



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

Office of Family Assistance
Administration for Children and Families, 5th Floor East
370 L'Enfant Promenade SW
Washington, DC 20447

RE: Interim Final Rules Implementing the Deficit Reduction
Act of 2005 Regarding Certain Provisions of the Temporary
Assistance for Needy Families

To Whom It May Concern:

The Consortium for Citizens with Disabilities (CCD) is a coalition of national consumer, advocacy, provider and professional organizations headquartered in Washington, DC. We work together to advocate for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The CCD TANF Task Force seeks to ensure that families that include persons with disabilities are afforded equal opportunities and appropriate accommodations under the Temporary Assistance for Needy Families (TANF) block grant program. We appreciate the opportunity to submit comments to the interim regulations called for in the Deficit Reduction Act of 2005 (DRA) as Congress reauthorized the Temporary Assistance to Needy Families Program.

In the preamble to the regulations, HHS called upon states:

. . . . to make every effort to engage individuals with disabilities in work activities. Disabled individuals on the TANF caseloads are capable of participating in productive work activities and deserve an opportunity to become self-sufficient through work. . . . States are encouraged to explore the capabilities of all TANF recipients to learn what they can do rather than focusing on their limitations. States may explore new ways to implement activities like specialized work experience sites that help families attain the necessary work skills to improve their ability to obtain employment.

In keeping with this philosophy, HHS exhorts states to comply with civil rights laws, including the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) as they try to comport with the new TANF regulations. The Office of Civil Rights (OCR) within HHS previously issued clear guidance

on how states are to comply with ADA and Section 504 and TANF and, in the preamble to these regulations, HHS reminds states of this guidance and their need to follow it. It is vital that the department recognize the importance of the ADA and Section 504 and their specific applicability to TANF. Unfortunately, this recognition seems to have been ignored when it came to drafting the regulations.

Two key principles of the ADA and Section 504 require that all program participants be provided (1) individualized treatment; and (2) an effective and meaningful opportunity to participate. To fulfill these principles, states must treat individuals on a case-by-case basis and provide reasonable accommodations, auxiliary aids and services to program participants. States are required to ensure equal access through the provision of appropriate services, to modify policies, practices and procedures to provide such access and to adopt non-discriminatory methods of administration. As currently written, states will find it difficult if not impossible to meet the requirements of TANF, as interpreted in the regulations, and also meet their ADA obligations.

As currently drafted, states will receive no credit for engaging an individual in productive activities that fall outside the narrow definitions included in the regulations, even if those activities help move the individual towards unsubsidized employment and are required as a reasonable accommodation under the ADA or Section 504. Similarly, if an individual engages in activities that meet the definitions in the regulations, but is unable, because of a disability, to engage for the number of hours required, the state gets no credit for serving that individual.

In response to numerous concerns that the restrictive nature of the definitions and method of calculating the work participation rates will undermine services to people with disabilities and help them transition into the workforce, HHS has consistently argued that they could be included in the remaining 50 percent. This response sends the wrong message. It suggests that if an individual with a disability cannot participate in the same manner as non-disabled participants his or her efforts and the efforts of the state deserve no credit. It may have the effect of penalizing states who are trying to serve people with disabilities and other significant barriers to employment.

This approach is not consistent with the goal of the Administration and Congress to move more individuals into work. It is inconsistent with President Bush's proclamation commemorating the July 26th anniversary of the Americans with Disabilities Act that stated "My Administration will continue its efforts to remove barriers confronting Americans with disabilities and their families so that every individual can realize their full potential." *Most importantly, this approach is inconsistent with the ADA and Section 504.* The regulations are likely to result in many individuals being denied access to needed services. The regulations are not likely to result in the eradication of barriers that prevent people with disabilities from participating fully in their communities. Instead, the restrictive definitions adopted threaten to undermine the important progress many states have made in tailoring services and supports to improve *all* families' capacity to achieve greater economic self-sufficiency;

CCD is concerned that in the absence of regulatory language that supports the provision of services to people with disabilities an even larger proportion of people with disabilities will be sanctioned or their assistance will end without the person getting the services and supports

they need to become economically self-sufficient. There is great potential that without modifications, these rules will have a discriminatory affect on people with disabilities.

