
**THE ALLOCATION OF TANF AND
CHILD CARE FUNDING
IN PENNSYLVANIA**

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EXECUTIVE SUMMARY

The Temporary Assistance for Needy Families (TANF) and child care block grants have given states tremendous flexibility in their spending choices. This paper examines how the Pennsylvania governor, the legislature, and officials in the Department of Public Welfare (DPW) used this flexibility to divide funds between different program areas and to allocate those funds across different areas of the state. Our assessment revealed the following:

- Changes to welfare and child care proceeded on different tracks in Pennsylvania. The legislature played a major role in welfare reform, and the welfare policy debate in Pennsylvania was heavily influenced by the national debate and the policy trends in the 1996 federal welfare reform law. In contrast, the state made changes to its child care system through a regulatory process, with little involvement from the legislature.
- TANF caseloads fell sharply during the early years of implementation—by 30 percent in the first two years—leaving the state with significant amounts of surplus TANF funds. By state FY 2000-2001, the state’s TANF “surplus” was \$588 million.
- Pennsylvania’s child care program, due in part to an increase in funds, effectively created an entitlement to benefits for TANF recipients and those who had recently left TANF for employment, although the program was not officially established as such an entitlement. Child care spending in Pennsylvania has more than doubled since 1996-1997. Prior to welfare reform, Pennsylvania had two separate child care systems, one for parents receiving welfare and one for those not receiving welfare. The reform offered a chance for better integration, which the state partially achieved.
- Beginning in 2000, the TANF surplus became a source of funding for other social service programs, including child welfare, and by the end of FY 2004-2005 the surplus had been almost depleted. The state spent substantial amounts of TANF funds on “activities previously authorized under federal law”—child-welfare related activities that were allowable under AFDC. In 2004, the state spent \$320 million in TANF block grant funds—more than 40 percent of its annual block grant allotment—on previously authorized activities.

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THE ALLOCATION OF TANF AND CHILD CARE FUNDING IN PENNSYLVANIA

I. INTRODUCTION

The 1996 welfare reform law replaced the Aid to Families with Dependent Children (AFDC) program with the Temporary Assistance for Needy Families (TANF) program, distributed in a block grant to states. The federal law made fundamental changes to welfare and child care programs, and gave states considerable freedom in implementing the various new policies. Pennsylvania began implementing its new welfare program in March 1997, pursuant to legislation signed by Governor Ridge in May 1996 and the subsequent passage of PRWORA by the federal government that same year.

Pennsylvania's welfare legislation, Act 35, of 1996 reformed the work-related requirements of the state's cash assistance program. However, most of the rules and procedures under which the Department of Public Welfare (DPW) had administered the AFDC program remained in effect as part of the new TANF program, except for those directly addressing employment and training. In contrast, neither the legislature nor the administration had well formulated views about the details of child care policy. As a result, the state took a much slower, consensus-driven approach that, despite disagreements and difficult transitions, eventually led to considerable improvements in the child care system. DPW implemented the new subsidized child care program by regulation in February 1999, although adjustments were made on a continuing basis.

The redesign of Pennsylvania's child care policy was deeply affected by the consolidation under PRWORA of federal child care funding in the Child Care Development Block Grant (CCDBG). This consolidation, plus the availability of TANF block grant funds, infused the system with significant new resources. Although a child care entitlement for cash assistance recipients was theoretically eliminated by PROWRA, as was the Transitional Child Care (TCC) program, the new program effectively worked as an entitlement program, with transitional benefits provided for all newly employed recipients. It took some time, however, until the program functioned smoothly and DPW officials reached a rough consensus with the child care community and advocates.

II. An Overview of the Welfare Reform Process in Pennsylvania

Prior to 1996, Pennsylvania had its share of legislative debate on welfare issues, but most of the General Assembly's attention was focused on the state's General Assistance programs of cash and medical assistance for adults without dependent children. On four separate occasions, the state government enacted major social welfare legislation, but each time the efforts included few provisions related to the AFDC program and virtually none related to the state's child care program. After several contentious debates, the legislature significantly reduced General Assistance benefits, leaving many in the legislature with little desire to revisit the welfare code.

After enactment of the federal Family Support Act of 1988, which required states to establish employment and education programs as part of their AFDC programs, Democratic Governor Robert Casey funded a new education and training initiative for AFDC recipients. Known as New Directions, the initiative created a Single Point of Contact (SPOC) designed to ease access to education and job training programs. SPOC unified the intake points for various employment and training programs offered by DPW. Although generally viewed as a successful improvement, New Directions was underfunded and never evaluated.¹

With the election of Republican Governor Tom Ridge in 1994, Pennsylvania Republicans controlled both the legislature and the governor's office. Unified Republican rule, coupled with a new focus on welfare reform on the national stage, nonetheless left Pennsylvania legislators reluctant to engage in a public debate about the AFDC program. The Ridge administration was also inclined to proceed cautiously and to await passage of the long anticipated federal welfare reform bill. Unlike many other states, which grew impatient and began redesigning their welfare systems, Pennsylvania bided its time and proposed no waivers to the existing AFDC program, as other states had, until just before passage of the federal act, and only then as a stopgap measure should the federal legislation stall. Once Congress passed the federal statute, they quietly withdrew the waiver request.

Despite its cautious approach, the Ridge administration was not enthusiastic about the state's emphasis on education and training for AFDC recipients, and wanted to recast the system to emphasize a work-first approach, citing what administration officials perceived as a positive with this approach in Riverside, California.² As implemented in Pennsylvania, work-first emphasized job search and short-term, on-the-job training and experience over education and longer-term training programs as the best route to advancement and self-sufficiency.

¹ Pennsylvania's Department of Public Welfare was, and continues to be, reluctant to publicly discuss or spend money on evaluations of its initiatives. Thus, the well-received "Step Up" program that aided Philadelphia AFDC recipients pursuing career-related associate degrees through community college went largely unevaluated. Similar silence continued even after the initiation of the TANF program, making it difficult to evaluate the effectiveness of various initiatives.

² See, for example, Evan Weissman, *Changing to a Work First Strategy: Lessons from Los Angeles County's GAIN Program for Welfare Recipients* (New York: MDRC, 1997). The department maintained that the Riverside study validated a work-first approach that provided few opportunities for education or training. Advocates strongly disagreed with this approach and their interpretation of the Riverside study..

As the national welfare reform debate heated up and it became clear that a federal bill was going to pass, Pennsylvania policymakers turned their attention to the issue. The administration and legislative leadership developed the new program during intense closed-door negotiations with the Ridge administration, led by Charles Zogby, the governor's chief aide on welfare matters; DPW Secretary Feather Houstoun; Deputy Secretary Sherri Heller; and Senator James Gerlach (R-Chester County). Those in committee quickly adopted the amended bill without hearing and no opportunity for amendment. Subsequently the full senate adopted it after only perfunctory debate. The bill then returned to the house for an up or down vote by the members. The bill passed the house in quick order, and the governor signed Act 35 on May 16, 1996.

Perhaps because they passed alongside a more controversial set of provisions that drastically cut state-funded medical assistance to those who did not qualify for federally funded Medicaid, the welfare provisions garnered relatively little public attention despite the efforts of the advocacy community.

Act 35 established a new work-first employment program known as the "Road to Economic Self-Sufficiency Through Employment and Training" (RESET). It closely followed federal legislation and mandated cash assistance recipients to enter into an "Agreement of Mutual Responsibility," conduct an eight-week job search upon applying for assistance, and engage in at least 20 hours of work after receiving assistance for two years. Pennsylvania law had long provided for progressively more severe sanctions for those who failed to comply with work requirements. The legislation re-enacted those provisions, added a lifetime disqualification for third violations and applied full family sanctions to families headed by a parent who violated the work requirements after receiving assistance for more than two years. Unlike the federal law, the state law exempted from the work requirements those who were unable to work because of physical or mental disability, and the law contained a "good cause" provision excusing other parents from participation if they had other exigent circumstances.

More surprisingly, Act 35 provided no explicit time limit for receipt of assistance, although the preamble stated that recipients should not be provided indefinite assistance, except for those who were permanently disabled or caring for a seriously disabled family member.³ Other provisions hewed more closely to federal legislation, including provisions addressing personal responsibilities of recipient families and restrictions on the eligibility of teen parents. The remainder of the law, and by far the most controversial provisions, dramatically limited the eligibility of childless adults for the state's Medical Assistance program, which until then had mirrored the design and benefits of Pennsylvania's Medicaid program.

In contrast to the state legislature's involvement in developing the new welfare-to-work law, the General Assembly left the redesign of the child care system, which had never been the subject of detailed legislation, to DPW. Such restraint was typical of the legislature, which generally enacts

³ 62 Purdon's Stat. 401.

laws in the public welfare area only to address perceived problems in the system. Otherwise, the legislature was and is content to delegate broad authority to the administering agency. This was particularly true when the same party controlled both houses of the legislature and the governor's office. Reinforcing the legislature's "hands off" attitude was the relative size of the child care program. The TANF block grant was \$719.5 million and the Child Care Development Fund (CCDF) was \$64 million in 1996 and \$113 million in 1997.

To make the necessary administrative changes to redesign the child care system, DPW had to amend state regulations, a process that includes considerable public input and often leads to more consensus on the final policy. DPW initiated the redesign in March 1997 by unveiling Child Care Works (CCW), its proposed plan to provide an integrated system of child care funding for Pennsylvania's low-income families.

Eventually Pennsylvania would redesign its child care system to function more smoothly and consistently as recipients moved from welfare to work. Under the new system, recipients of TANF cash assistance are eligible for child care when they look for work and while enrolled in job-search or training programs. When recipients obtain employment, child care assistance continues, although they must make co-payments that increase with income. When individuals leave or become ineligible for TANF, they transfer to a different child care program, although TANF leavers are automatically transferred and do not experience a waiting list. The system works fairly well and is generally perceived by all as an improvement over the former system. That said, the path from the old to the new system was not devoid of controversy. DPW has modified its position at several points to assuage public criticism and to correct problems that hampered recipients as they moved through the system.

Currently, the Rendell administration has committed additional resources to the child care system and has created a new Office of Child Development, headed by a former advocate, Harriet Dichter. Dichter reports directly to the Secretary of Public Welfare and also holds a complementary post in the state's Department of Education. This dual role is evidence of the administration's desire to improve the quality of child care and integrate it with the governor's focus on early education.

III. TANF AND CCDF SPENDING: TRENDS AND ALLOCATIONS

A. TANF

The spending pattern for the TANF block grant in Pennsylvania was straightforward. As Table 1 shows, spending for the first three years was markedly below the \$719.5 million block grant. Moreover, the state allocated generous amounts for programs, often drawing down enough in the first year of the TANF program to pay for the first year and a half of the program.

