

CHAPTER 1

Overview

1000 Ohio's Prevention, Retention and Contingency Program

State law establishing the Prevention, Retention and Contingency (PRC) program can be found in Chapter 5108 of the Ohio Revised Code (ORC). Under the PRC program, a county department of job and family services (CDJFS) is required to provide benefits and services needed to overcome immediate barriers to achieving or maintaining self sufficiency and personal responsibility. The CDJFS provides these benefits and services in accordance with their statement of policies for their PRC program (i.e., PRC Plan).

This statement of policies gives the CDJFS the authority to operate their program as further delineated in Section 2000 of this guide. The CDJFS is held responsible for funds expended or claimed within the PRC program.

The PRC program is a critical tool for Ohio counties to help families become and stay self-supporting. The PRC program provides for nonrecurring, short-term, crisis-oriented benefits and ongoing services that are directly related to the four purposes of the TANF program.

Prevention services are designed to divert assistance groups (AGs) from ongoing cash assistance by providing short term non-assistance.

Retention services are provided to assist an employed member of the AG in maintaining employment.

Contingency services are provided to meet an emergent need which, if not met, threatens the safety, health or well-being of one or more AG members.

The PRC program is funded by the federal Title IV-A Temporary Assistance for Needy Families (TANF) Block Grant. Ohio Department of Job and Family Services (ODJFS) administers the program in accordance with Title IV-A of the Social Security Act, 42 USC 601, Ohio's Title IV-A State Plan and state law.

1010 Laying the Groundwork for PRC: The Federal TANF Program

The PRC program was created by the Ohio General Assembly, but is governed by federal law and regulation because one of the main sources of funding is the federal Title IV-A TANF block grant issued to states to tailor their welfare programs to meet individual states' needs. As a result, this section addresses some of the requirements of the federal law and regulations governing TANF that relate to the PRC program.

Ohio's state law includes additional requirements specifically applicable to the PRC program and are discussed in detail later in this chapter.

A. The Four Purposes of the TANF Program

The TANF program encompasses a wide variety of services, benefits, programs, and employment and training activities that enable individuals to find employment, succeed at work and improve their economic circumstances. The TANF program also funds services to prevent out-of-wedlock pregnancies and support the formation and stability of two-parent families.

As a general rule, TANF funds must be used “in any manner reasonably calculated to accomplish” any of the four purposes of the TANF program. 64 Fed. Reg. 17826 (April 12, 1999). The four purposes of TANF can be found in federal law, 42 U.S.C. 601. As a result, in Ohio, this means that a program or service provided through the PRC program must accomplish one of the four purposes of TANF.

Below is an extensive excerpt from the Department of Health and Human Services (DHHS) guide, Helping Families Achieve Self-Sufficiency, explaining the four purposes of TANF [found at 42 U.S.C. 601(a)].

Purpose 1: “To provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives”

This purpose covers only needy families so children may live with their parents or other relatives. It does not cover children living with non-relatives.¹ A needy family is one that meets the income and/or resource standards established by the state in its TANF plan. A state may establish a variety of income and resource standards for “assistance” and other services and benefits.

This purpose is not limited to benefits that are within the regulatory definition of “assistance”. A state may provide other services in support of this purpose. For example, funding home repairs for needy families would be consistent with the purpose.

Purpose 2: “To end the dependence of needy parents on government benefits by promoting job preparation, work and marriage”

A state could help any needy parent, including a non-custodial parent or a working parent, by providing employment, job preparation or training services. Examples of potential services include job or career advancement activities, marriage counseling, refundable earned income tax credits and employment services designed to increase the non-custodial parent’s ability to pay child support.

¹ HHS has issued clarification which indicates that if state law provides that legal guardians or other individuals stand *in loco parentis*, then the state could provide benefits and services under this purpose. Under Ohio law, legal guardians and legal custodians stand *in loco parentis*. HHS TANF Program Policy Questions and Answers, <http://www.acfhhs.gov/programs/ofa/polquest/index.htm>

Activities that promote any one of the objectives – job preparation, work and marriage - would be consistent with this purpose.

Purpose 3: “To prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies”

This purpose is not limited to needy families or individuals. However, the state must establish objective criteria for the delivery of services to the non-needy. Potential activities that would be reasonably calculated to accomplish this purpose include family planning, clinical and follow-up services, abstinence programs, visiting nurse services and programs and services for youth such as counseling, teen pregnancy prevention campaigns and after-school programs that provide supervision when school is not in session.