There are, however, changes to the regulations which HHS has the authority to make that will offer all TANF recipients with disabilities a chance to succeed. These changes would make reasonable accommodations on work activity definitions for individuals with disabilities. They would also make reasonable accommodations on hourly requirements when necessary. The changes would better accommodate individuals with disabilities and parents caring for a family member with a disability. Finally, the recommended changes would modify the definition of “work-eligible” individuals to exclude from the participation rate calculation those individuals who are so disabled that they cannot participate in any work activities. Each recommendation is set forth in detail below.

(1) HHS should expand the definitions of work activities when a person with a disability needs accommodation under the ADA or Section 504.

There are several ways to expand the definitions of work activities to accommodate the needs of TANF recipients with disabilities. Under any of the approaches, states would need to conduct an assessment of the individual and develop a tailored employment plan that spells out the accommodations needed by that individual.

First, HHS could amend the regulations to allow States to broaden definitions for any of the 12 work activities set forth in the statute when accommodation is required under the ADA or Section 504. HHS should also add to the preamble language that provides examples of ways the 12 work activities could be amended.

Specific Recommendation:

Add a new section 45 CFR §261.3 as follows:

A state may count an individual’s participation in any of the 12 work activities set forth in the federal law, even if the activity is modified from the definitions set forth in section 261.2, when such modification is needed to provide access to program benefits and services for an individual with a disability and the following circumstances are met:

- (1) the individual has a disability as defined under the Americans with Disabilities Act;
- (2) the state has determined that under the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act, a reasonable accommodation is needed with respect to participation in activities to provide access to program benefits and services;
- (3) the state and the individual have developed, and continue to modify, as needed, an individualized employment plan for the individual; and
- (4) the individual is meeting the terms of the individualized employment plan.

Add to the preamble at 71 Fed. Reg. 37457, the following examples of expanded definitions that could be used under new section 45 CFR §261.3:

There are a variety of ways States could expand the definitions of work activities in order to provide reasonable accommodations to individuals with disabilities, but we are including three examples to help States as they work to meet the needs of individuals with disabilities. These examples are not meant to be exclusive, but merely illustrative of ways States can comply with the provisions of TANF, the ADA and Section 504.

First, a State could expand the definition of “work experience.” As noted in the preamble on page 37458, work experience includes activities that provide the individual with an opportunity to acquire the general skills, training, knowledge and work habits necessary to obtain employment. The purpose of work experience is to improve the employability of those who cannot find unsubsidized employment. There are a range of services, supports and activities that individuals with disabilities may need to become more employable. They may, for example, need to obtain habilitation services, substance abuse or mental health treatment, physical therapy, occupational therapy, or other rehabilitative services before they will be able to acquire the general skills, training, knowledge and work habits needed for employment. While rehabilitative activities can be counted under the regulations as “job readiness” activities for up to four consecutive weeks and up to six weeks (or 12 weeks in “needy” states) total, that may not be enough of an accommodation for some individuals with disabilities. Thus, States may broaden the definition of “work experience” for individuals with disabilities to count these activities for a longer period of time.

Second, a State could expand the definition of “community service” for individuals with disabilities. For individuals with disabilities who need more rehabilitative services than can be counted under “job readiness,” States could define community service to include these activities, recognizing that while such services clearly benefit the individual, the entire community also benefits when individuals are able to participate more fully in community life, to become more independent and self-sufficient and enhance the well-being of their children.

