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# Temporary Assistance for Needy Families Program Instruction

U.S. Department of Health and Human Services  
Administration for Children and Families Office  
of Family Assistance  
Washington, DC 20201

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No. TANF-ACF-PI-2020-02

Date: July 22, 2020

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- TO:** Tribal agencies administering the Tribal Temporary Assistance for Needy Families (TANF) Program.
- SUBJECT:** Questions and answers about Tribal TANF and the Coronavirus Disease 2019 (COVID-19) pandemic.
- REFERENCES:** Title IV-A of the Social Security Act and implementing regulations in 45 CFR Part 286, and TANF-ACF-PI-2007-08 (Using Federal TANF and State Maintenance-of-Effort (MOE) Funds for Families in Areas Covered by a Federal or State Disaster Declaration).
- PURPOSE:** To address questions about how the Tribal TANF program can respond to the COVID-19 pandemic.

## BACKGROUND:

As a consequence of the Coronavirus Disease 2019 (COVID-19) pandemic, the United States is experiencing a nationwide emergency, implicating both public health and the economy. Secretary Azar declared a nationwide public health emergency on January 31, 2020, and President Trump declared a national emergency on March 13, 2020.

The Office of Family Assistance (OFA) has heard from several grantees expressing concerns about the implications of the COVID-19 pandemic for the Tribal TANF program and is fielding many questions about how Tribal TANF can help support people affected by it. Its top priority is the public health and safety of all those operating its programs and receiving its services. Increased need in many tribal nations for basic assistance and other financial benefits may arise as a result of the pandemic. With that in mind, this program instruction (PI) builds on [TANF-ACF-PI-2020-01](#) (Questions and answers about TANF and the Coronavirus Disease 2019 (COVID-19) pandemic), found at <https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2020-01>, which addressed questions and answers about how state and tribal grantees might use TANF to help those in need and TANF's administrative flexibilities for both states and tribes. This program instruction addresses frequently asked questions about the flexibilities available to tribes and the requirements for providing non-recurrent, short-term (NRST) benefits to those in need as a result of COVID-19.

## QUESTIONS AND ANSWERS:

1. **Question:** Our Tribal Family Assistance Plan (TFAP) allows us to exempt up to 20 percent of our caseload from our 60-month time limit due to hardship exemptions, the nature of which are specified in our plan. Will we be able to exempt more than 20 percent of the caseload based on the COVID-19 pandemic?

**Answer:** No, but OFA may grant a reasonable cause exception to a penalty of a tribe's failure to comply with the maximum exemption rate to the time limit if it is due to the pandemic. Tribes may extend federally funded assistance to a limited number of families who have

reached the time limit in the Tribal Family Assistance Plan (TFAP) if the families have experienced hardship, as defined by the tribe, or include an individual who has been battered or subjected to extreme cruelty, as defined in the statute. 45 CFR 286.115. The average monthly number of families receiving federally funded assistance for more than the time period in the TFAP should not exceed 20 percent of the tribe's average monthly caseload (or the negotiated rate). 45 CFR 286.120.

If a tribe is nearing the 20 percent exemption or their negotiated rate, then the guidance OFA provided in its recent [program instruction](#) related to a work participation rate penalty would also apply in the event of a time limit penalty. By that, OFA means that it has authority to grant a reasonable cause exception to a penalty of a tribe's failure to comply with the maximum exemption rate to the time limit on federally funded assistance and will exercise this authority to the maximum extent possible. Analogous to the information OFA provided in TANF-ACF-PI-2020-01 (Questions and answers about TANF and the Coronavirus Disease 2019 (COVID-19) pandemic) found at <https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2020-01> with respect to a work participation rate penalty, where there is a demonstrable connection between the grantee's failure to comply with the maximum exemption rate and the COVID-19 emergency, OFA expects to exercise its authority to grant penalty relief.

If the list of hardship exemptions in your TFAP does not include a situation that would apply under the current circumstances (e.g., unemployment, furlough, government order that prevents client from exercising their profession), an amendment to include a broader range of circumstances can be proposed and given preliminary approval as described in TANF-ACF-PI-2020-01 (Questions and answers about TANF and the Coronavirus Disease 2019 (COVID-19) pandemic) found at <https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2020-01>.

Please note that Tribes must not count towards their time limit any month of receipt of assistance by an adult during which the adult lived in Indian country or in an Alaska Native village in which at least 50 percent of the adults were not employed. 45 CFR 286.115(d)(3). Thus, if a tribe serves an area of Indian country or a Native Alaska Village that has reached 50 percent of unemployment, it should not count the months the TANF client resides there while unemployment is at 50 percent or more toward the time limit.

2. **Question:** Is a Tribal Family Assistance Plan provision for nonrecurring short term (NRST) benefits required to include an asset limit in its definition of "needy family"?

