

Subpart A—General Tribal TANF Provisions

§ 286.1 What does this part cover?

Section 412 of the Social Security Act allows Indian tribes to apply to operate a Tribal Family Assistance program. This part implements section 412. It specifies:

- (a) who can apply to operate a Tribal Family Assistance program;
- (b) the requirements for the submission and contents of a Tribal Family Assistance Plan;
- (c) the determination of the amount of a Tribal Family Assistance Grant; and
- (d) other program requirements and procedures.

§ 286.5 What definitions apply to this part?

The following definitions apply under this part:

ACF means the Administration for Children and Families.

Act means the Social Security Act, unless otherwise specified.

Administrative cost means costs necessary for the proper administration of the TANF program.

(1) It excludes the direct costs of providing program services.

(i) For example, it excludes costs of providing diversion benefits and services, providing program information to clients, screening and assessments, development of employability plans, work activities, post-employment services, work supports, information on and referral to Medicaid, Child Health Insurance Program (CHIP), Food Stamp and Native Employment Works (NEW) programs and case management.

(ii) It excludes the salaries and benefit costs for staff providing program services and the direct administrative costs associated with providing the services, such as the costs for supplies, equipment, travel, postage, utilities, rental of office space and maintenance of office space, and

(iii) It excludes information technology and computerization needed for tracking and monitoring.

(2) It includes the costs for general administration and coordination of this program, including contract costs for these functions and indirect (or

overhead) costs. Some examples of administrative costs include, but are not limited to:

(i) Salaries and benefits and all other direct costs not associated with providing program services to individuals, including staff performing administrative and coordination functions;

(ii) Preparation of program plans, budgets, and schedules;

(iii) Monitoring of programs and projects;

(iv) Fraud and abuse units;

(v) Procurement activities;

(vi) Public relations;

(vii) Services related to accounting, litigation, audits, management of property, payroll, and personnel;

(viii) Costs for the goods and services required for administration of the program such as the costs for supplies, equipment, travel, postage, utilities, and rental of office space and maintenance of office space, provided that such costs are not excluded as a direct administrative cost for providing program services under paragraph (1) of this definition;

(ix) Travel costs incurred for official business and not excluded as a direct administrative cost for providing program services under paragraph (1) of this definition;

(x) Management information systems not related to the tracking and monitoring of TANF requirements (*e.g.*, for a personnel and payroll system for Tribal staff); and

(xi) Preparing reports and other documents related to program requirements.

Adult means an individual who is not a “minor child,” as defined below.

Alaska Tribal TANF entity means the twelve Alaska Native regional non-profit corporations in the State of Alaska and the Metlakatla Indian Community of the Annette Islands Reserve.

Assistant Secretary means the Assistant Secretary for Children and Families, Department of Health and Human Services.

Cash assistance, when provided to participants in the Welfare-to-Work program, has the meaning specified at § 286.130.

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Comparability means similarity between State and Tribal TANF programs in the State of Alaska. Comparability, when defined related to services provided, does not necessarily mean identical or equal services.

Consortium means a group of Tribes working together for the same identified purpose and receiving combined TANF funding for that purpose.

The Department means the Department of Health and Human Services.

Duplicative Assistance means the receipt of services/ assistance from two or more TANF programs for the same purpose.

Eligible families means all families eligible for TANF funded assistance under the Tribal TANF program funded under section 412(a), including:

(1) All U.S. citizens who meet the Tribe's criteria for Tribal TANF assistance;

(2) All qualified aliens, who meet the Tribe's criteria for Tribal TANF assistance, who entered the U.S. before August 22, 1996;

(3) All qualified aliens, who meet the Tribe's criteria for Tribal TANF assistance, who entered the U.S. on or after August 22, 1996, who have been in the U.S. for at least 5 years beginning on the date of entry into the U.S. with a qualified alien status, are eligible beginning 5 years after the date of entry into the U.S. There are exceptions to this 5-year bar for qualified aliens who enter on or after August 22, 1996, and the Tribal TANF program must cover these excepted individuals:

(a) An alien who is admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act;

(b) An alien who is granted asylum under section 208 of such Act;

(c) An alien whose deportation is being withheld under section 243(h) of such Act; and

(d) An alien who is lawfully residing in any State and is a veteran with an honorable discharge, is on active duty in the Armed Forces of the U.S., or is the spouse or unmarried dependent child of such an individual;

(4) All permanent resident aliens who are members of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act;

(5) All permanent resident aliens who have 40 qualifying quarters of coverage as defined by Title II of the Act.

Eligible Indian tribe means any Tribe or intertribal consortium that meets the definition of Indian tribe in this section and is eligible to submit a Tribal TANF plan to ACF.

Family Violence Option (or FVO) means the provision at section 402(a)(7) of the Act made available to Tribes under which a Tribe may certify in its Tribal TANF plan that it has elected the option to implement comprehensive strategies for identifying and serving victims of domestic violence.

Fiscal year means the 12-month period beginning on October 1 of the preceding calendar year and ending on September 30.

FY means fiscal year.

Good cause domestic violence waiver means a waiver of one or more program requirements granted by a Tribe to a victim of domestic violence under the FVO, as described in § 286.140(a)(3).

Grant period means the period of time that is specified in the Tribal TANF grant award document.