Third, a State could broaden the definition of “job skills directly related to employment” to accommodate the needs of individuals with disabilities. The regulations define this work activity as training and education required by an employer that provides an individual with the ability to obtain, advance or adapt to the changing needs of the workplace. Typically, this work activity would not encompass rehabilitative services. However, for individuals with disabilities to have meaningful access to such job skills training, they may need to engage in rehabilitative services for more than the period such activities count under the “job readiness”. In such cases, States may expand the definition of “job skills training directly related to employment” to include such services. If States choose to provide reasonable accommodations by expanding this definition, they may also need to provide reasonable accommodations on the hours that a person may participate in these services. Generally, participation in “job skills directly related to employment”

count only after an individual has participated in activities listed in Section 407(d)(1), (2), (3), (4), (5), (6), (7), (8), or (12) of the Act, often referred to as “core work activities,” for at least 20 hours. However, for individuals with disabilities, an accommodation with regard to hours may be needed. States may deem the number of hours that an individual with a disability participates as meeting the full hourly participation requirement if the State has determined that the individual has a disability and needs an accommodation of the hourly requirements and if the individual has met his/her individualized hourly requirements. The accommodation of the hourly requirements can be with respect to the total number of hours of participation or the mix between hours of participation in core and non-core activities.

If HHS does not want to have States make reasonable accommodations by broadening any of the 12 work activity definitions, HHS should expand one of the definitions so that that category permits states to count rehabilitative services, beyond the limits set forth in “job readiness,” when needed to make a reasonable accommodation under the ADA or Section 504. There a number of ways to expand the definitions. For example, HHS could expand the definition of “work experience,” “community service” or “job skills directly related to employment” when an individual with a disability needs an accommodation under the ADA or Section 504.

Specific Recommendation:

Amend 45 CFR §261.2(e) by adding, after the last sentence:

Work experience can also mean activities in which an individual with a disability, as defined under the Americans with Disabilities Act, participates pursuant to an individualized employment plan in which the State has determined that, under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act, a reasonable accommodation of work-related activities should be granted in order to provide the individual with access to the program’s benefits and services.

Or

Amend 45 CFR §261.2(h) by adding, after the last sentence:

Community service programs can also mean activities in which an individual with a disability, as defined under the Americans with Disabilities Act, participates pursuant to an individualized employment plan in which the state has determined that, under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act, a reasonable modification of work-related activities should be granted in order to provide the individual with access to the program’s benefits and services.

Or

Amend 45 CFR §261.2(j) by adding, after the last sentence the following:

Job skills training directly related to employment can also mean activities in which an individual with a disability, as defined under the Americans with Disabilities Act,

participates pursuant to an individualized employment plan in which the state has determined that, under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act, a reasonable modification of work-related activities should be granted in order to provide the individual with access to the program's benefits and services. When such an accommodation is needed, States may deem the number of hours that an individual with a disability participates as meeting the full hourly participation requirement if the State has determined that the individual has a disability and needs an accommodation of the hourly requirements and if the individual has met his/her individualized hourly requirements. The accommodation of the hourly requirements can be with respect to the total number of hours of participation or the number of core hours of participation required for activities listed in 42 U.S.C. §607(d)(1), (2), (3), (4), (5), (6), (7), (8), or (12) of the Act.

Whichever option HHS takes to expand the definitions of work activities when a person with a disability needs accommodation under the ADA or Section 504, HHS should delete the following references from the preamble.

Specific Recommendation:

Amend the preamble at 71 Fed. Reg. 37458 in the second column by striking the language as follows:

~~Some existing State work experience programs include activities that fall outside this definition. For example, several States count job search, job readiness activities, and vocational educational training as part of a work experience program. In some instances, it appears that States integrated these activities into work experience to avoid various limitations, such as the six-week limitation on counting job search and job readiness assistance. We will not permit these practices under this interim final rule.~~

Amend the preamble at 71 Fed. Reg. 37460, in the first column, by striking the language as follows:

~~The definition limits the activity to what many commonly think of as "community service." It excludes, for example, activities such as participation in substance abuse treatment program, mental health and family violence counseling, life skills classes, parenting classes, job readiness instruction, and caring for a disabled household member, which while important and beneficial, are not primarily directed at benefiting the greater community.~~

Amend the preamble at 71 Fed. Reg. 37460, in the second column, by striking the language as follows:

