tribal TANF Caseload.

Background: When a tribal TANF program is started or expanded, tribal nations negotiate with states to identify the number of cases that are expected to be served by the tribal TANF program, and then they negotiate funding based on this caseload transfer. Unfortunately, after the initial negotiation, funding levels may not be renegotiated. This leads to some instances where tribal caseloads are significantly under-estimated and tribal TANF programs in those areas are, therefore, significantly underfunded. Some states have attempted to resolve the known issues with the 1994 data on tribal caseload. For example, Washington gives tribal nations a fixed percentage increase to the expected caseload number. In California, tribal nations are able to bring in their own data to support caseload numbers. States must work with tribal nations during the negotiation process to reach an agreement on an appropriate offset to account for historical data inaccuracies.

6. Allow Tribal Governments to Negotiate Administrative Costs.

Background: Currently, administrative costs are capped at 35 percent in the first year, 30 percent in the second year, and 25 percent for subsequent years. This does not provide sufficient time for new tribal programs to create the necessary infrastructure to support a TANF program. Tribal nations should not be punished for the sixty years of funding states have received to establish their successful TANF programs, particularly when tribal nations lack a tax base to backfill administrative funding needs.

7. Allow TANF Funds to be Used for Planning Grants and Infrastructure Investments.

Background: Tribal TANF did not include any funding for feasibility and planning, forcing tribal nations to use limited tribal general fund dollars to undertake these necessary steps. This results in a significant financial disadvantage for tribal nations considering applying for TANF.

8. Ensure the Inclusion of a Tribal Set Aside in All Future Emergency or Supplemental Funding Measures for TANF Implemented by Congress.

Background: TANF funding has periodically required an emergency funding infusion to address spikes in TANF enrollment, oftentimes due to natural disasters, or spikes in unemployment. It is important that tribal nations are eligible for emergency funding in these circumstances.

9. Fund Technical Assistance for Tribal TANF Programs.

Background: Tribal TANF programs are in need of technical assistance. Currently, there is no individualized technical assistance available to tribal nations working on tribal-specific TANF issues, so tribal nations must seek technical assistance outside of the TANF program and ACF. Tribal nations are not in a position to use the scarce funding they currently receive on technical assistance. Tribal nations should have access to a fully-funded tribal technical assistance center authorized to serve both current grantees and tribal nations applying for TANF grants.

Priorities for Expanded Self-Determination and Sovereignty**1. Support Tribal Self-Determination and Sovereignty by Maintaining Maximum Flexibility within Tribal TANF Program Design.**

Background: Tribal TANF was established to ensure the Federal Government continued to meet its trust responsibility to tribal nations. In order to prevent dramatic cuts to TANF support for tribal members, Tribal TANF programs were afforded additional flexibility in program requirements. Furthermore, to support tribal self-determination and self-governance, tribal nations are also able to tailor their programming to be more culturally-competent. It is essential that these flexibilities remain or be expanded.

2. Increase the Time Limit Exemption to 50 Percent for Tribal TANF Programs.

Background: Time limit exemption is a requirement that no more than 20 percent of a caseload may be given an extension to the 60-month lifetime limit on receiving TANF benefits. Tribal programs cannot exceed this 20 percent limit without offering a rationale for the plan. The proposed rationale requirements for increased time limit exemptions cause an undue burden on tribal nations already possessing significant barriers to increasing their employment rates that states do not. Tribal nations should have a starting exemption of 50

percent to correct for these barriers. The increase to 50 percent is recognition of the disproportional issues related to poverty and opportunity. The limited opportunities for tribal members to achieve self-sufficiency or employment within the 60-month timeframe due to historic socio-economic issues on tribal lands necessitates additional flexibility in the time limit exemption for tribal nations.

3. Ensure that Tribal nations are Eligible for Caseload Reduction Credit.

Background: Tribal nations need parity with states that are currently afforded a credit if their cases are reduced. The caseload reduction credit reduces a state's required work-participation rate for a fiscal year by the state's caseload credit for that fiscal year.

4. Allow Tribal TANF the Option of Participating in 638 or Self-Governance Contracting.

Background: Tribal TANF was established in 1996 with the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193, as amended), as a way of upholding the federal trust responsibility to tribal nations and supporting tribal self-determination and self-governance. Since then, the Indian Self-Determination and Education Assistance Act (ISDEAA) has developed into the gold-standard for supporting the successful transfer of governance from the Federal Government to tribal nations. Tribal TANF should be brought in line with other federal programs and made operable via 638 compacts and contracts under ISDEAA.

5. Allow Tribal nations to Recoup Fair Market Value for Buildings and/or Land Used for the Administration and Provision of TANF Services in Accordance with Fair Market Requirements Under 25 CFR on Indian Trust Land.

Background: Many tribal nations utilize tribal buildings and facilities to house tribal TANF programs on the reservation. Tribal nations are reimbursed for the use of these facilities based on a depreciation formula that, in some cases, significantly undervalues the property. Tribal nations are unable to establish fair-market lease agreements – similar to what can be done for tribal health facilities through the Indian Health Service – due to a minor technical issue in TANF law. This issue incentivizes some tribal nations to house TANF facilities off the reservation and away from the population in need, contrary to the intent and needs of the TANF program.