Indian, Indian tribe and Tribal Organization have the same meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except that the term "Indian tribe" means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional non-profit corporations:

- (1) Arctic Slope Native Association;
 - (2) Kawerak, Inc.;
 - (3) Maniilaq Association;
 - (4) Association of Village Council Presidents;
 - (5) Tanana Chiefs Council;
 - (6) Cook Inlet Tribal Council;
 - (7) Bristol Bay Native Association;
 - (8) Aleutian and Pribilof Island Association;
 - (9) Chugachmuit;
 - (10) Tlingit Haida Central Council;
 - (11) Kodiak Area Native Association;
- and

(12) Copper River Native Association.
Indian country has the meaning given the term in 18 U.S.C. 1151.

Minor child means an individual who:

(1) Has not attained 18 years of age; or

(2) Has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

Minor Head-of-Household means an individual under age 18, or 19 and a full-time student in a secondary school, who is the custodial parent of a minor child.

PRWORA means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Qualified Aliens has the same meaning given the term in 8 U.S.C. 1641 except that it also includes members of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act, who are lawfully admitted under 8 U.S.C. 1359.

Retrocession means the process by which a Tribe voluntarily terminates and cedes back (or returns) a Tribal TANF program to the State which previously served the population covered by the Tribal TANF plan. Retrocession includes the voluntary relinquishment of the authority to obligate previously awarded grant funds before that authority would otherwise expire.

Secretary means the Secretary of the Department of Health and Human Services.

Scientifically acceptable sampling method means a probability sampling method in which every sampling unit has a known, non-zero chance to be included in the sample and the sample size requirements are met.

SFAG or State Family Assistance Grant means the amount of the block grant funded under section 403(a) of the Act for each eligible State.

SFAP or State Family Assistance Plan is the plan for implementation of a State TANF program under PRWORA.

State means, except as otherwise specifically provided, the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

TANF means the Temporary Assistance for Needy Families Program, which is authorized under title IV-A of the Social Security Act.

TANF funds mean funds authorized under section 412(a) of the Act.

TFAG or Tribal Family Assistance Grant means the amount of the block grant funded under section 412(a) of the Act for each eligible Tribe.

TFAP or Tribal Family Assistance Plan means the plan for implementation of the Tribal TANF program under section 412(b) of the Act.

Title IV-A refers to the title of the Social Security Act that now includes TANF, but previously included AFDC and EA. For the purpose of the TANF program regulations, this term does not include child care programs authorized and funded under section 418 of the Act, or their predecessors, unless we specify otherwise.

Title IV-F refers to the title of the Social Security Act that was eliminated with the creation of TANF and previously included the Job Opportunities and Basic Skills Training Program (JOBS).

Tribal TANF expenditures means expenditures of TANF funds, within the Tribal TANF program.

Tribal TANF program means a Tribal program subject to the requirements of section 412 of the Act that is funded by TANF funds on behalf of eligible families.

Victim of domestic violence means an individual who is battered or subject to extreme cruelty under the definition at section 408(a)(7)(C)(iii) of the Act.

We (and any other first person plural pronouns) refers to The Secretary of Health and Human Services, or any of the following individuals or organizations acting in an official capacity on the Secretary's behalf: the Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

Welfare-related services means all activities, assistance, and services funded under Tribal TANF provided to an eligible family. See definition of "Assistance" in § 286.10.

Welfare-to-Work means the program for funding work activities at section 412(a)(2)(C) of the Act.

WtW means Welfare-to-Work.

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WtW cash assistance, when provided to participants in the Welfare-to-Work program, has the meaning specified at § 286.130.

§ 286.10 What does the term “assistance” mean?

(a) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (*i.e.*, for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(1) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service or any other work activity.

(2) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) It excludes:

(1) Nonrecurring, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (*i.e.*, payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, information on and referral to Medicaid, Child Health Insurance Program (CHIP), Food Stamp and Native Employment Works (NEW) programs, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

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(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

(c) The definition of the term assistance specified in paragraphs (a) and (b) of this section does not preclude a Tribe from providing other types of benefits and services consistent with the purposes of the TANF program.

§ 286.15 Who is eligible to operate a Tribal TANF program?

(a) An Indian tribe that meets the definition of Indian tribe given in § 286.5 is eligible to apply to operate a Tribal Family Assistance Program.

(b) In addition, an intertribal consortium of eligible Indian tribes may develop and submit a single TFAP.

Subpart B—Tribal TANF Funding

§ 286.20 How is the amount of a Tribal Family Assistance Grant (TFAG) determined?

(a) We will request and use data submitted by a State to determine the amount of a TFAG. The State data that we will request and use are the total Federal payments attributable to State expenditures, including administrative costs (which includes systems costs) for fiscal year 1994 under the former Aid to Families With Dependent Children, Emergency Assistance and Job Opportunities and Basic Skills Training programs, for all Indian families residing in the geographic service area or areas identified in the Tribe’s letter of intent or Tribal Family Assistance Plan.

(1) A Tribe must indicate its definition of “Indian family” in its Tribal Family Assistance Plan. Each Tribe may define “Indian family” according to its own criteria.

(2) When we request the necessary data from the State, the State will have 30 days from the date of the request to submit the data.

(i) If we do not receive the data requested from the State at the end of the 30-day period, we will so notify the Tribe.

(ii) In cases where data is not received from the State, the Tribe will