Purpose 4: “To encourage the formation and maintenance of two-parent families”

A significant share of TANF families consists of unmarried mothers with low skills who live with their children apart from low-skilled, underemployed fathers. Many of these fathers are involved in the lives of their children and provide some financial support, but would like to do much more. Historically, the fathers have found limited employment opportunities, and welfare rules have worked to discourage family formation and fuller involvement of these fathers in the lives of their children.

Some activities that are reasonably calculated to accomplish this purpose might include parenting skills training, premarital and marriage counseling, and mediation services; activities to promote parental access and supervision; job placement and training services for non-custodial parents; initiatives to promote responsible fatherhood and increase the capacity of fathers to provide emotional and financial support for their children; and crisis or intervention services.

B. Purposes Previously Authorized Under a State’s Title IV-A State Plan as of August 21, 1996

PRC may also be used for purposes previously authorized under Ohio’s AFDC state plan even if they do not meet a purpose of TANF. It is important to note, however, that the use of funds in this manner is more restrictive than when funds are used for the four TANF purposes discussed above. First, in expending funds for this purpose, **counties must use the same eligibility criteria contained in Ohio’s AFDC state plan as of August 21, 1996. Prior law also dictates the scope and duration of the services.** The prior law requirements are outlined in Appendix A of this guide. In addition, expenditures for previously authorized services must be made from federal TANF funds and as such, must be tracked and identified separately for federal fiscal reporting purposes.

However, an advantage of using this option is that the prohibition on providing medical services does not apply to the use of funds for this purpose. Since Ohio previously covered certain limited medical services under Ohio’s 1996 AFDC state plan, we can continue to provide these types of services. Such services must be provided under the same eligibility criteria, scope and duration outlined in Ohio’s 1996 AFDC state plan.

1020 TANF “Assistance” and “Non-Assistance”

Federal law differentiates between “assistance” and “non-assistance” programs under TANF. This is an important distinction because if a family receives TANF “assistance,” there are many federal requirements that apply to the family which include:

- federal time limits on how long the family can receive assistance;
- work requirements;
- cooperation with child support; and
- additional detailed data reporting to the federal government.

Below is a comparison of federal law and Ohio’s TANF program:

45 Code of Federal Regulations (C.F.R.) §260.30 defines TANF “assistance” as:	In Ohio:
<p>"(a)(1) The term 'assistance' includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (<i>i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses</i>).</p> <p>(2) It includes such benefits even when they are:</p> <p>(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and</p> <p>(ii) Conditioned on participation in work experience or community service (or any other work activity under Sec. 261.30 of this chapter).</p> <p>(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.</p> <p>(b) Assistance <i>excludes</i> (thus making it “non-assistance”):²</p>	<p>Since Ohio provides TANF cash assistance to meet a family’s ongoing basic needs through the OWF program, county agencies may not provide any benefit or service that falls within the TANF definition of assistance through the PRC program. This prohibition does not preclude providing PRC benefits and services for non-recurrent, short-term needs that include food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses.</p> <p>Transportation for unemployed families must be a nonrecurring, short-term service not extending beyond four months. However, transportation for employed families can extend beyond four months.</p> <p>Ohio utilizes TANF funds at the state level to maximize child care services.</p>

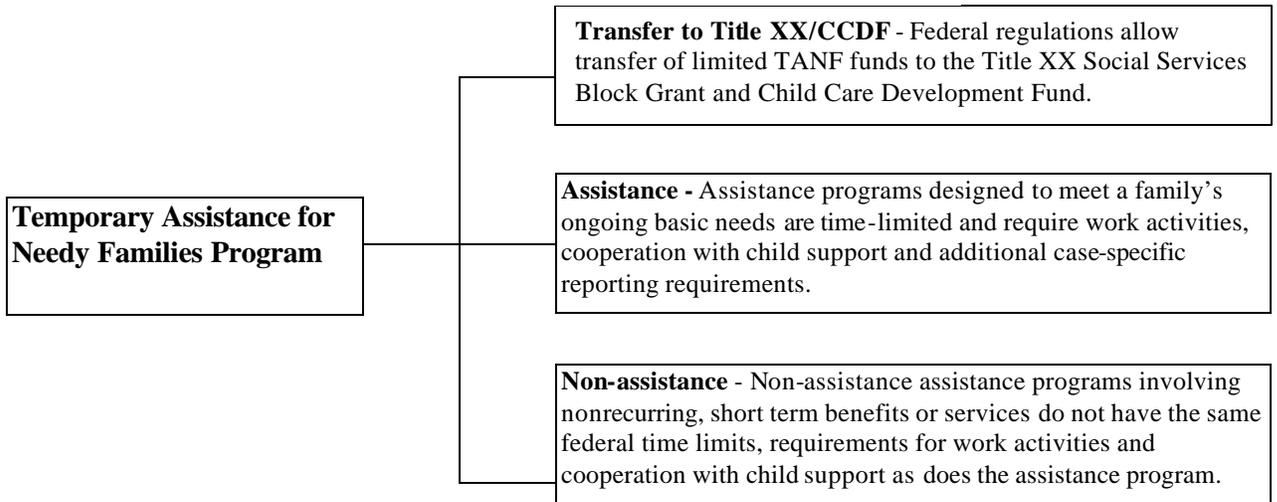
² It is important to note that HHS stated in the preamble to the federal regulations that:

<p>(1) Nonrecurrent, short-term benefits that:</p> <p>(i) Are designed to deal with a specific crisis situation or episode of need;</p> <p>(ii) Are not intended to meet recurrent or ongoing needs; and</p> <p>(iii) Will not extend beyond four months.</p> <p>(2) Work subsidies (i.e. payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);</p> <p>(3) Supportive services such as child care and transportation provided to families who are employed;</p> <p>(4) Refundable earned income tax credits;</p> <p>(5) Contributions to, and distributions from, Individual Development Accounts (IDAs);</p> <p>(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, and</p> <p>(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.</p> <p>(c) The definition of the term assistance specified in paragraphs (a) and (b) of this section:</p> <p>(1) Does not apply to the use of the term assistance at part 263, subpart A, or at part 264, subpart B, of this chapter; and</p> <p>(2) Does not preclude a State from providing other types of benefits and services in support of the TANF goal at 260.20(a).</p>	<p>The payment of work subsidies or employee wages for longer than four months is an allowable “non-assistance” benefit.</p>
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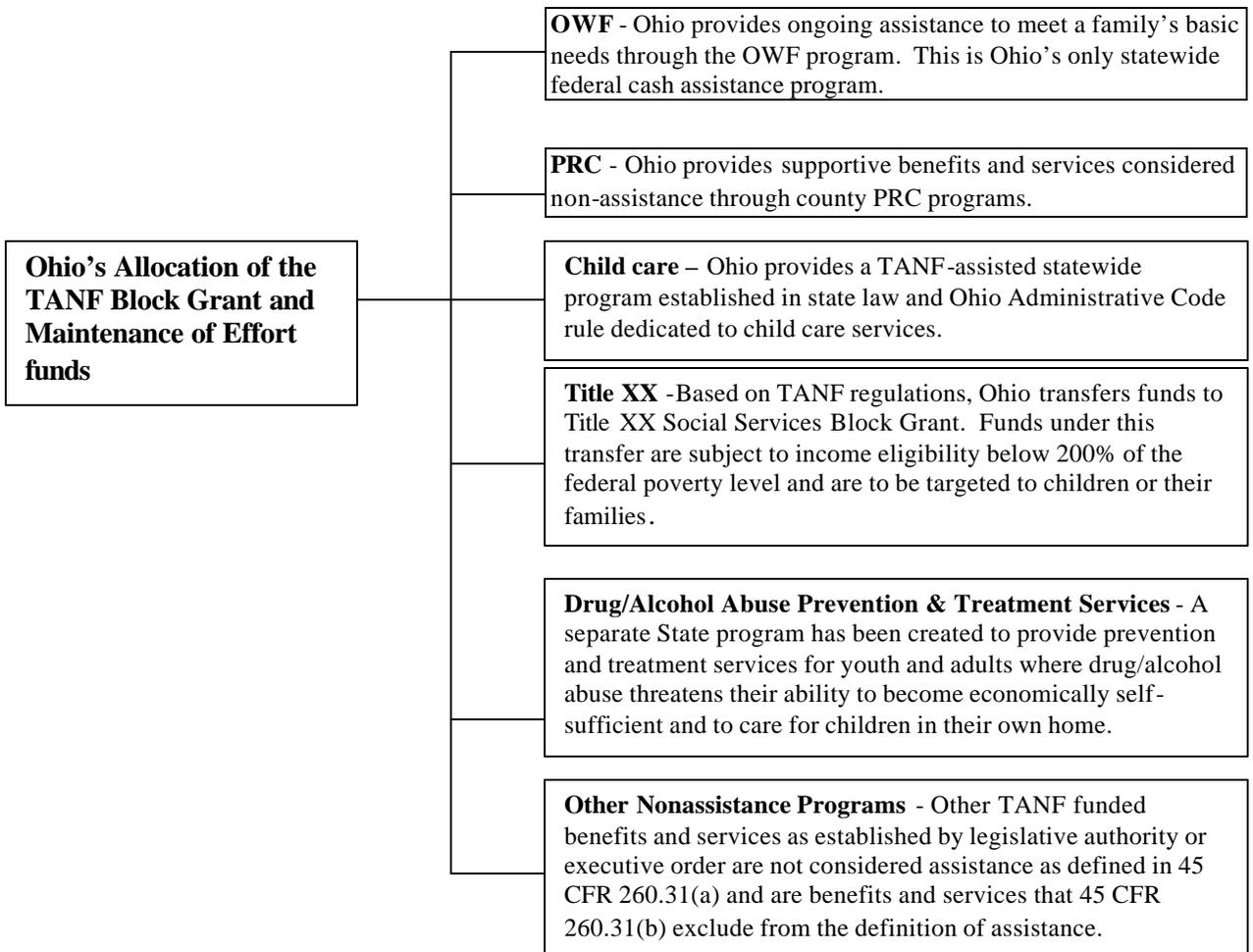
We did not want a state to bundle several months' worth of assistance into a single assistance payment in order to avoid TANF requirements for itself or the family....It is not appropriate for States merely to condense the time period over which they pay assistance to needy families so that they can categorize the benefits as "non-assistance" and avoid TANF requirements.