**Answer:** No, an asset limit is not required for NRST benefits. OFA recommends an asset limit as a best practice for determining need (excepting one home, automobile(s) necessary for the family unit to get to work, tools necessary for work, cultural items, etc.). However, an asset limit is not required.

Each tribe proposes its own criteria for "needy family" for nonrecurring short term benefits. If in your TFAP, the criteria for "needy family" includes an asset limit, then it would apply absent an amendment. In the current environment, you may wish to limit easily accessed assets (cash, savings accounts, etc.), but not items that would be difficult to convert to cash because of stay at home orders.

3. **Question:** Who has the authority to define what is a "needy family" for NRST benefits?

**Answer:** Tribes may define what a "needy family" is for NRST benefits. In accordance with TANF COVID-19 PI-ACF-PI-2020-01, TANF programs may use TANF funds to provide

NRST benefits:

- An NRST benefit (1) is designed to deal with a specific crisis situation or episode of need; (2) is not intended to meet recurrent or ongoing needs; and (3) will not extend beyond four months. 45 CFR 286.10(b).
- NRST benefits may be issued in the form of cash, vouchers, or direct service.
- NRST benefits may be used to address a variety of needs, such as helping a family who has lost income due to COVID-19; short-term rental or mortgage assistance; utility and energy assistance; housing search and placement services; clothing allowances; family support services to deal with stressful events; financial and credit counseling; certain legal services (see <https://www.acf.hhs.gov/ofa/resource/q-a-use-of-funds> questions 19 and 20); and administrative costs associated with any of these activities.

Only needy families may receive NRST benefits. In their TFAPs, tribes determine the definition of needy family. 45 CFR 286.75. OFA approves the TFAPs. Tribes may set different income levels for regular monthly assistance and NRST benefits or Diversion assistance. Typically, the threshold for NRST benefits is higher than for monthly assistance. For instance, one tribe has a threshold of 125 percent poverty for monthly assistance but 250 percent poverty for diversion or NRST benefits. This difference allows the tribe to assist families who may be making a living wage and who do not normally need ongoing assistance to manage an economic crisis. While incomes for NRST benefits can be higher, the families who receive them must have some level of need, and no proposal exceeding 300 percent of poverty (\$78,600 for a family of 4) has been accepted.

4. **Question:** Is the COVID-19 Pandemic sufficient to meet the “specific crisis or episode of need” element of the NRST benefits regulation? What about “Shelter in Place” and “Stay at Home” orders?

**Answer:** No, neither the pandemic nor the orders are sufficient to meet the “specific crisis or episode of need.” In addition to meeting the income levels set out in the TFAP to qualify as a needy family for an NRST benefit, the family must be facing a specific, individualized crisis situation or episode of need. Examples of specific crisis include a fire destroying a family’s home, a domestic violence incident, or the transmission in a family car going out. The crisis cannot be one, such as the pandemic, that is a generalized episode affecting everyone. This is because not everyone may need funding from a generalized episode. For instance, as a result of the pandemic, many people have lost their employment. However, many others have not. Some specific situations, including a member of the assistance unit losing their job, having hours reduced, or suddenly needing daycare because schools are closed, could be considered an episode of need. In contrast, those who have not lost income or suffered increased costs as a result of the pandemic, may not need additional funds as a result of the pandemic. Although tribes determine what constitutes an episode of need, OFA requires that grantees look at how each family is actually affected by COVID-19 specifically before providing a NRST benefit.

5. **Question:** What documentation is required to establish need for NRST benefits? Is a statement of need sufficient?

**Answer:** Tribes must have documentation showing a specific episode of crisis for each family receiving NRST benefits. Within that requirement, in the current pandemic, tribes can streamline their application procedures.

Analogous to TANF-ACF-PI-2020-01 (Questions and answers about TANF and the Coronavirus Disease 2019 (COVID-19) pandemic), found at <https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2020-01>, Question 5:

5. Question: Are there ways that states and tribes can alter benefits or ease requirements on TANF applicants or recipients during the emergency?

Answer: Yes, grantees could use current TANF flexibility in a range of ways, including: Streamlining the application process to expedite eligibility and payment determinations, and offering online or telephonic applications to minimize face-to-face contact;

Thus, if an applicant has documentation he or she can provide (e.g., furlough letter, eviction notice, etc.) which he or she can submit (e.g., by taking a picture on his/her phone and emailing it) then he or she should submit it. If the applicant is unable to do so, a declaration of need would suffice so long as it is specific to the applicant (e.g., “I lost my job because the beauty shop I worked at closed as a result of COVID-19 stay at home orders.”), and submitted and documented under the program’s expedited procedures.

**INQUIRIES:** Please direct inquiries to the TANF Program Manager in your region.

/s/

Clarence H. Carter  
Director  
Office of Family Assistance