Table 1. TANF Expenditures and Balances in Pennsylvania (\$ in thousands)

Fiscal Year	Annual TANF Block Grant	TANF Expenditures	Annual TANF Balance	Cumulative TANF Balance
1996/97	\$267,338	\$171,225	\$96,113	\$96,113
1997/98	719,499	608,781	110,718	206,831
1998/99	719,499	604,559	114,940	321,771
1999/00	743,679	563,416	180,263	502,034
2000/01	719,499	633,241	86,258	588,292
2001/02	719,499	799,595	(80,096)	508,196
2002/03	719,499	902,640	(183,141)	325,055
2003/04	751,157	900,242	(149,085)	175,970
2004/05	719,499	885,279	(165,780)	10,190
2005/06	719,499	853,817	(134,318)	(124,128)

Note: Pennsylvania received TANF high performance bonuses in Fiscal Years 1999-2000 and 2003-2004.
Source: Pennsylvania House Appropriations Committee, Democrats, January 2005.

The most salient feature of Pennsylvania's block grant in the first three years of TANF was a conscious decision to spend less than the total annual block grant allocation. Deputy Secretary Heller said as much at the time, and later, when interviewed, she confirmed that intention. Both she and Secretary Houstoun were conservative in spending block grant funds, in part because they believed larger expenses could lie ahead because the remaining caseload would likely be composed of longer-term recipients with additional barriers. In addition, DPW anticipated that the economy would not always be so favorable and that it would be prudent to save some resources for periods of higher unemployment and the resulting growing caseload that such periods usually bring.

What DPW did not anticipate was the political pressure that arose from a large TANF surplus. Congress had begun to question the size of the TANF block grants nationally, given the accumulation of surplus funds in many states, and Pennsylvania was a frequent mention. At the same time, the advocacy community challenged the fairness of having a child care waiting list (for low-income families who had not received TANF) when large surpluses went untapped. In addition, the administration soon realized that the unspent funds in the block grant could be used to solve perennial budgetary shortfalls. Faced with these competing pressures, DPW began to spend more than the yearly amount of the TANF block grant in state FY 2001-2002.

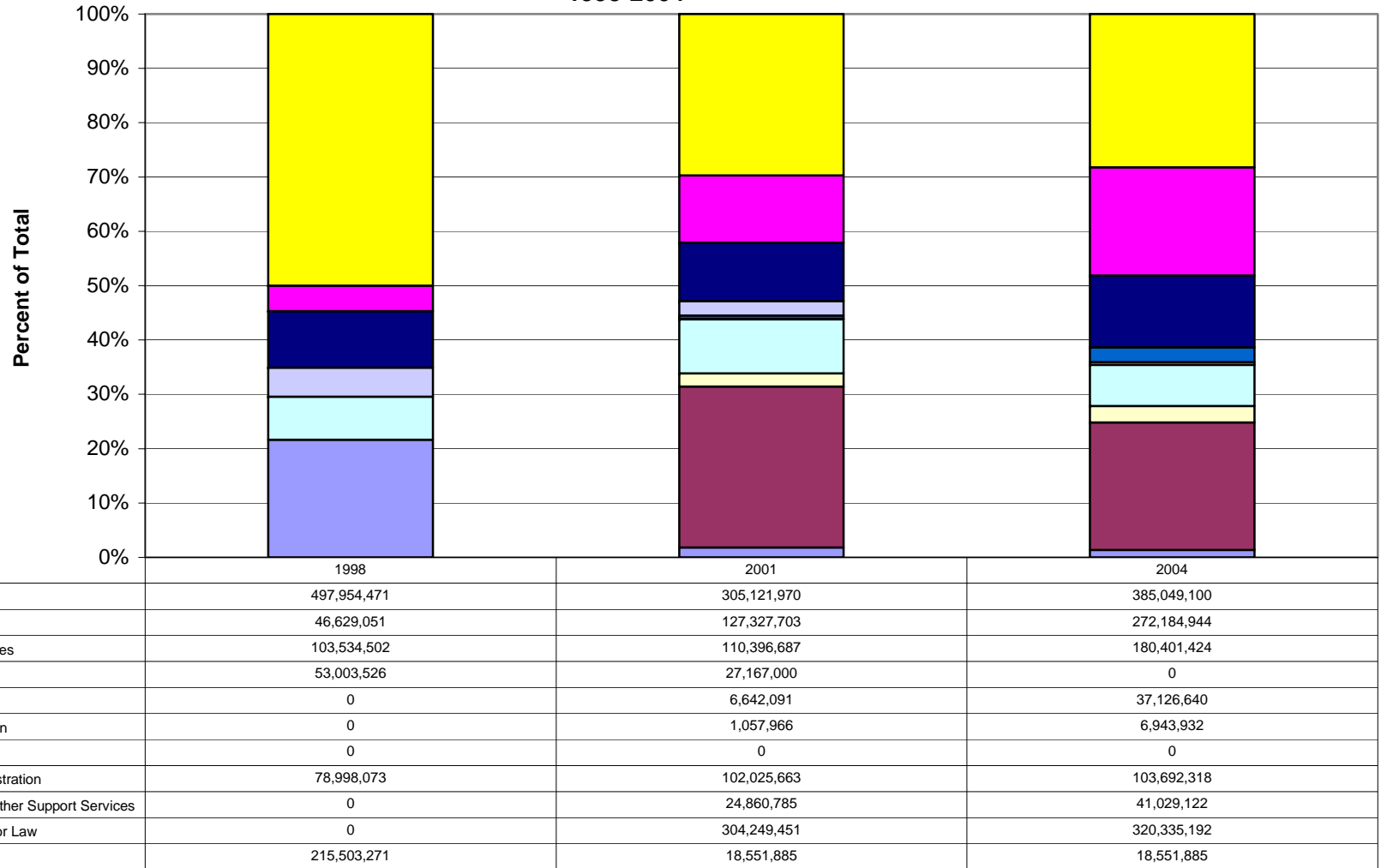
The state had many competing budget pressures during this period. The Ridge administration had committed itself to tax cuts for businesses. Many of Pennsylvania's 501 school districts were clamoring for more funding, after education spending was cut during the Casey administration. In addition, health care expenditures continued to grow. With these and other budgetary pressures in play, a surplus in TANF funds was unlikely to remain unclaimed. Add to these pressures the requests from local governments for additional support for child welfare services (one of the few county obligations in Pennsylvania's centralized human services administration), and the desire of the outgoing Republican administration to leave the incoming Democratic administration with as few reserves as possible, and it was inevitable that any TANF surplus would be spent by 2002. Since then, as this report outlines, TANF spending has been pay-as-you-go, with annual debate on how to reduce reliance on block grant money.

Spending on TANF cash assistance in Pennsylvania dropped steadily with the declining caseload between 1996 and 2001, over the first five years of TANF (Figure 1). That trend would reverse between 2001 and 2004, with cash assistance spending steadily increasing, largely owing to an economic downturn. Spending, however, remained more than \$100 million below its 1998 level. Spending on work-related activity has always been a large portion of TANF budgets, given that DPW contracted out many of those services, especially its quick attachment/work-first programs. Spending on work supports, as shown in the "transportation and other support services" data, also expanded as participation in work programs was encouraged. Transportation was a large portion of the spending in the middle years, and the administration partially replaced it with other funding sources when it became clear that some of the transportation funding, especially to transit authorities, was unsustainable.

In the early years of TANF, Pennsylvania transferred money to the Social Services Block Grant (SSBG), which paid for child care until the inauguration of Child Care Works in 1999 (see Section B). Thereafter, the administration, with approval by the General Assembly, transferred money to SSBG to compensate for federal cuts in SSBG funding and to pay for new initiatives. This transfer continued until the legislature retrenched TANF spending when reserves were depleted.

One notable feature of Pennsylvania's spending was the large growth in the category "authorized under prior law." Prior to TANF, Pennsylvania had used AFDC-Emergency Assistance funds to pay for certain child welfare services. The federal TANF law allows states to continue using TANF block grants for these services, even though they may not be consistent with the purposes of TANF or are otherwise prohibited by TANF restrictions. Suffice it to say that Pennsylvania, more than any other state, used TANF funding for child welfare services—until the expenditures eventually became unsustainable.

**Figure 1: TANF Spending and Transfers in Pennsylvania
1998-2004**



Source: Analysis of HHS TANF Financial data

B. Child Care

Spending for child care grew steadily after Pennsylvania began its new welfare program. The state used a combination of CCDF, TANF, and state maintenance of effort (MOE) funds to pay for child care, but officials within the child care program never shaped policy by the source of the funds. Instead, Pennsylvania transferred funds as needed, making the source of funds relatively unimportant to the design and operation of the program. Thus, when Pennsylvania began providing child care subsidies directly to working recipients, DPW tapped TANF funds directly, rather than pay for the subsidies from the CCDF. This tactic avoided the restrictions in PRWORA on the percentage of funds that states could transfer to the CCBG. Similarly, the state charged child care funding for low-income parents in training programs who were not receiving TANF to another funding source. This avoided counting child care as “assistance” against the federal five-year TANF time limit.⁴ This flexibility gave Pennsylvania considerable leeway to design its child care program in a way that it believed was optimal. Ultimately, Pennsylvania designed a child care program that met the needs of TANF recipients and many low-income working parents. Although the designation of the different funding streams varies from year to year, the most important feature has been the steady increase in total spending, which has brought increasing resources to the area.

The funding sources for the CCDF from 1996-1997 through 2004-2005 are depicted in Figure 2. The CCDF funding increased by nearly \$378 million during the time span, owing to increased availability of federal funds. Through careful management, generous use of TANF funds, and policy decisions that restricted eligibility, Pennsylvania implemented a child care program with no additional state funds beyond the required match. Moreover, although DPW clearly adopted certain policies to curtail expenses, significant waiting lists have never been a problem.