Activities that are not an integral part of community service cannot count.
~~For example, substance abuse treatment may be a prerequisite for participation in work activities, but it does not count under community service because it is not an integral part of the community service activity.~~

Amend the preamble at 71 Fed. Reg. 37461, in the second column by striking the language as follows:

~~Some States include barrier removal activities as job skills training, such as substance abuse counseling and treatment, mental health services, and other rehabilitative activities. While we encourage states to work with individuals in these areas, the definition of job skills training focuses on educational or technical training that is specifically designed to help individuals move into employment.~~

(2) HHS should allow for accommodation of hourly requirements by deeming the number of hours a TANF recipient with a disability or an individual caring for a family member with a disability participates in an activity to be the number of hours required under the work participation rate.

Some individuals may be able to engage in the activities as defined in the regulations but may not be able to participate in these hours for the requisite 20, 30 or 35 hours per week because of their disability. Similarly, a person caring for a child or family member with a disability may not be able to participate for the standard number of hours because they need to provide care for the family member. [HHS excludes some individuals caring for family members from the work participation calculations – recognizing that caring for a family member with a disability can be a full-time endeavor. On the other hand, some individuals caring for a family member with a disability will not be exempt under the regulations but will also not be able to participate for the standard number or hours on some occasions.] In either case, HHS should deem the hours the individual participates to meet the applicable hourly requirement.

While the statute prescribes the number of hours for which individuals are required to participate, Congress specifically delegated to the Secretary in the DRA the authority to establish procedures for counting hours. HHS has already recognized that it has authority to count toward the participation requirements hours an individual does not actually engage in the activity. For example, in the regulations, HHS permits states to count hours the person was not participating due to excused absences and holidays. Similarly, HHS deems less than 20 hours of participation in “core work activities” to meet the 20 hour requirement when the individual cannot be required to participate in the activity for 20 hours due to the requirements of the Fair Labor Standards Act. By analogy, HHS should deem the number of hours an individual with a disability participates to meet the requisite hours, if the ADA or Section 504 requires less hours as a reasonable accommodation.

Specific Recommendation:

Amend 45 CFR § 261.31 to add a new subsection (e) and amend 45 CFR § 261.32 to add a new subsection (f) as follows:

We will consider a work-eligible individual who participates in work activities for the number of hours required under an individualized employment plan to have participated for the number of hours the individual would have been required to participate to count toward the state’s participation rate if:

- (1) the individual has a disability or cares for an individual with a disability as defined under the Americans with Disabilities Act;
- (2) the State has determined that under the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act, a reasonable accommodation is needed with respect to the total number of hours of required participation and/or the number of core hours of participation required for activities listed in 42 U.S.C. §607(d)(1), (2), (3), (4), (5), (6), (7), (8), or (12) of the Act to afford the individual with access to the program's benefits and services;
- (3) the state and the individual have developed, and continue to modify as needed, an individualized employment plan for the individual; and
- (4) the individual is meeting the terms of the individualized employment plan.

(3) HHS should also clarify that “attending school” relates to the child’s physical presence at school on a full-time basis.

We commend HHS for recognizing that parents caring for a child or other family member with a disability are often not able to participate in TANF work activities in the same way and to the same extent as other adults receiving TANF. Parents who are caring for children with a disability will be able to participate in work activities to varying degrees. Parents of children who are attending school on a full-time basis should generally be able to participate in work activities. However, as noted in our recommendation regarding hourly requirements, some parents will need modified hours as a reasonable accommodation because of the special needs of their children.

Many parents who have children with a disability that are not in school full-time cannot realistically participate in work activities, so we are pleased that HHS has excluded these parents from the definition of “work-eligible individual.” Under the regulations, the parent of a child with a disability who is not attending school full-time is excluded from the work participation calculations.

It is also important for HHS to clarify that “attending school full-time” relates to the child’s actual presence in the school. A child may be enrolled full-time, but not actually be in school because of holidays, vacations, medical appointments or illness. When the child is not actually at school, his or her parent is not available to participate in work activities and we suggest that HHS add to the language in the preamble to make this clear.