As a result, a state cannot design a program that provides a benefit that lasts four months and fit within the definition of “non-assistance” unless the benefit is meant to deal with a short term crisis situation or episode of need and is not intended to extend beyond four months. 64 Fed. Reg. 17761 (April 12, 1999).

THE FEDERAL TANF PROGRAM



HOW OHIO IMPLEMENTS THE TANF PROGRAM



1030 Federal Limitations and Requirements

When planning to provide new and expanded services, supports and activities under non-assistance programs, a CDJFS should be aware of certain federal statutory requirements, restrictions, and cost principles applicable to the TANF program. The TANF program is established under 42 U.S.C. 601 *et seq.* and 45 C.F.R. Parts 260-265. The federal agency responsible for administering the TANF program is the Department of Health and Human Services (HHS). Certain other federal laws and regulations also apply to the TANF program.

A. Federal TANF Statutory Requirements

1. The Catalog of Federal Domestic Assistance (CFDA) identifies the Federal TANF grant by the number 93.558. The CFDA provides a detailed description of the TANF grant's requirements and restrictions. Counties are to reference the CFDA number in all of its TANF-funded contracts.
2. State and local TANF programs must be consistent with federal law, including meeting one of the four purposes of TANF, and applicable TANF regulations.
3. Any state and local TANF program, including "non-assistance" programs, must be set forth in a state plan which delineates:
 - objective criteria for delivery of services and benefits;
 - how eligibility will be determined; and
 - procedures for the fair and equitable treatment of those who apply for the program.
4. The TANF program cannot be used for medical services, except for pre-pregnancy family planning services. Medical services include inpatient and outpatient medical services as well as mental health and substance abuse treatment. The only exception is that the CDJFS may provide certain medical services in accordance with Ohio's August 21, 1996 Title IV-A State Plan. For additional information on Previously Authorized Medical Services, reference Section 1010 and Appendix A of this guide.

A county's PRC program *can* include:

- non-medical services such as outreach to ensure medical coverage; and
 - an initial assessment of need for drug and alcohol services.
5. In order to carry out one of the statutory purposes of the TANF program, counties may contract for expansions of services in other federally funded programs, unless it would violate Congressional intent. An example of a possible expansion would be to contract with adult education programs for additional ESL classes. However, counties could not contract to use Federal TANF funds for inoculations; there is a specific statutory prohibition on using TANF funds to provide medical services.

Additionally, federal funds for the TANF program may not be used to supplant spending in the areas of child support enforcement, foster care, or adoption assistance under Titles IV-D and IV-E of the Social Security Act.