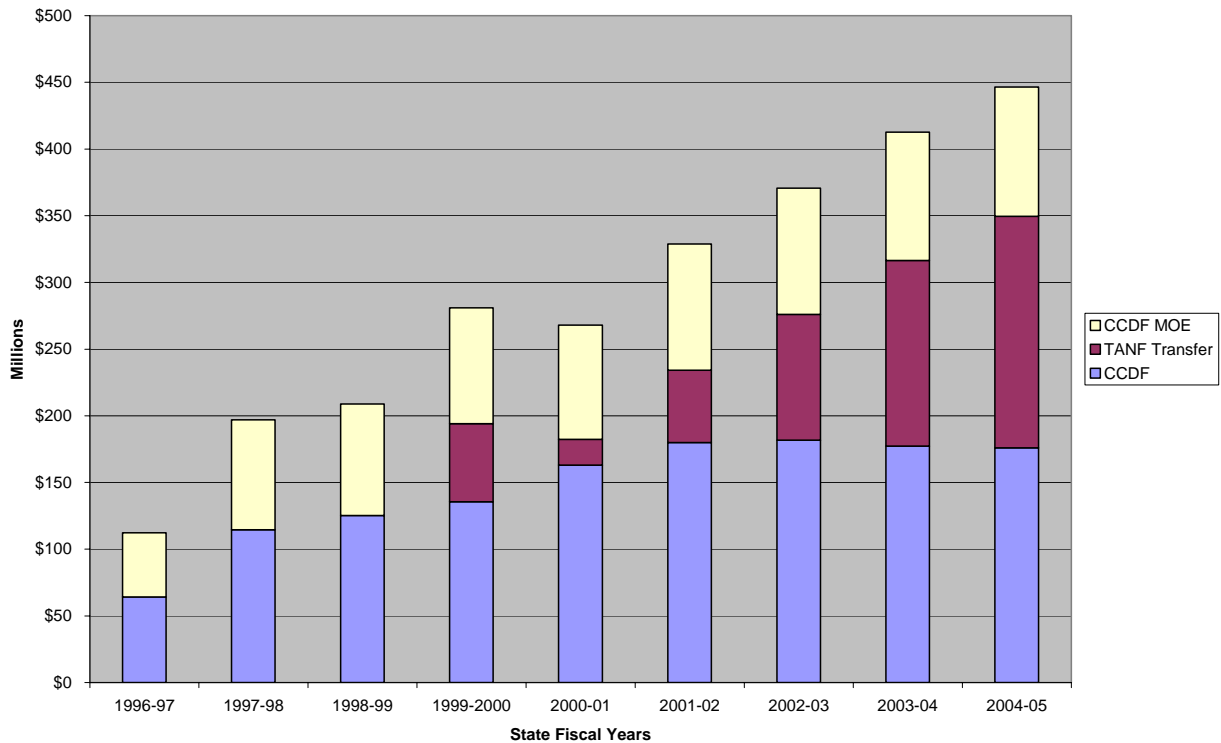
PRWORA allowed states to transfer up to 30 percent of the TANF block grant to CCDF and SSBG (with the transfer to SSBG limited to 10 percent of the TANF block grant). Pennsylvania did not transfer any TANF funds to the CCDF between 1996 and 1999, although, as discussed above, it did directly pay for child care for TANF recipients using TANF funds. The state needed to transfer TANF funds in FY 1999-2000 to meet child care expenses (\$58 million); thereafter, transfers were more frequent and based on the overall need of the entire child care program. In state FY 2004-2005, the transfer amount peaked at approximately \$162 million, reflecting increased demand low-income individuals not receiving TANF. During this same period, additional CCDF federal discretionary funds increased from \$25 million in state FY 1997-1998 to more than \$65 million in state FY 2004-2005.

Even as total child care spending climbed steadily over time, child care transfers varied from year to year, representing Pennsylvania’s inclination to move money to fit the demands of the program, rather than let the funding sources determine program design. For instance, Figure 2 shows TANF transfer funding declined from \$58.5 million in fiscal year 1999-2000 to \$19.4 million in

⁴ Federal regulation 45 C.F.R. 260.31(b)(3) requires states to count such child care to nonemployed people to be considered “assistance” that affects the five-year time limit.

fiscal year 2000-2001. Although the TANF transfer to CCDF decreased, child care funding nevertheless grew in 2000-01 (see Figure 4).

Figure 3. Sources of funding for Child Care, 1996-97 to 2004-05

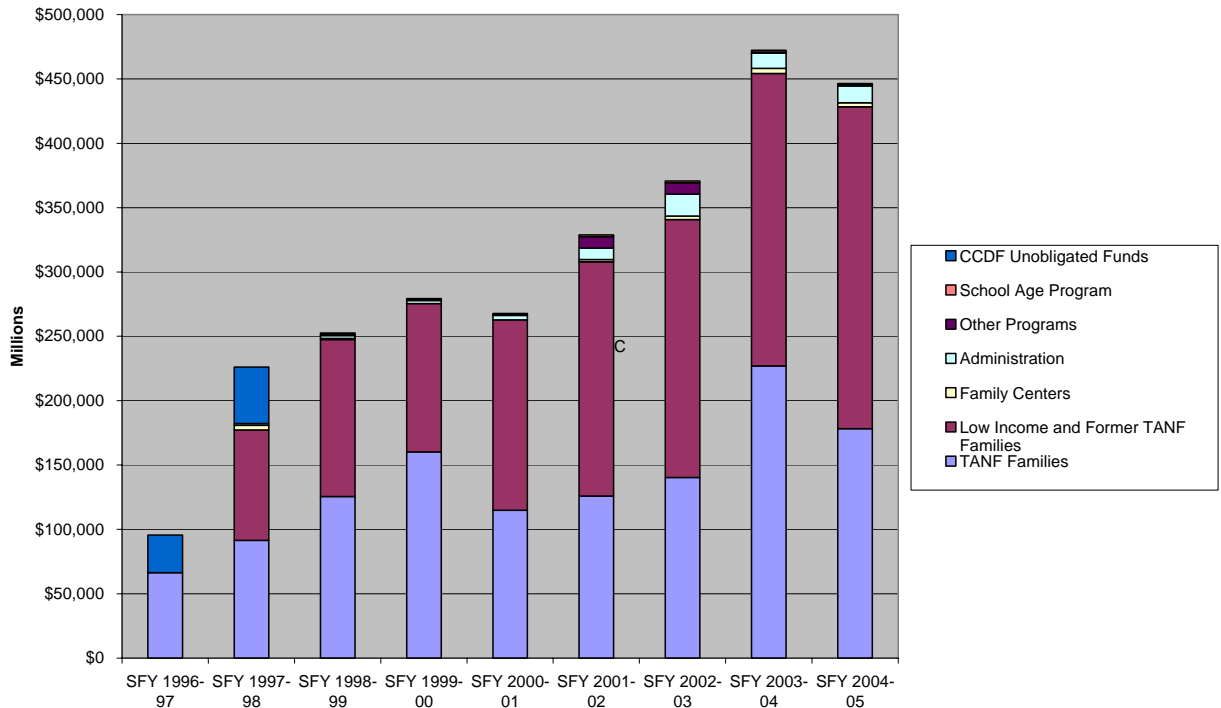


Source: Pennsylvania Office of the Governor Executive Budget FY2004-05; TANF Expenditure Summary, June 2005.

The transfer of TANF funding to CCDF began when the new child care regulations went into full effect in state FY 1999-2000 and DPW transferred Transitional Child Care recipient cases from the cash assistance program to the low-income subsidized child care program. Unspent TANF funds by that time had grown to \$500 million and were later to increase to \$588 million in state FY 2000-2001. Surplus TANF funds and large TANF transfers made it possible for state policymakers to reduce co-payments by parents and increase eligibility limits.

Figure 3 outlines the expenditures of the CCDF. At the end of state FY 1997-1998, nearly \$44 million in funds remained unspent. However, in 1998-1999, with the launch of CCW and pressures on the child care system from rising employment, DPW nearly spent the all unobligated funds for that year.

Figure 4. CCDF Unobligated Funds, 1996-97 to 2004-05



Source: Pennsylvania Office of the Governor Executive Budget FY2004-05; CCDF Expenditure Summary, June 2005.

In addition to CCDF, the state uses other state and federal funds for child care services, including money from the SSBG and state funds not counted toward the federal MOE. Figure 4 shows the total annual amount of child care funding in Pennsylvania, and the source of those funds. Funding for child care grew by \$334 million from state FY 1996-1997 to 2004-2005. The state's portion of that funding grew from \$89 million to \$131 million, and federal funding, which accounts for 75 percent of child care spending in Pennsylvania, grew from \$108 million to \$401 million.

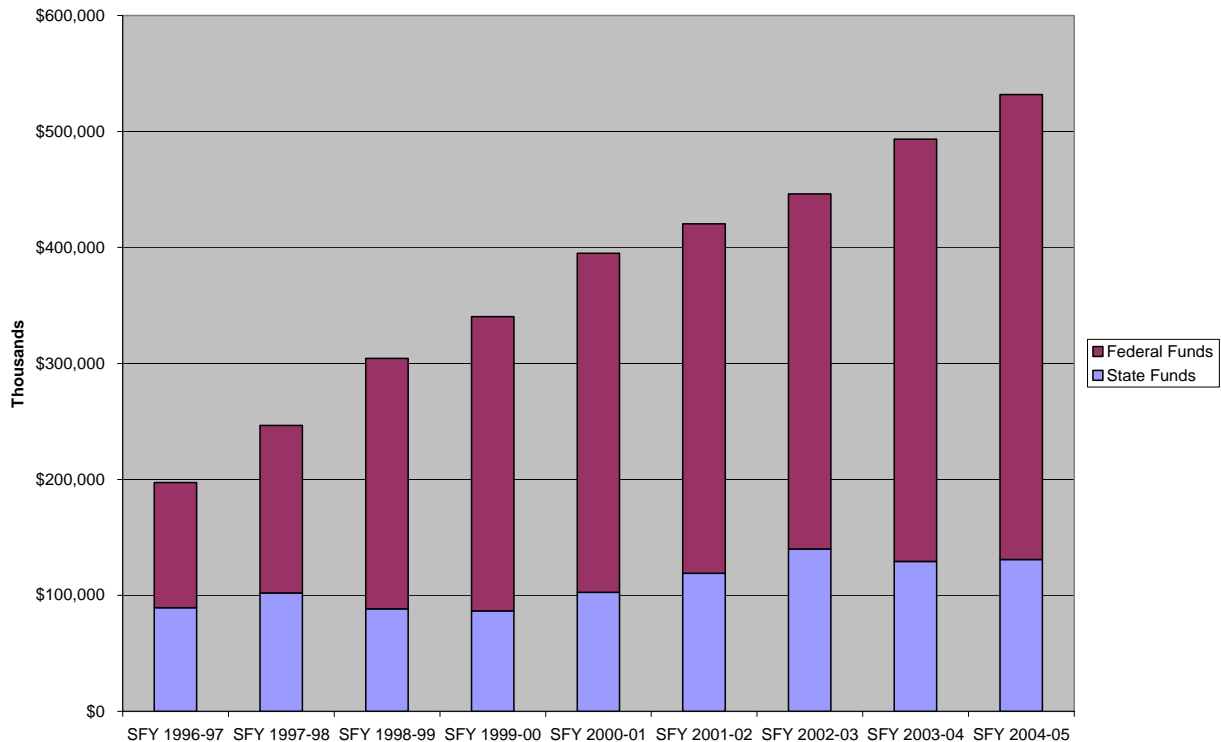
Just as Pennsylvania adopted a flexible approach to funding sources, the state distributed money county by county but redistributed money as needed to avoid permanent disparities between counties and waiting lists that varied from one county to another. When CCDBG funds first became available in the early 1990s, DPW developed a formula to distribute child care funds to all 67 counties. The DPW formula was based on the number of children receiving AFDC in the county, the number of children under 13 residing in the county, and the county unemployment rate. DPW designed this formula to distribute funds on the basis of estimated local need.