Specific Recommendation:

Revise Preamble Language at 71 Fed. Reg. 37462 to add the underlined language:

We also chose to exclude from the definition of a work-eligible individual a parent providing care for a disabled family member living in the home who does not attend school on a full-time basis. We will consider that an individual is not attending school full-time during any month in which the school is closed for five days or more including periods of school vacation, including summer vacation. In addition, an individual is not attending school on a

full-time basis for any month during which the individual has been absent for more than five days. The State must provide medical documentation to support the need for the parent to remain in the home to care for the family member with a disability. We recognize that parents responsible for family members with a disability often encounter problems finding affordable and appropriate care and may not be able to participate in TANF work activities to the same extent as other adults. We therefore exclude them from the participation rate calculation.

(4) HHS should amend the definition of “work-eligible individual” to exclude a parent caring for a child or other family member with a disability even when the child or family member is not residing in the household.

The same policy reasons HHS articulated for excluding from the definition of “work-eligible individual” those individuals responsible for the care of a child or family member with a disability apply whether the person with the disability resides in the same home or not. As HHS notes, such caregivers often find it difficult to obtain affordable and appropriate care and thus are not able to participate in work activities in the same way as other adult TANF recipients. The regulations already include a safeguard by requiring medical documentation of the need for care. Thus, HHS should expand the exclusion to caregivers even when the person with a disability resides in different home. This modification of the regulations would allow a parent providing support and care to an elderly parent or an adult sibling during the period when no one else (e.g. a spouse, other sibling or family member) can provide care. The elderly parent or adult sibling may reside with someone who provides care at night, but is not able to do so during the day.

Specific Recommendation:

Amend 45 CFR §261.2(n)(2)(i) by striking the language “living in the home” as follows:

(2) The term also excludes:

(i) A parent providing care for a disabled family member ~~living in the home~~ who does not attend school on a full-time basis, provided that the need for such care is supported by medical documentation; and

(5) HHS should modify the definition of “work-eligible individual” to exclude two additional groups of TANF recipients – (1) parents who are awaiting a disability determination and (2) parents who would be eligible for SSI but for the durational requirement.

The current regulations exclude certain individuals from the definition of “work-eligible individuals”. For example, states may exclude parents who are receiving SSI benefits because, by virtue of their SSI receipt, a determination has been made that they are unable to work. It would be inappropriate to include such individuals in the work participation rate calculations. There are two other groups of parents who are in similar circumstances and HHS should allow states to exclude these parents from the definition of “work-eligible individuals.”

The first group includes parents who have applied for SSI or SSDI but who are waiting for final decision on their claims. The second group includes parents who would meet the eligibility standards for SSI or SSDI except that their disability is not expected to last 12 months or result in death. In both cases, if the state makes a determination that the individual meets the disability standards, they should be permitted to exclude such individuals from the definition of “work-eligible individual”. SSI and SSDI require applicants to offer significant substantiation of their disabling conditions. It makes no sense to include these individuals in the calculation of work participation rates as work-eligible following a determination they are simply unable to work.

Specific Recommendation:

Amend 45 CFR §261.2 (n)(2) by adding the following exclusions from the definition of “work-eligible individual:”

(iii) A parent who has an application pending for SSI or SSDI with the Social Security Administration and for whom the State has made its own determination that the individual meets the disability standard to qualify for the SSI or SSDI programs. The State must reassess the circumstances of these individuals every six months to determine if they still have an application for SSI or SSDI pending and if they still meet the disability standard; and

(iv) A parent who the State determines would meet the disability standard to qualify for SSI or SSDI but for the eligibility requirement that the disability has lasted or is expected to last for 12 consecutive months or result in death. The State must reassess the circumstances of these individuals every six months to determine if they still meet the disability standard but for the durational requirement.