6. A state or county may not use federal TANF program funds to satisfy a cost-sharing or matching requirement of another federal program unless specifically authorized by Federal law. However, to foster expenditures on transportation services that could help low-income families access employment, section 3037 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178) specifically allows states/counties to use federal funds (up to a statutory limit) to help meet cost-sharing requirements under the Job Access program.
7. Federal TANF program funds may not be used to construct or purchase buildings or facilities, or to purchase real estate. This restriction is based on the general rule, in a long line of Comptroller General decisions, that in the absence of specific legislative authority, appropriated funds may not be used for the permanent improvement of property, including construction and purchase. For example, see the decision at 42 Comp. Gen. 480 (1960).
8. States and counties must comply with federal TANF reporting requirements. In Ohio, this is accomplished, in part, by posting each county's PRC plan on the Internet and by use of the TANF Web Reporting Tool and Client Registry Information System-Enhanced (CRIS-E) tracking.
9. Any costs charged to the TANF program must be necessary, reasonable, and allocable to the program. 45 CFR 92.42 requires states and counties to keep records to document claims, including adequate records on program eligibility. Refer to ODJFS Legal Brief 02-01, "PRC and Other Non-assistance Eligibility Determinations", available at <http://innerweb/Ols/briefs/index.shtml> for applicability to county PRC programs.
10. A state or county may not use TANF funds for general expenses required to carry out other responsibilities of the county (e.g., building roads providing public education, etc.).

B. General Procurement and Grants Management Requirements for Federal Funds

TANF funds are federal funds. As a result, federal procurement and grants management regulations apply to TANF funds. Requirements for counties are set forth in the ODJFS Administrative Procedure Manual which can be found on the ODJFS website. Counties are encouraged to work with the ODJFS Office of Fiscal Services to determine how to account for the program and how to apply federal procurement and grants management requirements.

C. Civil Rights Laws

The following civil rights laws apply to states, counties and other public and private entities that receive federal financial assistance and provide funds, training, and other services and benefits under the TANF program. The laws require that federally assisted programs be administered in a manner that does not discriminate or have the effect of discriminating, on the basis of race, color, national origin, disability, sex, age, religion or political belief. Additional information on the civil rights laws can be found at <http://www.hhs.gov/ocr/tanfintro.htm>.

1. **Section 504 of the Rehabilitation Act of 1973**, as amended, prohibits discrimination on the basis of disability by recipients of Federal financial assistance. 29 U.S.C. 794, Section 504.
2. **Title II of the Americans with Disabilities Act of 1990 (ADA)** provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any entity. 42 U.S.C. 1201.1 et seq.
3. **Title VI of the Civil Rights Act of 1964**, as amended, prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other Federal financial assistance. Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. 42 U.S.C. 2000d et seq.
4. **The Age Discrimination Act of 1975** prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance. A provider generally may not exclude, deny, or provide different or lesser services to applicants or beneficiaries, on the basis of age. 42 U.S.C 5101 et seq.

D. Employment Laws

Federal employment laws such as the Fair Labor Standards Act (FLSA), the Occupational Safety and Health Act (OSHA), Unemployment Insurance (UI), and anti-discrimination laws apply to welfare recipients as they apply to other workers. For more information, see ODJFS Office of Legal Services Legal Brief 98-01, "Application of the Fair Labor Standards Act to TANF Work Activities," <http://innerweb/Ols/briefs/BRIEF9801.PDF> and the Department of Labor's guidance, "How Workplace Laws Apply to Welfare Recipients," <http://www.dol.gov/asp/w2w/welfare.htm#How>.

1040 TANF Penalty Provisions

Federal regulations provide for penalties in situations where it is determined that a violation has occurred with the use of federal TANF program funds. State law provides for penalties for failure to comply with state or federal law, which includes the use of TANF program funds.

Violations range from a failure to submit required reports to intentionally misusing federal TANF program funds. Penalties, as set forth in 45 CFR 263 through 45 CFR 265, could be applied as a result of these violations. The penalties range from repayment of the amount of the misused funds to a reduction in a state's TANF block grant of nearly \$30 million for each quarter that a report is not filed.

Violations of federal or state requirements, as set forth in section 5101.24 of the Ohio Revised Code, range from the failure to comply with a corrective action plan to a failure to comply with state, federal law or a Governor's Executive Order. Penalties that could be applied for violations include the reimbursement to ODJFS of the cost of the federal penalty, adverse audit finding or adverse quality control finding to sharing a federal sanction with ODJFS.

Appendix B contains a chart with more information on potential federal TANF penalties.