After the state adopted TANF, the DPW Office of Children, Youth, and Families (OCYF) continued to allocate base funding by county, but allocated additional money by the proportional size of any waiting list and the length of time children were on that waiting list. For example, if two counties had the exact same number of children on a waiting list but children had waited longer in

one county, OCYF would allocate more funds to the county with the longer wait. DPW allocated additional funds in the parts of the state with higher costs, based on new “ceiling rates” and the number of children in each type of care, although it made this recalculation behind the scenes with little publicity or public attention. This closed process worked largely because it prevented waiting lists, or at least kept them short, and few, if any, locales harbored any permanent grievances.

Child care benefits for TANF recipients were functionally an entitlement. DPW’s Office of Income Maintenance controlled sufficient resources to pay for child care for TANF recipients directly through the County Assistance Offices, rather than the local entities that ran the subsidized system. The department estimated need on the basis of caseload, using unencumbered TANF funds in the event the estimate fell short. This approach worked well because TANF recipients never had to wait for services due to funding shortfalls, despite varying demands in different parts of the state. In essence, the child care program operated as if all TANF recipients were entitled to care.

Figure 5. State vs. Federal Contribution to Child Care, 1996-97 to 2004-05



Source: Commonwealth of Pennsylvania, Office of the Budget, Governor’s Executive Budget Summary FY 2004-05, June 2005

As child care expenditures increased over time, so too did the number of children served by the program. In state FY 1999-2000, the program served only 74,805 children, but by state FY 2004-2005, that number had grown to 101,674.

IV. THE MAJOR COMPONENTS OF WELFARE REFORM IN PENNSYLVANIA

Pennsylvania's welfare reform program followed the broad outlines of federal welfare reform, including:

- A strong “work first” approach, with an emphasis on quick attachment to the labor market, rather than extended training or education
- The use of an individual responsibility plan, known in Pennsylvania as an Agreement of Mutual Responsibility
- Time-limited cash assistance (five years, with a 20-hour per week work requirement after two years)⁵
- Detailed work requirements for able-bodied household heads
- Escalating sanctions for those who willfully failed to comply with work requirements
- Provisions to “make work pay,” primarily by reducing the grants of employed recipients by only 50 cents for every dollar earned

Unlike many states, Pennsylvania exempted those with disabilities from work requirements, as well as those who were unable to work for “good cause,” including domestic violence.⁶ The Commonwealth also maintained centralized program administration under state control rather than devolving authority to localities. Unlike other governors, who considered county- or local-level devolution one of the hallmarks of welfare reform, Governor Ridge kept the existing state-run system. Counties and local governments had virtually no direct role in welfare reform and had no financial stake in the outcome, the state share of welfare being solely a state obligation.⁷ Although DPW functions are organized by county it is a state-run system operating under uniform state rules.⁸

A. Work Requirements

DPW Secretary Houstoun and Deputy Secretary Heller were adamant that job search be the highest priority for recipients, and although never directly addressed in Act 35, nor the subject of public rulemaking, Pennsylvania's TANF program took a pure work-first approach. The nonpartisan 21st Century League of Philadelphia pointed out that 80 percent of all welfare-to-work slots were “Quick Attachment” slots, and even some of the remaining slots that were designed to combine

⁵ Interestingly enough, Act 35 did not contain a time limit, but DPW officials charged with implementing the act adopted the five-year limit contained in federal law once that legislation was passed.

⁶ 62 Purdon's Stat. 405.1(a.3) outlines the disability exemption. Pennsylvania's state plan took the so-called Family Violence Option, which allowed the department to waive welfare-to-work requirements should that be necessary to ensure the safety of the family. It was several years, however, before the policies were spelled out in any operational detail.

⁷ Although DPW organizes its operations by county, all personnel are state employees and Pennsylvania's 67 counties have no role in the administration of TANF, Medicaid, or food stamps. This lack of local involvement in funding these welfare functions may in part explain the relative lack of interest in welfare reform, compared with other states.

⁸ One change that welfare reform brought about was the reluctance to operate under set rules. The Houstoun-Heller team operated under administrative proclamations known as Operations Memos (known as OPS memos) that were not generally available to the public and were not published or distributed in any organized manner. Deputy Secretary Heller defended this change in procedures as one of the features of a nonentitlement program.

training and job search were little more than work search placements.⁹ DPW awarded contracts from its central office, usually through the Bureau of Employment and Training (BETP), in amounts that roughly corresponded to county caseload. Funding was generally equitable statewide, although DPW never announced an explicit funding formula.

Act 35 reiterated the requirement in the federal TANF law that recipients receive an employability assessment, but DPW effectively avoided this requirement by claiming that the job market and the recipient's unsuccessful efforts to obtain employment functioned as an assessment. Recipients, often told by DPW caseworkers that they were not allowed to count as work participation college attendance, training, or even participation in Jobs Corps or other training programs, had little incentive to participate in such activities. According to analysis of DPW monthly reports, the number of recipients enrolled in education and training dropped by more than 90 percent post-implementation.¹⁰

A nonexempt adult recipient had virtually no options other than work search. Some of the "quick attachment" providers offered minimal soft skills training while focusing intently on finding jobs for their clients. Indeed, many such programs required their clients to take temporary work, given that the state's funding formula, at least at first, counted even a single day's work as a successful placement that entitled the program to full reimbursement. Early accounts of welfare reform included many examples of recipients already enrolled in training or education programs who were told by caseworkers that they risked termination or sanction if they continued, even when they were quite close to completing their course requirements. According to the 21st Century League's report, "Many [clients] reported being discouraged or outright prohibited from taking part in education or training."¹¹ Of course, as time went on, fewer individuals were finishing such programs, given that no new recipients were permitted to enter training or education programs.

Later, it also became clear that Pennsylvania's quick attachment program was not limited to the eight weeks set forth in Act 35 as the upper limit of required work search. Instead, DPW assigned those who failed to find work during the initial eight weeks to an additional 90 days of DPW contracted programs, which consisted of still more work search.¹²

In the first two years of Pennsylvania's new TANF program, the cash assistance caseload dropped by approximately 30 percent (see Table 2).¹³ In Philadelphia, where the cash assistance caseload was largest, both in absolute terms and as a percentage of total population, the decline

⁹ Janet E. Raffel, "TANF, Act 35, and Pennsylvania's New Welfare System: A Review of Implementation in Greater Philadelphia" at (Philadelphia: 21st Century League, June 1998). The report goes on to point out that DPW invested \$29.1 million statewide in about 37,300 "quick attachment" job-search program slots. In addition, still more slots were created in DPW-administered, work-first job-search programs.

¹⁰ Personal communication with Joseph Willard of the United Way of Southeastern Pennsylvania, formerly with the Reinvestment Fund, which studied employment and training options under welfare reform, December, 2005.

¹¹ "TANF, Act 35, and Pennsylvania's New Welfare System" at 5.

¹² Personal communication with Richard Weishaupt and DPW General Counsel John A. Kane, 1999.

¹³ Caseload statistics from reports available at DPW's website, at <http://listserv.dpw.state.pa.us/Scripts/wa.exe?SUBED1=MA-FOOD-STAMPS-AND-CASH-STATS&A=1>.

was slower. In 1997, Philadelphia had the fourth largest caseload among U.S. cities, and the sixth largest rate of welfare receipt.¹⁴ Compounding the challenge in Philadelphia, in the preceding 10 years, the city had the weakest employment growth rate among cities with a large welfare population, having lost nearly 100,000 jobs, many of them in the manufacturing sector, at a time when the Commonwealth overall had gained more than 200,000 jobs.

Table 2. Caseload Trends in Pennsylvania, Philadelphia, and Pittsburgh

	1996	1997	1998	1999	2000	2001	2002	2003	2004
Statewide	191,996	141,096	117,241	98,512	89,939	87,314	85,542	86,496	95,178
Allegheny	21,230	18,187	14,535	12,003	10,567	9,674	9,759	9,667	10,439
Philadelphia	78,169	71,572	64,071	55,336	47,623	42,752	40,572	38,034	39,052

Source: DPW data, available at www.state.pa.us

B. Work Supports

DPW Secretary Houstoun and Deputy Secretary Heller, working under the close supervision of the governor's office, convinced skeptics in the state legislature, particularly in the Republican caucus, to adopt a program of work supports as part of welfare reform in Pennsylvania. Realizing the lack of political support for grant increases, advocates had begun stressing the need to "make work pay," with work supports such as special allowances for child care, transportation, and clothing, and a more generous earned income disregard, which allowed working recipients to keep more of their earnings.¹⁵

Prior to TANF, states were constrained in their ability to offer financial rewards to working recipients.¹⁶ As a result, DPW had reduced the amount of earnings not counted (or disregarded) to \$30 plus one-third of the remaining amount, for the first four months of work. DPW had also capped deductions for work expenses and payroll withholdings, and capped the deduction for child care.¹⁷

With the constraints of the AFDC statute repealed, Pennsylvania took full advantage of the new flexibility to allow recipients to keep a larger proportion of their earnings before welfare checks were reduced. Despite the considerable cost, the department pushed hard for a 50 percent earned income disregard, in part claiming that such a policy would make up for a grant level that had not increased since 1989 and, at the same time, provide a strong and direct incentive to work.

¹⁴ Mark Alan Hughes, "Memo on Welfare Reform" (Philadelphia: Public/Private Ventures, 1997).

¹⁵ The last grant increase—a 5 percent increase—was authorized by Republican Governor Dick Thornburgh in 1989. Advocates, such as the Philadelphia Welfare Rights Organization and a number of faith-based groups, had continuously pointed out the need for a grant increase throughout the 1990s, but had no success, even with the Democratic Casey administration. An earned income disregard sets the amount of income that is "disregarded," or not counted, in determining how income affects the welfare grant. In the absence of a disregard, all income reduces the welfare grant dollar for dollar. Prior to Act 35, Pennsylvania followed federal AFDC law and only disregarded a small portion of earned income.