Specific Recommendation:

If HHS declines to adopt the above recommendation, states should minimally be permitted to retroactively define parents whose SSI or SSDI applications are approved as not “work-eligible individuals,” at least until the participation rate calculations for the fiscal year are finalized.

(6) HHS should modify the definition of “work-eligible individuals” to give states the option to include or exclude individuals receiving Social Security Disability Insurance (SSDI) or state funded disability benefits from work participation rate calculations.

The regulations as written permit states to include or exclude non-recipient parents living with a child who is receiving assistance as work eligible individuals when the parent is a recipient of SSI. The preamble explains that:

SSI recipients are not eligible for TANF and we recognize that many are unable to work. Therefore, it would be inappropriate to require inclusion of these families. However, the Social Security Administration is working to remove disincentives to work from the SSI program and we would like to encourage states to support these efforts through their TANF programs. Therefore, we will allow States to receive

credit toward the TANF participation rates for any parents that are able to participate in these efforts by including their families in both the numerator and the denominator of the calculation of the participation rate on a case-by-case basis.

States that have state funded disability programs should similarly be able to include or exclude non-recipient parents receiving benefits under the state funded program from the definition of work eligible individuals. The same analysis also applies to non-recipient parents receiving SSDI.

Specific Recommendation:

Amend 45 CFR§261.2 (n)(1) by adding subsection (iv) and revising (iii) as follows:

- (i) A minor parent and not the head-of-household or spouse of the head-of-household;
- (ii) An alien who is ineligible to receive assistance due to his or her immigration status: ~~or~~
- (iii) At State option on a case-by-case basis, a recipient of Supplemental Security Income; or Social Security Disability Insurance (SSDI) or
- (iv) At State option on a case-by-case basis, a recipient of state funded disability benefits.

(7) HHS’ attempt to make definitions of work activities non-overlapping is inappropriate. The definitions should be more flexible because many of the most successful welfare-to-work programs include a mix of overlapping work activities.

The ultimate goal of all the work activities listed at 42 U.S.C. 607(d) is to move participants into unsubsidized jobs. Research indicates that the most effective programs combine a variety of activities, often based on the particular strengths and needs of the individual. As part of the President’s welfare reauthorization proposal, HHS itself promoted a program model that encouraged recipients to combine work and job search or job readiness activities.

However, the interim final regulations attempt to define work activities into mutually exclusive categories (45 CFR §261.2). This effort will discourage states from using transitional jobs programs and other model workforce programs that combine subsidized employment with job development, rehabilitative activities and training because core components of these programs will not be “countable” under the new regulations. For example, under the regulations, subsidized work, work experience, and community service may not include job search and job readiness activities. Similarly, subsidized work and work experience may not include education and training. (45 CFR §261.2) In addition, to the extent that multiple activities are “countable,” the burden of tracking and reporting hours of participation in each component of the program may discourage the use of such programs for TANF recipients, in spite of their proven effectiveness.

Although we can appreciate HHS’ desire for mutual exclusivity in the work activity definitions in order to provide clear lines between each activity and ease of comparability across states, it is unreasonable to expect that there will be no overlap between the types of training provided across work activities. In fact, HHS acknowledges that the listed work activities are often overlapping. In particular, HHS notes that other activities may be

“embedded” into community service and allows short-term training or similar activities to be counted as part of community service as long as they are “of limited duration and are a necessary or regular part of the community service.” The desire for simplicity and ease of comparison should not outweigh the strong evidence that programs with the most successful outcomes combine services and approaches.

