

waiver list, as approved by the Secretary under the authority of section 1115, and the associated AFDC provisions that did not need to be waived.

(c) *Control group* and *experimental group* have the meanings specified in the terms and conditions of the State's demonstration.

**§ 260.72 What basic requirements must State demonstration components meet for the purpose of determining if inconsistencies exist with respect to work requirements or time limits?**

(a) The policies must be consistent with the requirements of section 415 of the Act and the requirements of this subpart.

(b) The policies must be within the scope of the approved waivers both in terms of geographical coverage and the coverage of the types of cases specified in the waiver approval package.

(c) The State must have applied its waiver policies on a continuous basis from the date that it implemented its TANF program, except that it may have adopted modifications that have the effect of making its policies more consistent with the provisions of PRWORA.

(d) An inconsistency may not apply beyond the earlier of the following dates:

(1) The expiration of waiver authority as determined in accordance with the demonstration terms and conditions; or

(2) For any specific inconsistency, the date upon which the State discontinued the applicable waiver policy.

(e) The State must submit the Governor's certification specified in § 260.75.

(f) In general, the policies in this subpart do not have the effect of delaying the date when a State might be subject to the work or time-limit penalties at §§ 261.50, 261.54, and 264.1 of this chapter or the data collection requirements at part 265 of this chapter.

**§ 260.73 How do existing welfare reform waivers affect the participation rates and work rules?**

(a) If a State is implementing a work participation component under a waiver, in accordance with this subpart, the provisions of section 407 of the Act will

not apply in determining if a penalty should be imposed, to the extent that the provision is inconsistent with the waiver.

(b) For the purpose of determining if the State's demonstration has a work participation component, the waiver list for the demonstration must include one or more specific provisions that directly correspond to the work policies in section 407 of the Act (i.e., change allowable JOBS activities, exemptions from JOBS participation, hours of required JOBS participation, or sanctions for noncompliance with JOBS participation).

(c) Corresponding to the inconsistencies certified by the Governor under § 260.75:

(1) We will calculate the State's work participation rates, by:

(i) Excluding cases exempted from participation under the demonstration component and, if applicable, experimental and control cases not otherwise exempted, in calculating the rate;

(ii) Defining work activities as defined in the demonstration component in determining the numerator; and

(iii) Including cases meeting the required number of hours of participation in work activities in accordance with demonstration component policy, in determining the numerator.

(2) We will determine whether a State is taking appropriate sanctions when an individual refuses to work based on the State's certified waiver policies.

(d) We will use the data submitted by States pursuant to § 265.3 of this chapter to calculate and make public a State's work participation rates under both the TANF requirements and the State's alternative waiver requirements.

**§ 260.74 How do existing welfare reform waivers affect the application of the Federal time-limit provisions?**

(a)(1) If a State is implementing a time-limit component under a waiver, in accordance with this subpart, the provisions of section 408(a)(7) of the Act will not apply in determining if a penalty should be imposed, to the extent that they are inconsistent with the waiver.

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(2) For the purpose of determining if the State's demonstration has a time-limit component, the waiver list for the demonstration must include provisions that directly correspond to the time-limit policies enumerated in section 408(a)(7) of the Act (i.e., address which individuals or families are subject to, or exempt from, terminations of assistance based solely on the passage of time or who qualifies for extensions to the time limit).

(b)(1) Generally, under an approved waiver, except as provided in paragraph (b)(3) of this section, a State will count, toward the Federal five-year limit, all months for which the head-of-household or spouse of the head-of-household subject to the State time limit receives assistance with Federal TANF funds, just as it would if it did not have an approved waiver.

(2) The State need not count, toward the Federal five-year limit, any months for which a head-of-household or spouse of the head-of-household receives assistance with Federal TANF funds while that individual is exempt from the State's time limit under the State's approved waiver.

(3) Where a State has continued a time limit under waivers that only terminates assistance for adults, the State need not count, toward the Federal five-year limit, any months for which an adult subject to the State time limit receives assistance with Federal TANF funds.

(4) The State may continue to provide assistance with Federal TANF funds for more than 60 months, without a numerical limit, to families provided extensions to the State time limit, under the provisions of the terms and conditions of the approved waiver.

(c) Corresponding to the inconsistencies certified by the Governor under § 260.75, we will calculate the State's time-limit exceptions by:

(1) Excluding, from the determination of the number of months of Federal assistance received by a family:

(i) Any month in which the adult(s) were exempt from the State's time limit under the terms of an approved waiver or any months in which the children received assistance under a waiver that only terminated assistance to adults; and

(ii) If applicable, experimental and control group cases not otherwise exempted; and

(2) Applying the State's waiver policies with respect to the availability of extensions to the time limit.

**§ 260.75 If a State is claiming a waiver inconsistency for work requirements or time limits, what must the Governor certify?**

(a) The Governor of the State must certify in writing to the Secretary that:

(1) The applicable policies have been continually applied in operating the TANF program, as described in § 260.72(c);

(2) The inconsistencies claimed by the State are within the scope of the approved waivers, as described in § 260.72(b);

(b) The certification must identify the specific inconsistencies that the State chooses to continue with respect to work and time limits.

(1) If the waiver inconsistency claim includes work provisions, the certification must specify the standards that will apply, in lieu of the provisions in subparts B and C of part 261 of this chapter, to determine:

(i) The number of two-parent and all-parent cases that are exempt from participation, if any, for the purpose of determining the denominator of the work participation rate;

(ii) The number of nonexempt two-parent and all-parent cases that are participating in work activities for the purpose of determining the numerator of the work participation rate, including standards applicable to:

(A) Countable work activities; and

(B) Required hours of work for participation for individual participants; and

(iii) The penalty against an individual or family when an individual refuses to work.

(2) If the waiver inconsistency claim includes time-limit provisions, the certification must include the standards that will apply, in lieu of the provisions in § 264.1 of this chapter, in determining:

(i) Which families are counted toward the Federal time limit; and