¹⁶ The original curtailment of work incentives was contained in the Omnibus Budget Reconciliation Act of 1980 (OBRA), Pub.L. 97-35 (Aug. 13, 1981), amending 42 U.S.C. 602 (a)(8).

¹⁷ Previously, under the AFDC program, DPW had afforded AFDC recipients a limited child care deduction from countable income, limited to no more than \$200 per month for infants and \$175 per month for all other children, regardless of actual out-of-pocket cost. 42 U.S.C. 602(a)(8)(A)(iii).

In addition, although not addressed directly in Act 35, the department made it clear that it planned to pay for child care for all working recipients and for those who left welfare after securing a job. Prior to TANF, those who found employment and left AFDC were transferred to a Transitional Child Care (TCC) program for one year, and thereafter to a separate, subsidized system that had considerable waiting lists and was not well coordinated with the AFDC program. Given the inadequacy of the child care disregard for welfare recipients, the considerable red tape involved in the TCC program, and the difficulty of securing a subsidized slot after TCC expired, the conversion to the new Child Care Works system was a considerable improvement, albeit an expensive one for the commonwealth. Pennsylvania officials, especially Deputy Secretary Heller, were candid and voluble about DPW's plans to pay for these expensive innovations with the money saved by reduced caseloads through the first phase of the new work-first approach.¹⁸

Amid a strong and growing economy, coupled with a sizable group of recipients who had completed or at least participated in training and education programs, and a well-defined message about time limits and mandatory work search, many recipients got the message and quickly found work. DPW contracted with a variety of private, nonprofit agencies to provide quick attachment programs, although DPW operated such programs as well.¹⁹ According to Heller, caseload decline was largely a result of the quick attachment strategy and the availability of jobs.²⁰ Of course, the high earnings disregard also helped, as did the fact that the new "make work pay" approach was well communicated and easily understood.²¹

In the first two years of reform, DPW spent almost all its efforts and resources helping people to find work. DPW leadership believed that unpaid community service or workfare was an expensive, hard-to-administer distraction, and as a result, the department offered relatively few workfare programs, even for those who could not find work.²² Spending on education and training was limited, reaching \$12 million only in 2004.

State budget figures reflect the work-first approach. By state FY 1999-2000, Pennsylvania budgeted only \$159 million for traditional cash assistance, although it continued its commitment to supporting work with \$25 million for supportive services. Wage subsidies, new to the budget, cost \$9 million, and the employment spending continued at \$24 million. With much of the savings funneled to the burgeoning child care program, TANF funding of child welfare services rose dramatically, from \$118 million to \$216 million.

¹⁸ Interview with Sherri Heller describing her "early message" concerning welfare reform, October 28, 2004.

¹⁹ DPW acted through its Bureau of Employment and Training Programs (BETP) in Deputy Secretary Heller's Office of Income Maintenance (OIM).

²⁰ Interview with former Deputy Secretary Heller; see also Charles Michalopoulos, "Welfare Reform in Philadelphia: Summary." Research presented at United Way of Southeastern Pennsylvania Conference, October 2003.

²¹ Michalopoulos, "Welfare Reform in Philadelphia."

²² Interviews with Sherri Heller (2004) and Sharon Dietrich (2004), Managing Attorney at Community Legal Services, Inc., Philadelphia. Dietrich and coauthor Richard Weishaupt worked closely in coordinating the advocacy community's monitoring of DPW's implementation of Act 35.

C. Transitional Jobs

Pennsylvania also initiated a “transitional jobs” program that operated separately from the state’s cash assistance program.²³ Initially funded in Philadelphia with a combination of foundation money and a large infusion of federal welfare-to-work block grants, the program, although limited by federal law to those with poor literacy and little if any work experience, was relatively successful and well received by recipients. The program provided 20 hours a week of employment at minimum wage and “wrap-around services” (mainly soft skills training and counseling). Placements were with nonprofit and community organizations, many of which had good standing in low-income communities. Given the concentration of poverty in Philadelphia and the limited job accessibility in the city, those who needed jobs eagerly sought these relatively low-paying jobs.

Adding to the popularity of the program, DPW officials early on made a decision to treat the earnings from these jobs as earned income, making the transitional employees eligible for the 50 percent disregard and carefully structuring the wages to qualify the recipients for Unemployment Compensation and the EITC. Thus, when the federal welfare-to-work funding began to run out, advocates and recipients urged the department to continue the funding. In response, the Commonwealth began directly funding Philadelphia’s Transitional Work Corporation (TWC) with TANF dollars, as well as continuing smaller transitional jobs programs that DPW contracted out.²⁴ In the first year of state spending on this program, the Ridge administration allocated the \$9 million to subsidized employment. By the following year, the commitment grew to \$27 million, although it eventually stabilized at a lower number.

D. Transportation and Clothing Allowances

During the first two years of TANF, Pennsylvania also expanded the availability of clothing allowances and transportation assistance. The maximum amount of the clothing allowance was increased and the allowance was offered to virtually all job seekers, a marked departure from previous policy. DPW also made transportation allowances available, although with different approaches in the largest cities (Philadelphia and Pittsburgh) and in smaller municipalities, both rural and exurban, where public transportation was very limited.

Given that lack of transportation was a major barrier for the rural poor, the state increased the special allowances for rural residents to purchase, repair, and register motor vehicles. Although theoretically such grants existed in Philadelphia, they were seldom awarded because recipients

²³ Pennsylvania’s transitional jobs program was locally referred to as “work experience” and its design grew directly out of Act 35. The job placements were for 20-hour-per-week jobs, at \$5.15 per hour (minimum wage) plus additional time devoted to training and counseling. The placements were usually sponsored by local nonprofit organizations, which received a very modest reimbursement of \$50 per month. The program placed recipients with a sponsoring nonprofit agency, but they were considered the employee of the welfare-to-work organization and, therefore, were treated as regular employees for tax and welfare purposes, including eligibility for EITC and the generous 50 percent earned income disregard.

²⁴ Although “Work Experience,” as it came to be known, was a statewide program, much of the spending was in Philadelphia, where the barriers to employment were thought to be highest and the need greatest.

were first required to demonstrate the unavailability of public transportation. Philadelphia residents, however, were issued “commuter passes” by their DPW caseworkers, which allowed them to look for work without cost, although they were largely limited to the areas served by those passes. DPW also shifted some TANF funds to the Philadelphia area transit authority to match federal funding for service to suburban malls, where employers were clamoring for workers. However, the transit subsidy program only lasted a few years, as competition for TANF funding intensified.

V. CHILD CARE IN PENNSYLVANIA

A. The Situation Before Welfare Reform

Prior to welfare reform, Pennsylvania had two separate programs to pay for child care services for low-income families. The two programs had different federal funding streams, different DPW administering offices, different rules, and different eligibility and payment levels. Both DPW policymakers and advocates agreed that the system created barriers for families trying to move from welfare to work.

The local County Assistance Offices (CAO), which determined cash assistance, food stamp, and Medicaid eligibility, also administered child care services for AFDC families.²⁵ AFDC recipients who were in job training, school, or work search received a “special allowance” to pay for child care services, although once they found work, recipients were afforded only a limited deduction in computing their residual welfare grant.²⁶ Recipients whose earnings made them ineligible for AFDC qualified for the TCC program, which paid for all child care costs, but only for one year. After that, the former recipient applied for the “subsidized” child care system, which was administered in separate offices run by local nonprofit agencies and supervised by the OCYF. The OCYF system provided subsidies to former welfare recipients, working low-income parents, and low-income parents who needed child care while they attended school. The income eligibility for the program was set at 235 percent of the applicable federal poverty income guidelines (“poverty”). Because need always exceeded funding in the subsidized child care program, families joined a county waiting list. OCYF had four priority groups:

1. Former welfare families at risk of returning to welfare and working welfare families;
2. Families with incomes under 185 percent of poverty and who had never received welfare;
3. Families with incomes between 186 and 235 percent of poverty who had never received welfare; and
4. Nonworking, non-recipient parents who were attending school or training, and whose income was below 235 percent of poverty.

The state waiting lists for subsidized child care often exceeded 10,000 children and rarely did priority 3 and 4 families receive child care services. Moreover, although DPW administered both the CAO and OCYF systems, the two systems were separate and were not integrated, or even coordinated. This made it difficult for families to retain child care as they moved from welfare to work.

²⁵ As mentioned above, the function of these CAOs, as state agency offices, did not change after the passage of Act 35 and the federal welfare legislation.

²⁶ Recipients who were working and still receiving cash assistance received an inadequate income disregard when determining the amount of their welfare check. The disregard was limited to \$175 per month for each child in care, and the cash assistance recipient was liable for the entire cost of child care.

B. Child Care Reform

a. The Pennsylvania Child Care Campaign

In 1996, with the passage of PRWORA and the consolidation of child care funding into the CCDF, low-income parents and welfare advocates, child advocates, faith-based organizations, and child care providers came together to create the Pennsylvania Child Care Campaign (PACCC). The campaign was an attempt to speak as a united voice on the Commonwealth's child care programs. The PACCC submitted a set of child care principles to the department that emphasized the need for improving access to child care for low-income families and improving the quality of child care. It also submitted the principles prior to the release of the child care plan required under CCDF in the hopes of influencing the department's overall approach.

b. The "Child Care Works" Plan

PRWORA ended the child care entitlements to individuals receiving cash assistance who worked, were in training, or who were transitioning off welfare, although Pennsylvania continued to essentially entitle them to child care in the sense that the program was designed to always afford benefits to those receiving or leaving TANF.

The DPW deputy secretaries for the OIM and OCYF shared responsibility for developing policy for the CCW plan. The two deputies developed a proposed plan with options and presented it to the governor and the Governor's Offices of Policy, Budget, Legislative Affairs, and Communications for recommendations and approval. The plan attempted to better align the two programs and balance the anticipated increased demand for child care with a desire to contain costs.

As noted above, DPW officials first distributed the draft CCW plan to the public in March 1997, just as the new TANF program was getting underway.²⁷ As required by federal law, the department held public hearings around the state and formally submitted proposed regulations in September 1997.²⁸

Despite the efforts of the PACCC, the proposed regulations did not reflect any of the major changes contained in PACCC's principles or comments received at the public hearings. Most notably, PACCC had suggested consolidating all existing child care programs into a single, integrated system, with payment methods managed by one office on the basis of a biannual market rate survey.

²⁷ 27 Pa.Bull. 1512 (March 27, 1997).