HHS also asserts that mutually exclusive definitions are necessary to prevent states from subverting the statutory time limits on job readiness and job search. However, the time limit on job search and job readiness activities was designed to prevent clients from being left to languish indefinitely in unproductive job search, not to create barriers to helping recipients move into unsubsidized employment after participating in other services. A mix of work activities that embeds time and credit for job search is likely to facilitate a more rapid transition to unsubsidized employment for many work-eligible individuals

HHS should provide more flexibility in the tracking and reporting of work activities and should give states the ability to count all hours of participation in a program under one category even if the program provides other services and activities. For example, states should be permitted to count all hours of participation in subsidized employment, work experience, community service and on-the-job training even if some hours are spent in job development and rehabilitative activities. This flexibility should be available to states when the job development and rehabilitative activities are an integral part of the program and when the majority of the hours are in the primary work activity (e.g. subsidized employment, work experience, community service and on-the-job training. Comparable to the provision under community service, HHS should allow short-term training or similar activities to be counted as part of subsidized employment and work experience as long as they are “of limited duration and are a necessary or regular part” of the activity. HHS should also allow states to report all of the time spent in the program under the primary activity (e.g. subsidized work, community service etc.)

Specific Recommendation:

Amend 45 CFR § 261.60 to include the underlined text:

- (a) A State must report the actual hours that an individual participates in an activity, subject to the qualifications in paragraphs (b) and (c) and § 261.61(c). It is not sufficient to report the hours an individual is scheduled to participate in an activity.
- (b) If a recipient participates in more than one work activity as part of a single program, then all hours that the recipient participates in the program can count under a single activity if (1) that single activity constitutes the significant majority of the hours of participation and (2) the state has an approved Work Verification Plan that provides a methodology for determining when a program qualifies for this treatment and how the state will define "significant proportion."

[Re-label the existing subsections (b) and (c) as (c) and (d), respectively.]

Amend the preamble at 71 Fed. Reg. page 37459 by striking text as indicated and including the underlined text:

For example, a State may place an individual who is otherwise able to work but for the need to reinforce substance abuse treatment in to a special program in which a single provider coordinates work and treatment in a halfway house environment. As part of that treatment program, the individual fulfills assigned, supervised, documented work responsibilities for the benefit of all residents, such as preparing meals, housecleaning, or scheduling group activities. In that case, the State may report the hours the individual was in the work portion of the program, i.e. performing work that meets the requirements of these rules. ~~The time the individual spent in the treatment component does not count in the work category.~~ The time the individual spent in the treatment portion of the program could also be counted as a work activity if the substantial majority of the individual's time was spent in the work portion of the program. The time spent in the treatment portion of the program could also be counted if the individual participating has disability that requires accommodation under the ADA or Section 504.

We appreciate your consideration of our recommendations to improve states' capacity to support families that include an individual with a disability. We believe that states will not have the flexibility they need to appropriately serve people with disabilities in their TANF programs and comply with the federal TANF, ADA and Section 504 laws, without inclusion of the recommended changes.

We would welcome the opportunity to work with the Office of Family Assistance in the implementation of the regulations to promote strategies to facilitate inclusion and accommodation of families that include individuals with disabilities so that all families can make progress toward achieving greater economic self-sufficiency and ensure access to the supports they require to be successful. We can be contacted through CCD TANF Task Force co-chairs Julie Ward, at 202-783-2229 and Sharon McDonald, at 202-638-1526, ext. 109.

Sincerely,

ADA Watch

American Association of People with Disabilities

American Association on Mental Retardation

American Council of the Blind

American Counseling Association

American Dance Therapy Association

American Foundation for the Blind

American Music Therapy Association

American Network of Community Options and Resources

Association of Assistive Technology Act Programs

Association of University Centers on Disabilities

Autism Society of America

Bazelon Center for Mental Health Law

Council of State Administrators of Vocational Rehabilitation

Easter Seals

Epilepsy Foundation
Goodwill Industries International, Inc.
Helen Keller National Center
Learning Disabilities Association of America
Lutheran Services in America
National Alliance on Mental Illness
National Alliance to End Homelessness
National Association of Councils on Developmental Disabilities
National Association of Social Workers
National Association of State Head Injury Administrators
National Coalition for Disability Rights
National Coalition on Deaf-Blindness
National Council for Community Behavioral Healthcare
National Disability Rights Network
National Mental Health Association
National Organization of Social Security Claimants' Representatives
National Rehabilitation Association
National Respite Coalition
The Arc of the United States
United Cerebral Palsy