²⁸ 27 Pa.Bull. 4615 (September 6, 1997).

c. *Regulations to Implement Child Care Works*

In Pennsylvania, there is an intricate legal process established for the promulgation of regulations. An independent agency, the Independent Regulatory Review Commission (IRRC), reviews all proposed regulations. The authorizing statute charges the commission with maintaining a system of accountability to ensure that rules and regulations are neither unduly burdensome nor adverse to the best interests of the private and public sectors of the Commonwealth. The regulatory process generally requires regulations be submitted by an agency to the IRRC and legislative committees with oversight of the subject matter (standing committee). The public can offer comments to the proposed regulations that the department, the commission, and the standing committees must consider. The department then may make changes to the proposed regulation and submit it to the IRRC and standing committees of the legislature for review. During this review, the IRRC receives public testimony and pays close attention to the opinion of the standing committees. The process gives advocates a significant role in policymaking and allows them a great deal more influence than is typical in many states.

DPW submitted proposed regulations to the IRRC that kept both existing systems in place, but in a concession to PACCC, aligned the programs by using similar rules and procedures and provided families with equal subsidies in both systems. The funding for both programs would come from a combination of CCDF, TANF, federal discretionary child care funds, and state funds, with no substantive difference based on the source of funds.

The decision to maintain child care for TANF recipients in the CAOs was made by Deputy Secretary Heller to ensure that welfare recipients would receive child care as needed, and as quickly and efficiently as possible. Heller and her Income Maintenance staff thought that the CAO caseworkers worked most directly with recipients, supervised the completion of the statutorily required Agreement of Mutual Responsibility, and provided assistance in job training, job search, and child care. Given the emphasis on quick attachment to the labor force, Heller believed that the CAO was the best place to handle child care for the initial job search and ensuing employment, without having to make a referral to another agency.

The department, in supporting documentation, stated that policy decisions for the new child care plan were made based on the goals of meeting the needs of all populations within the fiscal constraints of the block grant, the “work first” mission of welfare reform and keeping lower-income families from coming onto welfare. DPW’s priorities were to create a more integrated system, support welfare reform and self-sufficiency, provide parent choice and an affordable and accessible continuum of care, and manage resources effectively.

PACCC’s principles were premised on the understanding that child care promotes not only workforce development, ensuring that parents could find and retain jobs, but plays an important role in assuring healthy child development and school readiness. The principles not only expressed a great deal of dissatisfaction with the system then in effect, but also took a stronger position on improving access for low-income families and improving the quality of child care overall. The

difference between the department's priorities and PACCC 's principles set the groundwork for what would be a challenging effort in moving forward.

By DPW's description, the major changes in the proposed regulations were:

- a. *Eliminate a \$175 Disregard.* CCW replaced the capped welfare income "disregard" for child care expenditure with a more realistic child care allowance. The allowance met the cost of care within an approved ceiling that was much higher than the \$175 cap. Although it required a co-payment, the fee was relatively low with a much smaller out-of-pocket liability than in the past. Eliminating the disregard provided a smooth transition for employed TANF parents given that the allowance changed little from job search/training to employment. Child care advocates had wanted to eliminate the inadequate disregard for many years, and they welcomed both the change in approach and the step toward unification.
- b. *Revise the Co-Payment Schedule.* The proposed regulations introduced a new element into the co-pay system: higher co-pays for more expensive care. The proposed co-payments increased the top co-pay from 11 percent of a family's income to 14.5 percent. The department maintained that the changes would bring Pennsylvania's co-payments into line with those in other states, allow individuals access to a wider range of care, instill a sense of cost, and prepare families for the responsibility of paying their child care costs without subsidy.

PACCC vehemently opposed the increase, and it especially opposed the department's justification. Members argued that co-payments would increase significantly for nearly all families, and especially for families with below-poverty incomes. PACCC also argued that the highest co-pays would exceed those recommended by the federal Department of Health and Human Services, which suggested that co-pays in excess of 10 percent endangered access and freedom of choice. In addition, the advocacy community argued that DPW's cost-of-care approach, which charged higher copays to those using more expensive kinds of care, would effectively limit access to an appropriate range of child care settings. Finally, they criticized DPW's defense of the proposal as a measure to prepare recipients for the child care market, noting that the working poor already knew how expensive child care was.

In the final regulations adopted in January 1999, the increased co-payment scale remained, but the department dropped the cost of care provision.²⁹ In so doing, DPW gave PACCC a partial victory, under strong pressure from the standing committees and the IRRC. The delay in implementing CCW caused by the budget

²⁹ 29 Pa.B. 271 (January 9, 1999).

arguments weakened DPW's position. As the parties debated, the caseload was dropping rapidly, and, with additional resources at hand, DPW compromised.

- c. *Lower the Income Limit to 185 Percent of Poverty and Replacing Priority Waiting Groups.* The new plan reduced the eligibility limit from 235 percent of poverty to 185 percent. In addition, the new system abandoned the priority system in favor of a single list of eligible families. For all those but welfare leavers, the new system offered child care on a first-come, first-served basis. The department argued that this would bring Pennsylvania's subsidized child care program in line with other states, reserve funding for those families most in need, and support welfare reform by preserving funds for both low-income working families and those transitioning from welfare.

PACCC had serious concerns with the proposal to lower the eligibility ceiling, although it supported the arrangements for welfare leavers. Pennsylvania had distinguished itself in the early 1990s as a state with a comparatively strong subsidized child care system. The department's defense that changes aligned Pennsylvania with other states seemed like a race to the bottom when there seemed to be opportunity for expansion, while advocates had long been seeking a chance to raise the subsidy income guidelines. The final regulations reached a compromise that set the income limit for those entering the program at 185 percent of poverty, but allowed enrolled families with incomes between 186 percent and 235 percent of poverty to continue to receive subsidized child care until February 1, 2000. (The latter extension grandfathered in those families who were receiving a child care subsidy and had incomes exceeding 185 percent of poverty.)³⁰

- d. *Maintain the Current Ceiling Rates Paid to Providers.* The proposed regulations froze the current ceilings on rates paid to child care providers participating in the subsidized program. Prior to this period, Pennsylvania had been one of only a handful of states that followed federal guidance and maintained its reimbursement ceilings at the 75th percentile in an effort to ensure parental choice.

With the direction from the federal government softened, the department contended that, without conducting a market rate survey and making regular adjustments to rates, it could still demonstrate that families had a broad array of choices that met the federal "parental choice" mandate. In addition, DPW contended that families were allowed to choose care that cost more than the state ceiling rates, but they must then assume the additional costs. Child care advocates countered that departure from the

³⁰ Approximately 4,000 children would have been affected by the end of the grandfathering period on February 1, 2000.

market rate approach would not only interfere with parental choice but would harm quality of care.³¹

e. *Integrate Policy and Procedures for All Subsidized Care.* The new child care plan also set forth controversial eligibility changes. Under the new plan:

- All families were required to have their eligibility status reviewed at least every six months;
- The income of a teenage mother's parents would be considered in determining her eligibility for subsidized care;
- All families would be required to cooperate with paternity establishment and child support pursuit; and
- Parents had to be employed a minimum of 25 hours per week.

Advocates raised serious concerns over some of these items. Families were not previously required to establish paternity, and child support and the income of a teen mother's parent were not formerly considered. Although no one seriously argued against using uniform rules in both programs, the child support requirement proved very controversial, given that it threatened many informal arrangements between parents, driving many mothers out of the system. Especially for young parents, the possibility of obtaining any significant support seemed remote, while the risk of increasing animosity between father and mother was a source of great consternation. To make matters worse, early efforts at enforcing this requirement seemed to ignore the state's Family Violence Option. Based on considerable anecdotal evidence, advocates estimated that the child support rules drove thousands of needy families from the program, although DPW was adamant in defense of this policy.

Advocates and DPW also fought bitterly over the requirement that mothers work a minimum number of hours each week. DPW had originally proposed setting the lower limit at 30 hours per week. After advocates came forward with data showing the increasing prevalence of part-time work, DPW lowered it to 25 hours per week, but refused to lower the limit further regardless of the facts of individual cases, including an involuntary reduction in hours by the employer.

f. *Administrative Changes.* In addition to the new regulatory requirements, the new plan made three administrative changes including: (1) expanding the role of the nonprofit Local Management Agencies (LMA) now known as Child Care Information Services (CCIS), which effectively administered the new subsidized program; (2)

³¹ The department finally took a small action to adjust ceilings in January 2000 and October 2001. DPW made another small ceiling adjustment in June 2004 but still failed to bring the ceilings back to the 75th percentile. A recent state task force report has estimated that it would cost approximately \$25 million to \$30 million to increase ceiling rates to the 75th percentile.

expanding child care capacity and consumer information; and (3) waiving criminal and child abuse background checks for relative and neighbor care.

VI. POLICY CHANGES SINCE INITIAL IMPLEMENTATION

A. Work Requirements and Related Programs

Act 35 requires an initial job search and, for those nonexempt recipients unable to meet the 20-hour per week requirement, an additional work-related activity. However, neither the act nor DPW policy requires a specific minimum number of hours worked to receive TANF in the first two years in the program. Only after two years of TANF receipt did the act require that a recipient “work, participate in subsidized employment, work experience, on the job training, community service or workfare for an average of at least 20 hours per week.”³²

The reason for this rather unusual approach has never been explicit, but it appears that the rationale was to allow individuals time to address barriers to employment and educational deficits. Of course, employable recipients were free to continue to look for work, and Agreements of Mutually Responsibility often assigned recipients to continue “independent job search.” Instead of addressing this policy gap DPW focused on improving its initial quick attachment programs, and, to a lesser extent, designing its Transitional Work program. Although recipients would have been wise to use this time to improve their employability, relatively few understood the need to do so or the looming imperative to work 20 hours per week once they had received TANF for 24 months. Having weathered a much stricter initial program than they had previously experienced, many recipients were reluctant to turn to DPW for further guidance, and DPW, skeptical of education and training programs, offered few programs to assist this group during their first two years. Of course, many households, faced with the well orchestrated message to find a job in the robust economy, did exactly that.

Many families used TANF only intermittently in the first two years of the program. However, there was still a large group of families that received TANF continuously for the first two years of the program.³³ As the two-year anniversary of TANF approached, DPW was extremely tight lipped about how it would enforce the 20-hour mandate, and advocates argued that the caseload decline was so significant that DPW could afford to take a balanced approach toward those who had been unable to find work. In a full-page ad that appeared in the *Philadelphia Inquirer*, Philadelphia Mayor Rendell predicted a “train wreck” if individuals were sanctioned for failing to meet the 20-hour mandate. The advocacy community pointed out that although some training programs existed, little effort had been devoted to designing a system that allowed recipients to enroll in programs that matched their aspirations and addressed barriers. It seemed to many advocates that the failure to design an effective system of training and education stemmed from DPW’s ambivalence toward anything other than a work-first approach. Barriers for those who had not worked during the first two years of TANF were considerable. In Philadelphia, according to an MDRC study, 75 percent of this group had no driver’s license, nearly one-half were at risk of clinical depression, and more than one-

³² 62 Purdon’s Stat. 405.1(a.2)(6).

³³ Some of these continuous TANF users were working, but because of minimal hours and low wages, they remained eligible for at least some TANF assistance. Under federal law, the amount given each month was irrelevant in counting the number of months of receipt.

half had a physical health problem.³⁴ Community Legal Services (CLS), a nonprofit law firm in Philadelphia, pointed out the particularly dismal plight of those with limited English proficiency, a growing portion of the remaining TANF caseload.³⁵

As the first group of families reached the two-year limit, advocates argued for an approach that helped people find a suitable work activity, rather than automatic termination or sanction. CLS authored an opinion letter that closely parsed Act 35 and concluded that termination of those who, through no fault of their own, were not employed 20 hours per week was illegal, and implicitly threatened litigation. The stakes were particularly high in Philadelphia, where the caseload had been declining more slowly than in the rest of the state and where a higher proportion of the caseload was long-term recipients.³⁶

DPW eventually acquiesced. In late February, it announced a system to individually evaluate employment barriers among those who had received TANF for 24 months and were still not working 20 hours per week. DPW called this mandatory evaluation a “Work Requirement Review” (WRR). For most nonexempt adults, the end result of the WRR was assignment to yet another job search, albeit a highly directed job search. Individuals who were unable to find work after this job search were then assigned to a “cascade” of programs. The cascade was designed to give recipients one last chance to build skills by engaging in transitional work or one of the few, relatively short training programs DPW had established for this group. Leaving a program for any reason, including employment or illness shifted individuals “downstream” in the cascade, the final stage of which saw the recipient assigned to unpaid community service or workfare.³⁷

Advocates and commentators such as the 21st Century League were extremely critical of the program. They argued it was just another “one size fits all” approach that failed to address the individual barriers of recipients, especially among Philadelphia recipients, who were disproportionately beset with extreme poverty, language barriers, lack of transportation, and poor education. To advocates it seemed that the single-mindedness of DPW’s centralized approach was ill suited to the needs of a city home to 50 percent of the long-term TANF population and where caseloads were not declining as fast as they were in other parts of the state.

³⁴ Charles Michalopoulos and others, *Welfare Reform in Philadelphia* (New York: MDRC, October 2003, p. 18), available at www.mdrc.org/publications/352.

³⁵ DPW designed no special programs to address the needs of Limited English Proficient individuals (LEPs). CLS eventually filed a Title VI complaint alleging discrimination against LEPs. The federal Office of Civil Rights, Department of Health and Human Services conducted a review and identified “major deficiencies” in the provision of language services to TANF recipients. See “Statement of Findings” (Washington: DHHS, n.d.), available at www.clsphila.org/PDF%20folder/LAP-Letter_of_Findings.pdf.

³⁶ Margy Waller and Alan Berube, *Timing Out: Welfare Caseloads in Large Cities and Counties* (Washington: Brookings Institution, 2002); Janet Raffel and Erin Mooney, *Philadelphia’s Experience in Year Two of Welfare Reform* (Philadelphia: 21st Century League, 1999): “Pennsylvania’s caseload declined from 166,300 cases in March 1997 to 105,000 in June 1999, a decline of almost 37%. In the same period, Philadelphia’s caseload declined from 71,600 to 51,400, a 28% decline” (p. 10).

³⁷ DPW, and Sherri Heller in particular, felt that unpaid workfare was not cost-effective. DPW officials were concerned that a workfare program delayed recipient entry into the paid labor market, while costing significant amounts for child care and administration. Although the Pennsylvania legislature had long been enamored with requiring workfare, DPW pursued such placements only as a last option.

However, because of DPW's work-first approach and a favorable economic climate, caseloads throughout the state continued to fall.³⁸ DPW amassed additional savings and surplus, even as studies began to show that recipients were not retaining jobs or advancing in their employment placements. DPW's ratings in this area, never high, fell, and by the beginning of 2001, the state ranked in the bottom half of all states in terms of job entry and retention.³⁹

Deputy Secretary Heller, and to a lesser extent, Secretary Houstoun, had publicly stated that their intent was to develop a more robust training program once the caseload was reduced. Early on, Heller told both the Pennsylvania Welfare Coalition, a group of advocates convened and organized by the faith community, and the various grassroots advocacy groups that formed DPW's Income Maintenance Advisory Committee (IMAC) that they expected the state's Community Colleges and Workforce Investment Act (WIA) boards to design shorter training programs that would be responsive to the needs of now-employed former recipients. However, with little leadership from the centralized DPW employment and training office, and little perceived receptivity, no program emerged.

In response to its slipping performance in job retention and advancement, Pennsylvania initiated the Job Retention and Rapid Reattachment to Employment Program (JRARRE) in 2001. DPW also attempted to replicate the success of its Philadelphia-based transitional jobs program in Work Opportunities, a program run by local WIA agencies, but with a less favorable set of supportive services and case management. JRARRE was designed to help employed recipients acquire new skills to retain employment and advance on the job, and to help those who had lost their job get a new one quickly (hence the "Rapid Reattachment"). Many of the contracts were awarded to JRARRE-designed programs that functioned largely as a quick attachment program for the recently unemployed. Although the state spent a significant amount of money on the JRARRE programs, results were mixed and never produced demonstrable results.

DPW never fully integrated JRARRE into the department's welfare-to-work structure. Rather than institute a statewide program, DPW awarded JRARRE contracts only in certain areas of the state, with little public discussion. Although DPW awarded contracts in areas with concentrations of recipients, it did not use a formula to ensure universal coverage. Contractors, typically local nonprofit agencies, were encouraged to experiment with different packages of services and were awarded contracts with vastly different levels of spending per client. Although some JRARRE programs were undoubtedly successful, few analyses are available on which programs have succeeded and which communities have benefited the most.

³⁸ It can never be known to what extent the decline in caseload was due to Act 35 and what extent it was due to the improving economy. See Michalopoulos and others, *Welfare Reform in Philadelphia*, p. 6.

³⁹ Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, *High Performance Bonus for Performance Year 2001 (2002)*, available at www.acf.hhs.gov/programs/ofa/HPB/2001/hpb2001index.htm.

Advocates, legislators (mainly but not exclusively Democrats) and to a lesser extent department officials, wanted to address the poor progress in job retention and advancement. Advocates, particularly the Pennsylvania Welfare Coalition, pressed for more opportunities to pursue education and training, and the coalition succeeded in introducing related legislation and in evoking interest among legislative leadership, including the Republican chairs of the house and senate committees with jurisdiction over DPW programs.⁴⁰ Although initially opposed to the legislation and any increased emphasis on education and training, Secretary Houstoun eventually agreed to change policy to allow individuals to pursue education, including GEDs and community college degrees. DPW allocated approximately \$5 million in TANF funds to the state higher education agency (PHEAA) for give financial assistance to TANF and TANF-eligible individuals (both parents and children) already enrolled in higher education. Under this softened stand on education, DPW granted individual recipients “good cause” to pursue education. However, it initiated no formal program to encourage education or longer training until the change of administration in 2002.

B. “Time Outs” Before the End of the Five-Year Time Limit

In 2001, approximately four years into its TANF program, DPW developed separate state programs funded with MOE dollars that allowed certain classes of recipients to stop their TANF clocks.⁴¹ Under this plan of “time outs,” the clock on the five-year TANF lifetime limit is stopped under certain conditions. Following the path of its earlier initiatives in designing the time-out program, DPW published its general intentions in the state bulletin and took steps to collect general comments. Advocates made numerous suggestions, but the debate did not receive widespread public attention and the General Assembly paid little attention. Eventually, DPW published proposed regulations, received a few more comments, made minor changes, and then proceeded to implement the policy.⁴²

According to Deputy Secretary Heller, these time outs were intended to encourage behavior “above and beyond” what was required by the state and federal statutes.⁴³ DPW provided time outs to:

- Recipients working 30 or more hours per week
- Disabled recipients who, despite their work exemption, participated in the Maximizing Participation Project (MPP)
- Early engagers who, after unsuccessful job search, pursued training or education during their first two years on TANF
- Kinship caregivers: certain caretaker relatives rearing other people’s children at the behest of the local child welfare agency

⁴⁰ House Bill 1266, available at www.state.pa.uscfdocs/legis/home/session.cfm.

⁴¹ The design of the Time Out program was set forth in 31 Pa. Bull. 1639 (March 24, 2001), effective July 2, 2001.

⁴² 32Pa.Bull.4435 (Sept. 14, 2002)

⁴³ 32 Pa. Bull. 4435 (September 14, 2002): “In general, the purpose of Time-Out benefits is to provide incentives to families meeting or exceeding minimum work participation requirements, or participating early in work and other employment-related activities or certain exempt volunteers.”

- Certain victims of domestic violence

These policies all had a financial cost, although DPW controlled costs by restricting eligibility and limited outreach on the availability of time outs.

The most expensive of these programs was MPP, especially in Philadelphia, where DPW awarded private contracts to serve otherwise exempt recipients.⁴⁴ In addition to offering such individuals up to a year of benefits “off the clock,” MPP purchased services to help them address disabilities and employment barriers, or to transfer to the Supplemental Security Income (SSI) program. Although enrollment in most of the time-out programs was relatively dispersed throughout the state, because of this contracting, a disproportionate number of enrollees (39 percent) were in Philadelphia.⁴⁵ There, local officials (including the City’s Managing Director, Estelle Richman, who later became Secretary of Public Welfare in the Rendell administration) convinced DPW to contract with nonprofit agencies, namely Philadelphia Mental Health Care Consortium (PHMCC) and Jewish Employment and Vocational Services (JEVS), to run the program. In the remainder of the state, DPW employees operated MPP. This was one of the few times that DPW treated Philadelphia differently from the remainder of the state in devising welfare reform policy. MPP appears to be a successful program, especially in Philadelphia, where an infrastructure exists, particularly to obtain needed mental health care.

C. Extensions After the Five-Year Time Limit

Approaching the first federally mandated five-year time limit 2002, DPW elicited suggestions for policy changes to extend TANF from the advocacy community, but it did not reveal its entire plan.⁴⁶ Advocates pressed for a program that would cover as many people as possible and consider individual circumstances. Neither side cared to involve the legislature in the debate, seeing little potential advantage in such involvement. Early indications were that DPW had planned to restrict access to the new Extended TANF program by considering it a separate program and requiring reapplication. This caused considerable concern in Philadelphia, which had by far the largest number of families that had received assistance for five years.

DPW eventually opted for an integrated program that flowed seamlessly from the old program. The department treated those approaching the five-year limit much as it treated those approaching the two-year time limit that triggered the 20-hour weekly work mandate. As five years approached, DPW reviewed recipients’ situations and enrolled them in an intensified job-search program. Thereafter, DPW placed recipients in one of seven tracks. The most prevalent track was for able-bodied heads of household and required 30 hours of work activity per week. Other individuals, such as those with a disability that prevented work, were assigned to a mandatory

⁴⁴ According to DPW data, approximately 30 percent of TANF adults were exempt from the work requirements because of a physical or mental disability. DPW TANF reports on file with the author.

⁴⁵ DPW data, shared with IMAC, January 2005. Originals on file with the author.

⁴⁶ 31 Pa.Bull. 5875 (October 20, 2001).

version of MPP. So long as recipients complied with the requirements of these programs, they were allowed to continue to receive Extended TANF benefits (ExTANF).

Most families continued to qualify. The total percentage of the caseload that has received TANF for more than five years hovers around 9 percent, well below the 20 percent maximum set out in federal law. The continued drop in the caseload offset the expense of the extended program. With caseloads dropping and significant TANF funds available for other services, the legislature avoided setting TANF policy and only became involved in the allocation of TANF funds during the annual budget process, where the TANF program was treated as an entitlement program.

In this area as in others, Act 35 bestowed on DPW considerable discretion to design a TANF program, and DPW did so with little involvement from the legislature. The legislature had not even addressed the question of a time limit in Act 35, apparently out of concern that the yet-to-be-enacted federal law might contradict the state law. Indeed, the legislature seemed to recognize that disabled parents would continue to receive benefits after the expiration of five years.⁴⁷

D. The State's TANF Reserve

In state FY 2000-2001, the TANF surplus peaked at \$588 million.⁴⁸ DPW officials were pleased with this result, and viewed the surplus both as vindication of their work -first approach and the fact that the surplus gave them the means to fund a generous child care program as well as address other budgetary needs.

Under building pressure from advocates, parents, and elected officials, as well as growing attention from Congress over TANF surpluses, Pennsylvania in 2000 began spending TANF funding for a variety of programs that served children, but not necessarily the core population that had previously received AFDC. As described by Dwight Evans (D-Philadelphia), the minority chair of the House Appropriations Committee:

When the TANF surpluses exceeded \$500 million in 2000/01, Pennsylvania used the TANF block grant to create or fund programs and initiatives in ... agencies where state funds otherwise would have been appropriated. Examples of these programs include Access to Jobs in PennDOT, intended to provide transportation for low-income individuals commuting to their place of employment and Nurse Home

⁴⁷ 62 Purdon's Stat. 401 (a) reads: "It is hereby declared to be the legislative intent to promote the self-sufficiency of all of the people of the Commonwealth....It is further declared to be the legislative intent that no recipient of cash or medical assistance shall be entitled to indefinite cash or medical assistance unless it can be established that the person is permanently disabled and unable to work."

⁴⁸ Governor Tom Ridge left office in October 2001 to become an advisor and later Secretary of Homeland Security in the Bush administration. Mark Schweiker, the lieutenant governor, filled out the remainder of Ridge's second term. At least in DPW, the advent of the new governor did not lead to any change in leadership positions.

Visitation in PCCD, designed to provide early intervention in the homes of pregnant women predisposed to infant health and development problems.⁴⁹

Some of the spending focused on second-tier priorities initiated by DPW, but other initiatives came from the governor's office and funding was directed to programs outside the TANF ambit, and often outside of DPW. Representative Evans noted that nine different state agencies and departments had been given TANF funds. For example, to extend a popular state program that adapted houses for the disabled with a child in the household, the governor's office used TANF money. As time went on, the governor's office resolved many funding pleas with money drawn from Pennsylvania's TANF surplus. Pennsylvania's notoriously closed-door budget process removed these decisions from the public process and provided a way to fund needed programs, especially in the child welfare arena, without having to strain local budgets or raise state taxes.⁵⁰

Although the state had from the beginning used TANF funds to support its child welfare program, as time went on, it used progressively more of those funds for child welfare services. Data from the U.S. Department of Health and Human Services reveal that Pennsylvania, at \$227 million per year, led the nation in TANF spending on child welfare, even though the state's child welfare caseload is typical for a state of its size and demographic composition. Not only did this diversion result in depleting the surplus, but it also led the governor's staff, legislators, and advocates for various programs to realize that TANF funds could be tapped for a variety of initiatives. Thus, the state used TANF funds to pay for Governor Ridge's Cyberstart program (which aimed to place a computer in every Pennsylvania day care center), to promote the housing accessibility program noted above, and ultimately to support a sizable portion of the juvenile justice budget, including \$83 million in 2004 for secure juvenile detention facilities. Indeed, in the last days of the Ridge administration, DPW published a revision to the TANF plan raising the income eligibility limit for TANF services in the juvenile justice system to 400 percent of poverty, effectively making all juveniles in the system eligible for TANF services.⁵¹

By the time of the Rendell administration took over in January 2003, the once-large TANF surplus was virtually gone, leaving the new administration with little leeway for its own initiatives. Pennsylvania now faces the task of living without the benefit of the TANF surplus and must find alternative funding for those programs previously funded by TANF. Especially during an economic downturn, the competition for scarce funds between core services and other spending can prove fierce. Despite caseloads that continue to hover around 50 percent of previous levels and state allocation of only 27 percent of total TANF funds on basic assistance, leadership in the legislature

⁴⁹ Pennsylvania House Appropriations Committee, *Budget Briefing: Temporary Assistance for Needy Families Block Grant Expenditures* (March 21, 2005), available at http://www.pahouse.com/evans/pdf/TANF_III.pdf (accessed on May 9, 2005).

⁵⁰ Unlike its other DPW administered or supervised programs, such as TANF, General Assistance, or Medicaid, Pennsylvania normally does require a county match for child welfare programs. TANF money, however, was appropriated without the need for such a match.

⁵¹ 32 Pa. Bull. 5048 (December 28, 2002).

has begun talking about the budgetary problems in TANF, attributing what are basically structural budget problems to the relatively small growth in TANF caseload.⁵²

E. Child Care

At the IRRC hearing on the final child care regulations, DPW made a commitment to the IRRC to monitor the impact of the final regulations. At the end of the state FY 1998-1999, and five months into the start of Child Care Works, the DPW used Child Care Development Funds (CCDF), including \$43 million in unobligated CCDF funds, to pay for Child Care Works. To sustain the program, a TANF transfer would be required in state FY 1999-2000 to backfill the unobligated funds used in state FY 1998-1999, but no longer available in 1999-2000. At the end of state FY 1998-1999, there was funding available from the \$321 million TANF reserve to transfer funds to the CCDF to both sustain the program and to revisit the changes in Child Care Works that increased the co-payments and eligibility for the program.

With implementation of the final regulations for Child Care Works in February 1999, advocates and low-income families began to object to the increase in co-payments, especially in the face of the large TANF surplus. Shortly after the new regulations were implemented, parents and advocates, coordinating with the Commonwealth's Auditor General Robert Casey, the state's highest elected Democratic office holder, held town meetings in smaller cities such as Erie, Indiana, Harrisburg, Reading, Scranton, and Shippensburg. Families spoke about the negative impact that the increase in co-payments had on their ability to provide for their families.

In July 1999, the Auditor General's office produced *Families Need Care*, a report that detailed that effects of the new regulations and included the testimony of parents and advocates. The Auditor General's office sent copies to the governor, secretary of public welfare, and other government officials. The report included results from the May 1999 performance audit and garnered sympathetic press and editorials throughout the commonwealth arguing that the Ridge administration could transfer some of the TANF surplus to the CCDF and that low-income working mothers should not have to fund the expansion of the subsidized child care program. The audit also reported that the new child care regulations created hardships that would ultimately force working mothers back on to cash assistance, and pointed out that Congress had expressed concern about the size of the TANF surplus in many states. The weight of the Auditor General's office provided the necessary catalyst to move this issue to the forefront in Pennsylvania.

In response, DPW submitted unusual emergency regulations to the IRRC in December 1999, some ten months after the final regulations became effective.⁵³ The emergency regulations addressed many of the criticisms leveled earlier in the debate. The new regulations increased

⁵² The TANF caseload has grown approximately 10 percent from 2002 to present. Interestingly, according to DPW statistics, the growth in caseload has been highest in suburban and rural counties, which traditionally have small caseloads, while the big cities, Philadelphia and Pittsburgh, have been relatively unchanged.

⁵³ 29 Pa. Bull. 6242 (December 11, 1999). The department estimated that the expansions would have an annual cost of \$7 million.

income eligibility from 185 percent to 235 percent of poverty and lowered the co-payment schedule. These changes resulted in the transfer of approximately \$58 million in TANF funding, to the CCDF in the state FY 1999-2000.

Despite the changes in the co-payment policy, advocates, with support from the Auditor General and state legislators, continued to press for more substantial changes. By this time, the administration expected the TANF surplus to grow to more than \$500 million. In April 2000, DPW submitted another set of emergency regulations that raised the income limit for families at initial application from 185 percent of poverty to 235 percent of poverty and again reduced co-payments such that no family would spend more than 11 percent of its annual income on child care.⁵⁴

The April 2000 changes were the last under the Ridge/Schweiker administration, but the coalition continued to argue for reform. After the Rendell administration took office, the revamping of the child care system took on a higher priority. Despite the considerable cost, and the pressure on the TANF budget, the Rendell administration substantially revised the regulations in 2005, dropping the minimum hours required of participants to 20, simplifying verification and administrative requirements, and making the child support requirement voluntary.⁵⁵ Interestingly, the announcement of the adoption was a joint one between Governor Rendell and now State Treasurer Robert Casey, the former Auditor General. Simultaneously, DPW increased its efforts to improve quality and expand the number of licensed providers in Pennsylvania. Although these changes had a considerable budgetary impact (estimated at \$10.25 million), the Rendell administration made them a priority.

⁵⁴ 30 Pa.Bull. 1743 (April 1, 2000)

⁵⁵ 35 Pa.Bull. 3491 (June 18, 2005)

VII. CONCLUSIONS

Welfare reform in Pennsylvania has had mixed success by most observers' standards. Caseloads are down, although there is reason to believe that the well-being of low-income families has not substantially improved, given that job retention and advancement are limited. DPW's early single-minded devotion to a work-first approach undoubtedly played a role in the caseload reduction, even as curbed spending on education and training likely contributed to the poor performance in advancement. On the other hand, the willingness of two administrations to engage in a sometimes charged discussion of child care policy ultimately resulted in a robust child care program. The less ideological nature of the debate, the openness of DPW to public input, and the initiative shown by PACCC resulted in considerable improvements to the state's child care program.